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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 150

[NRC-2025-0010]

State of Connecticut: Discontinuance of Certain Commission Regulatory Authority Within the State; Notice of Agreement Between the NRC and the State of Connecticut

AGENCY: Nuclear Regulatory Commission.

ACTION: Final State agreement.

SUMMARY: This notice is announcing that on September 25, 2025, David A. Wright, Chairman of the U.S. Nuclear Regulatory Commission (NRC or Commission), and Governor Edward Miner Lamont, Jr. of the State of Connecticut, signed an Agreement as authorized by Section 274b. of the Atomic Energy Act of 1954, as amended (the Act). Under the Agreement, the Commission discontinues its regulatory authority, and the State of Connecticut assumes regulatory authority over 11e.(1), 11e.(3), and 11e.(4) byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass.

DATES: The effective date of the Agreement is September 30, 2025.

ADDRESSES: Please refer to Docket ID NRC-2025-0010 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-0010. 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.

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FOR FURTHER INFORMATION CONTACT:

Duncan White, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-2598; email: Duncan.White@nrc.gov or Huda Akhavannik, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-5253; email: Huda.Akhavannik@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Additional Background Information on Connecticut Agreement

The NRC published the proposed Agreement in the **Federal Register** (FR) for comment once each week for four consecutive weeks on March 19, 2025 (90 FR 12795), March 26, 2025 (90 FR 13787), April 2, 2025 (90 FR 14485), and April 9, 2025 (90 FR 15259), as required by the Act. The comment period ended on April 19, 2025. The NRC received one anonymous comment submission letter from a member of the public. The commentator opposed the proposed Agreement for several reasons. No changes in the proposed Agreement or the staff's conclusions in the draft staff assessment of the State's program were

made in response to the comment. The staff analysis of the comment can be found at ML25161A145. The NRC staff determined that the Connecticut Agreement State program is adequate to protect the public health and safety and compatible with the NRC's program. The Connecticut Agreement is consistent with Commission policy and thus meets the criteria for an Agreement with the Commission.

After considering the request for an Agreement by the Governor of Connecticut, the supporting documentation submitted with the request for an Agreement, and its interactions with the staff of the Connecticut Department of Energy and Environmental Protection, the NRC staff completed an assessment of the Connecticut program. The agency made a copy of the staff assessment available in the NRC's PDR and electronically on the NRC's website. Based on the staff's assessment, the Commission determined on August 8, 2025, that the Connecticut program for control of radiation hazards is adequate to protect the public health and safety and compatible with the Commission's program. As of the effective date of the Agreement, a person in Connecticut possessing these materials is exempt from certain Commission regulations. The exemptions have been previously published in the FR and are codified in the Commission's regulations. The Agreement is published here as required by Section 274e. of the Act.

This Agreement is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). The Office of Management and Budget has found that this action does not meet the criteria at 5 U.S.C. 804(2). The Office of Information and Regulatory Affairs has determined that this Agreement is not a significant regulatory action under Executive Order 12866.

II. Availability of Documents

The ADAMS Accession numbers for the request for an Agreement by the Governor of Connecticut, including all information and documentation submitted in support of the request, and the NRC staff assessment are identified in the following table.

Document description	ADAMS accession No.
Letter from Governor Ned Lamont, Connecticut, to Chair Hanson requesting that an Agreement be established between the NRC and State of Connecticut, dated October 31, 2024.	ML24306A079.
Draft Staff Assessment of the Proposed Connecticut Program, dated March 4, 2025	ML25070A186.
Final Connecticut Application Section 4.1 Legal Elements	ML24311A018 (Package).
Final Connecticut Application Section 4.2 Regulatory Requirements	ML24311A026 (Package).
Final Connecticut Application Section 4.3 Licensing Program Elements	ML24311A029 (Package).
Final Connecticut Application Section 4.4 Inspection Program Elements	ML24311A030 (Package).
Final Connecticut Application Section 4.5 Enforcement Program Elements	ML24311A044 (Package).
Final Connecticut Application Section 4.6 Technical Staffing and Training Program Elements	ML24319A210 (Package).
Final Connecticut Application Section 4.7 Event and Allegation Response Program Elements	ML24319A211 (Package).
Connecticut Application Request for Additional Information	ML24347A038 (Package).
State Agreement (SA) 700 Processing an Agreement final, dated June 15, 2022	ML22138A414.
SA-700 Handbook for Processing an Agreement Procedure final, dated June 17, 2022	ML22140A396.
SECY-25-0068, includes final staff assessment	ML25139A031 (Package).

Dated: September 25, 2025.
For the Nuclear Regulatory Commission.
Carrie Safford,
Secretary of the Commission.
[FR Doc. 2025-18841 Filed 9-26-25; 8:45 am]
BILLING CODE 7590-01-P

DEPARTMENT OF THE INTERIOR
National Indian Gaming Commission
25 CFR Part 559
RIN 3141-AA83
Facility License Notifications
AGENCY: National Indian Gaming Commission.
ACTION: Direct final rule.

SUMMARY: The National Indian Gaming Commission is modifying the deadline for a tribe to submit notice that it is considering issuing a new facility license.

DATES: This direct final rule is effective November 28, 2025, unless significant adverse comments are received by October 29, 2025. If this direct final rule is withdrawn because of such comments, timely notice of the withdrawal will be published in the **Federal Register**.

ADDRESSES: National Indian Gaming Commission, 1849 C Street NW, Mail Stop 1621, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Jo-Ann M. Shyloski at 202-632-7003 or write to info@nigc.gov.

SUPPLEMENTARY INFORMATION:

I. Background
Class II and Class III gaming conducted under the Indian Gaming Regulatory Act (IGRA) must occur on Indian lands as defined by the IGRA, 25 U.S.C. 2703(4), 2710(a)(2) and (d)(1). Also, gaming on lands acquired into trust by the United States for the benefit

of a tribe after the IGRA’s effective date of October 17, 1988, is generally prohibited, unless one of several exceptions in 25 U.S.C. 2719 are met. Importantly, the National Indian Gaming Commission possesses jurisdiction only over gaming facilities and operations on Indian lands and therefore must establish its jurisdiction as a prerequisite to monitoring them and enforcing the IGRA. 25 U.S.C. 2702(3), 2710(a)(2) and (d)(1)(A)(iii), 2713(a)(1). In 2008, the National Indian Gaming Commission (Commission) promulgated Facility License Notification Standards in part to ensure that each place, facility, or location where Class II or Class III gaming will occur is located on Indian lands eligible for gaming as required by the IGRA.

II. Development of the Rule
Presidential Executive Order 14219, entitled *Ensuring Lawful Governance and Implementing the President’s “Department of Government Efficiency” Deregulatory Initiative*, directed agencies to review all regulations for consistency with law and Administration policy; identify certain classes of regulations; and rescind or modify these regulations. Subsequently, Presidential Memorandum, *Directing the Repeal of Unlawful Regulations*, instructed agencies to immediately effectuate the repeal of any regulation, or the portion thereof, that exceeds the agency’s statutory authority or is otherwise unlawful.

IGRA explicitly mandates tribes issue a separate license for each place, facility, or location on Indian lands at which Class II and Class III gaming is conducted. 25 U.S.C. 2710(b)(1) and (d)(1)(A)(ii). In the spirit of Executive Order 14219 and the Presidential Memorandum, the Commission removes the 120-day notice requirement for tribes considering the issuance of a facility license, because the 120-day notice period is not explicitly required

in the IGRA. Instead, notice that a tribe intends to issue a new facility license is due any time before opening any new place, facility, or location.

III. Regulatory Matters
Regulatory Planning and Review (Executive Orders 12866 and 13563)
Executive Order 12866, as reaffirmed by Executive Order 13563, provides that the Office of Management and Budget’s (OMB’s) Office of Information and Regulatory Affairs (OIRA) will review all rules to determine if they are significant. OIRA has determined that this rule is not significant.

Notice and Comment
The APA permits agencies to finalize some rules without first publishing a proposed rule in the **Federal Register**. This exception is limited to cases where the agency has “good cause” to find that the notice-and-comment process would be “impracticable, unnecessary, or contrary to the public interest.” Here, the Commission possesses good cause to conclude that a notice and comment period is unnecessary since the removal of the exact deadline in the facility license notification and submission regulations is noncontroversial and unlikely to result in an adverse comment. Consequently, the Commission may directly publish this direct final rule replacing the precise deadline of the facility license notification with a broader and more flexible deadline. This action will be effective 60 days from the date of this **Federal Register** document unless significant adverse comments are received within 30 days. If this direct final rule is withdrawn because of such comments, timely notice of the withdrawal will be published in the **Federal Register** and the NIGC will begin new rulemaking by announcing a proposed rule.

Regulatory Flexibility Act

The rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of \$100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies or geographic regions, nor will the proposed rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises, to compete with foreign based enterprises.

Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

Takings

In accordance with Executive Order 12630, the Commission has determined that the rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act

The Commission has determined that the rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Paperwork Reduction Act

The information collection requirements contained in this rule were previously approved by the Office of Management and Budget (OMB) as required by 44 U.S.C. 3501, *et seq.*, and assigned OMB Control Number 3141-0012.

Tribal Consultation

The National Indian Gaming Commission is committed to fulfilling its tribal consultation obligations—whether directed by statute or administrative action such as Executive Order (E.O.) 13175 (Consultation and Coordination with Indian Tribal Governments)—by adhering to the consultation framework described in its relatively new Consultation Policy, adopted October 31, 2022. The NIGC's consultation policy specifies that it will consult with tribes on Commission Action with Tribal Implications, which is defined as: Any Commission regulation, rulemaking, policy, guidance, legislative proposal, or operational activity that may have a substantial direct effect on an Indian tribe on matters including, but not limited to the ability of an Indian tribe to regulate its Indian gaming; an Indian tribe's formal relationship with the Commission; or the consideration of the Commission's trust responsibilities to Indian tribes.

Because 25 CFR 559.2 currently has a 120-day-before-opening notice requirement for all facility licenses under consideration, the removal of that deadline to any time before-opening is uncontroversial. Also, given the removal of the 120-day-before-opening notice, the expedited 60-day review period is no longer necessary and is removed as well. And adverse comments are unlikely. Consequently, the Commission proceeds with the issuance of this direct final rule.

List of Subjects in 25 CFR Part 559

Gambling, Indian—Indian lands, Indians—tribal government, Notification and submission requirements—facility licenses.

For the reasons discussed in the preamble, the Commission amends 25 CFR part 559 as follows:

PART 559—FACILITY LICENSE NOTIFICATIONS AND SUBMISSIONS

■ 1. The authority citation for part 559 continues to read as follows:

Authority: 25 U.S.C. 2701, 2702(3), 2703(4), 2705, 2706(b)(10), 2710, 2719.

■ 2. Amend § 559.2 by revising paragraph (a) to read as follows:

§ 559.2 When must a tribe notify the Chair that it is considering issuing a new facility license?

(a) A tribe shall submit to the Chair a notice that a facility license is under consideration for issuance before opening any new place, facility, or

location on Indian lands where class II or III gaming will occur.

* * * * *

Sharon M. Avery,
Acting Chair.

Jean Hovland,
Vice Chair.

[FR Doc. 2025–18911 Filed 9–26–25; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2023–0011; T.D. TTB–202; Re: Notice No. 229]

RIN 1513–AD04

Establishment of the Tryon Foothills Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 176-square mile “Tryon Foothills” American viticultural area (AVA) in Polk County, North Carolina. The Tryon Foothills AVA is not located within, nor does it contain, any other established viticultural area. TTB designates AVAs to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective October 29, 2025.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau

(TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120–01.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and, once approved, a name and a delineated boundary codified in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to establish or modify AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive

and distinguish it from adjacent areas outside the proposed AVA;

- If the proposed AVA is to be established within, or overlapping, an existing AVA, an explanation that both identifies the attributes of the proposed AVA that are consistent with the existing AVA and explains how the proposed AVA is sufficiently distinct from the existing AVA and therefore appropriate for separate recognition;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Petition To Establish Tryon Foothills AVA

TTB received a petition from Cory J. Lillberg, vineyard manager of Parker–Binns Vineyard, proposing the establishment of the “Tryon Foothills” AVA in Polk County, North Carolina. The proposed Tryon Foothills AVA covers approximately 176 square miles and is not located within any other established AVA. There are five commercial vineyards covering a total of approximately 77.70 acres within the proposed AVA, as well as four wineries.

According to the petition, the distinguishing features of the proposed Tryon Foothills AVA are its topography and climate. The proposed AVA is located on the western edge of the Inner Piedmont region of the Blue Ridge Mountains, which is described as a region of low mountains and rolling hills. Within the proposed AVA, the average elevation is 988 feet, while the maximum elevation is 1,656 feet and the minimum is 712 feet. The petition states that the topography of the proposed AVA contributes to the creation of a thermal belt. At night, warm air that has accumulated in the higher elevations becomes cooler and sinks. As the cool air sinks, it displaces warmer air at lower elevations. The warm air settles on the mountain slopes above the cascading cooler air and creates a warmer layer of air above the cooler air. This warmer layer is known as a thermal belt.

Using the Winegrape Climate/Maturity Groupings classification system,¹ the entire proposed Tryon Foothills AVA falls into the “Hot”

category, which is defined as a region with an average growing season temperature between 67- and 72-degrees Fahrenheit (F). The average growing season length within the proposed AVA is 200–210 days. Ninety-five percent of the proposed AVA has average annual growing degree day (GDD)² accumulations in the very warm Region V category of the Winkler scale, while the remaining 5 percent of the proposed AVA is in the slightly cooler Region IV. According to the petition, the “Hot” region of the proposed AVA makes it suitable for growing grape varieties such as Zinfandel, Grenache, and Cabernet Sauvignon.

The petition states that, in general, the regions to the west, northeast, and northwest of the proposed AVA are cooler and have a greater range of average temperatures than the proposed AVA. The regions to the west and northwest mostly fall into the “Warm” category of the Winegrape Climate/Maturity Groupings classification system, have average growing season lengths of between 180 and 190 days, and have average annual GDD accumulations that place them in Region III of the Winkler scale.

Approximately 68 percent of the region to the northeast of the proposed AVA falls into the “Hot” category of the Winegrape Climate/Maturity Groupings classification system. However, unlike the proposed AVA, approximately 22 percent of the region is also in the cooler “Warm” category. The majority of the region to the northeast has an average growing season length of 190–200 days and average annual GDD accumulations that place it in Region IV of the Winkler scale.

The proposed AVA and the region to the east have approximately the same average annual temperatures, but the region to the east has a lower average minimum temperature. While the region to the east is also mostly in the “Hot” category of the Winegrape Climate/Maturity Groupings classification system, similar to the proposed AVA, it does also have some areas that are in the “Warm” category. The average growing season length in the region to the east

² See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pp. 61–64. In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual Growing Degree Days (GDDs), defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees F, the minimum temperature required for grapevine growth. The Winkler scale regions are as follows: Region Ia: 1,500–2,000 GDDs; Region Ib: 2,000–2,500 GDDs; Region II: 2,500–3,000 GDDs; Region III: 3,000–3,500 GDDs; Region IV: 3,500–4,000 GDDs; Region V: 4,000–4,900 GDDs.

¹ Jones, G.V., *Climate and Terroir Variability and Change on Wine: Presentation: In Fine Wine and Terroir—The Geoscience Perspective*, McQueen, R.W., and Meinert, L.D. (eds.), Geoscience Canada Reprint Series Number 9, Geological Association of Canada, St. John's Newfoundland, (2006), p. 247.

is 200–210 days, and approximately 82 percent of the region is in Region V of the Winkler scale.

The region south of the proposed AVA is warmer, as temperatures grow progressively warmer the farther south one travels from the proposed AVA. Ninety-seven percent of the region is in the “Hot” category of the Winegrape Climate/Maturity Groupings classification system. While the majority of the region also has a growing season length between 200 and 210 days, the region has some areas with longer growing seasons that range from 210 to 220 days. The majority of the region is in Region V of the Winkler scale, but unlike the proposed AVA, other parts of the region are classified as Regions II and III.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 229 in the **Federal Register** on January 5, 2024 (89 FR 716), proposing to establish the Tryon Foothills AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also included information from the petition comparing the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 229.

In Notice No. 229, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period for Notice No. 229 closed on March 5, 2024. TTB received two identical comments in response to Notice No. 229. However, both comments consisted only of bank statements from a South African bank account and are not relevant to the proposed AVA. Therefore, neither comment was posted to the public docket.

TTB Determination

After careful review of the petition, TTB finds that the evidence provided by the petitioner supports the establishment of the Tryon Foothills AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the “Tryon Foothills” AVA in Polk County, North Carolina, effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary of the Tryon Foothills AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text. The Tryon Foothills AVA boundary may also be viewed on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine’s true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of the Tryon Foothills AVA, its name, “Tryon Foothills,” will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulations clarifies this point. Consequently, wine bottlers using the name “Tryon Foothills” in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin.

The establishment of the Tryon Foothills AVA will not affect any existing AVA. The establishment of the Tryon Foothills AVA will allow vintners to use “Tryon Foothills” as an appellation of origin for wines made primarily from grapes grown within the Tryon Foothills AVA if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866, as amended. Therefore, no regulatory assessment is required.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends 27 CFR part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.298 to read as follows:

§ 9.298 Tryon Foothills.

(a) *Name*. The name of the viticultural area described in this section is “Tryon Foothills”. For purposes of part 4 of this chapter, “Tryon Foothills” is a term of viticultural significance.

(b) *Approved maps*. The 10 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Tryon Foothills viticultural area are:

- (1) Lake Lure, NC, 1982; photoinspected 1987;
- (2) Shingle Hollow, NC, 1982;
- (3) Pea Ridge, NC, 1982;
- (4) Rutherfordton South, NC, 1966;
- (5) Fingerville East, SC–NC, 1993 (provisional edition);
- (6) Fingerville West, SC–NC, 1983 (provisional edition);
- (7) Landrum, SC–NC, 2020;
- (8) Saluda, NC–SC, 2019;
- (9) Clifffield Mountain, NC, 1997; and
- (10) Mill Spring, NC, 1982; photorevised 1990.

(c) *Boundary*. The Tryon Foothills viticultural area is located in Polk

County, North Carolina. The boundary of the viticultural area is described as follows:

(1) The beginning point is on the Lake Lure map at the intersection of the 1,200-foot elevation contour and the shared Polk–Rutherford County line just west of State Highway 9 and north of an unnamed road known locally as Owl Hollow Road. From the beginning point, proceed clockwise along the shared Polk–Rutherford County line and across the Shingle Hollow, Pea Ridge, and Rutherford South maps and onto the Fingerville East map, to the intersection of the shared Polk–Rutherford County line and the shared North Carolina–South Carolina State line; then

(2) Proceed west along the shared North Carolina–South Carolina State line across the Fingerville East, Fingerville West, and Landrum maps and onto the Saluda map to the intersection of the North Carolina–South Carolina State line with the 1,200-foot elevation contour north of Dug Hill Road; then

(3) Proceed generally northerly along the meandering 1,200-foot elevation contour, crossing back and forth onto the Landrum and Saluda maps and onto the Mill Spring map, and continuing along the 1,200-foot elevation contour as it crosses onto the Clifffield Mountain map and then back onto the Mill Spring map and finally onto the Lake Lure map, returning to the beginning point at the intersection of the 1,200-foot elevation contour and the shared Polk–Rutherford County line just west of State Highway 9.

Signed: September 24, 2025.

Mary G. Ryan,
Administrator.

Approved: September 24, 2025.

Kenneth J. Kies,
Assistant Secretary for Tax Policy.

[FR Doc. 2025–18879 Filed 9–26–25; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 46

[Docket No. TTB–2025–0005; T.D. TTB–203]

RIN 1513–AD25

Tobacco Product Floor Stocks Tax; Removal of Obsolete Regulations

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Direct final rule; Treasury decision.

SUMMARY: In this final rule, the Alcohol and Tobacco Tax and Trade Bureau (TTB) is removing regulations related to the 2009 tobacco product floor stocks tax. These regulations are no longer necessary because they implement a tax that applied only to specified articles held for sale on April 1, 2009, and was required to be paid on or before August 1, 2009. This deregulatory action removes 42 regulatory sections from TTB regulations.

DATES: This rule is effective November 28, 2025 without further action, unless significant adverse comment is received by October 29, 2025. If we receive significant adverse comment, we will publish a timely withdrawal notice in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: You may electronically submit comments to TTB objecting to this final rule, view copies of this document, its supporting materials, and any comments TTB receives on it, within Docket No. TTB–2025–0005 as posted at <https://www.regulations.gov>. A direct link to that docket is available on the TTB website at <https://www.ttb.gov/laws-regulations-and-public-guidance/laws-and-regulations/all-rulemaking>. Alternatively, you may submit comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005.

Your comment must reference T.D. TTB–203 and must be submitted or postmarked by the closing date shown in the **DATES** section of this document. In general, TTB will post comments as submitted, and it will not redact any identifying or contact information from the body of a comment or attachment. Do not enclose any material in your comments that you consider confidential or that is inappropriate for disclosure.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division; telephone 202–453–1039, ext. 135, or by email using the contact form available at <https://www.ttb.gov/contact-rrd>.

SUPPLEMENTARY INFORMATION:

Background

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers provisions of the Internal Revenue Code of 1986, as amended, (IRC, 26 U.S.C. chapter 52) related to Federal excise tax on tobacco products and cigarette papers and tubes. TTB administers these provisions pursuant to section 1111(d) of the Homeland Security Act of 2002,

as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury (the Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

Section 701 of the Children’s Health Insurance Program Reauthorization Act of 2009 (the Act), Public Law 111–3, enacted on February 4, 2009, increased the rate of Federal excise tax on tobacco products and cigarette papers and tubes removed from the factory, internal revenue bond, or Customs custody on or after April 1, 2009. Section 701(h) of the Act also imposed a floor stocks tax on certain taxpaid or tax determined tobacco products (all tobacco products subject to Federal excise tax except large cigars) and on cigarette papers and tubes held for sale on April 1, 2009. The floor stocks tax rate was equal to the difference between the previous excise tax rate and the new excise tax rate. The Act authorized the Secretary to issue regulations regarding payment of the floor stocks tax, which was due on or before August 1, 2009. Persons subject to the floor stocks tax included manufacturers, importers, and wholesale and retail dealers of the specified products.

TTB published a temporary rule on March 31, 2009, to implement section 701 of the Act through regulations related to the tobacco excise tax increase and the floor stocks tax (see T.D. TTB–75 at 74 FR 14479). The 2009 floor stocks tax regulations were codified in subpart I of 27 CFR part 46, Miscellaneous Regulations Relating to Tobacco Products and Cigarette Papers and Tubes. TTB finalized the temporary regulations on July 10, 2010 (see T.D. TTB–85 at 75 FR 42605).

Removal of Obsolete Floor Stocks Tax Regulations

In support of the Administration’s deregulatory objective, this direct final rule removes all 42 regulatory sections in subpart I of 27 CFR part 46 related to the 2009 tobacco product floor stocks tax as those regulations no longer provide useful guidance. Pursuant to section 701(h)(3)(C) of the Act, the floor stocks taxes were due to TTB by August 1, 2009. Accordingly, there is no need to retain these regulations; in the unanticipated event that any issues were to arise from compliance with the floor stocks tax at that time, any action would be taken under the provisions of the law and regulations in effect at the time. Removing these regulations from the Code of Federal Regulations (CFR) will streamline the TTB regulations in part 46 and increase their clarity.

In addition, TTB is removing the heading “Subpart H [Reserved]” from part 46 as the reservation of that subpart, which contains no regulatory sections, is no longer needed due to the removal of subpart I.

Regulatory Analysis and Notices

E.O. 12866

This direct final rule is not a significant regulatory action under Executive Order 12866, as amended. Therefore, a regulatory assessment is not required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), Public Law 96–354, codified in 5 U.S.C. 601 *et seq.* applies only to rules for which an agency publishes a general notice of proposed rulemaking (NPRM) pursuant to 5 U.S.C. 553(b). This rule is being published as a direct to final rule; it was not preceded by an NPRM. Therefore, the RFA does not apply to it. However, pursuant to 28 U.S.C. 7805(f), TTB has submitted this final rule to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the regulations on small businesses.

Paperwork Reduction Act

As announced in the floor stocks tax temporary rule (74 FR 14479, 14481), the collection of information related to the 2009 floor stocks tax, which required submission of a tax return and the keeping of certain records, was previously reviewed and approved in March 2009 by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned control number 1513–0129. As explained above, the regulations in 27 CFR part 46, subpart I, are no longer necessary. As such, their removal will have no effect on the burden or requirements of any current TTB information collection.

List of Subjects in 27 CFR Part 46

Administrative practice and procedure, Cigars and cigarettes, Claims, Excise taxes, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

Amendment to the Regulations

For the reasons discussed in the preamble, TTB is amending 27 CFR part 46 as follows:

PART 46—MISCELLANEOUS REGULATIONS RELATING TO TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

■ 1. The authority citation for part 46 continues to read as follows:

Authority: 18 U.S.C. 2341–2346, 26 U.S.C. 5061, 5704, 5708, 5731–5734, 5751, 5754, 5761–5763, 6001, 6109, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7805; 44 U.S.C. 3504(h), 49 U.S.C. 782, unless otherwise noted.

Subpart H—[Removed]

■ 2. Under the authority of 26 U.S.C. 7805(a), remove subpart H.

Subpart I—[Removed]

■ 3. Under the authority of section 701, Public Law 111–3 and 26 U.S.C. 7805(a), remove subpart I.

Signed: September 24, 2025.

Mary G. Ryan,
Administrator.

Approved: September 24, 2025.

Kenneth J. Kies,

Assistant Secretary for Tax Policy.

[FR Doc. 2025–18878 Filed 9–26–25; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 9

[Docket No. VA–2024–VBA–0029]

RIN 2900–AR67

Servicemembers’ Group Life Insurance and Veterans’ Group Life Insurance—Accelerated Benefit Option Regulation Update

AGENCY: Department of Veterans Affairs.
ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its regulations governing Servicemembers’ Group Life Insurance (SGLI), Family SGLI (FSGLI), and Veterans’ Group Life Insurance (VGLI) to allow an alternate applicant to apply for an Accelerated Benefit in certain circumstances. VA also defines key terms and removes contact information and the reproduction of the Accelerated Benefit application form from the text of the regulations.

DATES: This rule is effective October 29, 2025.

FOR FURTHER INFORMATION CONTACT: Samantha Yerdon, Management and Program Analyst, Insurance Service, Veterans Benefits Administration, (215) 842–2000, ext. 5494.

SUPPLEMENTARY INFORMATION: On December 5, 2024, VA published a proposed rulemaking in the **Federal Register** pertaining to alternate applicants applying for Accelerated Benefits. 89 FR 96627. VA proposed to liberalize the Accelerated Benefit Option for SGLI, FSGLI, and VGLI members to afford third parties the opportunity to elect an Accelerated Benefit Option if a SGLI/VGLI member is terminally ill and medically incapacitated or an FSGLI spouse is terminally ill and the member is medically incapacitated. *Id.* at 96628. Additionally, VA proposed to remove all addresses and telephone numbers from the text of the regulations as this information is subject to periodic change, and it is not practicable to use the rulemaking process each time an address or telephone number is updated. *Id.* The proposed rule also defined terms related to dependent child FSGLI coverage when the children are age 18–22 to clarify eligibility for insurance payments upon death. *Id.* at 96629.

VA provided the public with a 60-day comment period that ended on February 3, 2025. VA received three comments from the public, and all three comments supported the proposed rulemaking. Based on the rationale set forth in the proposed rule, VA adopts the proposed rule as final with technical edits to 38 CFR 9.14 that correct the subparagraph designations and maintain reference to the Office of Management and Budget control number (2900–0618) and authority citations.

Executive Orders 12866, 13563, and 14192

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs has determined that this final rule is not a significant regulatory action under E.O. 12866, as supplemented by Executive Order 13563. This final rule is a deregulatory action under Executive Order 14192.

Economic Impact: VA has determined there are no costs or transfers associated with this proposal because the SGLI, FSGLI, and VGLI programs are funded by the premiums that Service members and former members pay for the life insurance coverage. Given that these programs are designed to be primarily self-supporting, appropriations are not authorized to be paid to these programs

except in limited instances where the SGLI program's mortality experience due to combat deaths exceeds expected mortality in the program based on civilian death rates. Other than this limited circumstance, the cost of insurance coverage as well as the costs of administering the programs are borne by the program out of premiums paid for coverage. VA designated this as a deregulatory action under Executive Order 14192 due to there being no increases in incremental costs or transfers and because the rulemaking also reduces administrative burden and adjudication inefficiencies. While VA is unable to quantify savings, there will be increases in efficiency as this rulemaking simplifies claims processing and reduces costly appeals without imposing new regulatory requirements.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). The factual basis for this certification is based on an existing statutory provision for the SGLI program, at 38 U.S.C. 1966, which limits the primary insurer for this program to large insurance companies in the United States. The Secretary of Veterans Affairs has purchased a group life insurance policy from a large private insurer for purposes of providing coverage to Service members, their spouses and dependent children, and Veterans. This regulation clarifies requirements under which certain SGLI program benefits are offered under the authority of 38 U.S.C. 1968 and 1980 but does not change the pre-existing statutory requirement that the primary insurer be a large private insurer. As such, the overall impact of this final rule will be of no benefit or detriment to small entities. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

This final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year.

Paperwork Reduction Act

Although this final rule contains collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), there are no provisions associated with this rulemaking constituting any new

collection of information or any revisions to the existing collection of information. The collection of information for 38 CFR 9.14 is currently approved by the Office of Management and Budget (OMB) and has been assigned OMB control number 2900–0618.

Assistance Listing

The Assistance Listing number and title for the program affected by this document is 64.103, Life Insurance for Veterans.

Congressional Review Act

Pursuant to subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not satisfying the criteria under 5 U.S.C. 804(2).

List of Subjects in 38 CFR Part 9

Life insurance, Military personnel, Veterans.

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on September 23, 2025, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Taylor N. Mattson,

*Alternate Federal Register Liaison Officer,
Department of Veterans Affairs.*

For the reasons stated in the preamble, VA amends 38 CFR part 9 as set forth below:

PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

- 1. The authority citation for part 9 continues to read as follows:

Authority: 38 U.S.C. 501, 1965–1980A, unless otherwise noted.

- 2. Amend § 9.1 by revising paragraph (b) and adding paragraphs (m) and (n) to read as follows:

§ 9.1 Definitions.

* * * * *

(b) The term *administrative office* means the Office of Servicemembers' Group Life Insurance.

* * * * *

(m) The term *pursuing a course of instruction at an approved educational institution*, as used in 38 U.S.C. 101(4)(A)(iii), means, for purposes of this part, pursuing a “program of

education,” as that term is defined in 38 U.S.C. 3002(3), at an approved “educational institution,” as that term is defined in 38 U.S.C. 3452(c), as an enrolled student on either a more than half-time basis or on a half-time basis or less.

(n) The term a *stepchild who is a member of a veteran's household*, as used in 38 U.S.C. 101(4)(A), for purposes of this part, means a stepchild who has been living in the insured's household for at least one year.

- 3. Revise § 9.14 to read as follows:

§ 9.14 Accelerated Benefits.

(a) *Accelerated Benefit.* An Accelerated Benefit is a payment of a portion of SGLI or VGLI to a terminally ill member (*i.e.*, an insured Service member or veteran), or a payment of a portion of Family Servicemembers' Group Life Insurance to a member on behalf of a terminally ill covered person, before death.

(b) *Eligibility to receive an Accelerated Benefit.* A member is eligible to receive an Accelerated Benefit if the member has a valid written medical prognosis from a physician of nine months or less to live, and otherwise complies with the provisions of this section.

(c) *Applying for an Accelerated Benefit—SGLI Member or VGLI Member.* (1) A terminally ill member can apply for an Accelerated Benefit by completing the SGLV 8284 application form. The member's physician is required to complete part of the form by certifying that the member is terminally ill (*i.e.*, has a life expectancy of nine months or less). If the member is covered under Servicemembers' Group Life Insurance, the member's uniformed service must also complete part of the form and submit it to the Office of Servicemembers' Group Life Insurance. If the member is covered under VGLI, the member must submit the completed application form to the Office of Servicemembers' Group Life Insurance.

(2) An alternate applicant can apply for an Accelerated Benefit on behalf of a terminally ill member if the member is medically incapacitated, as defined in paragraph (e) of this section. The alternate applicant can apply by completing the SGLV 8284 application form if all of the following conditions are met:

(i) The member's physician must certify that the member is terminally ill and medically incapacitated;

(ii) The alternate applicant must have power of attorney, guardianship, or conservatorship over the member, or be the member's VA-appointed fiduciary

under 38 U.S.C. chapters 55 and 61 or military trustee under 37 U.S.C. 602; and

(iii) The alternate applicant must sign the SGLV 8284 application form; identify that he or she holds the member's power of attorney to act on the member's behalf or is the member's court-appointed guardian or conservator, VA-appointed fiduciary, or military trustee; and attach the form to a true and correct copy of the power of attorney, court order establishing the guardianship or conservatorship, or documentation designating the alternate applicant as the member's VA-appointed fiduciary or military trustee.

(iv) If the member is covered under SGLI, the alternate applicant must submit the application to the member's uniformed service, who then must also complete part of the form and submit it to the Office of Servicemembers' Group Life Insurance. If the member is covered under VGLI, the alternate applicant must submit the completed application form to the Office of Servicemembers' Group Life Insurance.

(d) *Applying for an Accelerated Benefit—Member's Spouse.* (1) If a member's insured spouse (*i.e.*, member's spouse) is terminally ill (*i.e.*, has a life expectancy of nine months or less), only the member can apply for an Accelerated Benefit by completing the SGLV 8284A application form. The member's spouse's physician is required to complete part of the form by certifying that the member's spouse is terminally ill. The member's uniformed service must also complete part of the form and submit it to the Office of Servicemembers' Group Life Insurance.

(2) If the member's spouse is terminally ill and the member is medically incapacitated, an alternate applicant acting on behalf of such member can apply for the Accelerated Benefit. The alternate applicant can apply by completing the SGLV 8284A application form if all of the following conditions are met:

(i) The member's spouse's physician must certify that the member's spouse is terminally ill;

(ii) The member's physician must certify that the member is medically incapacitated;

(iii) The alternate applicant must have power of attorney, guardianship, or conservatorship over the member, or be the member's VA-appointed fiduciary under 38 U.S.C. chapters 55 and 61 or military trustee under 37 U.S.C. 602; and

(iv) The alternate applicant must sign the SGLV 8284A application form; identify that he or she holds the member's power of attorney to act on

the member's behalf or is the member's court-appointed guardian or conservator, VA-appointed fiduciary, or military trustee; and attach the form to a true and correct copy of the power of attorney, court order establishing the guardianship or conservatorship, or documentation designating the alternate applicant as the member's VA-appointed fiduciary or military trustee.

(v) The member's uniformed service must also complete part of the form and submit it to the Office of Servicemembers' Group Life Insurance.

(e) *Medically Incapacitated.* For the purposes of paragraphs (c) and (d) of this section, the term "medically incapacitated" means that a member has been determined by a medical professional to be physically or mentally impaired by physical disability, mental illness, mental deficiency, advanced age, chronic use of drugs or alcohol, or other causes that prevent sufficient understanding or capacity to manage his or her own affairs competently.

(f) *Amount of Accelerated Benefit Request.* (1) A member can request as an Accelerated Benefit an amount up to a maximum of 50% of the face value of the insurance coverage.

(2) A member's request for an Accelerated Benefit must be \$5,000 or a multiple of \$5,000 (for example, \$10,000, \$15,000).

(g) *Accelerated Benefit Decision.* The Office of Servicemembers' Group Life Insurance will review the application and determine whether a member meets the requirements of this section for receiving an Accelerated Benefit.

(1) They will approve the application if the requirements of this section are met.

(2) If the Office of Servicemembers' Group Life Insurance determines that the application form does not fully and legibly provide the information requested by the application form, they will contact the member or their alternate applicant and request that the member or their alternate applicant submit the missing information to them. They will not take action on the application until the information is provided.

(h) *Payment of Accelerated Benefit.* An Accelerated Benefit will be paid in a lump sum.

(i) *Cancellation of Application for Accelerated Benefit.* (1) An election to receive the Accelerated Benefit is made at the time the Accelerated Benefit is cashed or deposited. After that time, the Accelerated Benefit cannot be cancelled. Until that time, a request for the Accelerated Benefit may be cancelled by informing the Office of Servicemembers'

Group Life Insurance in writing and returning payment, if issued by check, or stopping payment before deposit in the member's account, if issued by electronic funds transfer. If a member wants to change the amount of benefits requested or decides to reapply after cancelling a request, the member must file another application requesting either the same or a different amount of benefits.

(2) If a member dies before cashing or depositing an Accelerated Benefit payment, the payment must be returned to the Office of Servicemembers' Group Life Insurance.

(Approved by the Office of Management and Budget under control number 2900-0618)

(Authority: 38 U.S.C. 1965, 1966, 1967, 1980)

[FR Doc. 2025-18828 Filed 9-26-25; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 71

[Docket No. VA-2021-VHA-0018]

RIN 2900-AR28

Extension of Program of Comprehensive Assistance for Family Caregivers Eligibility for Legacy Participants and Legacy Applicants

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts as final, with changes, an interim final rule that amended VA's regulations governing the Program of Comprehensive Assistance for Family Caregivers (PCAFC) and extended the transition period for legacy participants, legacy applicants, and their Family Caregivers (the legacy cohort) through September 30, 2025. This final rule will further extend the transition period for the legacy cohort through September 30, 2028.

DATES: This rule is effective September 30, 2025.

FOR FURTHER INFORMATION CONTACT:

Colleen Richardson, Executive Director, Caregiver Support Program, Veterans Health Administration, (202) 461-7337.

SUPPLEMENTARY INFORMATION:

Executive Summary

This final rule provides an additional three-year extension for the transition period for the legacy cohort, that is through September 30, 2028, and responds to comments received on two prior interim final rules that were previously published related to the transition period for the legacy cohort.

VA is making this change to ensure continued eligibility for individuals who were deemed eligible for PCAFC under prior criteria while VA continues to consider regulatory changes, including with respect to the eligibility criteria that became effective on October 1, 2020, as discussed in a December 6, 2024, proposed rule. 89 **Federal Register** (FR) 97404. As VA explained in 2020 when establishing the transition period for the legacy cohort, individuals within the legacy cohort may have been participating in PCAFC for many years and, through no fault of their own, have come to rely upon the stipend and other PCAFC benefits. See 85 FR 46226, at 46253 (July 31, 2020). VA believes it would be unjust for the transition period for the legacy cohort to conclude while VA is still working to identify and begin implementing changes related to PCAFC, including the eligibility criteria.

Background

As originally codified in 2010, section 1720G of title 38, United States Code (U.S.C.), required VA to establish PCAFC for Family Caregivers of eligible veterans who have a serious injury incurred or aggravated in the line of duty in the active military, naval, or air service on or after September 11, 2001. Section 101 of the Caregivers and Veterans Omnibus Health Services Act of 2010, Public Law (Pub. L.) 111–163, 124 Stat. 1130 (2010). VA implemented PCAFC through its regulations in part 71 of title 38, Code of Federal Regulations (CFR).

In 2018, section 1720G was amended by expanding PCAFC to Family Caregivers of eligible veterans who have a serious injury incurred or aggravated in the line of duty before September 11, 2001, establishing new benefits for designated Primary Family Caregivers of eligible veterans, and making other changes affecting program eligibility and VA's evaluation of PCAFC applications. Section 161 of the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018 (VA MISSION Act of 2018), Public Law 115–182, 132 Stat. 1393 (2018).

Subsequently, through regulations, VA amended the PCAFC eligibility criteria, identified a legacy cohort (*i.e.*, legacy applicants, legacy participants, and their Family Caregivers, as those terms are defined in 38 CFR 71.15) who were approved for PCAFC under the previous eligibility criteria, and created a one-year transition period through September 30, 2021, whereby the legacy cohort would continue to remain eligible for PCAFC and continue to

receive benefits in accordance with 38 CFR 71.40 while they were reassessed under the new eligibility criteria. 85 FR 46226.

First and Second PCAFC Extension for Legacy Cohort

On September 22, 2021, VA published an interim final rule (First PCAFC Extension for Legacy Cohort) that extended the one-year transition period for the legacy cohort for one additional year through September 30, 2022. 86 FR 52614. VA continued to reassess the legacy cohort during this time. However, on March 25, 2022, the U.S. Court of Appeals for the Federal Circuit issued a decision that set aside certain PCAFC criteria established in the July 31, 2020, rulemaking, resulting in the need for VA to repeat certain reassessments of the legacy cohort to account for the Court's interpretation. *Veteran Warriors, Inc. v. Sec'y of Veterans Affairs*, 29 F.4th 1320 (Fed. Cir. 2022) (*Veteran Warriors*). In light of the *Veteran Warriors* decision, VA published a second interim final rule (Second PCAFC Extension for Legacy Cohort) on September 21, 2022, that extended the transition period and timeline for VA to complete reassessments of the legacy cohort by three additional years through September 30, 2025. 87 FR 57602.

VA provided a 60-day comment period for the First PCAFC Extension for Legacy Cohort, which ended on November 22, 2021. Four comments were received. VA provided a 60-day comment period for the Second PCAFC Extension for Legacy Cohort, which ended on November 21, 2022. Eleven comments were received. In this rulemaking, VA responds to comments received on the First and Second PCAFC Extension for Legacy Cohort and further extends the transition period by an additional three-year period, that is through September 30, 2028.

VA notes that on December 6, 2024, VA published a proposed rule (New Amendments to PCAFC) that, among other changes, proposed to further amend the eligibility criteria for PCAFC and proposed to further extend the transition period for the legacy cohort and the timeline for conducting necessary reassessments for members of the legacy cohort to ensure they could be reassessed under the proposed new eligibility criteria, once finalized. 89 FR 97404. VA received 842 comments on the New Amendments to PCAFC proposed rule, a significant number of which related to the proposed extension of the transition period for the legacy cohort. However, because those comments are specific to the New

Amendments to PCAFC proposed rule, they will not be addressed in this final rule.

Response to Comments

As discussed, the First and Second PCAFC Extension for Legacy Cohort extended the transition period during which the legacy cohort could be reassessed for continued eligibility for PCAFC. While the Second PCAFC Extension for Legacy Cohort also made non-substantive technical amendments to the regulations, neither the First nor Second PCAFC Extension for Legacy Cohort interim final rules included substantive regulatory changes other than extending the transition period for the legacy cohort. Public comments addressing other issues, such as the eligibility criteria in the July 31, 2020, rulemaking and substantive changes to eligibility criteria based on *Veteran Warriors* are outside the scope of the First and Second PCAFC Extension for Legacy Cohort. The only comments within the scope of this rulemaking are those that specifically addressed whether and for how long the transition period for the legacy cohort should be extended.

Many of the comments received pursuant to the First and Second PCAFC Extension for Legacy Cohort raised broader issues related to PCAFC and are therefore outside the scope of this rulemaking. These comments raised concerns with the July 31, 2020, rulemaking, such as a belief that the final rule added additional restrictions to eligibility and that the changes negatively impacted the legacy cohort. Other comments raised concerns related to perceived inequity between pre- and post-9/11 veterans; stipend levels and rate calculations; the application form for PCAFC (VA Form 10–10CG); the effect of *Veteran Warriors* and the need to issue new regulations; the appeals process for PCAFC decisions; and the need for a formalized period for the pause on discharges and reductions for PCAFC participants who are not in the legacy cohort. Additional commenters shared their personal experiences with PCAFC and other expressed concerns with VA health care generally. As these comments were outside the scope of this rulemaking, in this final rule, VA makes no changes based on these comments and does not respond to the broader issues raised by these commenters.

VA received two comments pursuant to and within the scope of the First PCAFC Extension for Legacy Cohort that supported extending the transition period. One comment advocated for VA to prioritize new PCAFC applicants and stated that members of the legacy cohort

should continue to stay in the program unless their caregiver support coordinator feels they are no longer qualified under the revised criteria or they decide to stop participating. Another comment supported the extension to provide additional time for VA to complete reassessments of the legacy cohort and indicated that “[s]etting a single, specific date when all the reassessments become effective is . . . fair and appropriate and gives veterans and their caregivers time to prepare for any changes in their status and/or stipend.” VA takes note of the commenters’ desire for continued eligibility for the legacy cohort and their support for extending the transition period. VA believes that these commenters’ reasons for supporting a one-year extension, such as providing the legacy cohort additional time to prepare for potential changes to their eligibility and/or stipend, also support an additional three-year extension of the transition period for the legacy cohort, that is through September 30, 2028.

VA received three comments pursuant to and within the scope of the Second PCAFC Extension for Legacy Cohort that supported the three-year extension of the transition period for the legacy cohort through September 30, 2025. These commenters stated that the additional three-year period would mitigate negative impacts and ease the emotional and financial burden on the legacy cohort while providing time for VA to make meaningful adjustments to PCAFC eligibility. VA believes that these commenters’ reasons for supporting the three-year extension also support an additional three-year extension of the transition period for the legacy cohort, that is through September 30, 2028.

Additionally, VA received one comment pursuant to and within the scope of the Second PCAFC Extension for Legacy Cohort that stated that this rule is a major rule and requires a proposed rule instead of an interim final rule. VA clarifies for the commenter that the Office of Information and Regulatory Affairs (OIRA) determined that both the First and Second PCAFC Extension for Legacy Cohort were not major rules under the Congressional Review Act (5 U.S.C. 804(2)). To the extent that the commenter is referring to the determination by OIRA that the Second PCAFC Extension for Legacy Cohort is a significant regulatory action under Executive Order 12866, VA clarifies that there is no prohibition against a finding of good cause to waive prior notice and opportunity for public comment for a significant regulatory action. Additionally, while the Second PCAFC

Extension for Legacy Cohort was not promulgated as a proposed rule, VA invited public comments on the amendments during a 60-day comment period and committed to fully consider and address comments received. 87 FR 57608. VA refers the commenter to the Second PCAFC Extension for Legacy Cohort for a detailed discussion on VA’s determination that there was good cause to publish the Second PCAFC Extension for Legacy Cohort as an interim final rule under the Administrative Procedure Act. Id. at 57607–08. VA does not make any changes to the rule based on this comment.

Changes to 38 CFR Part 71

In this final rule, VA is making changes to the Second PCAFC Extension for Legacy Cohort to extend the transition period for the legacy cohort for an additional three years through September 30, 2028. As mentioned previously, in the New Amendments to PCAFC proposed rule, VA proposed additional changes to PCAFC, including changes to certain eligibility criteria. Among the changes proposed, VA proposed to extend the transition period of the legacy cohort to allow VA time to conduct reassessments of the legacy cohort under any new criteria that take effect as part of that rulemaking. 89 FR 97405. VA received 842 comments on the New Amendments to PCAFC proposed rule and due to the volume and thoroughness of the comments, VA determined it is not feasible to publish a New Amendments to PCAFC final rule and have such changes become effective prior to the end date of the current transition period for the legacy cohort, that is, on September 30, 2025. Therefore, VA believes it is necessary to extend the transition period for the legacy cohort by three years to ensure there is no change in VA’s treatment of the legacy cohort while VA reviews and considers all comments received from the New Amendments to PCAFC proposed rule related to the legacy cohort and prior to issuing the New Amendments to PCAFC final rule. Extending the transition period for the legacy cohort by three years ensures VA has sufficient time to issue a New Amendments to PCAFC final rule, which could include regulatory changes impacting the legacy cohort.

These changes are a logical outgrowth from the First and Second PCAFC Extension for Legacy Cohort. The First PCAFC Extension for Legacy Cohort extended the transition period for the legacy cohort by one year to provide additional time for VA to complete their reassessments and ensure they were treated equitably. The Second PCAFC

Extension for Legacy Cohort rulemaking provided a three-year extension to the transition period for the legacy cohort to ensure that members of the legacy cohort would be treated fairly as they were reassessed under the eligibility criteria applied by VA following *Veteran Warriors*. Providing an additional three-year extension will similarly ensure continuation of the transition period for members of the legacy cohort while VA considers amendments that could impact their eligibility pursuant to the New Amendments to PCAFC final rule—thereby ensuring equitable treatment for the duration of the transition period for PCAFC participants in the legacy cohort. These changes merely extend provisions established within the First and Second PCAFC Extension for Legacy Cohort and do not create any burdens or restrictions on members of the legacy cohort. *See Veterans Justice Grp. v. Sec’y of Veterans Affs.*, 818 F.3d 1336, 1343–45 (Fed. Cir. 2016) (holding that additional notice and opportunity for comment were not required where modifications contained in a final rule were a logical outgrowth of the proposed rule). Therefore, in this final rule, VA is amending references to the five-year transition period for the legacy cohort contained in 38 CFR 71.20, 71.30, and 71.40 to reflect the updated transition period, totaling eight years, through September 30, 2028.

Congressional Review Act

This regulatory action is a major rule under the Congressional Review Act (5 U.S.C. 804(2)) because it is likely to result in an annual effect on the economy of \$100 million or more. Although this regulatory action is a major rule under 5 U.S.C. 804(2), the Secretary of Veterans Affairs finds that good cause exists under the provisions of 5 U.S.C. 808(2) to forgo the 60-day delayed effective date under 5 U.S.C. 801 and make this rule effective immediately and prior to end of the full Congressional review period. If this rule is not made effective prior to October 1, 2025, members of the legacy cohort and other stakeholders would be subject to uncertainty and confusion about their continued PCAFC eligibility and assistance upon the expiration of the current transition period for the legacy cohort on September 30, 2025. Because of these burdens, further notice and public procedure would be impracticable and contrary to the public interest. 5 U.S.C. 808(2). Accordingly, the Secretary finds that there is good cause to publish this final rule with an operative and effective date of September 30, 2025. In accordance with

5 U.S.C. 801(a)(1), VA will submit to the Comptroller General and to Congress a copy of this regulation and VA's regulatory impact analysis for the regulation.

Administrative Procedure Act

The Secretary finds that notice and comment procedures are not required for this final rule because it simply concludes the regulatory action from the First and Second PCAFC Extension for Legacy Cohort interim final rules. Notice and comment did in fact occur on the First and Second PCAFC Extension for Legacy Cohort interim final rules, and this final rule responds to significant and relevant comments received thereon. Additionally, as noted above, the changes from the Second PCAFC Extension for Legacy Cohort are a logical outgrowth from the First and Second PCAFC Extension for Legacy Cohort, such that further notice and comment is not required. Alternatively, were notice and comment otherwise required for this action, for the reasons discussed above and in those interim final rules, the Secretary finds that there is good cause under 5 U.S.C. 553(b)(B) that notice and comment procedures are impracticable and contrary to the public interest. Finally, for the reasons set forth in the preceding section, the Secretary finds that there is also good cause to forego the 30-day delayed effective date required under 5 U.S.C. 553(d)(3) and publish this final rule with an immediate effective date.

Executive Orders 12866, 13563, and 14192

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. OIRA has determined that this rulemaking is an economically significant regulatory action under section 3(f)(1) of Executive Order 12866, as supplemented by Executive Order 13563. This final rule is not a regulatory action under Executive Order 14192 because it does not impose any more than de minimis regulatory costs. The regulatory impact analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are

defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). This final rule extends the time for VA to conduct reassessments of legacy applicants, legacy participants, and their Family Caregivers and the transition period for such individuals. This rule will have no impact on small entities. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and Tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

List of Subjects in 38 CFR Part 71

Administrative practice and procedure, Claims, Health care, Health facilities, Health professions, Mental health programs, Public assistance programs, Travel and transportation expenses, Veterans.

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on September 12, 2025, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Taylor N. Mattson,

*Alternate Federal Register Liaison Officer,
Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 71 as follows:

PART 71—CAREGIVERS BENEFITS AND CERTAIN MEDICAL BENEFITS OFFERED TO FAMILY MEMBERS OF VETERANS

■ 1. The authority citation for part 71 continues to read in part as follows:

Authority: 38 U.S.C. 501, 1720G, unless otherwise noted.

* * * * *

§ 71.20 [Amended]

■ 2. Amend § 71.20(b) and (c) by removing “five” and adding in its place “eight”.

§ 71.30 [Amended]

■ 3. Amend § 71.30(e)(1) and (2) by removing “five-year” and adding in its place “eight-year”.

§ 71.40 [Amended]

■ 4. Amend § 71.40 by:

■ a. In paragraphs (c)(4)(i)(B) introductory text and (c)(4)(i)(C) and (D), removing “five” and adding in its place “eight”.

■ b. In paragraph (c)(4)(ii)(C)(2)(i), removing “five-year” each time it appears and adding in its place “eight-year”.

■ c. In paragraph (c)(4)(ii)(C)(2)(ii), removing “2025” each time it appears and adding in its place “2028”.

■ d. In note 1 to paragraph (c)(4)(ii)(C)(2), removing “2025” each time it appears and adding in its place “2028”.

[FR Doc. 2025–18827 Filed 9–26–25; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 956

Administrative Wage Garnishment

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This document contains the final rule for proceedings in which the Judicial Officer Department conducts fact-finding relative to administrative wage garnishment initiated by the Department of the Treasury.

DATES: Effective September 29, 2025.

ADDRESSES: Postal Service Judicial Officer Department, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078.

FOR FURTHER INFORMATION CONTACT: Staff Counsel Sheena Allen at (240) 636–4158.

SUPPLEMENTARY INFORMATION:

Background

39 CFR 492 authorizes the U.S. Department of the Treasury Bureau of the Fiscal Service or its successor entity to collect debts by administrative wage garnishment, and conduct administrative wage garnishment hearings, on behalf of the Postal Service in accordance with the requirements of 31 U.S.C. 3720D and the procedures contained in 31 CFR 285.11. In conformity with the current interagency

agreement (IAA FY 22) between the Postal Service and the U.S. Department of the Treasury Bureau of the Fiscal Service, the Judicial Officer Department is responsible for conducting non-hardship hearings regarding the existence or amount of delinquent nontax debts collected by administrative wage garnishment. Under 31 CFR 285.11(f), “agencies shall prescribe regulations for the conduct of administrative wage garnishment hearings consistent with this section or shall adopt this section without change by reference.” Thus, the Judicial Officer Department created these rules to reflect the current practice for cases involving non-hardship administrative wage garnishment hearing requests.

List of Subjects in 39 CFR Part 956

Administrative practice and procedure, Claims, Postal Service.

■ Accordingly, for the reasons stated, the Postal Service adds 39 CFR part 956 to read as follows:

PART 956—ADMINISTRATIVE WAGE GARNISHMENT

Sec.

- 956.1 (Rule 1) Authority for this part.
- 956.2 (Rule 2) Scope of this part.
- 956.3 (Rule 3) Definitions.
- 956.4 (Rule 4) Petition for a hearing.
- 956.5 (Rule 5) Scope of hearing; evidentiary standard.
- 956.6 (Rule 6) Notice of Docketing.
- 956.7 (Rule 7) Filing and serving documents; computation of time; representation of parties.
- 956.8 (Rule 8) Answer to petition.
- 956.9 (Rule 9) Hearing Official authority and responsibilities.
- 956.10 (Rule 10) Opportunity for oral hearing.
- 956.11 (Rule 11) Effect of Hearing Official's decision.
- 956.12 (Rule 12) Consequences for failure to comply with this part.
- 956.13 (Rule 13) Ex parte communications.

Authority: 31 U.S.C. 3720D; 39 U.S.C. 204, 401, 2601; 31 CFR 285.11.

§ 956.1 (Rule 1) Authority for this part.

This part is issued by the Judicial Officer under authority delegated by the Postmaster General.

§ 956.2 (Rule 2) Scope of this part.

(a) This part applies to a debtor's petition for hearing provided by 31 U.S.C. 3720D, 31 CFR 285.11, and in accordance with the regulations contained in the Employee and Labor Relations Manual, sections 470 and 480.

(b) Under this part, a debtor may challenge:

(1) The existence of a delinquent nontax debt owed to the Postal Service; or

(2) The amount of a delinquent nontax debt owed to the Postal Service.

(c) This part also applies to a hearing under 31 U.S.C. 3720D and 31 CFR 285.11 when a Hearing Official in the Judicial Officer Department is designated as the Hearing Official for a creditor Federal agency other than the Postal Service under an agreement between the Postal Service and that agency. In those cases, all references to Postal Service in this part will be construed to refer to the relevant creditor Federal agency.

§ 956.3 (Rule 3) Definitions.

As used in this part:

(a) *Agency* refers to the agency that administers the program that gave rise to the debt or the agency that pursues recovery of the debt.

(b) *Debt* or *claim* refers to any money, funds, or property that has been determined by an appropriate official of an agency to be owed to the United States by an individual, including a debt administered by a third party as an agent for the Federal Government.

(c) *Debtor* refers to an individual who owes a delinquent nontax debt to the Postal Service.

(d) *Delinquent nontax debt* means any nontax debt that has not been paid by the date specified in the agency's initial written demand for payment, or applicable agreement, unless other satisfactory payment arrangements have been made.

(e) *Garnishment* refers to the process of withholding amounts from an employee's disposable pay and the payment of those amounts to a creditor in satisfaction of a withholding order.

(f) *General Counsel* refers to the General Counsel of the United States Postal Service and includes a designated representative.

(g) *Hearing Official* refers to any individual qualified to hear cases, as determined by the Judicial Officer, including an administrative law judge appointed under the Administrative Procedure Act, an administrative judge appointed under the Contract Disputes Act, or other qualified person who is designated by the Judicial Officer to conduct the hearing under 31 CFR 285.11.

(h) *Judicial Officer* refers to the Judicial Officer, Associate Judicial Officer, or Acting Judicial Officer of the United States Postal Service.

(i) *Notice of Intent to Initiate Administrative Wage Garnishment Proceedings* refers to the formal written notice required by 31 U.S.C. 3720D and 31 CFR 285.11 before administrative wage garnishment deductions can be taken from a debtor's salary.

(j) *Recorder* refers to the Recorder, Judicial Officer Department, U.S. Postal Service, located at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078. The Recorder's telephone number is (703) 812–1900, the fax number is (703) 812–1901, and the Judicial Officer Department's website is <https://about.usps.com/who/judicial/>.

(k) *Withholding order* means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body.

§ 956.4 (Rule 4) Petition for a hearing.

A debtor may petition for a non-hardship hearing to challenge the existence or the amount of a delinquent nontax debt owed to the Postal Service, in accordance with 31 U.S.C. 3720D and 31 CFR 285.11(b). After receiving the debtor's petition for hearing, the agency will promptly transmit the written request and any documents received from the debtor to the Postal Service for further processing and decision by the Judicial Officer Department.

§ 956.5 (Rule 5) Scope of hearing; evidentiary standard.

(a) A hearing under this part will be conducted by the Hearing Official to determine:

- (1) The existence of the debt; and
- (2) The amount of the debt.

(b) The Postal Service must prove its case against a debtor by a preponderance of the evidence.

§ 956.6 (Rule 6) Notice of Docketing.

(a) Within a reasonable time after receiving the debtor's petition for hearing from the agency, the Recorder will issue a Notice of Docketing to the debtor and the General Counsel. The Recorder will maintain a record of Administrative Wage Garnishment proceedings and will assign a docket number to each case.

(b) The debtor and the Postal Service's representative should refer to the docket number on any further filings.

§ 956.7 (Rule 7) Filing and serving documents; computation of time; representation of parties.

(a) *Filing*. All pleadings and documents required under this part must be filed using the Judicial Officer Department's electronic filing system, unless the Hearing Official permits otherwise. The Judicial Officer Department's electronic filing system website is accessible 24 hours a day at <https://usps-judicialoffice.journaltech.com>.

(1) Documents submitted using the electronic filing system are considered filed as of the date and time (Eastern Time) reflected in the system.

(2) Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark.

(3) Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. Normal business hours are 8:30 a.m. to 4:30 p.m. (Eastern Time), Monday through Friday, except Federal holidays.

(b) *Service*. If both parties use the electronic filing system, separate service on the opposing party is not required. Otherwise, documents must be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

(c) *Time computation*. A filing period under this part excludes the day the period begins and includes the last day of the period, unless the last day is a Saturday, Sunday, or Federal holiday, in which case the period runs until the close of business on the next business day.

(1) Requests for time extensions must be made in writing before the submission is due, state the reason for the extension request, represent that the moving party has contacted the opposing party about the request, or made reasonable efforts to do so, and indicate whether the opposing party consents to the extension.

(2) Requests for time extensions submitted after the date on which the submission was due must explain why the moving party could not request an extension before the deadline.

(d) *Representation of parties*. The Postal Service's representative, as designated by the General Counsel, must file a notice of appearance as soon as practicable, but no later than the date the answer is due. If a debtor has a representative, they must also file a notice of appearance as soon as practicable, and further transmissions of documents and other communications by and with the debtor must be made through their representative.

§ 956.8 (Rule 8) Answer to petition.

Within 15 days from the date of receiving the Notice of Docketing, the Postal Service's representative must file an answer to the petition and attach all available relevant records and documents in support of the Postal Service's debt claim. The answer must provide a clear and thorough description of the basis for the Postal Service's determination of the alleged debt and its calculation of the alleged debt amount.

§ 956.9 (Rule 9) Hearing Official authority and responsibilities.

The Hearing Official's authority includes, but is not limited to, the following:

(a) Ruling on all motions or requests by the parties.

(b) Issuing notices, orders, or memoranda to the parties about the hearing proceedings.

(c) Conducting telephone conferences with the parties to expedite the proceedings. The Hearing Official will issue a Memorandum of Telephone Conference, which will serve as the official record of that conference.

(d) Determining whether a case will be decided after an oral hearing or on the written record. If an oral hearing is held, the Hearing Official will set the place, date, and time of the hearing.

(e) Administering oaths or affirmations to witnesses.

(f) Conducting the hearing in a manner to maintain discipline and decorum while assuring that relevant, reliable, and probative evidence is elicited on the issues in dispute, but irrelevant, immaterial, or repetitious evidence is excluded. As necessary, examining witnesses to ensure that a satisfactory record is developed.

(g) Establishing the record in the case. The Hearing Official will determine the weight attached to any evidence. Except as the Hearing Official may otherwise order, no proof will be received in evidence after completion of an oral hearing or, in cases submitted on the written record, after notification by the Hearing Official that the record is closed. The Hearing Official may require either party, with appropriate notice to the other party, to submit additional evidence on any relevant matter.

(h) Granting reasonable time extensions or other relief for good cause shown.

(i) Issuing the final decision. After the record closes, the Hearing Official will issue a written decision as soon as practicable. The written decision will include:

(1) Findings of fact;

(2) Conclusions of law; and

(3) The amount and validity of the alleged debt.

(j) Posting the decision in the electronic filing system. If a party does not have access to the electronic filing system, the Recorder will mail that party a copy of the decision.

§ 956.10 (Rule 10) Opportunity for oral hearing.

(a) An oral hearing will be conducted at the Hearing Official's discretion. An oral hearing may be conducted in-person, by telephone, by video

conference, or other appropriate means as directed by the Hearing Official.

(b) When the Hearing Official determines that an oral hearing will not be conducted, the decision will be based solely on the written submissions.

(c) The Hearing Official will arrange for the recording and transcription of an oral hearing, which will serve as the official record of the hearing.

(d) The hearing may proceed if a party fails, without excuse, to appear.

§ 956.11 (Rule 11) Effect of Hearing Official's decision.

Except for any issues reserved for the Department of the Treasury, the Hearing Official's decision shall be the final agency action for the purposes of judicial review under the Administrative Procedure Act (5 U.S.C 701 *et. seq.*).

§ 956.12 (Rule 12) Consequences for failure to comply with this part.

If the Hearing Official determines that a debtor has abandoned the right to a hearing, files their petition late without good cause, or files a withdrawal of the petition, administrative wage garnishment may be initiated. If the Hearing Official determines that the Postal Service fails to file the answer, files the answer late without good cause, or files a withdrawal of the debt determination, administrative wage garnishment may not be initiated. If either party fails to comply with this part or the Hearing Official's orders, the Hearing Official may take reasonable and proper action under the circumstances, including dismissing or granting the petition as appropriate.

§ 956.13 (Rule 13) Ex parte communications.

Ex parte communications are not allowed between a party and the Hearing Official or the Hearing Official's staff.

(a) *Ex parte communication* means an oral or written communication, not on the public record, with only one party with respect to which reasonable prior notice to all parties is not given, but it will not include requests for status reports or procedural matters.

(b) A memorandum of any communication between the Hearing Official and a party will be transmitted to both parties.

Matthew W. Tievsky,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2025-18917 Filed 9-26-25; 8:45 am]

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**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 131****[EPA–HQ–OW–2023–0222; FRL 10760–02–
OW]****RIN 2040–AG30****Water Quality Standards To Protect
Aquatic Life in the Delaware River****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is finalizing revised water quality standards (WQS) largely as proposed for certain water quality management zones of the mainstem Delaware River under the Clean Water Act (CWA). Specifically, the EPA is promulgating a designated use of protection and propagation of resident and migratory aquatic life and corresponding dissolved oxygen water quality criteria for the mainstem Delaware River in Zone 3, Zone 4, and the upper portion of Zone 5 (in total, river miles 108.4 to 70.0).

DATES: This final rule is effective on November 28, 2025.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2023–0222. 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 whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are

available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Hannah Lesch, Office of Water, Standards and Health Protection Division (4305T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566–1224; email address: Lesch.Hannah@epa.gov.

SUPPLEMENTARY INFORMATION:

The information in this preamble is organized as follows:

- I. General Information
 - A. Does this action apply to me?
 - B. How did the EPA develop this final rule?
- II. Background
 - A. Statutory and Regulatory Authority
 - B. Relevant Ecological History of the Delaware River
 - C. Administration of Water Quality Standards in the Delaware River
 - D. Relevant Aquatic Life Designated Uses and Dissolved Oxygen Criteria Prior to Promulgation of This Final Rule
 - E. Summary of the EPA Administrator's Determination
- III. Final Water Quality Standards
 - A. Scope of the EPA's Rule
 - B. Aquatic Life Designated Use
 - C. Dissolved Oxygen Criteria To Protect Aquatic Life Propagation
- IV. Endangered Species Act Consultation
- V. Applicability
- VI. Conditions Under Which Federal Water Quality Standards Would Be Withdrawn
- VII. Alternative Regulatory Approaches and Implementation Mechanisms
 - A. Water Quality Standards Variances and NPDES Permit Compliance Schedules
 - B. Clean Water Act Section 303(d)/305(b) Water Quality Assessments
- VIII. Economic Analysis
 - A. Baseline for the Analysis
 - B. Development of the Policy Scenario
 - C. Potential Costs
 - D. Potential Benefits
 - E. Conclusion
- IX. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive

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- C. Paperwork Reduction Act (PRA)
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- E. Unfunded Mandates Reform Act (UMRA)
- F. Executive Order 13132: Federalism
- G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
- I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
- J. National Technology Transfer and Advancement Act (NTTAA)
- K. Congressional Review Act (CRA)

I. General Information**A. Does this action apply to me?**

Table 1 of this preamble identifies a range of individuals and entities that could be indirectly affected by this final rule. For example, entities that discharge pollutants to certain waters under the jurisdiction of the States of Delaware, New Jersey, and Pennsylvania—such as industrial facilities and municipalities that manage stormwater, separate sanitary, or combined sewer systems—could be indirectly affected by this rule because the Federal WQS promulgated by the EPA in this rule are applicable WQS for these waters for CWA purposes. Specifically, these Federal WQS are the applicable standards that must be used in CWA regulatory programs, such as permitting under the National Pollutant Discharge Elimination System (NPDES) under CWA section 402¹ and identifying impaired waters under CWA section 303(d). In addition, individuals and entities who rely on or benefit from aquatic life in these waters may be indirectly affected.

TABLE 1—ENTITIES POTENTIALLY INDIRECTLY AFFECTED BY THIS RULE

Category	Examples of potentially indirectly affected entities
Industry	Industrial point sources discharging to certain waters in Delaware, New Jersey, and Pennsylvania. Commercial fishing operations that harvest fish.
Municipalities, including those with stormwater or combined sewer system outfalls.	Publicly owned treatment works or similar facilities responsible for managing stormwater, separate sanitary, or combined sewer systems that discharge to certain waters in Delaware, New Jersey, and Pennsylvania.
Recreation and Tourism	Anglers and tourists seeking recreational opportunities related to aquatic life in certain waters in Delaware, New Jersey, and Pennsylvania.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that could

be indirectly affected by this action. If you have questions regarding the applicability of this action to a

particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

¹ Before any water quality-based effluent limit could be included in an NPDES permit, the permitting authority (here, the states of Delaware,

New Jersey, and Pennsylvania), must first determine whether a discharge “will cause or has the reasonable potential to cause, or contribute to

an excursion above any WQS.” 40 CFR 122.44(d)(1)(i) and (ii).

B. How did the EPA develop this final rule?

In developing this final rule, the EPA carefully considered the public comments and input received from interested parties. The EPA provided a 60-day public comment period after publishing the proposed rulemaking in the **Federal Register** on December 21, 2023.² In addition, the EPA held two online public hearings on February 6 and 7, 2024, to discuss the contents of the proposed rulemaking and accept verbal public comments.

The EPA received approximately 4,800 total comments on a range of issues. Most commenters were supportive of the EPA's proposal to revise WQS in the Delaware River. Some commenters expressed concerns regarding potential implementation costs and the potential cost to water utility ratepayers. Other commenters focused on aspects of the methods the EPA used to derive the dissolved oxygen criteria and the stringency of the proposed criteria. In this preamble, the EPA explains how it responded to certain comments received on aspects of the proposal. A complete record of the comments received and the EPA's responses is available in the associated response to comments document in the official public docket.³

II. Background

A. Statutory and Regulatory Authority

CWA section 101(a)(2) establishes a national goal of "water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water" (hereafter, collectively referred to as "101(a)(2) uses" or "101(a)(2) goals"), wherever attainable.⁴ CWA section 303(c)(2)(A) provides that WQS must protect the public health or welfare, enhance water quality, and serve the purposes of the CWA, taking into consideration the use and value of water for the propagation of fish and wildlife.⁵ The EPA's regulation at 40 CFR 131.10 implements these statutory provisions.

Under CWA section 303(c), states⁶ have the primary responsibility for

reviewing, establishing, and revising WQS applicable to their waters. In CWA section 303(c)(4), Congress directs the EPA to promulgate Federal WQS in two situations. First, if the EPA determines that a state's new or revised WQS are not consistent with the requirements of the CWA and specifies changes to meet such requirements, the state has 90 days to submit a modified standard to the EPA. If the state fails to submit new or revised WQS that meet the CWA's requirements, then the EPA must propose and promulgate new or revised Federal WQS for the waters involved.⁷ Second, the EPA Administrator has the authority to propose and promulgate standards in any case where the Administrator determines that a new or revised standard is necessary to meet the requirements of the CWA.⁸ The EPA refers to a determination pursuant to CWA section 303(c)(4)(B) as an "Administrator's Determination."⁹ In either instance, CWA section 303(c)(4) states that the EPA must promulgate new or revised WQS, "unless prior to such promulgation," a state adopts and EPA approves new or revised WQS that meet the CWA's requirements.

WQS define the desired condition of a water body by designating the use or uses to be made of the water¹⁰ and by setting water quality criteria to protect those uses.¹¹ There are two primary categories of water quality criteria: human health criteria and aquatic life criteria. Human health criteria protect designated uses such as public water supply, recreation, and fish and shellfish consumption. Aquatic life criteria protect designated uses such as survival, growth, and reproduction of fish, invertebrates, and other aquatic species. The EPA's regulation provides that water quality criteria "must be based on sound scientific rationale and must contain sufficient parameters or constituents to protect the designated use. For waters with multiple use designations, the criteria shall support the most sensitive use."¹²

States are required to hold a public hearing to review applicable WQS at least once every three years and, if appropriate, revise or adopt new standards, including additional attainable designated uses.¹³ Any new or revised WQS must be submitted to the EPA for review and approval or

disapproval.¹⁴ As explained above, CWA section 303(c)(4)(B) independently authorizes the Administrator to determine that a new or revised standard is necessary to meet CWA requirements.

B. Relevant Ecological History of the Delaware River

The Delaware River has historically been home to numerous species of ecological, recreational, and economic importance. However, water quality impacts and habitat degradation, peaking in the mid-twentieth century, made portions of the river unsuitable for many aquatic species—such as the Atlantic Sturgeon (*Acipenser oxyrinchus oxyrinchus*), Shortnose Sturgeon (*A. brevirostrum*), American Shad (*Alosa sapidissima*), and Striped Bass (*Morone saxatilis*), among others¹⁵—that are sensitive to seasonal anoxia (*i.e.*, absence of sufficient oxygen) in the mainstem Delaware River in Zone 3, Zone 4, and the upper portion of Zone 5 (in total, river miles 108.4 to 70.0; hereafter, referred to as "specified zones" or "relevant zones").^{16 17}

¹⁴ CWA section 303(c)(2)(A) and (c)(3).

¹⁵ Stoklosa, A.M., Keller, D.H., Marano, R., and Horwitz, R.J. (2018). "A Review of Dissolved Oxygen Requirements for Key Sensitive Species in the Delaware Estuary." Academy of Natural Sciences of Drexel University. November 2018. https://www.nj.gov/drbc/library/documents/Review_DOREQ_KeySensSpecies_DelEstuary_ANStoDRBCNov2018.pdf.

¹⁶ Hardy, C.A. (1999). Fish or Foul: A History of the Delaware River Basin Through the Perspective of the American Shad, 1682 to the Present. Pennsylvania History, 66(4), 506–534. https://digitalcommons.wcupa.edu/hist_facpub/13/;

Secor, D.H. and Waldman, J. (1999). Historical abundance of Delaware Bay Atlantic sturgeon and potential rate of recovery. American Fisheries Society Symposium. 23. 203–216. https://www.researchgate.net/publication/291783957_Historical_abundance_of_Delaware_Bay_Atlantic_sturgeon_and_potential_rate_of_recovery;

Smith, T.I.J., & Clugston, J.P. (1997) Status and management of Atlantic sturgeon, *Acipenser oxyrinchus*, in North America. Environmental Biology of Fishes 48, 335–346. <https://doi.org/10.1023/A:1007307507468>;

National Marine Fisheries Service. (1998). Recovery Plan for the Shortnose Sturgeon (*Acipenser brevirostrum*). Prepared by the Shortnose Sturgeon Recovery Team for the National Marine Fisheries Service, Silver Spring, Maryland. 104 pages. <https://repository.library.noaa.gov/view/noaa/15971>;

Atlantic States Marine Fisheries Commission. (1981). Interstate Fisheries Management Plan for the Striped Bass. <http://www.asmfc.org/uploads/file/1981FMP.pdf>.

¹⁷ A map showing the Delaware River watershed and the specified zones is available in the docket (Docket ID No. EPA–HQ–OW–2023–0222) as well as in each of the supporting documents associated with this final rule: *Technical Support Document for the Final Rule: Water Quality Standards to Protect Aquatic Life in the Delaware River*; and *Economic Analysis for the Final Rule: Water Quality Standards to Protect Aquatic Life in the Delaware River*.

² United States Environmental Protection Agency. Proposed Rule: Water Quality Standards to Protect Aquatic Life in the Delaware River. 88 FR 88315, December 21, 2023.

³ A complete record of the comments received and the EPA's responses is available in the associated Response to Comments document in the official public docket ([regulations.gov](https://www.regulations.gov), docket ID EPA–HQ–OW–2023–0222).

⁴ 33 U.S.C. 1251(a)(2); *see also* 40 CFR 131.2.

⁵ 33 U.S.C. 1313(c)(2)(A).

⁶ Pursuant to 40 CFR 131.3(j), "states" also includes territories and "Indian Tribes that EPA

determines to be eligible for purposes of the water quality standards program."

⁷ CWA section 303(c)(4)(A).

⁸ CWA section 303(c)(4)(B).

⁹ CWA section 303(c)(4)(B); 40 CFR 131.22(b).

¹⁰ 40 CFR 131.2 and 131.10.

¹¹ 40 CFR 131.2 and 131.11.

¹² 40 CFR 131.11(a)(1).

¹³ CWA section 303(c)(1); 40 CFR 131.20(a).

Dissolved oxygen is an important water quality parameter that can significantly influence the distribution and abundance of aquatic organisms and their ecological relationships in aquatic ecosystems. Aquatic organisms need adequate levels of dissolved oxygen to maintain and support normal functions, especially during the sensitive early life history when spawning, larval development, and juvenile growth occur.¹⁸ As dissolved oxygen levels decrease in a waterbody, the rate at which aquatic organisms can obtain oxygen from the water decreases, resulting in impaired growth and reduced survival. Maintaining a healthy ecosystem requires dissolved oxygen at levels that do not impair growth and survival of aquatic species.

1. Causes of Low Dissolved Oxygen in the Specified Zones of the Delaware River

Discharges of untreated or poorly treated municipal and industrial wastewater into the Delaware River have historically been a major cause of water quality degradation, including oxygen depletion, in the specified zones.¹⁹ While conditions have significantly improved, inputs of oxygen-consuming wastes from wastewater dischargers, especially ammonia (NH₃) and ammonium (NH₄⁺) (which in combination are hereafter referred to as “ammonia nitrogen”), as well as sediment-water ammonium flux and sediment oxygen demand, continue to be significant sources of oxygen demand in the specified zones of the Delaware River.²⁰

Along the Delaware River, untreated wastewater discharges typically occur during and after rainfall events due to combined sewer overflows (CSOs), which are a source of nutrients (*i.e.*,

nitrogen and phosphorus), sediments, and toxic contaminants, and can lead to increased chemical and biological oxygen demand in the river.²¹ Although the cumulative impact of historical CSOs on sediment oxygen demand in the Delaware River has not been estimated, over time, CSOs can increase or maintain sediment oxygen demand as untreated organic material settles on the riverbed and is broken down by oxygen consuming bacteria (thus, removing oxygen from the water column), a process that continues long after the end of an overflow event.²² CSOs have been a persistent source of pollutants in the specified zones of the Delaware River for over a century. For example, sewer overflows from Philadelphia in the early 1900s deposited over 200,000 tons of solids per year, which, in combination with other solid wastes, created deposits 12 feet deep in the river.²³ From July 1, 2022 to June 30, 2023, Philadelphia’s wastewater system alone discharged over 1.35 billion cubic feet of CSOs into the Delaware River and its tributaries.²⁴

Although most point source discharges today are treated, treated effluent can still contain high levels of ammonia nitrogen, which depletes oxygen in the water as microbes oxidize ammonia into nitrite, nitrate, and dinitrogen gas.²⁵ During the reporting periods from July through October 2023, major wastewater treatment facilities along the Delaware River discharged ammonia nitrogen at monthly average concentrations ranging from a low of 0.1 milligrams nitrogen per liter (mg-N/L) at the Easton Area Joint Sewer Authority in Pennsylvania (discharging into Zone 1 of the Delaware River) to a high of 34.5 mg-N/L at the Gloucester County Utilities Authority in New Jersey (discharging into Zone 4 of the Delaware River).²⁶ The effect of any one discharge

on dissolved oxygen in the river depends on a variety of factors, including the discharge concentration, the magnitude of the discharge, the location of the discharge, and conditions in the river, which may also be affected by other dischargers.

2. Endangered Species in the Specified Zones of the Delaware River

The Delaware River is home to multiple oxygen-sensitive fish species, two of which—Shortnose Sturgeon and Atlantic Sturgeon—are protected under the Federal Endangered Species Act (ESA). All populations of Shortnose Sturgeon have been listed as endangered since 1967.²⁷ Across the U.S., Shortnose Sturgeon face ongoing threats due to water pollution, among other factors.²⁸ While the historic population size of Shortnose Sturgeon in the Delaware River remains unknown, in 2006 the Delaware River population was estimated to be approximately 12,000 adults.²⁹

The New York Bight distinct population segment (DPS) of Atlantic Sturgeon—which includes the population found in the Delaware River—was listed as endangered under the ESA in 2012.³⁰ In 2017, the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NMFS) designated the Delaware River, among others, as critical habitat for the New York Bight DPS of Atlantic Sturgeon,³¹ and reaffirmed its endangered listing status in 2022 following a five-year review.³² The remnant population of the New York Bight DPS of Atlantic Sturgeon

Authority discharged an average of 34.5 mg/L of ammonia. Source: U.S. Environmental Protection Agency. Integrated Compliance Information System (ICIS). Database. Retrieved May 22, 2024.

²⁷ **Federal Register**, Vol. 32, No. 48 (32 FR 4000). March 11, 1967. <https://www.fisheries.noaa.gov/s3/2022-12/4000-4002.pdf>.

²⁸ NMFS. (2023a). Shortnose Sturgeon—Overview. <https://www.fisheries.noaa.gov/species/shortnose-sturgeon>.

²⁹ *Id.*; NMFS. (2023b). Shortnose Sturgeon—Populations. <https://www.fisheries.noaa.gov/species/shortnose-sturgeon#populations>.

³⁰ **Federal Register**, Vol. 77, No. 24 (77 FR 5879). February 6, 2012. <https://www.federalregister.gov/documents/2012/02/06/2012-1946/endangered-and-threatened-wildlife-and-plants-threatened-and-endangered-status-for-distinct>.

³¹ **Federal Register**, Vol. 82, No. 158 (82 FR 39160). August 17, 2017. 50 CFR part 226. <https://www.federalregister.gov/documents/2017/08/17/2017-17207/endangered-and-threatened-species-designation-of-critical-habitat-for-the-endangered-new-york-bight>.

³² National Marine Fisheries Service. (2022). New York Bight Distinct Population Segment of Atlantic Sturgeon (*Acipenser oxyrinchus oxyrinchus*), 5-Year Review: Summary and Evaluation. February 17, 2022. <https://www.fisheries.noaa.gov/resource/document/new-york-bight-distinct-population-segment-atlantic-sturgeon-5-year-review>.

¹⁸ United States Environmental Protection Agency. (2021). Factsheet on Water Quality Parameters: Dissolved Oxygen. July 2021. Document ID: EPA 841F21007B. https://www.epa.gov/system/files/documents/2021-07/parameter-factsheet_do.pdf.

¹⁹ United States Environmental Protection Agency. (2023a). Indicators: Dissolved Oxygen. June 9, 2023. <https://www.epa.gov/national-aquatic-resource-surveys/indicators-dissolved-oxygen>.

²⁰ Hardy (1999); Delaware River Basin Commission. (2024a). A Pathway for Continued Restoration: Improving Dissolved Oxygen in the Delaware River Estuary. Technical Report No. 2024–6. September 2024. https://www.nj.gov/drbc/library/documents/ALDU_RestorationPathway/Report_RestorationPathway_sept2024.pdf.

²¹ Delaware River Basin Commission (2024a); Delaware River Basin Commission. (2024b). Modeling Eutrophication Processes in the Delaware River Estuary: Three-Dimensional Water Quality Model. Technical Report No. 2024–5. August 2024. https://www.nj.gov/drbc/library/documents/ALDU_RestorationPathway/WQCalibration_FinalRpt_aug2024.pdf.

²² Miskewitz, R. and Uchirin, C. (2013). In-Stream Dissolved Oxygen Impacts and Sediment Oxygen Demand Resulting from Combined Sewer Overflow Discharges. *Journal of Environmental Engineering*, 139(10). [https://doi.org/10.1061/\(ASCE\)EE.1943-7870.0000739](https://doi.org/10.1061/(ASCE)EE.1943-7870.0000739).

²³ Miskewitz and Uchirin (2013).

²⁴ Hardy (1999).

²⁵ Philadelphia Water Department. (2023). Combined Sewer Management Program Annual Report. Stormwater Management Program Annual Report. See Appendix D—“NPDES Annual CSO Status Report FY 2023,” Table 2—“Overflow Summary for 7/1/2022–6/30/2023.” <https://water.phila.gov/pool/files/fy23-npdes-annual-report.pdf>.

²⁶ United States Environmental Protection Agency. (2023b). Ammonia. <https://www.epa.gov/caddis-vol2/ammonia>.

²⁷ Each individual reporting period is one month long. For the reporting periods ending on August 31, 2023, and October 31, 2023, the Easton Area Joint Sewer Authority discharged an average of 0.1 mg/L of ammonia. For the reporting period ending on August 31, 2023, the Gloucester County Utilities

faces ongoing threats due to water quality in natal rivers, such as the Delaware River, among other factors.^{33 34} Like the Shortnose Sturgeon, the historic population size of Atlantic Sturgeon is not well documented. However, in 1890, when the population was already declining, there were approximately 180,000 female Atlantic Sturgeon in the Delaware River.³⁵ Despite improvements in dissolved oxygen levels since the 1970s, it is estimated that only 125–250 adult (male and female) Atlantic Sturgeon currently return to spawn in the Delaware River.³⁶

In addition to being listed as endangered under the ESA, available evidence suggests that Shortnose Sturgeon and Atlantic Sturgeon are the most oxygen-sensitive species in the specified zones of the Delaware River. In general, all sturgeon species share common physiological traits,³⁷ which include being relatively more sensitive to low dissolved oxygen levels than other co-occurring fish.^{38 39} Sturgeon are considered unusually sensitive to hypoxia (*i.e.*, low oxygen) given their

documented metabolic and behavioral responses and limited ability to oxyregulate.⁴⁰ Juvenile Atlantic Sturgeon are particularly sensitive to low dissolved oxygen levels, especially at high water temperatures,⁴¹ such as those typically present at the peak of summer in the Delaware River.⁴² A literature review across oxygen-sensitive species in the Delaware River indicates that Atlantic Sturgeon, particularly juveniles, have the highest documented dissolved oxygen requirements for growth and survival when compared to other oxygen-sensitive species in the specified zones of the Delaware River.⁴³ In its five-year review of the listing of the New York Bight DPS of Atlantic Sturgeon, NMFS observed a continuation of low dissolved oxygen conditions in known Atlantic Sturgeon juvenile rearing habitat in the Delaware River.⁴⁴ Juvenile Atlantic Sturgeon seeking relief from areas with low oxygen may move to waters that limit their growth due to other factors, such as reduced prey availability.⁴⁵ NMFS also noted studies showing fewer juvenile Atlantic Sturgeon captured in the Delaware River in the fall when the preceding summer dissolved oxygen levels were low, providing further evidence that low dissolved oxygen levels are a contributor to the mortality of juvenile Atlantic Sturgeon.⁴⁶

3. Dissolved Oxygen Trends in the Specified Zones of the Delaware River

Dissolved oxygen levels in the relevant zones of the Delaware River mirror trends in historic pollutant loading and recent pollution control efforts in the river. Average summer

dissolved oxygen levels in the Delaware River near Chester, Pennsylvania (Zone 4) declined from near saturation in the late 1880s to near zero (*i.e.*, anoxia) in the 1950s and 1960s.⁴⁷ Starting in 1970, dissolved oxygen levels began to increase steadily following reductions in carbonaceous biological oxygen demand from wastewater treatment plants.⁴⁸ Ammonia nitrogen concentrations in the Delaware River declined contemporaneously while nitrate concentrations increased,⁴⁹ which likely reflects increased nitrification rates in the river, enabled by increased dissolved oxygen concentrations. Reductions in nutrient concentrations, including ammonia nitrogen, have been documented across the Delaware River watershed through at least 2018.⁵⁰ However, dissolved oxygen levels in the summer are not yet high enough to avoid continued limitations on the growth and survival of oxygen-sensitive species, such as juvenile Atlantic Sturgeon.⁵¹ Recent modeling studies have shown that further reductions in pollutant loading, including enhanced treatment of ammonia nitrogen discharges and, to a lesser extent, a reduction in the volume and frequency of CSOs, could significantly improve the dissolved oxygen conditions in the relevant zones of the Delaware River.⁵² Accordingly, this could better support the growth and survival of oxygen-sensitive species.

³³ *Ibid.* See Section 2.3.2, “Five-Factor Analysis (threats, conservation measures, and regulatory mechanisms)”, A. through E., pp. 14–25.

³⁴ Duntun, K.J., Jordaan, A., Conover, D.O., McKown, K.A., Bonacci, L.A., and Frisk, M.G. (2015). Marine Distribution and Habitat Use of Atlantic Sturgeon in New York Lead to Fisheries Interactions and Bycatch. *Marine and Coastal Fisheries* 7:18–32. <https://doi.org/10.1080/19425120.2014.986348>;

Atlantic Sturgeon Bycatch Working Group. (2022). Action Plan to Reduce Atlantic Sturgeon Bycatch in Federal Large Mesh Gillnet Fisheries. NOAA National Marine Fisheries Service. <https://media.fisheries.noaa.gov/2022-09/Final-Action-Plan-to-Reduce-Atlantic-Sturgeon-Bycatch.pdf>.

³⁵ Secor and Waldman (1999).

³⁶ White, S.L., Sard, N.M., Brundage, H.M., Johnson, R.L., Lubinski, B.A., Eackles, M.S., Park, I.A., Fox, D.A., and Kazyak, D.C. (2022). Evaluating Sources of Bias in Pedigree-Based Estimates of Breeding Population Size. *Ecological Applications* 32(5): e2602. <https://doi.org/10.1002/eap.2602>.

³⁷ **Federal Register**, Vol. 82, No. 158 (82 FR 39161). August 17, 2017. 50 CFR part 226. pp. 39161–39163. <https://www.federalregister.gov/documents/2017/08/17/2017-17207/endangered-and-threatened-species-designation-of-critical-habitat-for-the-endangered-new-york-bight>.

³⁸ *Ibid.* p. 39162, see Dees (1961), Sulak and Clugston (1999), Billard and Lecointre (2001), Secor and Niklitschek (2002), and Pikitch et al. (2005), cited therein.

³⁹ Stoklosa et al. (2018); Secor, D.H. and Niklitschek, E.J. (2001). Hypoxia and Sturgeons: Report to the Chesapeake Bay Program Dissolved Oxygen Criteria Team. March 29, 2001. Reference Number: [UMCES] CBL 01–0080. https://www.researchgate.net/publication/277065759_Hypoxia_and_Sturgeons_report_to_the_Chesapeake_Bay_Program_Dissolved_Oxygen_Criteria_Team.

⁴⁰ Secor and Niklitschek (2001). Oxyregulation refers to an organism’s ability to maintain metabolic rates as the oxygen level in the water declines.

⁴¹ Secor, D., and T. Gunderson. (1998). Effects of hypoxia and temperature on survival, growth, and respiration of juvenile Atlantic sturgeon, *Acipenser oxyrinchus*. *Fishery Bulletin* 96:603–613;

Niklitschek, E. (2001). Bioenergetics modeling and assessment of suitable habitat for juvenile Atlantic and shortnose sturgeons (*Acipenser oxyrinchus* and *A. brevirostrum*) in the Chesapeake Bay. University of Maryland at College Park.

⁴² More information is available in the associated document, *Technical Support Document for the Final Rule: Water Quality Standards to Protect Aquatic Life in the Delaware River*.

⁴³ Stoklosa et al. (2018).

⁴⁴ National Marine Fisheries Service (2022). See Section 2.3.2.1, “Present or threatened destruction, modification, or curtailment of its habitat or range.”

⁴⁵ *Ibid.* See Allen et al. (2014), cited therein.

⁴⁶ *Ibid.* See Moberg and DeLucia (2016), Stetzar et al. (2015), and Park (2020), cited therein.

⁴⁷ Sharp, J. (2010). Estuarine oxygen dynamics: What can we learn about hypoxia from long-time records in the Delaware estuary? *Limnology and Oceanography*, 55(2), 535–548.

⁴⁸ Albert, R.C. (1988). The Historical Context of Water-Quality Management for the Delaware Estuary. *Estuaries* 11(2): 99–107.

⁴⁹ Sharp (2010).

⁵⁰ Shoda, M.E., and Murphy, J.C. (2022). Water-quality trends in the Delaware River Basin calculated using multisource data and two methods for trend periods ending in 2018. U.S. Geological Survey Scientific Investigations Report 2022–5097. <https://doi.org/10.3133/sir20225097>.

⁵¹ More information is available in the associated document, *Technical Support Document for the Final Rule: Water Quality Standards to Protect Aquatic Life in the Delaware River*;

Delaware River Basin Commission (2024a); Niklitschek, E., and D. Secor. (2009a). Dissolved oxygen, temperature and salinity effects on the ecophysiology and survival of juvenile Atlantic sturgeon in estuarine waters: I. Laboratory results. *Journal of Experimental Marine Biology and Ecology* 381:S150–S160. <https://doi.org/10.1016/j.jembe.2009.07.018>; Stoklosa et al. (2018).

⁵² Delaware River Basin Commission (2024a, 2024b).

C. Administration of Water Quality Standards in the Delaware River

In 1961, the Delaware River Basin Compact established the Delaware River Basin Commission (DRBC), comprised of the states of Delaware, New Jersey, New York, and Pennsylvania and the Federal Government, to jointly manage the Delaware River Basin's water resources.⁵³ Through the DRBC, each state participates in the shared governance of this regional resource and maintains sovereign rights over the portion of the river within its jurisdiction.⁵⁴ This final rule is not applicable to the upstream portions of the Delaware River under New York's jurisdiction and neither the EPA nor the DRBC presently have data or information indicating that sources of pollution in New York's upstream waters would impact dissolved oxygen levels in the downstream specified zones.

Pursuant to the Delaware River Basin Compact, the DRBC adopts WQS for interstate waters, including the Delaware River.⁵⁵ However as noted above, under the CWA, states have the primary responsibility for reviewing, establishing, and revising WQS applicable to their waters, and must submit new or revised WQS to the EPA for review and approval or disapproval. Accordingly, WQS for the Delaware River are submitted to the EPA for review through a process coordinated

across the state, regional, and Federal levels. This process begins when the DRBC adopts WQS for the Delaware River. To comply with CWA section 303(c), Delaware, New Jersey, and Pennsylvania have provisions in their state WQS regulations that explicitly reference or implicitly incorporate the DRBC's WQS as the applicable WQS for the portions of the Delaware River under their jurisdictions. When the DRBC adopts new or revised WQS, each relevant member state submits a certification to the EPA from that state's attorney general or other appropriate legal authority, in accordance with 40 CFR 131.6(e). Those certifications provide that the DRBC's new or revised WQS were duly adopted pursuant to state law. The EPA then reviews those WQS for consistency with the requirements of the CWA pursuant to CWA section 303(c)(3).

D. Relevant Aquatic Life Designated Uses and Dissolved Oxygen Criteria Prior to Promulgation of This Final Rule

In 1967, the DRBC adopted WQS for the zones of the Delaware River included in this final rule.⁵⁶ Based on the conditions of the Delaware River at the time, the DRBC concluded that "propagation of fish" was not an attainable use for the specified zones due to the presence of industrial and municipal discharges and associated low dissolved oxygen levels. Therefore, the DRBC adopted designated uses of "maintenance of resident fish and other aquatic life," and "passage of anadromous fish," (table 2 of this preamble) and a year-round numeric water quality criterion for dissolved oxygen of 3.5 mg/L as a 24-hour average, as well as a seasonal criterion of 6.5 mg/L, for these zones of the Delaware River (table 3 of this preamble).⁵⁷ ⁵⁸ Because

these WQS provided for the "maintenance" and "passage" of aquatic life (*i.e.*, "protection") but not the "propagation of fish, shellfish and wildlife," these WQS do not protect those uses reflected in CWA section 101(a)(2) or the uses to be considered under CWA section 303(c)(2)(A).

Prior to this final rule, the DRBC's 1967 WQS remained applicable for CWA purposes for the specified zones of the Delaware River as directly referred to or implicitly incorporated in Delaware's, New Jersey's, and Pennsylvania's WQS.

1. Aquatic Life Designated Uses in the Specified Zones Prior to Promulgation of the EPA's Final Rule

As described in section II.C. of this preamble, Delaware, New Jersey, and Pennsylvania each has its own WQS for the specified zones of the Delaware River under its jurisdiction. Prior to the EPA's final rule, the aquatic life designated use for Delaware's portion of the specified zones of the Delaware River included all life stages, including the propagation component of the CWA section 101(a)(2) use. Prior to the EPA's final rule, the aquatic life designated use for New Jersey's portions of the specified zones of the Delaware River incorporated by reference the designated uses in the DRBC's Water Quality Regulations. The aquatic life designated use for Pennsylvania's portions of the specified zones of the Delaware River prior to the EPA's final rule aligned with the DRBC's "maintenance" and "passage" designated use (table 2 of this preamble). Therefore, before this final rule, the aquatic life designated uses for New Jersey's and Pennsylvania's portions of the specified zones of the Delaware River did not include the propagation component of the CWA section 101(a)(2) use.

⁵³ The DRBC was established pursuant to Federal law (75 Stat. 688 (1961)).

⁵⁴ Delaware River Basin Compact, art. 1, "Short Title, Definitions, Purpose and Limitations," § 1.3(a), (b), & (c) "Purpose and Findings," pp. 3 & 4, and art. 5, "Pollution Control," § 5.5(b), "Further Jurisdiction," p. 11, (1961), available at <https://www.nj.gov/drbc/library/documents/compact.pdf>.

⁵⁵ Delaware River Basin Compact, art. 5, "Pollution Control," § 5.2, "Policy and Standards," p. 11 (1961), available at <https://www.nj.gov/drbc/library/documents/compact.pdf> (DRBC "may adopt and from time to time amend and repeal rules, regulations and standards to control . . . future pollution and abate existing pollution"). The DRBC, the states, and the EPA refer to these rules, regulations, and standards as equivalent to WQS under the CWA. As such, the term WQS is used herein to refer to these rules, regulations, and standards.

⁵⁶ Delaware River Basin Commission. (2013). Delaware River Basin Water Code. <https://www.nj.gov/drbc/library/documents/watercode.pdf>.

⁵⁷ *Id.*; Delaware River Basin Commission. (2015). "Existing Use Evaluation for Zones 3, 4, & 5 of the Delaware Estuary Based on Spawning and Rearing of Resident and Anadromous Fishes." September 30, 2015. https://www.state.nj.us/drbc/library/documents/ExistingUseRpt_zones3-5_sept2015.pdf.

⁵⁸ Anadromous fish are species that are born and reared as juveniles in freshwater, migrate to marine waters where they spend most of their adult lives, and return to their natal, freshwater rivers to spawn.

TABLE 2—AQUATIC LIFE DESIGNATED USES FOR THE MAINSTEM DELAWARE RIVER IN ZONE 3, ZONE 4, AND UPPER-ZONE 5 PRIOR TO THE PROMULGATION OF THE EPA’S FINAL RULE

Entity	Designated use
DRBC ⁵⁹	Maintenance of resident fish and other aquatic life, passage of anadromous fish, wildlife.
Delaware ⁶⁰	Fish, Aquatic Life & Wildlife. ⁶¹
New Jersey ⁶²	The designated uses for the mainstem Delaware River and Delaware Bay are those contained in the DRBC Water Quality Regulations.
Pennsylvania ⁶³	Warm Water Fishes (Maintenance Only); Migratory fishes (Passage Only). ⁶⁴

2. Previously Applicable Dissolved Oxygen Criteria in the Specified Zones

For dissolved oxygen in the relevant zones, all three states incorporated the DRBC’s water quality criteria by reference; therefore, prior to this final rule, the DRBC’s dissolved oxygen criteria were the applicable criteria for the relevant zones in each state for CWA purposes (table 3 of this preamble). As explained above with respect to the aquatic life designated use, the DRBC’s dissolved oxygen criteria for the specified zones of the Delaware River do not protect aquatic life propagation and therefore do not protect those uses reflected in CWA section 101(a)(2) or the uses to be considered under CWA section 303(c)(2)(A).

TABLE 3—PREVIOUSLY APPLICABLE DISSOLVED OXYGEN CRITERIA FOR THE MAINSTEM DELAWARE RIVER IN ZONE 3, ZONE 4, AND UPPER-ZONE 5

Entity	Dissolved oxygen aquatic life criteria
DRBC ⁶⁵	24-hour average concentration shall not be less than 3.5 mg/l. During the periods from April 1 to June 15, and September 16 to December 31, the dissolved oxygen shall not have a seasonal average less than 6.5 mg/l in the entire zone.
Delaware ⁶⁶	For waters of the Delaware River and Delaware Bay, duly adopted Delaware River Basin Commission (DRBC) Water Quality Regulations shall be the applicable criteria.
New Jersey ⁶⁷	For parameters with criteria in the DRBC Water Quality Regulations, the criteria contained therein are the applicable criteria.
Pennsylvania ⁶⁸	See DRBC Water Quality Regulations.

3. Intersection of Delaware’s, New Jersey’s, and Pennsylvania’s Aquatic Life Designated Uses and Dissolved Oxygen Criteria With the CWA Prior to the Promulgation of the EPA’s Final Rule

Table 4 of this preamble provides a summary outlining whether, prior to the EPA’s final rule, the aquatic life designated uses in each of the three states in the specified zones aligned with CWA section 101(a)(2) goals and consideration of such uses under CWA section 303(c)(2)(A), and whether each state’s dissolved oxygen criteria were protective of an aquatic life designated use that includes propagation. As explained above, only Delaware included aquatic life propagation in its designated uses for the specified zones of the Delaware River. However, none of the three states’ dissolved oxygen criteria for the specified zones were protective of fish and shellfish propagation. Prior to this final rule, none of the states, and by extension none of the specified zones of the Delaware River, had WQS for aquatic life that were consistent with the CWA section 101(a)(2) goals and the consideration of such uses under CWA section 303(c)(2)(A).

⁵⁹ Delaware River Basin Commission. “Administrative Manual—Part III Water Quality Regulations with Amendments Through December 7, 2022.” Accessed August 7, 2024. <https://www.nj.gov/drbc/library/documents/WQregs.pdf>.

⁶⁰ Delaware Administrative Code. “7401 Surface Water Quality Standards.” Title 7 Natural Resources & Environmental Control. Delaware Department of Natural Resource and Environmental Control. Accessed August 7, 2024. <https://regulations.delaware.gov/AdminCode/title7/7000/7400/7401.pdf>.

⁶¹ Delaware defines *Fish, Aquatic Life & Wildlife* as, “all animal and plant life found in Delaware, either indigenous or migratory, regardless of life stage or economic importance.” A footnote specifies that this use includes shellfish propagation.

⁶² New Jersey Administrative Code. “N. J. A. C. 7:9B Surface Water Quality Standards.” Accessed August 7, 2024. https://dep.nj.gov/wp-content/uploads/rules/rules/njac7_9b.pdf.

⁶³ Pennsylvania Code. “Chapter 93. Water Quality Standards.” Commonwealth of Pennsylvania. Accessed August 7, 2024. https://www.pacodeandbulletin.gov/secure/pacode/data/025/chapter93/025_0093.pdf.

⁶⁴ Pennsylvania defines its “Warm Water Fishes” designated use as, “Maintenance and propagation of fish species and additional flora and fauna which are indigenous to a warm water habitat” and defines its “Migratory Fishes” designated use as, “Passage, maintenance and propagation of anadromous and catadromous fishes and other fishes which move to or from flowing waters to complete their life cycle in other waters.” For the specified zones of the Delaware River, Pennsylvania excluded propagation from the designated uses by specifying “Maintenance Only” and “Passage Only” in parentheses.

⁶⁵ Delaware River Basin Commission. “Administrative Manual—Part III Water Quality Regulations with Amendments Through December

7, 2022.” Accessed August 7, 2024. <https://www.nj.gov/drbc/library/documents/WQregs.pdf>.

⁶⁶ Delaware Administrative Code. “7401 Surface Water Quality Standards.” Title 7 Natural Resources & Environmental Control. Delaware Department of Natural Resource and Environmental Control. Accessed August 7, 2024. <https://regulations.delaware.gov/AdminCode/title7/7000/7400/7401.pdf>.

⁶⁷ New Jersey Administrative Code. “N. J. A. C. 7:9B Surface Water Quality Standards.” Accessed August 7, 2024. https://dep.nj.gov/wp-content/uploads/rules/rules/njac7_9b.pdf.

⁶⁸ Pennsylvania Code. “Chapter 93. Water Quality Standards.” Commonwealth of Pennsylvania. Accessed August 7, 2024. https://www.pacodeandbulletin.gov/secure/pacode/data/025/chapter93/025_0093.pdf.

TABLE 4—INTERSECTION OF DELAWARE’S, NEW JERSEY’S, AND PENNSYLVANIA’S AQUATIC LIFE DESIGNATED USES AND DISSOLVED OXYGEN CRITERIA WITH CWA 101(a)(2) GOALS PRIOR TO THE PROMULGATION OF THE EPA’S FINAL RULE

State	Applicable zone(s) of the mainstem Delaware River	Designated use included CWA section 101(a)(2) propagation component	Dissolved oxygen criteria protective of aquatic life propagation
Delaware	Upper-5	Yes	No.
New Jersey	3, 4, Upper-5	No	No.
Pennsylvania	3, 4	No	No.

E. Summary of the EPA Administrator’s Determination

On December 1, 2022, the EPA issued an Administrator’s Determination, pursuant to CWA section 303(c)(4)(B), finding that a revised designated use to protect aquatic life propagation and corresponding dissolved oxygen criteria to protect that use are necessary in the specified zones of the Delaware River.⁶⁹

The Administrator’s Determination can be accessed at <https://www.epa.gov/wqs-tech/federally-promulgated-water-quality-standards-specific-states-territories-and-tribes>.

III. Final Water Quality Standards

A. Scope of the EPA’s Rule

The EPA’s rule applies to the mainstem Delaware River in Zone 3,

Zone 4, and the upper portion of Zone 5 (in total, river miles 108.4 to 70.0), for the states of Delaware, New Jersey, and Pennsylvania (table 5 of this preamble). In the final rule, the EPA made a non-substantive change to add the word “mainstem” to paragraphs (a)(1) and (2) and (d)(1) and (2) to clarify the scope of the rule, in response to comments requesting such clarification.

TABLE 5—ZONES CORRESPONDING WITH THE MAINSTEM DELAWARE RIVER COVERED BY THE EPA’S RULE

Segment of the Delaware River	River miles	States affected
Zone 3	108.4 to 95.0	New Jersey, Pennsylvania.
Zone 4	95.0 to 78.8	New Jersey, Pennsylvania.
Zone 5—Upper Portion	78.8 to 70.0	Delaware, New Jersey.

B. Aquatic Life Designated Use

The EPA is promulgating an aquatic life designated use of “Protection and propagation of resident and migratory aquatic life” for the specified zones in New Jersey and Pennsylvania that is consistent with CWA section 101(a)(2) goals and reflects the considerations for setting WQS in CWA section 303(c)(2)(A). This is the same aquatic life designated use that the EPA proposed for the portions of the affected zones in these two states.⁷⁰ Several commenters supported the EPA’s proposal to upgrade the designated uses of the specified zones of the Delaware River to include propagation of resident and migratory aquatic life, and some of these commenters asserted that such an upgrade is legally and scientifically mandated. Additionally, some commenters asserted that the designated use upgrade and stronger dissolved oxygen criteria are essential to protect aquatic life in the specified zones of the Delaware River, including the endangered sturgeon, and to support recreational and commercial fishing. Some commenters asserted that fish,

including the endangered Atlantic Sturgeon and Shortnose Sturgeon, have been propagating in the specified zones for many years. No commenters opposed the EPA’s proposed aquatic life designated use.

CWA section 303(c) assigns states the primary role in adopting WQS; accordingly, the EPA evaluated the aquatic life uses for the relevant zones on a state-by-state basis and proposed a revised use only for New Jersey and Pennsylvania consistent with CWA section 303(c)(2)(A)’s instruction to take into consideration the use of waters for “propagation of fish and wildlife.” As explained in section II.D. of this preamble, Delaware’s “Fish, Aquatic Life & Wildlife” designated use includes all life stages of indigenous and migratory organisms; therefore, for the specified zones under its jurisdiction, Delaware’s aquatic life designated use is already consistent with the CWA’s 101(a)(2) goals and the considerations in CWA section 303(2)(c)(A) and no revisions to the aquatic life designated uses in Delaware’s portion of the specified zones are necessary. In

contrast, New Jersey’s and Pennsylvania’s aquatic life designated uses for the relevant zones of the Delaware River under their jurisdiction do not include “propagation” and therefore do not fully achieve the CWA’s 101(a)(2) goals or reflect the considerations in CWA section 303(c)(2)(A). As explained in section II.E. of this preamble, the EPA determined that propagation is an attainable use in the specified zones of the Delaware River.⁷¹ Thus, the EPA is promulgating an aquatic life designated use that includes propagation for New Jersey and Pennsylvania’s portions of the mainstem Delaware River in Zone 3, Zone 4, and the upper portion of Zone 5 (in total, river miles 108.4 to 70.0).

One commenter asked the EPA whether the propagation designated use in the EPA’s rule is equivalent to Pennsylvania’s Warm Water Fishes (WWF) use to help Pennsylvania evaluate which of its WWF aquatic life criteria could apply to protect the new Federal designated use. Pennsylvania’s WWF use is one of the state’s EPA-approved aquatic life uses.

⁶⁹ December 1, 2022. Letter from Radhika Fox, Assistant Administrator, EPA Office of Water, to Steven J. Tambini, Executive Director, Delaware River Basin Commission; Shawn M. Garvin, Secretary, Delaware Department of Natural Resources and Environmental Control; Shawn M. LaTourette, Commissioner, New Jersey Department of Environmental Protection; and Ramez Ziadeh,

Acting Secretary, Pennsylvania Department of Environmental Protection.

⁷⁰ United States Environmental Protection Agency. (2023). *Water Quality Standards to Protect Aquatic Life in the Delaware River*. Proposed Rule. 88 FR 88315. December 21, 2023.

⁷¹ December 1, 2022. Letter from Radhika Fox, Assistant Administrator, EPA Office of Water, to

Steven J. Tambini, Executive Director, Delaware River Basin Commission; Shawn M. Garvin, Secretary, Delaware Department of Natural Resources and Environmental Control; Shawn M. LaTourette, Commissioner, New Jersey Department of Environmental Protection; and Ramez Ziadeh, Acting Secretary, Pennsylvania Department of Environmental Protection.

Pennsylvania's WQS define the WWF use as "[m]aintenance and propagation of fish species and additional flora and fauna which are indigenous to a warm water habitat," and identify various criteria associated with the WWF use.⁷² The WWF use is consistent with the CWA and applies to warm waters in Pennsylvania but does not apply to the zones of the Delaware River affected by this rulemaking. As discussed in section II.D. of this preamble, Pennsylvania's currently applicable designated uses for the zones covered by this rule are "WWF (maintenance only)" and "Migratory Fishes (passage only)." Pennsylvania has not established its own criteria to protect these uses. Therefore, the currently applicable criteria for Pennsylvania's portions of these zones are the DRBC's criteria for Zones 3 and 4, which Pennsylvania has adopted by reference.

Pennsylvania's WWF use and criteria are outside the scope of this rulemaking. This is because Pennsylvania's WWF designated use and the EPA-approved aquatic life criteria associated with Pennsylvania's WWF use do not currently apply for CWA purposes to the specified zones of the Delaware River for which EPA is promulgating the designated use and associated dissolved oxygen criteria in this rule. If Pennsylvania would like to apply its WWF use and criteria to Pennsylvania's portions of the specified zones of the Delaware River, it could revise its state WQS and submit that revision to the EPA for CWA section 303(c) review. The EPA is available to provide Pennsylvania with technical support on any such future WQS revisions.

The EPA reiterates that the CWA vests the primary responsibility for developing WQS in the states, and that states have substantial discretion in designating uses consistent with the CWA's emphasis on cooperative federalism. CWA section 303(c)(2)(A), for example, provides that states must establish WQS for waters within their jurisdiction "taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes," thereby providing states discretion in selecting the uses to designate. In this rule, under the circumstances here, as authorized by CWA section 303(c)(4)(B), the EPA is finalizing a designated use that is attainable and consistent with the CWA.

C. Dissolved Oxygen Criteria To Protect Aquatic Life Propagation

The EPA is establishing dissolved oxygen criteria largely as proposed for Delaware, New Jersey, and Pennsylvania, for the specified zones of the Delaware River based on a sound scientific rationale. The dissolved oxygen criteria protect the EPA's promulgated designated use for New Jersey and Pennsylvania, as well as Delaware's current aquatic life designated use for the specified zones.

1. Derivation of Dissolved Oxygen Criteria

To derive protective dissolved oxygen criteria for the specified zones of the Delaware River, the EPA used methods adapted from peer-reviewed literature and data from laboratory studies relevant to oxygen-sensitive sturgeon species in the Delaware River. Although the methods and data are from peer-reviewed scientific literature, the EPA nonetheless completed an external peer review on the data and application of these methods to develop the criteria; the peer review and the EPA's response to the peer review comments are available in the docket for this rulemaking. This section presents a summary of the data and methods that the EPA used to derive protective dissolved oxygen criteria for this final rule. First, the EPA describes the Agency's existing dissolved oxygen national recommendations and guidance documents. Then, the EPA explains how the Agency selected three seasons to derive criteria protective of oxygen-sensitive species in the relevant zones of the Delaware River. Next, the EPA details an Atlantic Sturgeon cohort model it used to derive criteria protective of juvenile Atlantic Sturgeon during the season associated with their growth and development. After that, the EPA explains how the Agency developed criteria to protect oxygen-sensitive species during the other two seasons. Lastly, the EPA concludes with an explanation for promulgating criteria expressed as percent oxygen saturation, rather than as concentration.

This section is intended to be a high-level summary of the EPA's criteria derivation methods and results for this final rule. While the EPA utilized the below described methodologies for finalizing these criteria, states may use different approaches so long as the resulting criteria are protective of the relevant designated uses⁷³ and based on sound scientific rationale, as provided in the regulations.⁷⁴ More details and

information are available in the associated document, *Technical Support Document for the Final Rule: Water Quality Standards to Protect Aquatic Life in the Delaware River*.

Existing EPA Methodology and Guidance Documents

Under CWA section 304(a), the EPA publishes, from time to time, national recommended aquatic life criteria for a variety of pollutants and parameters. The EPA's national recommended criteria for dissolved oxygen in freshwater and saltwater environments are from the 1986 *Quality Criteria for Water* ("Gold Book")⁷⁵ and the 2000 *Ambient Aquatic Life Water Quality Criteria for Dissolved Oxygen (Saltwater): Cape Cod to Cape Hatteras* ("Virginian Province Document"),⁷⁶ respectively. The EPA's recommendations in the Virginian Province Document state that, "in cases where a threatened or endangered species occurs at a site, and sufficient data exist to suggest that it is more sensitive at concentrations above the criteria, it is appropriate to consider development of site-specific criteria based on this species."⁷⁷

As explained previously in section II.B. of this preamble, Atlantic Sturgeon and Shortnose Sturgeon are federally listed as endangered under the ESA and are uniquely sensitive to hypoxia. Given the availability of laboratory data specific to the oxygen requirements of Atlantic Sturgeon and Shortnose Sturgeon, the EPA chose to derive site-specific criteria to protect the oxygen-sensitive endangered species in the specified zones of the Delaware River and did not rely on the national recommendations in the Gold Book or Virginian Province Document to derive criteria in this instance. While some commenters cited the Gold Book or Virginian Province Document as support for their assertions that the EPA's proposed criteria were too stringent or not stringent enough, no commenter suggested that the EPA promulgate criteria values directly from either of those documents.

⁷⁵ United States Environmental Protection Agency. (1986). *Quality Criteria for Water* 1986. Document ID: EPA 440/5-86-001. May 1, 1986. <https://www.epa.gov/sites/default/files/2018-10/documents/quality-criteria-water-1986.pdf>.

⁷⁶ United States Environmental Protection Agency. (2000). *Ambient Aquatic Life Water Quality Criteria for Dissolved Oxygen (Saltwater): Cape Cod to Cape Hatteras*. Document ID: EPA-822-R-00-012. November 2000. <https://www.epa.gov/sites/default/files/2018-10/documents/ambient-al-wqc-dissolved-oxygen-cape-code.pdf>.

⁷⁷ *Id.* Page 41.

⁷² Pennsylvania Code. "Chapter 93. Water Quality Standards." Commonwealth of Pennsylvania. Accessed August 7, 2024. https://www.pacodeandbulletin.gov/secure/pacode/data/025/chapter93/025_0093.pdf.

⁷³ CWA section 303(c)(2)(A).

⁷⁴ 40 CFR 131.11(a).

Delineating Seasons for Criteria Derivation

Given available information, including information developed by the DRBC, the EPA delineated three distinct seasons for dissolved oxygen criteria development that are intended to protect Atlantic Sturgeon throughout their life history, while also protecting a range of other aquatic species during their sensitive early life histories in the specified zones. For this rule, the EPA defines the *Spawning and Larval Development* season as occurring from March 1 to June 30, which generally covers spawning and egg and larval development periods for many oxygen-sensitive species, including Atlantic Sturgeon, Shortnose Sturgeon, American Shad, Atlantic Rock Crab, Channel Catfish, Striped Bass, Largemouth Bass, White Perch, and Yellow Perch.⁷⁸ The EPA defines the *Juvenile Development* season in this final rule as occurring from July 1 to October 31 and the *Overwintering* season as occurring from November 1 to February 28/29, based on young-of-the-year juvenile Atlantic Sturgeon growth rates.⁷⁹ By November, oxygen levels are relatively high and not expected to limit growth and survival, a characteristic of the overwintering period.⁸⁰ While the EPA defines seasons for this rule largely based on the life history of Atlantic Sturgeon, these seasons also generally correspond with early life histories of other oxygen-sensitive species in the specified zones of the Delaware River. By developing criteria that are protective of Atlantic Sturgeon, which, as described in section II.B. of this preamble, is the most oxygen-sensitive species in the relevant zones of the Delaware River, the EPA concluded that the criteria will also be protective of other less oxygen-sensitive resident and migratory aquatic species in the specified zones of the Delaware River. While not the only appropriate way to develop such criteria, the EPA determined that this approach is appropriate and scientifically sound under the circumstances.

The EPA received several comments requesting that the Agency finalize dissolved oxygen criteria based on monthly periods rather than the seasons that the EPA proposed. Many of these commenters asserted that the EPA's seasonal approach could result in too many days during which the criteria could be exceeded and expressed concerns about the impact of those exceedances on aquatic life. These commenters asserted that monthly assessment periods would reduce the number of consecutive days where dissolved oxygen could be below protective levels. Additionally, one commenter asserted that the seasonal approach would lead to challenges for organizations that monitor water quality and/or assess attainment of applicable WQS, stating that the EPA's criteria cannot be adequately assessed with grab samples collected once or twice a month and continuous monitoring data can be time-consuming and prohibitively expensive to collect.

As discussed below in this section of the preamble, the EPA's approach for deriving dissolved oxygen criteria in this instance is based on defining suitable habitat conditions as those that provide each year's juvenile cohort the potential to increase its biomass during the season. Developing criteria that would apply at a monthly interval would require the EPA to specify a scientifically defensible operational definition, in accordance with the CWA and the EPA's implementing regulations, of supporting the propagation designated use for each month, rather than for the season. Commenters did not provide an explanation or technical rationale for how the EPA could define suitable habitat in each month. The EPA also could not identify such an operational definition because propagation is ecologically a seasonal process and the amount of dissolved oxygen required in each month may depend on what the fish are exposed to in other months. Therefore, the EPA concluded that retaining the seasonal criteria approach applied sound scientific information to ensure the propagation designated use is protected.

The EPA acknowledges that each four-month season allows for the dissolved oxygen criteria to be exceeded for up to 12 days during the season.⁸¹ However, the EPA's empirical approach in this rulemaking ensures that the criteria are set at a level that is expected

to protect aquatic life propagation despite these potential exceedances. As described in detail below (and in the associated technical support document and response to comments document), when the seasonal 10th percentile of oxygen saturation meets the EPA's criteria, the Agency expects that the oxygen saturation values on the 12 days with the lowest daily average oxygen level will not be low enough to prevent attainment of the designated use.

Consistent with the EPA's implementing regulations at 40 CFR 131.11(a), the EPA developed the dissolved oxygen criteria based on sound science to protect an aquatic life designated use that includes propagation. Regarding comments suggesting that the Agency's seasonal approach presents an obstacle to water quality assessments, the EPA has identified potential strategies that could be used to assess attainment of the Federal criteria. The EPA concluded that the seasonal structure of the dissolved oxygen criteria will not impede assessment of the EPA's criteria in the specified zones, regardless of the types of data collected. For example, dissolved oxygen measurements could be needed for as few as 13 days to demonstrate that there are more than 12 days of exceedance and therefore to demonstrate non-attainment of the 10th percentile criterion in a season. The publicly available water quality data that have been collected in the specified zones by the DRBC and the U.S. Geological Survey indicate which days and locations are least likely to attain the criteria magnitudes. Thus, organizations that monitor water quality could readily implement a targeted monitoring strategy focused on the most critical times and locations, using dissolved oxygen sensors (*i.e.*, continuous measurements) or discrete measurements. While the most precise assessment would rely on quality-assured continuous measurements, a daily time series computed by interpolation of discrete measurements could also provide valid evidence to support an assessment decision. The DRBC and the U.S. Geological Survey have maintained continuous monitoring at two locations in the specified zones of the river since the 1960s, have shared the data in near real-time, and have indicated that they intend to maintain the continuous monitoring into the future. Therefore, the EPA concluded that water quality assessments are feasible under the seasonal criteria construct, and that such assessments could rely on continuous data and/or discrete data collected by a wide array

⁷⁸ Stoklosa et al. (2018); Delaware River Basin Commission (2015); Moberg, T. and M. DeLucia. (2016). Potential Impacts of Dissolved Oxygen, Salinity and Flow on the Successful Recruitment of Atlantic Sturgeon in the Delaware River. The Nature Conservancy. https://www.conservationgateway.org/ConservationPractices/Freshwater/HabitatProtectionandRestoration/Documents/DelawareAtlanticSturgeonReport_TNC5172016.pdf.

⁷⁹ Moberg and DeLucia. (2016).

⁸⁰ Additional information is described in sections 3.3.3 and 4.1.2 of the associated document, *Technical Support Document for the Final Rule: Water Quality Standards to Protect Aquatic Life in the Delaware River*.

⁸¹ Additionally, for the *Juvenile Development* season the dissolved oxygen criteria at the 50% exceedance frequency can be exceeded up to 61 days.

of stakeholders. A more detailed discussion about monitoring and assessment is available in the associated response to comments document.

Ecological Modeling To Derive Criteria for the Juvenile Development Season

The EPA obtained recent and high-quality data from a variety of sources, described below and detailed in the associated technical support document, to evaluate the oxygen requirements of juvenile Atlantic Sturgeon. These data include measurements quantifying water quality conditions at two locations in the specified zones of the Delaware River. Since 2012 when the Atlantic Sturgeon was listed as an endangered species, there have been few studies documenting the oxygen requirements of this species. However, the EPA obtained sufficient data to establish quantitative relationships between age-0 juvenile sturgeon (Atlantic Sturgeon and Shortnose Sturgeon) growth, mortality, and habitat suitability. These include data from Campbell and Goodman (2004), Niklitschek and Secor (2009a), and EPA (2003), along with methods from Niklitschek and Secor (2005) and Niklitschek and Secor (2009b), water quality monitoring data, and juvenile Atlantic Sturgeon abundance data from the Delaware Department of Natural Resources and Environmental Control (DNREC).⁸²

⁸² Campbell, J., and L. Goodman. (2004). Acute sensitivity of juvenile shortnose sturgeon to low dissolved oxygen concentrations. *Transactions of the American Fisheries Society* 133:722–776;

Niklitschek, E., and D. Secor. (2009a). Dissolved oxygen, temperature and salinity effects on the ecophysiology and survival of juvenile Atlantic sturgeon in estuarine waters: I. Laboratory results. *Journal of Experimental Marine Biology and Ecology* 381:S150–S160. <https://doi.org/10.1016/j.jembe.2009.07.018>;

United States Environmental Protection Agency. (2003). Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity and Chlorophyll a for the Chesapeake Bay and its Tidal Tributaries. Document ID: EPA 903–R–03–002. April 2003. <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100YKPQ.PDF?Dockey=P100YKPQ.PDF>;

Niklitschek, E.J., and D.H. Secor. (2005). Modeling spatial and temporal variation of suitable nursery habitats for Atlantic sturgeon in the Chesapeake Bay. *Estuarine, Coastal and Shelf Science* 64:135–148. <https://doi.org/10.1016/j.ecss.2005.02.012>;

Niklitschek, E.J., and D.H. Secor. (2009b). Dissolved oxygen, temperature and salinity effects on the ecophysiology and survival of juvenile Atlantic sturgeon in estuarine waters: II. Model development and testing. *Journal of Experimental Marine Biology and Ecology* 381:S161–S172. <https://doi.org/10.1016/j.jembe.2009.07.019>;

USGS 01467200 Delaware River at Penn's Landing, Philadelphia, PA. Retrieved March 9, 2023. https://waterdata.usgs.gov/nwis/inventory/?site_no=01467200&agency_cd=USGS;

USGS 01477050 Delaware River at Chester PA. Retrieved January 31, 2023. <https://>

The EPA followed the peer-reviewed cohort modeling approach of Niklitschek and Secor (2005) to evaluate the effects of temperature, salinity, and dissolved oxygen on the potential growth and mortality of a hypothetical cohort or group of juvenile Atlantic Sturgeon spawned during a single year.⁸³ The cohort model uses growth and mortality rates to calculate the instantaneous daily production potential, or the instantaneous daily rate of biomass production per unit of cohort biomass per day. The EPA used the cohort model to estimate the fraction of the cohort that could survive from July 1 through October 31 (*i.e.*, the *Juvenile Development* season) and the relative change in biomass for the same period.

As part of the cohort model, the EPA developed a new mortality model and implemented a peer-reviewed bioenergetics-based growth model described by Niklitschek and Secor (2009b) to predict the daily instantaneous minimum mortality rate and potential growth rate, respectively, for members of the cohort. To develop a mortality model, the EPA fit a regression to experimental data to predict mortality resulting from low dissolved oxygen at any given temperature and percent oxygen saturation.⁸⁴ Mortality rates of juvenile sturgeon increased with declining dissolved oxygen levels and increased at higher rates where there was both declining dissolved oxygen and increasing water temperature. The EPA validated the results of the mortality model by using observed water quality data from 2002–2022 to predict the relative abundance of the Atlantic Sturgeon young-of-year cohort on October 31 of each year and comparing those results to available catch data from DNREC's juvenile abundance surveys.⁸⁵ The growth model takes a bioenergetic approach that accounts for

waterdata.usgs.gov/nwis/inventory?agency_code=USGS&site_no=01477050;

Park, I. (2023). State of Delaware Annual Compliance Report for Atlantic Sturgeon. Delaware Division of Fish and Wildlife, Department of Natural Resources and Environmental Control. September 2023.

⁸³ Water temperature and salinity can affect the oxygen requirements of aquatic species and are needed to compute percent oxygen saturation, a measure of dissolved oxygen availability to aquatic organisms, from dissolved oxygen concentrations.

⁸⁴ Experimental data are from Campbell and Goodman 2004, Niklitschek and Secor 2009a.

⁸⁵ USGS 01467200 Delaware River at Penn's Landing, Philadelphia, PA. Retrieved March 9, 2023. https://waterdata.usgs.gov/nwis/inventory/?site_no=01467200&agency_cd=USGS;

USGS 01477050 Delaware River at Chester PA. Retrieved January 31, 2023. https://waterdata.usgs.gov/nwis/inventory?agency_code=USGS&site_no=01477050; Park (2023).

temperature-controlled maximum metabolic rates that may be further limited by oxygen levels. Low oxygen levels limit overall metabolic rates and cause a shift in the allocation of available energy away from growth. Predicted growth rates reflect the balance between energy inputs and losses and are therefore reduced by low oxygen. Water quality monitoring data in the relevant zones of the Delaware River show that the lowest oxygen levels coincided with the highest water temperatures, resulting in lower growth rates than either condition would cause alone.

Habitat Suitability Indices have been used in the context of fish-habitat relationships, conservation management, and habitat evaluation to quantify the capacity of a given habitat to support essential life functions (*e.g.*, growth, survival, reproduction) of a selected species.⁸⁶ At proposal, the EPA defined a Habitat Suitability Index (HSI) for Atlantic Sturgeon as the instantaneous daily production potential, which was calculated using the cohort model. The EPA maintained that definition of HSI for the final rule. HSI evaluates the combined effect of percent oxygen saturation, water temperature, and salinity on the potential growth and survival of juvenile Atlantic Sturgeon during the *Juvenile Development* season. The EPA used quantile generalized additive models (QGAMs) to quantify relationships between computed values of HSI in each year and corresponding seasonal percentiles of daily average dissolved oxygen for that year.⁸⁷ QGAMs can model the non-linear relationship between dissolved oxygen and HSI as well as predict the expected

⁸⁶ *E.g.*, Woodland, R.J., Secor, D.H., and Niklitschek, E.J. (2009). Past and Future Habitat Suitability for the Hudson River Population of Shortnose Sturgeon: A Bioenergetic Approach to Modeling Habitat Suitability for an Endangered Species. *American Fisheries Society Symposium* 69: 589–604;

Collier, J.J., Chiotti, J.A., Boase, J., Mayer, C.M., Vandergoot, C.S., and Bossenbroek, J.M. (2022). Assessing habitat for lake sturgeon (*Acipenser fulvescens*) reintroduction to the Maumee River, Ohio using habitat suitability index models. *Journal of Great Lakes Research*. 48(1): 219–228. <https://doi.org/10.1016/j.jglr.2021.11.006>;

Brown, S.K., Buija, K.R., Jury, S.H., Monaco, M.E., and Banner, A. (2000). Habitat Suitability Index Models for Eight Fish and Invertebrate Species in Casco and Sheepscot Bays, Maine. *North American Journal of Fisheries Management*, 20(2): 408–435, [https://doi.org/10.1577/1548-8675\(2000\)020%3C0408:HSIMFE%3E2.3.CO;2](https://doi.org/10.1577/1548-8675(2000)020%3C0408:HSIMFE%3E2.3.CO;2).

⁸⁷ A percentile (*e.g.*, 10th percentile) is the dissolved oxygen level below which the corresponding fraction (*e.g.*, 10%) of the daily dissolved oxygen values during the season falls below. In this case, the season is the *Juvenile Development* season (July 1 to October 31).

median HSI, rather than the expected mean.

The EPA followed the approach of Niklitschek and Secor (2005) to define suitable habitat for juvenile Atlantic Sturgeon growth and survival as habitat with water quality resulting in HSI greater than zero. When HSI is less than or equal to zero, seasonal average mortality rates are greater than or equal to seasonal average growth rates and the overall biomass of the cohort is likely to decrease, reducing the potential for propagation, or recruitment of juveniles to the population. Conversely, a cohort of juveniles utilizing habitat with HSI greater than zero has the potential to increase its biomass during the *Juvenile Development* season, thus contributing to successful propagation. Therefore, to derive protective dissolved oxygen criteria, the EPA evaluated seasonal percentiles of daily average percent oxygen saturation to find the lowest value at which the QGAMs predict expected median HSI greater than zero as the minimum threshold for percent oxygen saturation that, if attained, would provide suitable habitat during that seasonal period.

The predicted HSI value relies on an expected distribution of daily average percent oxygen saturation values during the season; therefore, the EPA selected two percent oxygen saturation percentiles as thresholds at or above which median HSI is expected to be greater than zero to maintain the expected distribution of percent oxygen saturation values. These two percentiles—the 10th percentile and the 50th percentile—describe the protective seasonal distribution of daily average dissolved oxygen values. When both the 10th percentile and 50th percentile are attained, they function together to ensure that a detrimental shift in the oxygen distribution (*i.e.*, a shift causing more low oxygen levels) at either the low end (10th percentile) or the center (50th percentile) of the dissolved oxygen daily average distribution has not occurred. Median HSI is expected to be zero or higher, allowing the annual cohort of juvenile Atlantic Sturgeon to maintain or increase its biomass, when the 10th percentile of daily average oxygen saturation is at least 66% and the 50th percentile, or median, of daily average oxygen saturation is at least 74%. Therefore, the EPA expects oxygen levels will protect propagation of oxygen-sensitive fish species during the *Juvenile Development* season if the 10th percentile of daily average oxygen saturation is at least 66% and the 50th percentile of daily average oxygen saturation is at least 74%.

The EPA received several comments requesting that the Agency finalize dissolved oxygen criteria that include an instantaneous minimum criterion (*i.e.*, a lower bound criterion that can never be exceeded). Many of these commenters asserted that an instantaneous minimum criterion was necessary to support propagation and protect against high rates of mortality. While many commenters did not provide a suggested magnitude for an instantaneous minimum criterion, a few commenters suggested a minimum criterion of 6 mg/L.

The EPA recognizes that, unlike an instantaneous minimum criterion, the 10th percentile criterion allows for 12 days of exceedance with no lower bound. However, monitoring data from the Delaware River show that the minimum percent oxygen saturation in each year is closely related to the 10th percentile. Based on a linear regression of 2002–2022 data from the monitoring stations at Chester and Penn's Landing, the EPA expects that when the 10th percentile of daily average oxygen saturation in the *Juvenile Development* season is 66%, the minimum daily average oxygen saturation will be 61% ($r^2 = 0.93$, 95% confidence interval: 60.6% to 61.7% saturation). Based on the EPA's cohort modeling approach, if the 10th percentile criterion is attained, then the oxygen values expected to occur during the 12 days of potential exceedance will not be low enough to result in seasonal HSI values less than zero or prevent attainment of the propagation use, making the addition of an instantaneous minimum criterion unnecessary. The EPA also concluded that the 10th percentile dissolved oxygen condition can be calculated with greater statistical certainty than the instantaneous minimum because, by definition, no dissolved oxygen data points are less than the minimum. In contrast, dissolved oxygen data points are present both below and above the 10th percentile, providing ample data to increase the statistical confidence in estimates of the 10th percentile. Using a more statistically robust criterion like a 10th percentile compared to an instantaneous minimum criterion will ensure more predictable water quality assessments, thus reducing the need for states to account for uncertainty and variability when assessing attainment of the EPA's criteria. Given issues with variability, representativeness, and measurement uncertainty associated with assessment of an instantaneous minimum value, many states add an extra layer of allowable exceedance frequency to their assessment protocols

for such criteria (*e.g.*, 10% exceedance). The rationale for considering additional exceedance frequencies is eliminated when setting criteria at the 10th percentile and median values, as the EPA has done in this final rule.

In addition to the above stated considerations about why an instantaneous minimum criterion is not the best approach to protect the propagation use, the EPA considered if the Agency should include an instantaneous minimum criterion of 6 mg/L, as suggested by a commenter. However, the commenter did not provide a sound scientific rationale for this value, and the EPA's own evaluation does not support the need for a 6 mg/L instantaneous minimum criterion to protect the propagation use. Rather, the EPA's evaluation suggested that a defensible value for an instantaneous minimum would be below 6 mg/L, were the EPA to calculate an instantaneous minimum criterion to protect the propagation use. Therefore, the EPA concluded that finalizing a 10th percentile daily average criterion, and not including an instantaneous minimum criterion, reflects the latest scientific knowledge and is an appropriate way to ensure that aquatic life propagation is protected based on current data.

Several commenters asserted that the EPA's criteria are too stringent. Some commenters stated that the criteria in the EPA's rule are higher than criteria for some other waters with designated uses that include propagation, including surrounding areas of the Delaware River. Some commenters asserted that the EPA's criteria are too stringent because Atlantic Sturgeon propagation is already occurring in the Delaware River and that existing dissolved oxygen levels do not appear to be adversely affecting sturgeon. Some of these commenters recommended that the EPA promulgate dissolved oxygen criteria of 4.5 mg/L at a 10% exceedance frequency and 5.0 mg/L at a 50% exceedance frequency for the *Juvenile Development* season.

The EPA disagrees that the criteria in this final rule are more stringent than the dissolved oxygen criteria for surrounding areas of the Delaware River or other waters cited by commenters with designated uses that include propagation, such as the Chesapeake Bay. Upstream Zone 2 and downstream Zone 6 of the Delaware River have daily average dissolved oxygen criteria in the summer months (June 16 to September 15) of 5 mg/L and 6 mg/L, respectively. Because these criteria in Zones 2 and 6 have comparable magnitudes and no exceedance frequency, they are more

stringent than the EPA's final dissolved oxygen criteria for the *Juvenile Development* season. Please refer to the associated response to comments document for more discussion about the comparison between the criteria in this final rule with dissolved oxygen criteria for some other waters along the East Coast, such as the Chesapeake Bay.

Commenters recommending the EPA adopt dissolved oxygen criteria of 4.5 mg/L at a 10% exceedance frequency and 5.0 mg/L at a 50% exceedance frequency for the *Juvenile Development* season did not provide a sound scientific rationale as to how these values would be protective of the propagation designated use, in accordance with 40 CFR 131.11(a). A dissolved oxygen criterion of 4.5 mg/L generally reflects current conditions in the specified zones. Under current conditions, propagation of oxygen-sensitive species has been "weak and inconsistent" according to the DRBC⁸⁸ and the New York Bight DPS of Atlantic Sturgeon remains at a high risk of extinction according to NMFS.⁸⁹ Please refer to the associated response to comments document for more discussion about Atlantic Sturgeon propagation under current conditions in the specified zones.

Criteria Development for Spawning and Larval Development and Overwintering Seasons

The Atlantic Sturgeon cohort model described above relies on experimental studies that were conducted using juvenile sturgeon and therefore provides information that is most relevant to juvenile growth and survival.⁹⁰ Additionally, the underlying studies allocated most experimental treatments to water temperatures between 12 °C and 28 °C, with a single experimental treatment at 6 °C and none at lower water temperatures.⁹¹ The EPA's cohort modeling approach therefore does not

apply to the *Spawning and Larval Development* season and is not well-constrained by data for application to the *Overwintering* season. For example, overwintering juveniles experience lower water temperatures for longer periods than juvenile Atlantic Sturgeon experienced in available experimental studies. Causes of overwintering mortality, which do not include low oxygen, are not addressed. While juveniles are present during the spawning and larval development period, they are from the prior season and are larger than fish whose oxygen sensitivity has been studied. Accordingly, the EPA did not use the cohort model to derive criteria for the *Spawning and Larval Development* or *Overwintering* seasons.

Instead, the EPA reviewed available literature and concluded that Atlantic Sturgeon larvae were likely to be at least as sensitive to low dissolved oxygen as juvenile Atlantic Sturgeon⁹² and that overwintering juveniles have temperature-limited metabolism and therefore have similar or slightly lower oxygen requirements than juveniles in warmer waters (e.g., summer water temperatures).⁹³ Thus, the EPA determined that the percent oxygen saturation threshold that would be protective of juveniles experiencing stressful (high) water temperatures during the *Juvenile Development* season would also be protective of larvae and overwintering juveniles not experiencing high water temperatures. Therefore, the EPA is finalizing criteria requiring the 10th percentile of daily average oxygen saturation to be at least 66% during the *Spawning and Larval Development* and *Overwintering* seasons. From 2002–2022, typical oxygen levels during the *Spawning and Larval Development* and *Overwintering* seasons were well above the level expected to negatively impact either Atlantic Sturgeon or other oxygen-sensitive species. Therefore, the EPA concluded that a second criterion at the 50th percentile of daily average oxygen was not needed during these seasons.

Criteria Expressed as Percent Oxygen Saturation

Finally, the EPA proposed and is finalizing criteria derived in terms of percent oxygen saturation in this

instance, rather than in units of concentration (such as milligrams per liter or mg/L) for two related reasons.⁹⁴ Most importantly, percent oxygen saturation determines the maximum rate at which aquatic organisms can absorb oxygen from the water and therefore, is the measurement of oxygen level that most directly relates to growth and survival of aquatic organisms.⁹⁵ If the maximum rate at which an aquatic organism can absorb oxygen from the water is less than needed to meet basic metabolic requirements, the organism is at increased risk of mortality. Because organisms require an increased rate of oxygen supply to obtain and digest food, a reduced rate of oxygen supply may also cause reduced growth, even if it does not cause mortality. Although dissolved oxygen concentration is related to percent oxygen saturation, it also varies in relation to water temperature and, to a lesser extent, in relation to salinity, which together determine oxygen concentration at equilibrium with the atmosphere. For any level of oxygen saturation, dissolved oxygen concentration will be relatively low when water temperature and salinity are high, and relatively high when water temperature and salinity are low. Therefore, protective dissolved oxygen concentrations vary with water temperature, as is reflected in the seasonally varying concentration-based criteria for the specified zones of the Delaware River that the EPA sought public comment on in the proposed rule as an alternative to the proposed percent saturation criteria. The effect of temperature is especially challenging for deriving protective concentration-based criteria for periods within which water temperature varies substantially. Given the relationship between water temperature and dissolved oxygen concentration, criteria expressed as a concentration could be either higher than needed to protect the use or not high enough to protect the use, depending on water temperature. Conversely, the EPA's criteria for the 10th percentile do not vary seasonally, despite substantial seasonal differences in water temperature. Therefore, criteria expressed as percent oxygen saturation

⁸⁸ "Weak and inconsistent spawning by Atlantic Sturgeon and limited spatial recovery in spawning and rearing by American Shad and Striped Bass suggested that full restoration of the "propagation" use is not supported by the current available data." Delaware River Basin Commission. (2015).

⁸⁹ In their Biological Opinion, NMFS explained that, "[t]he New York Bight DPS's risk of extinction is "High" due to low productivity (e.g., relatively few adults compared to historical levels and irregular spawning success), low abundance (e.g., only three known spawning populations and low DPS abundance, overall), and limited spatial distribution (e.g., limited spawning habitat within each of the few known rivers that support spawning)." Documents associated with Endangered Species Act consultation, including the Biological Opinion, are available in the docket for this rule.

⁹⁰ Experimental data are from Campbell and Goodman 2004 and Niklitschek and Secor 2009a.

⁹¹ Niklitschek and Secor 2009a.

⁹² Stoklosa et al. (2018); United States Environmental Protection Agency. (2000). Ambient Aquatic Life Water Quality Criteria for Dissolved Oxygen (Saltwater): Cape Cod to Cape Hatteras. Document ID: EPA-822-R-00-012. November 2000. <https://www.epa.gov/sites/default/files/2018-10/documents/ambient-al-wqc-dissolved-oxygen-cape-cod.pdf>.

⁹³ Niklitschek and Secor (2009a, 2009b).

⁹⁴ Percent oxygen saturation and dissolved oxygen concentration are two different ways to measure oxygen levels in water. Dissolved oxygen concentration is the amount of oxygen dissolved in the water, typically represented as milligrams of oxygen per liter of water. Percent oxygen saturation is the ratio, expressed as a percentage, of the dissolved oxygen concentration in the water relative to the dissolved oxygen concentration when at equilibrium with the atmosphere (i.e., if there were nothing in the water producing or consuming oxygen).

⁹⁵ Niklitschek and Secor (2009a).

provide more consistent protection of aquatic life across seasonally changing water temperatures and provide a more direct scientific rationale linking oxygen levels and aquatic life use protection. A summary of comments the EPA received on the expression of criteria in percent oxygen saturation is available below in section III.C.3. of this preamble.

2. Final Dissolved Oxygen Criteria

The EPA is finalizing the dissolved oxygen criteria as proposed, with only one non-substantive textual change to the language describing the criteria exceedance frequencies for clarity.⁹⁶

The EPA's dissolved oxygen criteria cover three distinct seasons and are intended to protect oxygen-sensitive species in the Delaware River, as explained above. The *Spawning and Larval Development* season is March 1 to June 30 and captures a comprehensive range of resident aquatic species' spawning periods.⁹⁷ The *Juvenile Development* season is July 1 to October 31 and captures critical early growth and development for young-of-the-year Atlantic Sturgeon. The *Overwintering* season is November 1 to February 28 (or 29, in a leap year), when juvenile Atlantic Sturgeon growth is limited by low water temperatures.

Each season has water quality criteria that consist of three components: magnitude, duration, and exceedance frequency. The magnitude component indicates the required level of dissolved oxygen in the water, which in this rule is expressed as percent oxygen saturation. The duration component specifies the time period over which water quality is averaged before it can be compared with the criteria magnitude; in this rule, the duration is

a daily average. The EPA selected a daily average duration because it is readily measurable using dissolved oxygen sensors and is protective in the relevant zones of the Delaware River because variations at time scales of less than one day are relatively small. Additionally, while the available science for Atlantic Sturgeon does not address the effect of low oxygen exposures lasting less than one day, calculations outlined in the Virginian Province Document suggest that to cause high mortality within a few hours, daily minimum oxygen concentrations would have to be lower than the minimum oxygen levels that the EPA expects would be likely in the specified zones if the EPA's criteria are attained.⁹⁸ The exceedance frequency component specifies how often each criterion magnitude can be exceeded while still ensuring that the use is protected. For this rulemaking, the exceedance frequency was determined based on the percentile of percent oxygen saturation from which the magnitude is derived. For example, the 10th percentile criterion magnitude can be exceeded on 10% of days in the season, which for a season consisting of 123 days is no more than 12 cumulative days of exceedance. For dissolved oxygen, an exceedance occurs when the daily average oxygen level in the water is below the criterion magnitude.

In this final rule, the *Spawning and Larval Development* and *Overwintering* seasons each have a single, identical dissolved oxygen criterion with a magnitude of 66% oxygen saturation, a daily average duration, and an exceedance frequency that allows for up to 12 days of cumulative exceedance during each of these two seasons (*i.e.*,

10% of each 123-day season) (table 6 of this preamble). The *Juvenile Development* season has two individually applicable dissolved oxygen criteria that together define a protective seasonal distribution of percent oxygen saturation. The criteria differ in both magnitude and exceedance frequency and both levels must be attained. The first *Juvenile Development* criterion defines the lower end of the distribution of oxygen levels and consists of a magnitude of 66% oxygen saturation, a daily average duration, and an exceedance frequency that allows for up to 12 days of cumulative exceedance during the season (*i.e.*, 10% of the 123-day season). The second *Juvenile Development* criterion defines the center of the distribution of oxygen levels and consists of a magnitude of 74% oxygen saturation, a daily average duration, and an exceedance frequency that allows for up to 61 days of cumulative exceedance during the season (*i.e.*, 50% of the 123-day season) (table 6 of this preamble).

The dissolved oxygen criteria in this final rule are the same as the criteria that the EPA proposed, with one non-substantive textual change for clarity.⁹⁹ The EPA altered the expression of the criteria exceedance frequency, as reflected in the rightmost column in table 6 of this preamble and in the final regulatory text. Whereas the EPA proposed exceedance frequencies expressed as, for example, "10% (12 Days Cumulative)," for the final rule, the EPA reversed the order (*e.g.*, "12 Days Cumulative (10% of the 123-day season)") to make clear that assessment in each season is based on the entire season and not the number of measurements collected.

TABLE 6—FINAL DISSOLVED OXYGEN CRITERIA

Season	Magnitude (percent oxygen saturation)	Duration	Exceedance frequency
Spawning and Larval Development (<i>March 1–June 30</i>).	66	Daily Average	12 Days Cumulative (<i>10% of the 123-day season</i>).
Juvenile Development (<i>July 1–October 31</i>)	66	Daily Average	12 Days Cumulative (<i>10% of the 123-day season</i>).
	74	Daily Average	61 Days Cumulative (<i>50% of the 123-day season</i>).
Overwintering (<i>November 1–February 28/29</i>)	66	Daily Average	12 Days Cumulative (<i>10% of the 123-day season</i>).

⁹⁶ United States Environmental Protection Agency. (2023). *Water Quality Standards to Protect Aquatic Life in the Delaware River*. Proposed Rule. 88 FR 88315. December 21, 2023.

⁹⁷ Stoklosa et al. (2018); Delaware River Basin Commission (2015).

⁹⁸ United States Environmental Protection Agency. (2000). Ambient Aquatic Life Water Quality Criteria for Dissolved Oxygen (Saltwater): Cape Cod to Cape Hatteras. Document ID: EPA–822–R–00–012. November 2000. <https://www.epa.gov/sites/default/files/2018-10/>

[documents/ambient-al-wqc-dissolved-oxygen-cape-code.pdf](https://www.epa.gov/sites/default/files/2018-10/documents/ambient-al-wqc-dissolved-oxygen-cape-code.pdf).

⁹⁹ United States Environmental Protection Agency. (2023). *Water Quality Standards to Protect Aquatic Life in the Delaware River*. Proposed Rule. 88 FR 88315. December 21, 2023.

3. Comments Received on Criteria Alternatives Presented at Proposal

At proposal, the EPA included three alternative options for dissolved oxygen criteria that the Agency considered but ultimately did not propose due to concerns about whether each alternative would be protective of aquatic life propagation. The EPA requested comment and additional information on whether and how one or more of these alternatives could protect the proposed aquatic life designated uses in the specified zones of the Delaware River and if so, what anticipated benefits would be associated with the alternative compared to the EPA’s proposed criteria. This section provides summaries of the comments received regarding the three criteria alternatives and summaries of the EPA’s responses.

Alternative 1: Dissolved Oxygen Criteria Expressed as Concentration (mg/L)

For the reasons described above in section III.C. of this preamble, the EPA proposed dissolved oxygen criteria expressed as percent oxygen saturation. For the first alternative, the EPA provided an example of potential criteria expressed as concentration (mg/L) and requested comment on whether criteria expressed as concentration would be protective of oxygen-sensitive species during each season. The EPA also requested public input and

supporting information about other ways the Agency could develop dissolved oxygen criteria expressed as concentration—particularly for the *Spawning and Larval Development* and *Overwintering* seasons—to protect the relevant aquatic life uses in accordance with the CWA.

Most commenters indicated a preference for criteria expressed as concentration due to concerns regarding implementation, specifically NPDES permitting, and ease of public communication. In addition, some commenters asserted that criteria expressed as concentration are more protective of aquatic life, especially in warmer water temperatures. Conversely, commenters supporting criteria expressed as percent oxygen saturation agreed with the EPA’s rationale as presented in the associated technical support document and summarized in section III.C.2. of this preamble. In addition to public comments, the EPA also solicited comment on this alternative from external peer reviewers. External peer reviewers supported the criteria expressed as percent oxygen saturation, rather than concentration, as percent oxygen saturation is the measurement of oxygen level that most directly relates to growth and survival of aquatic organisms.

The EPA understands that the switch from concentration-based dissolved

oxygen criteria to percent saturation because of this rule could require changes to each state’s NPDES permitting procedures and could necessitate additional public education and outreach. However, the EPA is committed to working with Delaware, New Jersey, Pennsylvania, and the DRBC to address implementation and outreach concerns and provide technical support. To inform the Agency’s consideration of this alternative for the final rule, the EPA met with the DRBC, Delaware, New Jersey, and Pennsylvania to discuss the percent oxygen saturation aspect of the proposal and potential solutions to implementation challenges and ways in which the EPA could assist in a transition to percent oxygen saturation for NPDES permits.

The EPA disagrees with commenters’ assertions that criteria expressed as concentration are more protective of aquatic life than criteria expressed as percent oxygen saturation. The EPA derived equally protective values expressed as concentration and percent oxygen saturation for the *Juvenile Development* season using the Atlantic Sturgeon cohort model. For informational purposes, the EPA is providing the corresponding values in concentration for the *Juvenile Development* season in table 7 of this preamble.

TABLE 7—CORRESPONDING DISSOLVED OXYGEN VALUES IN CONCENTRATION FOR THE JUVENILE DEVELOPMENT SEASON

Season	Magnitude (mg/L)	Duration	Exceedance frequency
Juvenile Development (<i>July 1–October 31</i>)	5.4	Daily Average	12 Days Cumulative (<i>10% of the 123-day season</i>).
	6.1	Daily Average	61 Days Cumulative (<i>50% of the 123-day season</i>).

For the *Spawning and Larval Development* and *Overwintering* seasons, the EPA requested, but did not receive, information and methods for deriving protective concentration-based criteria in those seasons.¹⁰⁰ In the absence of such information, the EPA could not derive protective concentration-based criteria for the *Spawning and Larval Development* and *Overwintering* seasons. Instead, the Agency is finalizing criteria for each of the seasons expressed as percent saturation for the reasons explained in section III.C.1 of this preamble. Monitoring data from the last decade

indicate that the EPA’s percent saturation-based dissolved oxygen criteria for the *Spawning and Larval Development* and *Overwintering* seasons are being attained in the specified zones of the Delaware River, and therefore the EPA does not anticipate implementation of the criteria in these seasons to require additional pollutant controls from any regulated entities. Nonetheless, given that some commenters expressed greater familiarity with dissolved oxygen criteria expressed as concentration, for informational purposes, transparency, and completeness, the EPA is reproducing in table 8 of this preamble the concentration-based dissolved oxygen values for the *Spawning and Larval Development* and *Overwintering* seasons that the Agency took comment

on in the proposed rule.¹⁰¹ As noted in the preamble to the proposed rule, the EPA calculated alternative concentration-based dissolved oxygen values for the *Spawning and Larval Development* and *Overwintering* seasons that differed based on water temperature assumptions and noted concerns about whether these alternative values would be protective in these seasons when temperatures are cooler.¹⁰² As one option, the EPA used the 90th percentile of water temperatures in each season to convert the proposed 66% oxygen saturation criterion to a concentration, and as a second option, the EPA used the average water temperature in each

¹⁰⁰ United States Environmental Protection Agency. Proposed Rule: Water Quality Standards to Protect Aquatic Life in the Delaware River. 88 FR 88315. December 21, 2023.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*

season.¹⁰³ Unlike the equally protective concentration-based values for the *Juvenile Development* season that the EPA derived using the Atlantic Sturgeon cohort model and is providing for illustrative purposes in table 7 of this preamble, the EPA reiterates that the

values in table 8 of this preamble should not be viewed as necessarily protective of the aquatic life designated use that the EPA is promulgating in this final rule. Rather, these values in table 8 of this preamble are simply an illustrative conversion of the protective percent

saturation criteria for the *Spawning and Larval Development* and *Overwintering* seasons using specific temperature assumptions. The concentration-based values provided in tables 7 and 8 for informational purposes are not being promulgated as criteria in this final rule.

TABLE 8—ILLUSTRATIVE EXAMPLE DISSOLVED OXYGEN VALUES IN CONCENTRATION FOR THE SPAWNING AND LARVAL DEVELOPMENT AND OVERWINTERING SEASONS

Season	Water temperature (°C)	Magnitude (mg/L)
Spawning and Larval Development (<i>March 1–June 30</i>)	* 23.3 (14.7)	* 5.6 (6.7)
Overwintering (<i>November 1–February 28/29</i>)	* 12.4 (5.6)	* 7.0 (8.3)

* The 90th percentile of seasonal water temperature and corresponding value is used for the main estimate, while the average water temperature and corresponding value is shown in parentheses.

One commenter suggested that concentration-based criteria calculated for critical conditions (examples provided were low flow conditions or high temperatures) could be applied year-round. However, given the negative relationship between dissolved oxygen concentrations and temperature, as explained previously in section III.C.1. of this preamble, year-round concentration-based criteria calculated using summer high temperatures may not be protective at lower temperatures. The EPA recognizes that criteria expressed as concentration would become more stringent if water temperatures increase; however, the EPA's criteria are derived to protect aquatic life designated uses that include propagation in the specified zones of the Delaware River based on current water quality data. As explained in section II of this preamble, states are required to review their WQS at least once every three years and if appropriate, revise or adopt new standards. The EPA's technical approach for this rulemaking illustrates one potential way in which new water quality data could be evaluated to determine if a change to criteria is needed to maintain protectiveness. Thus, the EPA anticipates that Delaware, New Jersey, and Pennsylvania will reexamine the applicable aquatic life uses and dissolved oxygen criteria promulgated in this rule when completing their triennial reviews and determine if revised criteria are necessary to comply with the CWA. During their triennial review, states may also consider making other revisions to their applicable WQS.

For all these reasons, the EPA has concluded that criteria expressed as percent oxygen saturation are protective and consistent with the latest science

and therefore, the Agency did not move forward with this alternative for the final rule.

Alternative 2: Single Dissolved Oxygen Criterion During the Juvenile Development Season With a 10% Exceedance Frequency

The EPA proposed dissolved oxygen criteria for the *Juvenile Development* season that consisted of two values that would both have to be met during the season. For the second alternative, the EPA requested comment and supporting information on instead applying a single daily average dissolved oxygen criterion with an exceedance frequency of 10% of days during the *Juvenile Development* season.

Some commenters preferred the single criterion construct, with one commenter asserting that the EPA's methodology provides a stronger technical basis for a single criterion. Other commenters did not support Alternative 2, with one commenter expressing a preference for a single instantaneous minimum criterion, and another supporting lower criteria magnitudes expressed as concentration.

The EPA's responses to comments regarding an instantaneous minimum criterion and criteria expressed as concentration are articulated above in this section of this preamble. The EPA disagrees that there is a stronger technical basis for a single criterion construct. As explained above, the dual criteria construct is intended to ensure that oxygen levels throughout the critical *Juvenile Development* season consistently support aquatic life propagation. Therefore, the Agency did not move forward with this alternative for the final rule.

Alternative 3: Inclusion of a 1-in-3-Year Interannual Exceedance Frequency

The EPA proposed criteria that must be met every year. For the third alternative, the EPA requested comment and supporting information on the addition of a 1-in-3-year interannual exceedance frequency as part of the dissolved oxygen criteria, and specifically how and why this approach would protect the applicable aquatic life uses.

Most commenters did not support the inclusion of an interannual exceedance frequency. These commenters noted that due to the small population size of Atlantic Sturgeon in the Delaware River, combined with the interannual variability in the number of spawning adults, even one year with a criteria exceedance could reduce the ability of sturgeon to propagate and be detrimental to the year class. Some commenters expressed support for inclusion of an interannual exceedance frequency. These commenters preferred this alternative to address uncertainty in the EPA's criteria derivation methods for this rulemaking and dissolved oxygen variability caused by factors such as drought or low flow. In addition to public comments, the EPA also solicited comment on this alternative from external peer reviewers. External peer reviewers did not support the inclusion of a 1-in-3-year interannual exceedance frequency. One reviewer noted that the effect of a failed year class resulting from poor water quality could impact the population for many years. This reflects the fact that Atlantic Sturgeon often have a long lifespan, with consistently low rates of mortality as adults. In contrast, mortality is highest among young-of-the-year juveniles and has the most potential to

¹⁰³ Seasonal 90th percentile and mean water temperature were calculated using the daily

climatology computed for Chester for March 1, 2012–June 30, 2022, for the *Spawning and Larval*

Development season and November 1, 2011–February 28, 2022, for the *Overwintering* season.

be reduced; therefore, reduction in juvenile mortality can have the greatest impact on population growth.¹⁰⁴ If recruitment is low in a year due to high juvenile mortality, a demographic gap can persist in the adult population for several decades, potentially reducing the number of adults returning to spawn. Overall, reviewers noted that uncertainties around this alternative are significantly higher and that it is a less biologically relevant option.

As described above, the EPA specifically requested comment on whether and how this alternative would protect aquatic life propagation. Commenters who supported this alternative did not provide such supporting information. Therefore, the EPA did not have sufficient information to conclude that this alternative would protect designated uses that include aquatic life propagation. The EPA agrees with commenters and peer reviewers that allowing one year of exceedance could have detrimental impacts on sturgeon propagation, which in turn could impact the population for decades. Therefore, the EPA did not move forward with this alternative for the final rule.

IV. Endangered Species Act Consultation

Section 7(a)(2) of the Endangered Species Act (ESA) requires that each Federal agency ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat.¹⁰⁵ Pursuant to section 7(a)(2) of the ESA, and prior to finalizing this rulemaking, the EPA consulted with the U.S. Fish and Wildlife Service (FWS) and NMFS (collectively, “the Services”) on the WQS the EPA is promulgating in this final rule. For species in the action area that are under the jurisdiction of the FWS,¹⁰⁶ on April 4, 2024, the FWS concurred with the EPA’s determination that the EPA’s action is not likely to have an adverse effect on those listed species.¹⁰⁷ NMFS determined in a final

Biological Opinion dated October 11, 2024,¹⁰⁸ that the EPA’s action is not likely to adversely affect certain species and critical habitat in the action area,¹⁰⁹ and is likely to adversely affect certain other species but will not jeopardize their continued existence or destroy or adversely modify their designated critical habitat.¹¹⁰ NMFS concluded that “the EPA set the [dissolved oxygen] criteria at levels expected to allow for the successful propagation of [S]hortnose and New York Bight DPS of Atlantic [S]turgeon, improving prospects for increasing population sizes for both species spawning in the river.” Documents associated with ESA consultation are available in the docket for this rule.

NMFS included an Incidental Take Statement (ITS) in its Biological Opinion to address the incidental take of Shortnose Sturgeon and Atlantic Sturgeon in the Delaware River due to exposure to dissolved oxygen levels in waters that attain the EPA’s final criteria. The ESA and its implementing regulations provide that incidental take by a Federal agency is not prohibited if performed in compliance with the terms and conditions of an ITS.¹¹¹ The ITS included two Reasonable and Prudent Measures (RPMs) NMFS considered necessary and appropriate for the EPA to follow to minimize the effects of incidental take on Shortnose Sturgeon and Atlantic Sturgeon.¹¹²

1. EPA is to work within its authorities to ensure that its final dissolved oxygen criteria are implemented in a timely manner to minimize the aggregate adverse effects

Dissolved Oxygen Criteria for the Delaware River, States of New Jersey, Pennsylvania, and Delaware. Document ID 2024–0046899. April 4, 2024.

¹⁰⁸ National Marine Fisheries Service. Establishment of Aquatic Life Propagation Designated Use and Dissolved Oxygen Criteria for the Delaware River by the United States Environmental Protection Agency. Endangered Species Act Section 7 Biological Opinion. OPR–2022–03643. National Oceanic and Atmospheric Administration. October 11, 2024. <https://doi.org/10.25923/jqht-ke64>.

¹⁰⁹ These species and critical habitat include two mammals (Fin Whale and North Atlantic Right Whale), five reptiles (Green Sea Turtle, Kemp’s Ridley Sea Turtle, Leatherback Sea Turtle, Hawksbill Sea Turtle, Loggerhead Sea Turtle), Atlantic Sturgeon Distinct Population Segments (DPSs) that do not spawn in the Delaware River (*i.e.*, Gulf of Maine, Chesapeake Bay, Carolina, and South Atlantic DPSs), and designated critical habitat for the New York Bight DPS of Atlantic Sturgeon.

¹¹⁰ These species are the Shortnose Sturgeon and the New York Bight DPS of Atlantic Sturgeon.

¹¹¹ 16 U.S.C. 1536(b)(4), (o)(2); 50 CFR 402.14(j)(6).

¹¹² The EPA does not necessarily endorse or concede that these RPMs are necessary or appropriate to minimize the impact of any incidental take.

to ESA-listed Shortnose Sturgeon and New York Bight DPS of Atlantic Sturgeon and critical habitat designated for the New York Bight DPS of Atlantic Sturgeon specifically within the Delaware River.

2. EPA is to work within its authorities to oversee the implementation of the dissolved oxygen criteria, coordinating with the Services and encouraging other entities to coordinate with the Services, as appropriate.

NMFS specified in the Terms and Conditions of the ITS that to meet the first RPM, the EPA is to notify regulatory agencies and the regulated community that, in NMFS’s view as of October 2024, existing dissolved oxygen conditions in the Delaware River violate the ESA by resulting in the take of endangered Shortnose Sturgeon and the New York Bight DPS of Atlantic Sturgeon through increased mortality and reductions in growth of juvenile fish. Per the ITS, the EPA is to reference the following sections of the ESA and its implementing regulations. Section 9 of the ESA¹¹³ prohibits the “take” of endangered species by any person, defined by the ESA.¹¹⁴ The ESA defines “take” as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.”¹¹⁵ The terms “harass” and “harm” are currently further defined in NMFS guidance¹¹⁶ and in regulation,¹¹⁷ respectively. Entities that are discharging in accordance with limits based on the EPA’s final criteria are covered by the ITS exemption in the Biological Opinion; entities that are not discharging in accordance with such limits may elect to seek separate incidental take coverage under section 10 of the ESA. For more information, see NMFS’s ESA section 7 Biological Opinion, available in the docket for this rule.

Additionally, to meet the first RPM, the EPA is to remind regulatory agencies, the regulated community, and the interested public of the EPA’s authorities under the CWA that are potentially relevant to this final rule. These authorities include reviewing

¹¹³ 16 U.S.C. 1538.

¹¹⁴ 16 U.S.C. 1532(13). NMFS also specified in the Terms and Conditions that the EPA is to reference ESA section 11, which authorizes criminal and civil penalties for violations of the take prohibition. 16 U.S.C. 1540.

¹¹⁵ 16 U.S.C. 1532(19).

¹¹⁶ NMFS Policy Directive 02–110–19.

¹¹⁷ 50 CFR 222.102. On April 17, 2025, the Services proposed a rule to rescind the regulatory definition of “harm” in the ESA implementing regulations. Rescinding the Definition of “Harm” Under the Endangered Species Act, 90 FR 161102 (April 17, 2025).

¹⁰⁴ Gross, M.R., J. Repka, C.T. Robertson, D. Secor and W. Van Winkle (2002). Sturgeon Conservation: Insights from Elasticity Analysis. American Fisheries Society Symposium 28: 13–30.

¹⁰⁵ 16 U.S.C. 1536(a)(2).

¹⁰⁶ These species include three mammals (Indiana Bat, Northern Long-eared Bat, and Tricolored Bat), one bird (Rufa Red Knot), one reptile (Bog Turtle), one insect (Monarch Butterfly), and two flowering plants (Sensitive-joint Vetch and Swamp Pink).

¹⁰⁷ United States Fish and Wildlife Service. (2024). Letter to Gregory Voigt. Reference: Biological Evaluation for the Establishment of the Aquatic Life Propagation Designated Use and

TMDLs pursuant to CWA section 303(d); objecting to certain state-issued CWA section 402 pollutant discharge permits under CWA section 402(d)(2); issuing CWA section 402 pollutant discharge permits under CWA section 402(d)(4) if the EPA's objections to state-issued permits are not adequately addressed; or withdrawing state pollutant discharge permitting programs in certain circumstances under CWA section 402(c)(3).

V. Applicability

The EPA is promulgating a Federal designated use that applies in New Jersey and Pennsylvania, in addition to those states' designated uses that are already applicable. This means that for the specified zones of the Delaware River, the EPA is supplementing, rather than replacing, New Jersey's and Pennsylvania's currently applicable aquatic life designated uses. Therefore, New Jersey's and Pennsylvania's currently applicable aquatic life designated uses remain applicable for CWA purposes. Those states' current water quality criteria associated with those uses also remain applicable for CWA purposes, with the exception of any aquatic life criteria for dissolved oxygen, which are discussed below. The EPA concluded that this approach is the best way to make clear which of the states' WQS are and are not revised by this final rule.

In addition, the EPA is promulgating dissolved oxygen criteria that replace Delaware's, New Jersey's, and Pennsylvania's existing dissolved oxygen criteria for the specified zones of the Delaware River. In the final rule, the EPA made a minor, non-substantive change to paragraph (d)(2) to simplify the language used to describe the other state water quality criteria that apply to these zones of the Delaware River in addition to the federally promulgated criteria for dissolved oxygen. Specifically, the EPA replaced the language "with applicable water quality criteria for other parameters" with "with other applicable water quality criteria." One commenter shared that Delaware's regulations specify that the applicable criteria for the specified zones of the Delaware River are those adopted by the DRBC in its Water Quality Regulations, unless no criteria exist in the DRBC's regulations in which case the state's criteria apply. This commenter asserted that the proposed rule did not define how the proposed designated use and criteria will be adopted into the DRBC's Water Quality Regulations. The designated use and dissolved oxygen criteria in this final rule do not need to be adopted into the

DRBC's Water Quality Regulations in order to apply to these zones of the Delaware River. Pursuant to 40 CFR 131.21, where a WQS in effect under state law is applicable for CWA purposes, if the EPA promulgates a more stringent standard for that state, then the EPA-promulgated standard becomes the applicable standard for CWA purposes. Further, under CWA section 303(c)(4)(B), the EPA Administrator has the authority to promulgate standards in any case where the Administrator determines that a new or revised standard is necessary to meet the requirements of the CWA, as discussed more in section II.A of this preamble. Pursuant to CWA section 303(c), the Agency made an Administrator's Determination and is promulgating Federal WQS for Delaware, New Jersey, and Pennsylvania in accordance with that Administrator's Determination. As such, the WQS in this final rule will be effective for CWA purposes even though they have not been adopted by the DRBC.

The EPA recognizes, however, that with this final rule, there will now be a mix of state and Federal WQS that are applicable to the specified zones for CWA purposes. The EPA compiles and publishes on its website¹¹⁸ the state-adopted and federally promulgated WQS in effect for CWA purposes in each state, including the Federal CWA-effective WQS for the specified zones covered by this rule. For transparency and ease of implementation, the EPA recommends that Delaware, New Jersey, and Pennsylvania similarly identify in a publicly available place that the WQS in the EPA's final rule are part of the CWA-effective WQS in each state (e.g., by including a notation in each state's WQS and/or on the website that hosts each state's WQS, directing people to the **Federal Register** publication for this final rule, appropriate section of 40 CFR part 131, and/or the EPA's website).

The EPA notes that there are aquatic life criteria for pollutants and parameters other than dissolved oxygen that are still in effect for CWA purposes in all three states—not only in the zones covered by this final rule, but also for other zones of the Delaware River that already include aquatic life propagation as a designated use. Those criteria are not impacted by this final rule. As the EPA is only promulgating revised dissolved oxygen criteria for the specified zones of the Delaware River,

Delaware, New Jersey, and Pennsylvania should evaluate whether other aquatic life criteria should similarly be added or revised for the specified zones or other zones of the Delaware River. One way these states can review their WQS is through the triennial review process. As explained in section II of this preamble, states must review their WQS at least once every three years and, if appropriate, revise standards or adopt new standards (CWA section 303(c)(1) and 40 CFR 131.20(a)). The EPA anticipates that Delaware, New Jersey, and Pennsylvania will review their existing aquatic life criteria during their next triennial review to determine if new or revised aquatic life criteria are appropriate to protect the applicable aquatic life designated uses, including the designated use that the EPA is promulgating in this final rule, in addition to considering whether to make other changes to their WQS.

One commenter asserted that Pennsylvania has a minimum dissolved oxygen criterion of 5 mg/L that currently applies to the specified zones of the Delaware River under Pennsylvania's jurisdiction and that the EPA failed to recognize the application of this criterion. This commenter asserted that the EPA's proposed dissolved oxygen criteria would result in a weakening of the applicable WQS because the EPA's criteria could allow daily excursions down to or below 4 mg/L, and that this would violate the antidegradation requirement at 40 CFR 131.12(a)(1) to maintain and protect existing uses. Further, this commenter asserted that the EPA has a duty under the Endangered Species Act to ensure no jeopardy to the endangered sturgeon in the specified zones and that the EPA's effort to update the WQS must be consistent with full recovery of the sturgeon rather than only slight improvements in their condition, which may be insufficient.

As noted in sections II.D. and III.B. of this preamble, Pennsylvania's WWF designated use and the EPA-approved aquatic life criteria associated with Pennsylvania's WWF use, including the state's WWF dissolved oxygen criteria of 5.5 mg/L as a 7-day average and 5.0 mg/L as a minimum, do not currently apply for CWA purposes to the specified zones of the Delaware River. For the WWF use and associated criteria to apply in the relevant zones for CWA purposes, Pennsylvania would need to revise its WQS accordingly and the EPA would need to approve that revision under CWA section 303(c). Rather, prior to this final rule, the applicable aquatic life designated use for Pennsylvania's portions of the specified zones of the

¹¹⁸ United States Environmental Protection Agency. State-Specific Water Quality Standards Effective under the Clean Water Act (CWA). <https://www.epa.gov/wqs-tech/state-specific-water-quality-standards-effective-under-clean-water-act-cwa>. Accessed September 19, 2024.

Delaware River aligned with the DRBC's "maintenance" and "passage" designated use and the applicable dissolved oxygen criteria in Pennsylvania's portions of the relevant zones were the DRBC's criteria that Pennsylvania had adopted into its WQS by reference—namely, a year-round numeric water quality criterion for dissolved oxygen of 3.5 mg/L as a 24-hour average, as well as a seasonal criterion of 6.5 mg/L. Therefore, the EPA's aquatic life designated use of "protection and propagation of resident and migratory aquatic life" and dissolved oxygen criteria in this final rule represent a strengthening, rather than a weakening, of the applicable WQS in the relevant zones in Pennsylvania and are consistent with all 40 CFR part 131 requirements. For responses to the comments about daily excursions allowed under the EPA's criteria and the inclusion of an instantaneous minimum criterion value, please see section III.C. of this final rule preamble. Regarding the comment about the EPA's obligations under the Endangered Species Act, please refer to section IV of this preamble.

VI. Conditions Under Which Federal Water Quality Standards Would Be Withdrawn

Under the CWA, states and authorized tribes have the primary responsibility in developing and adopting WQS for their navigable waters (CWA section 303(a) through (c)). Although the EPA is promulgating a revised aquatic life designated use and protective dissolved oxygen criteria for the specified zones of the Delaware River, each state retains the option to adopt and submit to the EPA for review its own revised designated use and dissolved oxygen criteria that are consistent with the requirements of the CWA. If Delaware, New Jersey, and Pennsylvania subsequently adopt and submit revised WQS to the EPA, and the EPA approves those WQS, then the EPA would undertake a rulemaking to withdraw the federally promulgated use and/or dissolved oxygen criteria (40 CFR 131.21(c)). Similarly, if one state adopts and submits revised WQS to the EPA, and the EPA approves those WQS, then the EPA would undertake a rulemaking to withdraw the federally promulgated WQS for that state. As noted earlier in this preamble, the EPA maintains that states have the primary role to develop WQS.

Pursuant to 40 CFR 131.21(c), if Delaware, New Jersey, and/or Pennsylvania adopt dissolved oxygen criteria that are as stringent or more stringent than the federally promulgated

criteria, then once the EPA approves those criteria, they would become the applicable criteria for CWA purposes.¹¹⁹ After approving any state criteria that are as stringent or more stringent, the EPA would conduct a ministerial rulemaking to withdraw the Federal criteria. If Delaware's, New Jersey's, and/or Pennsylvania's adopted dissolved oxygen criteria are less stringent than the federally promulgated criteria, and the EPA approves those less stringent criteria, then those EPA-approved criteria would become the applicable criteria for CWA purposes only after the EPA withdraws its federally promulgated criteria for the relevant state(s).

VII. Alternative Regulatory Approaches and Implementation Mechanisms

In the preamble to the proposed rulemaking, 88 FR 88315, December 21, 2023, the EPA noted several approaches provided at 40 CFR part 131 that Delaware, New Jersey, and Pennsylvania could explore when implementing or deciding how to implement federally promulgated criteria. Specifically, the EPA focused the discussion in the proposed rule preamble on two approaches—WQS variances and NPDES permit compliance schedules. Additionally, the EPA included a discussion of CWA section 303(d)/305(b) water quality assessments in the specific circumstances relevant to this rulemaking. Each of these topics is discussed in turn directly below.

A. Water Quality Standards Variances and NPDES Permit Compliance Schedules

With respect to WQS variances and NPDES permit compliance schedules, some commenters asserted that implementation of the WQS in the EPA's rule should be phased and adaptively managed with incremental pollutant reductions followed by monitoring of water chemistry and fish communities to gauge the effectiveness of the pollutant controls. A few of these commenters asserted that WQS variances and NPDES permit compliance schedules are the tools the states should use to allow for such incremental progress, as needed. Conversely, one commenter asserted that because propagation is an attainable use in the specified zones of the Delaware River, WQS variances, which are used when attaining the designated use and associated criterion is not

feasible during the term of the WQS variance, would defeat the purpose of the EPA's rule and would inappropriately require subsequent time-consuming rulemakings by states. Instead, this commenter asserted that NPDES permit compliance schedules are the appropriate implementation mechanism to use when dischargers need time to implement additional treatment technologies.

Regarding the appropriateness of WQS variances to implement the WQS in this final rule, the commenter is correct that the EPA determined that the propagation use is attainable in the specified zones. As discussed in the associated response to comments document, the EPA also recognizes the comments received on the proposed rule from certain dischargers regarding potential economic and social impacts. However, the EPA did not receive information from the states, the DRBC, or other stakeholders to demonstrate that attaining the propagation use is infeasible due to one of the factors listed at 40 CFR 131.10(g). Where a state believes that a discharger may not be able to meet any more stringent permit limits based on the propagation use and dissolved oxygen criteria for a specific period of time but can make incremental water quality improvements towards attaining the propagation use, then the state should work with the EPA to determine whether a WQS variance consistent with 40 CFR 131.14 would be appropriate for that discharger. The EPA has approved WQS variances adopted by states for various designated uses and criteria.¹²⁰ For example, states may adopt WQS variances for dischargers based on a demonstration of substantial and widespread economic and social impacts consistent with 40 CFR 131.14(b)(2)(i)(A)(1) and 40 CFR 131.10(g)(6). Such WQS variances may consider circumstances such as the degree to which: permit limits would become more stringent as a result of revised WQS for which incremental, though not immediate, improvements could be made; technological limitations exist; facility space constraints limit installation of certain technologies; and initial capital costs place significant burdens on the surrounding community. WQS variances can help mitigate near-term compliance burdens and costs while

¹¹⁹ CWA section 303(c)(3) ("If the Administrator . . . determines that such standard meets the requirements of this Act, such standard shall thereafter be the water quality standard for the applicable waters of that State.").

¹²⁰ For example: Minnesota (<https://www.pca.state.mn.us/business-with-us/water-quality-variances>), Wisconsin (<https://dnr.wisconsin.gov/topic/Wastewater/variances.html>), and Missouri (<https://dnr.mo.gov/water/business-industry-other-entities/variances/water-quality-standards>).

ensuring effective implementation.¹²¹ The EPA, in coordination with the DRBC and the states of Delaware, New Jersey, and Pennsylvania, may issue further guidance on the available WQS flexibilities and permitting tools available to address implementation concerns for any affected entities. Additional information on WQS variances and a WQS variance building tool is available on the EPA's website.¹²²

Regarding the use of compliance schedules, the EPA agrees that where dischargers need additional time to implement an enforceable sequence of actions—such as facility upgrades or operation changes—that will lead to compliance with a water quality-based limit based on the applicable designated use and criteria, the permitting authority should consider an NPDES permit compliance schedule, addressed in the EPA's regulations at 40 CFR 122.47 and 131.15. If a permittee cannot immediately meet a water quality-based limit, the permitting authority may include a compliance schedule¹²³ in the permit, consistent with 40 CFR 122.47, to provide time to achieve the water quality-based limit. Generally, a compliance schedule must “require compliance as soon as possible.”¹²⁴ Where a permit compliance schedule is longer than one year, the NPDES permit must include interim requirements and dates for their achievement.¹²⁵ The EPA's regulation at 40 CFR 131.15 specifies that if a state intends to authorize the use of compliance schedules in NPDES permits, “the [s]tate must adopt a permit compliance schedule authorizing provision. Such authorizing provision is a [WQS] subject to EPA review and approval under section 303 of the [Clean Water] Act and must be consistent with sections 502(17) and 301(b)(1)(C) of the [Clean Water] Act.” Such compliance schedules may be used to implement the WQS in this final rule.

B. Clean Water Act Section 303(d)/305(b) Water Quality Assessments

Delaware, New Jersey, and Pennsylvania each have an obligation under CWA sections 303(d) and 305(b) to assess whether CWA-effective WQS in their jurisdictions are being attained.

The EPA anticipates that there may be a period of time immediately after issuance of this final rule when the WQS will not be attained because the actions and procedures required to achieve compliance will take time to implement. In this scenario, any of the relevant zones not attaining the WQS should be classified as impaired on the relevant CWA section(s) 303(d)/305(b) Integrated Report(s) (IR) submitted to the EPA for review.

Per the CWA and the EPA's implementing regulations, waters that are assessed under CWA section 303(d) as impaired by a pollutant typically require the development of a Total Maximum Daily Load (TMDL), which is a regulatory planning tool designed to restore water quality via allocations of pollutant reductions to relevant point and non-point sources. The EPA's regulations also recognize that other pollution control requirements may obviate the need for a TMDL. Specifically, impaired waters do not require a TMDL if (1) technology-based effluent limitations required by the CWA, (2) more stringent effluent limitations required by a state, local, or Federal authority, or (3) other pollution control requirements (e.g., best management practices) required by a state, local, or Federal authority are stringent enough to implement applicable WQS.¹²⁶ Impaired waters that do not require a TMDL because one of these alternatives is satisfied are commonly referred to as Category 4b waters, as described in the EPA's Integrated Reporting Guidance for CWA sections 303(d), 305(b), and 314.¹²⁷

The DRBC developed a model to evaluate sources of pollution that affect dissolved oxygen levels in the specified zones of the Delaware River and concluded that point sources are the primary contributor to oxygen depletion within those zones.¹²⁸ The EPA's economic analysis evaluates point source controls that are expected to result in dissolved oxygen levels that meet the EPA's criteria.¹²⁹ In the preamble to the proposed rule, the EPA noted that if Delaware, New Jersey, and/or Pennsylvania require effluent limitations and/or other pollution control requirements that the EPA

agrees are stringent enough to implement the final dissolved oxygen criteria, the specified zones may be a candidate for Category 4b in future IRs. The EPA remains committed to working with Delaware, New Jersey, and Pennsylvania, in consultation with the DRBC, on future IRs to determine the appropriate assessment status for the waters that are subject to this rulemaking.

VIII. Economic Analysis

The EPA conducted an economic analysis pursuant to Executive Order 12866 to evaluate the potential benefits and costs associated with this final rule. The EPA prepared this analysis of one potential implementation scenario for informational purposes to provide the public and potentially affected entities with estimates of the potential costs and benefits that could accrue when the relevant states implement this final rule. The EPA did not rely upon this economic analysis in setting these WQS. For more information about how costs are addressed in the WQS context, please refer to the associated response to comments document. Despite evaluation of one potential implementation scenario in the economic analysis, the EPA's rule does not prescribe any specific pollutant controls, and the EPA expects that states will work with affected dischargers to identify the most appropriate compliance options.

In the high-level summary of the EPA's economic analysis below, the EPA first describes a baseline scenario that is intended to characterize the world in the absence of the EPA's rule. Next, the EPA describes the development of a policy scenario based on potential pollution control actions that, if implemented, can be expected to meet the EPA's dissolved oxygen criteria. Finally, the EPA evaluates the anticipated potential costs associated with the policy scenario and the potential benefits of the specified zones attaining the EPA's dissolved oxygen criteria. More details and information are available in the associated document, *Economic Analysis for the Final Rule: Water Quality Standards to Protect Aquatic Life in the Delaware River*, available in the docket for this rule.

A. Baseline for the Analysis

The baseline is intended to characterize the world in the absence of the EPA's rule. The EPA typically assumes full compliance with existing regulations and requirements—including Combined Sewer Overflow (CSO) Long-Term Control Plans

¹²¹ The EPA would review any state-adopted WQS variances on a case-by-case basis for consistency with CWA section 303(c) and 40 CFR 131.14.

¹²² <https://www.epa.gov/wqs-tech/water-quality-standards-variances>.

¹²³ The definition of “schedule of compliance” is available at 40 CFR 122.2.

¹²⁴ 40 CFR 122.47(a)(1).

¹²⁵ 40 CFR 122.47(a)(3).

¹²⁶ 40 CFR 130.7(b)(1).

¹²⁷ The EPA's Integrated Reporting Guidance is available at: <https://www.epa.gov/tmdl/integrated-reporting-guidance-under-cwa-sections-303d-305b-and-314>.

¹²⁸ Delaware River Basin Commission (2024a, 2024b).

¹²⁹ More details are available in the document, *Economic Analysis for the Final Rule: Water Quality Standards to Protect Aquatic Life in the Delaware River*.

(LTCPs)¹³⁰—even if they are not yet fully implemented, as a basis for estimating the benefits and costs of regulations. This baseline approach ensures that the benefits and costs of the existing regulations and requirements are not double counted.

In this economic analysis, the EPA assumes that without the final rule, the prior, less stringent WQS (that do not adequately support aquatic life propagation) would have remained in effect. Accordingly, the EPA assumes that water quality conditions in the specified zones of the Delaware River, particularly during the *Juvenile Development* season (July 1 to October 31), would continue to exhibit low oxygen levels that do not adequately support aquatic life propagation, even with implementation of existing and planned CSO LTCPs, as well as other related expansions or plans.¹³¹ Along the specified zones of the Delaware River, there are three combined sewer systems with CSO LTCPs that are relevant for consideration by the EPA as part of the baseline. The Philadelphia Water Department, Camden County Municipal Utilities Authority, and Delaware County Regional Water Quality Control Authority all have LTCPs that are either approved or in progress.¹³² The EPA expects implementation of these LTCPs, when finalized, to occur regardless of the EPA's final rule. Therefore, the EPA included estimated CSO volume reductions for these three dischargers as part of the baseline for this economic analysis.

During the public comment period, the EPA received comments regarding the consideration of CSO LTCPs in the EPA's economic analysis. Some commenters asserted that the EPA should address CSO control costs in the economic analysis, while other

commenters asserted that these LTCPs would not be completed either at all or prior to promulgation of the final rule. The EPA disagrees with commenters' assertions that the Agency should include CSO control costs as part of the cost analysis for the EPA's rule. CSO controls are expected to be implemented at certain wastewater treatment plants, described above, along the specified zones of the Delaware River regardless of the EPA's rule; therefore, costs associated with these controls cannot be attributed to the EPA's rule. The EPA acknowledges that the assumption of full compliance with draft LTCPs, in addition to final LTCPs, could add uncertainty to baseline conditions since draft LTCPs are subject to change. The EPA includes a discussion of this uncertainty in table 2–1 of the associated economic analysis. However, the EPA notes that these draft LTCPs represent the best available information on planned CSO controls and are therefore appropriately used in the economic analysis.

The DRBC modeled the effect of pollution reduction on dissolved oxygen levels in the Delaware River and provided the EPA with water quality simulation results under both baseline and “restored” conditions for the years 2012, 2018, and 2019.¹³³ Baseline simulations predict water quality conditions associated with the discharge of actual wastewater treatment plant (WWTP) flows at existing levels of treatment and after full implementation of existing and planned LTCPs. The restored simulations predict water quality conditions associated with the discharge of actual WWTP flows at treatment levels that include additional effluent treatment and after full implementation of LTCPs.

Of the three available years (2012, 2018, and 2019), the EPA selected 2019 as representative of the most typical conditions in the relevant zones of the Delaware River. In comparison, 2012 had atypically poor conditions (low percent oxygen saturation, high water temperature), while 2018 had atypically good conditions (high percent oxygen saturation, low water temperature). Therefore, model runs used in this economic analysis are based on 2019 conditions.

One commenter asserted that the EPA's use of a single year of water quality data reduced the reliability of the EPA's technical and economic assessments because a single year

cannot be relied upon to predict how future infrastructure might address pollution, given interannual variations in precipitation and temperature. The EPA acknowledges that relying on a single year of data limits the ability of the economic analysis to reflect any future changes in water temperature and/or precipitation. However, as discussed in the associated technical support document and in the response to comments document, there are no existing modeling studies that directly predict future water temperatures in the specified zones of the Delaware River, which limits the EPA from factoring these future conditions into additional analyses. Given these limitations, the economic analysis relies on the most representative year of data available and therefore, this approach to the analysis was reasonable.

B. Development of the Policy Scenario

There is a wide range of potential paths that Delaware, New Jersey, and Pennsylvania may choose to take when implementing the EPA's final WQS. For this economic analysis, the EPA relied on available data to develop a policy scenario based on modeled pollution controls developed by the DRBC that the EPA expects would meet the Agency's dissolved oxygen criteria. Actual benefits, costs, and impacts will depend on the choices that states make in implementing the final WQS, which may differ from the policy scenario presented in this economic analysis.

The EPA's dissolved oxygen criteria apply to three seasons; therefore, when developing a single policy scenario, the EPA evaluated potential pollution control actions that would be expected to meet the EPA's criteria in each of the three seasons. The EPA began by evaluating water quality monitoring data for the past decade from two continuous monitoring stations in the relevant zones of the Delaware River—Penn's Landing in Zone 3 and Chester in Zone 4. As noted in section III.C.3. of this preamble, based on the monitoring data, the EPA expects that the Agency's dissolved oxygen criteria for the *Spawning and Larval Development* and *Overwintering* seasons will likely be met without the need for additional WWTP upgrades or other controls beyond those accounted for in the baseline simulation. Monitoring data for the *Juvenile Development* season indicated that additional pollution control actions are likely necessary to meet the EPA's criteria in that season. To develop a policy scenario for the *Juvenile Development* season, the EPA relied on modeled data from the DRBC predicting oxygen levels in 2019 in the specified

¹³⁰ As provided in the CSO Control Policy, incorporated under CWA section 402(q), “[NPDES] permittees with CSOs are responsible for developing and implementing long-term CSO control plans [or LTCP] that will ultimately result in compliance with the requirements of the CWA.” CSO Control Policy, 59 FR 18688, 18691 (April, 19, 1994).

¹³¹ While the EPA normally assumes full compliance with *existing* LTCPs, for this rule, the EPA is also assuming full compliance with *planned* LTCPs. Because planned LTCPs are not final and therefore are subject to change, this adds uncertainty to the baseline conditions.

¹³² Delaware River Basin Commission (2024a); DELCORA. (2023). Combined Sewer System: DELCORA CSO LTCP. <https://www.delcora.org/combined-sewer-systems/delcora-cso-ltcp/>;

Philadelphia Water Department. (2023). CSO Long Term Control Plan. <https://water.phila.gov/reporting/ltcp/>;

State of New Jersey Division of Water Quality. (2023). Long Term Control Plan Submittals. <https://www.nj.gov/dep/dwq/cso-ltcpsubmittals.htm>.

¹³³ The EPA determined that the model runs from the DRBC were sufficient for use in this economic analysis. Delaware River Basin Commission (2024b).

zones of the Delaware River following a set of WWTP pollution control actions for certain dischargers. Modeled data for restored conditions are described in the baseline section above in this preamble, while WWTP controls are described in the cost section below in this preamble. The EPA expects that this policy scenario (hereafter, the 2019 restored scenario) will meet the final criteria during the *Juvenile Development* season.

C. Potential Costs

The EPA estimated compliance costs for the final WQS based on estimates for WWTPs to reduce effluent ammonia nitrogen concentrations and raise effluent dissolved oxygen concentrations. Although there are several causes that contribute to low dissolved oxygen conditions in the specified zones of the Delaware River, the DRBC identified ammonia nitrogen loadings from WWTPs as the leading cause of oxygen-depletion in the river.¹³⁴ The DRBC also identified controlling these loads as a feasible solution to addressing dissolved oxygen conditions through their modeling efforts. As a result, for this economic analysis, the EPA assumed that implementation of additional pollution control technologies at WWTPs is the most likely way that Delaware, New Jersey, and Pennsylvania will implement the final WQS. Therefore, the EPA evaluated WWTP controls rather than other controls, such as non-point source controls, for this cost analysis.

Some commenters asserted that the EPA should consider habitat restoration and pollution reductions other than ammonia treatment controls at wastewater treatment plants. While the EPA did consider other sources of nutrients into the Delaware River, the Agency concluded that point source controls are the most likely pathway that Delaware, New Jersey, and Pennsylvania would choose to take when implementing the rule. However, the EPA's rule does not preclude each state from evaluating controls on other pollutant sources, including non-point sources, or evaluating the potential benefits of habitat restoration, and the EPA encourages each state to consider all available and relevant pollution control approaches when implementing the Federal standards.

The EPA relied on cost information from several DRBC studies to estimate the costs of achieving the final WQS.¹³⁵

The DRBC's *A Pathway for Continued Restoration: Improving Dissolved Oxygen in the Delaware River Estuary* report categorized WWTPs as either class A', A, or B facilities.¹³⁶ The DRBC determined that discharges from Class A', A, and B facilities have a major impact, a marginal impact, or no measurable impact on oxygen levels in the specified zones, respectively. The EPA's 2019 restored scenario follows the DRBC's approach by including the seven Class A' and two Class A facilities and excluding the three Class B facilities.¹³⁷

The EPA used WWTP-specific (capital, operations and maintenance (O&M)) compliance costs from Kleinfelder Inc. (2021, 2023) to estimate compliance costs, based on the discharger classification. Total compliance costs include the costs associated with both of the following:

1. Class A' Facilities (7 WWTPs): Reductions in effluent ammonia nitrogen concentrations to 1.5 mg/L from May 1 through October 31 and increases in effluent oxygen concentrations to a monthly average of 6 mg/L year-round.¹³⁸

Report. https://www.nj.gov/drbc/library/documents/NitrogenReductionCostEstimates_KleinfelderJan2021.pdf;

Kleinfelder Inc. (2023). Delaware River Basin Commission Nitrogen Reduction Cost Estimation Study—Supplemental Cost Addendum 2 Technical Memorandum—Final. https://www.nj.gov/drbc/library/documents/NitrogenReductionCostEstimates_Kleinfelder_aug2023addendum.pdf.

¹³⁶ Delaware River Basin Commission (2024a).

¹³⁷ Id.

¹³⁸ These effluent concentrations are consistent with the DRBC's own water quality regulations, adopted in 1967, and modified in 1992 to reflect that "Best Demonstrable Technology (BDT)" for new or expanding wastewater treatment facilities was 1.5 mg/L or less of ammonia nitrogen and 6.0 mg/L or greater of dissolved oxygen. These BDT requirements are applicable to wastewater discharges within the 197-mile non-tidal portion of the Delaware River, immediately upstream of the specified zones in the EPA's rule. Delaware River Basin Commission. "Administrative Manual—Part III Water Quality Regulations with Amendments Through December 7, 2022." Accessed August 7, 2024. <https://www.nj.gov/drbc/library/documents/WQregs.pdf>.

Further, a nationwide evaluation of discharge concentrations among "major" NPDES-permitted wastewater treatment plants (*i.e.*, facilities that discharge more than 1 million gallons of effluent per day) indicates that roughly 75% are discharging ammonia at levels necessary to achieve compliance with the EPA's dissolved oxygen criteria for the Delaware River. United States Environmental Protection Agency (2025). Nutrient Removal Study Dashboard. Web page. Accessed May 23, 2025. <https://ordspub.epa.gov/ords/wjc/f?p=259:49:8670036276255>.

The EPA acknowledges that the operation time period for the treatment technologies that are necessary to meet the final WQS may differ from the assumptions in Kleinfelder Inc. (2021, 2023). Actual operation time periods will impact the technology lifespan and O&M costs. Since time period assumptions in Kleinfelder Inc. (2021, 2023) exceed the July 1–October 31 *Juvenile Development* season, O&M costs may be overestimated.

2. Class A Facilities (2 WWTPs): Reductions in effluent ammonia nitrogen concentrations to 5 mg/L from May 1 through October 31.

Some commenters expressed concerns with the EPA's reliance on information published or commissioned by the DRBC. These commenters asserted that the cost estimates from the Kleinfelder reports were unrealistically low, a limited number of economic variables were considered, and costs associated with other regulatory mandates were not considered, among other concerns. The EPA disagrees that basing the Agency's economic analysis on inputs from previous DRBC analyses is inappropriate. The DRBC analyses reflect the most reliable, up-to-date information on pollution, pollution controls, and dissolved oxygen conditions in the Delaware River. The ammonia nitrogen treatment technologies that the DRBC costed for are proven treatment technologies (*i.e.*, readily available, established technologies with long-term performance records) that are reasonably expected to attain the EPA's criteria. Wastewater treatment plants might be able to achieve the target effluent limits at a lower cost through more efficient technological or operational upgrades. Many comparable wastewater treatment plants, including several in major cities on the U.S. East Coast (*e.g.*, Washington DC, Baltimore, New York City, Pittsburgh), have already installed and are using similar technologies to treat ammonia nitrogen to levels at or below the levels the EPA expects will result in attainment of the EPA's final dissolved oxygen criteria for the specified zones of the Delaware River. As such, a majority of similarly situated dischargers have been able to comply with comparably stringent dissolved oxygen-related discharge limits that support fish propagation designated uses. The EPA performed data quality checks (*e.g.*, compared results to observed data, checked for outliers) before using the DRBC analyses in the economic analysis. Regarding the Kleinfelder cost estimates, the DRBC coordinated extensively with dischargers in development of the Kleinfelder report, and incorporated comments from dischargers into the final report as appropriate. The EPA considers regulatory mandates as part of the baseline that is unaffected by this rulemaking and those mandates are therefore not applicable to the EPA's cost estimates for this rule.

¹³⁴ Delaware River Basin Commission (2024a).

¹³⁵ Id.; Kleinfelder Inc. (2021). Nitrogen Reduction Cost Estimation Study Final Summary

The EPA assumed capital costs occur upfront in 2026 followed by a five-year construction period. Consistent with Kleinfelder Inc. (2021, 2023), the EPA assumed O&M costs occur over a 25-year period from 2031 through 2055. The EPA then annualized costs over a 30-year analysis period between 2026 and 2055 and discounted all cost values to 2025, using 3 and 7 percent discount rates and payment at the beginning of each year in the analysis period.

Some commenters asserted that the EPA underestimated the costs of the rule. In particular, one commenter asserted that the EPA underestimated costs at the Philadelphia Water Department's (PWD's) wastewater treatment plants by between \$1.3 billion and \$2.5 billion. The EPA disagrees. The EPA's cost analysis is based on one potential implementation scenario using cost estimates based on proven wastewater treatment plant treatment technologies (i.e., established technologies with long-term performance records), including the standard practice of a 30% contingency to reflect a pre-design planning level of accuracy, without consideration of whether other technologies might be more cost effective for each individual

treatment plant. Regarding cost estimates for the PWD facilities, the EPA requested and received additional information from PWD regarding its cost estimates. The EPA determined that PWD proposed a different and more expensive technology approach than the EPA, which is not necessary for compliance with the revised WQS, so the EPA retained the Kleinfelder Inc.-based estimates for the final economic analysis.¹³⁹ Thus, the EPA concluded it is reasonable to cost for a less expensive technology that can achieve compliance with the revised WQS and therefore, the EPA's cost estimates are reasonable. However, to account for additional uncertainty in the cost estimates, for the final rule and in response to public comments, the EPA applied "expected accuracy range" values (– 15 percent for a low estimate and +20 percent for a high estimate) from the Association for the Advancement of Cost Engineering to produce low and high estimates.¹⁴⁰ The EPA used expected accuracy range values for Class 4 estimates for consistency with the class of estimates used by Kleinfelder Inc. (2021). The EPA applied expected accuracy range values to the central cost estimates to

present low, central, and high estimates for the annualized compliance costs associated with achieving the EPA's final WQS, using 3 and 7 percent discount rates (table 9 of this preamble).

Using a 3 percent discount rate, the estimated total annualized compliance cost for nine WWTPs ranges from \$121.6 million to \$171.6 million, with a central estimate of \$143.0 million (2024\$). These costs vary considerably between the nine WWTPs (based on flow and technology), with central estimates ranging from \$2.0 million at the Lower Bucks County Joint Municipal Authority WWTP to \$39.2 million at the PWD Southwest Water Pollution Control Plant (2024\$). Among the dischargers, PWD bears the highest proportion of total costs, with its three facilities' combined costs accounting for over 50 percent of total costs. Overall, across all dischargers, approximately 66 percent of the costs are attributable to capital and 34 percent are attributable to O&M. Using a 7 percent discount rate, the estimated total annualized compliance cost for nine WWTPs ranges from \$157.8 million to \$222.7 million, with a central estimate of \$185.6 million (2024\$).

TABLE 9—ANNUALIZED COMPLIANCE COSTS USING 3 AND 7 PERCENT DISCOUNT RATES
[Million 2024\$]

Plant	State	Class	Annualized costs (3% discount rate)			Annualized costs (7% discount rate)		
			Low	Central	High	Low	Central	High
Camden County Municipal Utilities Authority	NJ	A'	\$14.3	\$16.9	\$20.2	\$17.2	\$20.2	\$24.2
City of Wilmington	DE	A'	21.2	24.9	29.9	27.7	32.6	39.1
Delaware County Regional Water Pollution Control Authority	PA	A'	8.0	9.4	11.3	10.5	12.4	14.9
Gloucester County Utilities Authority	NJ	A'	4.3	5.1	6.1	4.6	5.4	6.5
PWD Northeast Water Pollution Control Plant	PA	A'	23.2	27.3	32.8	33.7	39.7	47.6
PWD Southeast Water Pollution Control Plant	PA	A'	12.5	14.7	17.6	18.3	21.5	25.8
PWD Southwest Water Pollution Control Plant	PA	A'	33.3	39.2	47.1	40.2	47.3	56.8
Hamilton Township	NJ	A	2.9	3.4	4.1	3.7	4.3	5.2
Lower Bucks County Joint Municipal Authority	PA	A	1.7	2.0	2.4	2.0	2.3	2.8
Total			121.6	143.0	171.6	157.8	185.6	222.7

Some commenters asserted that the EPA did not correctly account for the impact of increased debt service costs that would occur from the EPA's rule. The EPA disagrees with the assertion that the Agency did not properly account for debt service costs. As explained in the associated economic analysis, the EPA's economic analysis focuses on social costs, the total cost to society. In this context, it does not take

more of society's real resources to finance through debt than when paid or financed in another way. The EPA notes that the Agency has followed OMB's Circular A–4 guidance for the presentation of annualized costs.¹⁴¹

Some commenters stated that wastewater treatment plants face future substantial capital expenditures that are necessary to fulfill other infrastructure, public health, operational, and

regulatory obligations, which the proposed rule did not fully consider. Commenters also suggested that state, Federal, or grant funding should be made available to cover the costs of the EPA's rule. The EPA acknowledges that entities affected by this rulemaking have limited budgets and might have capital expenditures allocated to other projects related to protecting public health and the environment, infrastructure, or other

¹³⁹ Additional information comparing the EPA's and PWD's cost estimates is available in the associated response to comments document.

¹⁴⁰ Christensen, P., Dysert, L.R., Bates, J., Burton, D., Creese, R., & Hollmann, J. (2005). Cost Estimate

Classification system—as Applied in Engineering, Procurement, and Construction for the Process Industries: TCM Framework: 7.3—Cost Estimating and Budgeting. AACE International Recommended Practices, 18R–97, 1–9.

¹⁴¹ Office of Management and Budget. (2003). Circular A–4. Subject: Regulatory Analysis. Retrieved from https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/.

regulatory obligations. The EPA's economic analysis is intended to provide information regarding the potential social costs associated with this rule and is not intended to provide a holistic picture of a particular utility's or municipality's financial commitments or anticipated future commitments. As described above, other regulatory obligations or budgetary commitments would be considered part of the analysis baseline since they are expected to occur in the absence of the EPA's rule. The EPA notes that wastewater treatment plants may have various financing options available, such as low-interest loans through state revolving funds, and will presumably pursue the option that works best for their individual circumstances.

D. Potential Benefits

Water quality improvements can have a wide range of effects on water resources and the environmental goods and services that they provide, including services valued by people (e.g., recreation, commercial fishing, aesthetic beauty, support and preservation of aquatic life and wildlife). Some environmental goods and services (e.g., commercially caught fish) are traded in markets, and thus their value may be directly observed. Other environmental goods and services (e.g., recreation and support of aquatic life) cannot be bought or sold directly and thus do not have observable market values; these types of environmental goods and services are classified as

“non-market.” The non-market values of environmental goods and services include both use (e.g., recreation) and nonuse (e.g., existence and bequest) values.

The EPA used a benefit transfer approach based on a meta-analysis of surface water valuation studies to evaluate the non-market benefits (including both use and nonuse values) of improved surface water quality resulting from achievement of the EPA's final WQS in the 2019 restored scenario. The benefit transfer approach involves three main steps:

1. Estimate water quality improvements associated with attainment of the EPA's final WQS relative to the baseline;
2. Translate these improvements into a water quality index (WQI) that can be linked to ecosystem services and uses that are valued by society. The WQI used for this analysis includes six parameters: dissolved oxygen, biochemical oxygen demand, fecal coliform, total nitrogen, total phosphorus, and total suspended solids; and
3. Estimate the dollar value of the water quality improvements based on estimates of the public's willingness-to-pay (WTP) derived from a meta-analysis of surface water valuation studies. For the final rule, the EPA used a locally weighted application of the meta-analysis.^{142 143}

To assess baseline water quality, the EPA obtained water quality modeling data of baseline conditions from the DRBC, including dissolved oxygen, total nitrogen, and total phosphorus levels for various effluent treatment scenarios. For the remaining parameters included in the WQI (i.e., biochemical oxygen demand, fecal coliform, and total

suspended solids), the EPA relied on monitoring data at various locations within the specified zones. To assess water quality under the 2019 restored scenario, the EPA used the DRBC's modeled output of dissolved oxygen levels in the specified zones following implementation of effluent controls (described above in the cost section of this preamble), making minor adjustments as needed to ensure that predicted oxygen levels meet the EPA's final WQS.¹⁴⁴

The effluent treatment measures implemented for the 2019 restored scenario will directly affect the amount of ammonia nitrogen discharged to the specified zones of the Delaware River and therefore also reduce biochemical oxygen demand. Given the inverse proportional relationship between biological oxygen demand and dissolved oxygen levels, the EPA approximated biochemical oxygen demand concentrations following effluent treatment by assuming that baseline biochemical oxygen demand concentrations are reduced by the same percentage change that dissolved oxygen improves within each zone (i.e., Zone 3, 4, and Upper 5) of the model. Table 10 of this preamble summarizes the percent change in dissolved oxygen and biochemical oxygen demand by zone between the baseline and the 2019 restored scenario. The EPA kept levels for the remaining parameters (total nitrogen, total phosphorus, total suspended solids, and fecal coliform) unchanged from baseline conditions.

TABLE 10—DISSOLVED OXYGEN AND BIOCHEMICAL OXYGEN DEMAND CHANGES BETWEEN THE BASELINE AND 2019 RESTORED SCENARIOS

Zone	% Change from baseline ^a
3	11.1
4	19.9
5-upper	7.6

^a The percent change for dissolved oxygen and biochemical oxygen demand is the same, but in opposite directions, i.e., the percent decrease in biochemical oxygen demand concentration is the same as the percent increase in dissolved oxygen concentration.

¹⁴² Additional details are available in section 4.3 and Appendices C and D in the associated economic analysis.

¹⁴³ The EPA has used a benefit transfer approach based on the meta-analysis of surface water valuation studies on numerous occasions, for example, *Benefit and Cost Analysis for Revisions to the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category* (U.S. Environmental Protection Agency. (2020). Benefit and Cost Analysis for

Revisions to the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category. (EPA-821-R-20-003)). The locally weighted regression approach used for the final rule builds upon this approach by reducing error associated with benefit transfer.

¹⁴⁴ The EPA selectively adjusted the daily modeled dissolved oxygen concentrations in each model cell within the specified zones to meet the final WQS. In total, the EPA adjusted approximately ten percent of observations in the modeled dataset

to meet the dissolved oxygen criteria during the *Juvenile Development* season. The EPA did not estimate costs for additional treatment technologies to account for the minimal adjustments needed to the modeled dissolved oxygen values. The calculated differences between modeled dissolved oxygen and the EPA's final criteria are within the bounds of uncertainty related to dissolved oxygen measurements and model assumptions.

To quantify benefits of water quality improvements, as is consistent with past practice, the EPA analyzed the values held by households residing within 100 miles of the specified zones of the Delaware River for water quality improvements associated with the EPA's final WQS.¹⁴⁵ Households may consider waters unaffected by the EPA's rule to be substitute waters for those affected, and this can influence what households are willing to pay for improvements associated with the final WQS. The EPA deems similar waters unaffected by the rule within the 100-mile buffer around each census block group as viable substitutes.¹⁴⁶

One commenter asserted that the 100-mile distance buffer used by the EPA is inappropriate for a localized policy, while another commenter stated that using the 100-mile radius does not consider the limited access and recreational experience of the river near Philadelphia, and it includes many households that likely only hold nonuse value for the resource. The EPA disagrees that use of a 100-mile radius for estimating benefits of a localized policy is inappropriate. The EPA followed best practices from the resource valuation literature to define the "extent of market" of affected households, or locations of households likely to hold values for water quality improvements in the specified zones of the Delaware River. For example, many water quality valuation studies considered the entire state or region in which the affected waterbodies reside as the appropriate extent of the market.¹⁴⁷

¹⁴⁵ The EPA's 100-mile radius assumption follows Viscusi et al. (2008), which states: "The survey defined relevant water quality as residing in a region that is 'a 2-hour drive or so of your home, in other words, within 100 miles.' About 80 percent of all recreational uses of bodies of water are within such a radius of users' homes." This 80 percent figure was based on data generated by the EPA from the 1996 National Survey on Recreation and the Environment. Data indicates that 77.9 percent of boating visits, 78.1 percent of fishing visits, and 76.9 percent of swimming recreational visits are within a 100-mile radius of a given waterbody. (Citation: Viscusi, W.K., Huber, J., & Bell, J. (2008). The economic value of water quality. *Environmental and resource economics*, 41(2), 169–187).

¹⁴⁶ The EPA defined "similar waters" as waters with a stream order of five or higher.

¹⁴⁷ For example, Johnston, R.J., Moeltner, K., Peery, S., Ndebele, T., Yao, Z., Crema, S., Wollheim,

The EPA acknowledges that WTP for water quality improvements is likely to vary within the 100-mile range based on proximity to the specified zones of the Delaware River, recreational use of the affected waters, or property ownership. The EPA's estimated household WTP value represents an average across all households residing within the 100-mile radius. However, the Agency did not use an equal household WTP throughout the 100-mile radius, but rather, model variables account for Census block group-level differences within the 100-mile radius. The EPA also disagrees with the commenter that the Agency did not account for the presence of competing water bodies in the region. The EPA's model for this economic analysis includes a variable to account for the size of affected resources (*i.e.*, specified zones of the Delaware River) relative to the size of substitute waters within the 100-mile radius.

The EPA estimated the economic value of water quality changes using results of a meta-analysis of total WTP estimates (including both use and nonuse values) for water quality improvements, provided by original studies conducted between 1981 and 2017. Using information extracted from these studies, the EPA estimated an econometric model that calculates total WTP for changes in a variety of environmental services affected by water quality and valued by people, including changes in recreational fishing opportunities, other water-based recreation, and existence services such as aquatic life, wildlife, and habitat designated uses. The model also allows the EPA to adjust WTP values based on

W.M., and Besedin, E.Y. (2023). Spatial dimensions of water quality value in New England river networks. *Proceedings of the National Academy of Sciences*, 120(18), e2120255119. <https://doi.org/10.1073/pnas.2120255119>;

Lupi, F., Herriges, J.A., Kim, H., & Stevenson, R.J. (2023). Getting off the ladder: Disentangling water quality indices to enhance the valuation of divergent ecosystem services. *Proceedings of the National Academy of Sciences*, 120(18), e2120261120. <https://doi.org/10.1073/pnas.2120261120>;

Moore, C., Guignet, D., Dockins, C., Maguire, K.B., & Simon, N.B. (2018). Valuing Ecological Improvements in the Chesapeake Bay and the Importance of Ancillary Benefits. *Journal of Benefit-Cost Analysis*, 9(1), 1–26. <https://doi.org/10.1017/bca.2017.9>.

the core geospatial factors predicted by theory to influence WTP, including scale (the size of affected resources or areas), market extent (the size of the area over which WTP is estimated), and the availability of substitute waters. The model also takes into account important characteristics, such as population and income, which vary spatially. For the proposed rule, the EPA used the standard model application used in prior EPA rulemakings.¹⁴⁸ For the final rule, the EPA used a locally weighted application of the model.¹⁴⁹ The locally weighted regression approach is a flexible regression approach that can attach larger weights to study observations more similar to the area affected by the rule (*e.g.*, similar income levels or similar land use) and less weight to dissimilar observations. This flexibility allows the locally weighted regression approach to often be better suited for benefit transfer than the standard meta-regression approach with universally fixed coefficients. In this case, the 95 percent confidence bounds for annual household WTP using the locally weighted regression method are, on average, approximately 70 percent tighter compared to those produced by the model used for the proposed rule analysis.¹⁵⁰

Table 11 of this preamble presents estimated household and total annualized WTP values for water quality improvements following attainment of the EPA's final WQS, based on the locally weighted approach, 3 and 7 percent discount rates, and payment at the beginning of each year in the analysis period.¹⁵¹ The total annualized value of water quality improvements from attainment of the final WQS is \$154.9 million using a 3 percent discount rate and \$134.3 million using a 7 percent discount rate.

¹⁴⁸ Additional information is available in Appendix C of the associated economic analysis.

¹⁴⁹ Additional information is available in Appendix D of the associated economic analysis.

¹⁵⁰ *Id.*

¹⁵¹ Appendix B of the associated economic analysis reports benefit estimates using the alternative 2% discount rate reported in the proposed rule.

TABLE 11—ESTIMATED HOUSEHOLD AND TOTAL ANNUALIZED WILLINGNESS-TO-PAY (WTP) FOR WATER QUALITY IMPROVEMENTS UNDER THE EPA'S FINAL WATER QUALITY STANDARDS, USING 3 AND 7 PERCENT DISCOUNT RATES

Average number of affected households (millions) ^a	Average annual WTP per household (2024\$) ^{b,c}	Total annualized WTP (millions 2024\$, 3% discount rate) ^{b,d}	Total annualized WTP (millions 2024\$, 7% discount rate) ^{b,d}
15.49	\$10.90	\$154.9	\$134.3

^a Average number of affected households during the 2026–2055 analysis period. The number of households for each year in the analysis period accounts for projected population growth.

^b Estimates are based on the locally weighted approach; additional details are available in Appendix D of the associated economic analysis.

^c The average annual WTP per household includes values of \$0 for the years 2026–2030 when technology implementation will occur. Positive household WTP values begin during the assumed first year of technology operation (2031) and continue for the estimated lifespan of the technology (25 years, or through 2055).

^d Value is not based on a simple multiplication of the first two columns in the table. Additional details are available in section 4.3 of the associated economic analysis.

One commenter expressed concerns that the EPA's meta-regression model overestimated benefits at proposal because, among other reasons, the EPA assumes the criteria will be attained and does not account for treatment processes that are under development, such as PWD's sidestream ammonia treatment facility. The EPA disagrees that application of the meta-regression model resulted in overestimation of the rule's benefits. The EPA evaluated high quality modeling data from the DRBC for a recent year with typical water quality (2019) and determined that the Agency's potential implementation scenario is expected to result in criteria attainment, given the DRBC's model results and associated uncertainties in the model (for example, the model does not account for changes in sediment oxygen demand, which the EPA expects to decrease following pollution reductions, thus leading to higher oxygen levels in the river). Regarding the planned treatment processes, at the time the EPA conducted the economic analysis for the proposed rule, PWD had not yet announced its intention of adding a sidestream ammonia treatment facility to the Southwest Water Pollution Control Plant. Following announcement of this additional

treatment facility, the EPA accordingly revised the baseline scenario in the economic analysis for the final rule; please refer to the final rule economic analysis for more details.

In addition to the quantitative benefits of water quality improvements resulting from the final WQS, the EPA described additional benefits qualitatively in section 4.1 of the associated economic analysis, including recreational and commercial fishing benefits. For example, the qualitative assessment summarizes the findings of Kauffman (2019), which estimated that dissolved oxygen improvements similar to the improvements anticipated under the final rule WQS would improve annual recreational and commercial fishing benefits in the Delaware River watershed by \$187 million and \$24.5 million, respectively (2024\$).¹⁵²

E. Conclusion

The EPA estimates that the implementation of additional effluent treatment controls at certain WWTPs could lead to annualized costs over 30 years of \$143.0 million using a 3 percent discount rate and \$185.6 million using a 7 percent discount rate (2024\$). The EPA has overstated annualized costs by allocating all capital costs to the first year when costs would likely be spread

across five years. The EPA quantified non-market benefits through average annual household WTP for water quality improvements. Annualized monetized non-market benefits from water quality improvements over 30 years total \$154.9 million using a 3 percent discount rate and \$134.3 million using a 7 percent discount rate (2024\$). The EPA's monetary estimation of benefits does not account for benefits related to protections for endangered species (Atlantic Sturgeon and Shortnose Sturgeon), increased housing values, or increased commercial fishing, among other benefits. Therefore, the EPA's estimation of non-market benefits is an underestimate of total benefits. In addition, the difference between the benefit and cost estimates to society under 3 percent and 7 percent is due to capital costs being attributed to the early years of the analysis even though capital costs will likely be financed throughout the period of analysis, while the benefits of environmental improvements occur more evenly throughout the period of analysis. This leads to evaluations under higher discount rates showing a larger discrepancy between benefits and costs. Table 12 of this preamble summarizes annualized cost and benefit estimates for the rule.¹⁵³

TABLE 12—ANNUALIZED COST AND BENEFIT ESTIMATES

[Million 2024\$]

	3% Discount rate	7% Discount rate
Costs	\$143.0	\$185.6
Benefits	154.9	134.3
Net Benefits ^a	11.9	– 51.3

^a Net benefits equal benefits minus costs.

¹⁵² Kauffman, G.J. (2019). Economic benefits of improved water quality in the Delaware River (USA). River Research and Applications, 35(10), 1652–1665.

¹⁵³ Note that annualized costs under a 7% discount rate are higher than under a 3% discount rate. While a higher discount rate more heavily

discounts the future and therefore discounting will lead to a lower present value under a 7% rate than a 3% rate, the annualizing step can appear to produce counterintuitive results depending on the timing of when future costs will be incurred. Since capital costs, which occur in 2026, dominate O&M costs, which are evenly distributed after 2031, once

these costs are discounted and then annualized across the period of analysis, annualized costs under a 7% discount rate are higher than under a 3% rate. Conversely, annualized benefits are lower under the 7% discount rate relative to 3% because benefits are fairly evenly distributed through time.

IX. Statutory and Executive Order Reviews

Additional information about these statutes and executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action as defined under section 3(f)(1) of Executive Order 12866. Accordingly, it was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, *Economic Analysis for the Final Rule: Water Quality Standards to Protect Aquatic Life in the Delaware River*, is available in the docket and summarized in section VIII of this preamble.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is considered an Executive Order 14192 regulatory action. Details on the estimated costs of this final rule can be found in the EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2040-0049.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. Small entities, such as small businesses or small governmental jurisdictions, are not directly regulated by this rule.

EPA-promulgated WQS are implemented through various water quality control programs including the NPDES program, which limits discharges to navigable waters, except in compliance with a NPDES permit. CWA section 301(b)(1)(C) and the EPA's implementing regulations at 40 CFR 122.44(d)(1) provide that all NPDES permits must include any limits on discharges that are necessary to meet applicable WQS. Thus, under the CWA, the EPA's promulgation of WQS

establishes standards that states implement through the NPDES permit process. While states have discretion in developing discharge limits, those limits "must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above any [s]tate water quality standard, including [s]tate narrative criteria for water quality."¹⁵⁴

As a result of this action, the states of Delaware, New Jersey, and Pennsylvania will need to ensure that permits they issue include any limitations on discharges necessary to comply with the WQS established in this final rule. In doing so, each state will have several choices associated with permit writing. While each state's implementation of the rule may ultimately result in new or revised permit conditions for some dischargers, including small entities, the EPA's action, by itself, does not impose any of these requirements on small entities; in other words, these requirements are not self-implementing.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications, as defined in Executive Order 13132. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. This rule does not alter Delaware's, New Jersey's, or Pennsylvania's considerable discretion in implementing these WQS, nor does it preclude any of those states from adopting revised WQS and submitting them to the EPA for review and approval after promulgation of this final rule.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This rule will not affect federally recognized Indian tribes in

Delaware, New Jersey, or Pennsylvania because the WQS would not apply to waters in Indian lands nor affect tribal interests. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, the EPA's Policy on Children's Health also does not apply.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action establishes Federal WQS for specified zones of the Delaware River under the jurisdiction of the states of Delaware, New Jersey, and Pennsylvania.

J. National Technology Transfer and Advancement Act (NTTAA)

This rule does not involve technical standards.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to Congress and to the Comptroller General of the United States. This action meets the criteria set forth in 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 131

Environmental protection, Indians-lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Lee Zeldin,
Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 131 as follows:

PART 131—WATER QUALITY STANDARDS

■ 1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

■ 2. Add § 131.48 to read as follows:

¹⁵⁴ 40 CFR 122.44(d)(1)(i).

§ 131.48 Water quality standards to protect aquatic life in the Delaware River.

(a) *Scope.* (1) The designated use in paragraph (b) of this section applies to river miles 108.4 to 70.0 of the mainstem Delaware River for the States of New Jersey and Pennsylvania.

(2) The aquatic life criteria in paragraph (c) of this section apply to river miles 108.4 to 70.0 of the mainstem Delaware River for the States of Delaware, New Jersey, and Pennsylvania.

(b) *Aquatic life designated use.* The aquatic life designated use is protection and propagation of resident and migratory aquatic life.

(c) *Dissolved oxygen criteria.* The applicable dissolved oxygen criteria are shown in table 1 to this paragraph (c).

TABLE 1 TO PARAGRAPH (C)—DISSOLVED OXYGEN CRITERIA

Season	Magnitude (percent oxygen saturation)	Duration	Exceedance frequency
Spawning and Larval Development (<i>March 1–June 30</i>).	66	Daily Average	12 Days Cumulative (<i>10% of the 123-day season</i>).
Juvenile Development (<i>July 1–October 31</i>)	66	Daily Average	12 Days Cumulative (<i>10% of the 123-day season</i>).
	74	Daily Average	61 Days Cumulative (<i>50% of the 123-day season</i>).
Overwintering (<i>November 1–February 28/29</i>)	66	Daily Average	12 Days Cumulative (<i>10% of the 123-day season</i>).

(d) *Applicability.* (1) The aquatic life designated use in paragraph (b) of this section applies concurrently with other applicable designated uses in New Jersey and Pennsylvania for river miles 108.4 to 70.0 of the mainstem Delaware River.

(2) The dissolved oxygen aquatic life water quality criteria in paragraph (c) of this section are the applicable dissolved oxygen criteria in Delaware, New Jersey, and Pennsylvania for river miles 108.4 to 70.0 of the mainstem Delaware River and apply concurrently with other applicable water quality criteria.

(3) The designated use and criteria established are subject to Delaware's, New Jersey's, and Pennsylvania's general rules of applicability in the same way and to the same extent as are other federally promulgated and State-adopted water quality standards in those States.

[FR Doc. 2025–18816 Filed 9–26–25; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****49 CFR Parts 383 and 384**

[Docket No. FMCSA–2025–0622]

RIN 2126–AC98

Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses (CDL)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Interim final rule; request for comments.

SUMMARY: FMCSA amends the Federal regulations for State Driver's Licensing Agencies (SDLAs) issuing commercial driving credentials to foreign-domiciled individuals. Through this interim final rule (IFR), FMCSA restores the integrity of the commercial driver's license (CDL) issuance processes by significantly limiting the authority for SDLAs to issue and renew non-domiciled commercial learner's permits (CLPs) and CDLs to individuals domiciled in a foreign jurisdiction. This change strengthens the security of the CDL issuance process and enhances the safety of commercial motor vehicle (CMV) operations.

DATES: This IFR is effective September 29, 2025. Comments must be received on or before November 28, 2025.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2025–0622 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov/docket/FMCSA-2025-0622/document>. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the

“Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including information collection comments for the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB).

FOR FURTHER INFORMATION CONTACT:

Philip Thomas, Deputy Associate Administrator, Office of Safety, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–9554; Philip.Thomas@dot.gov. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION: FMCSA organizes this IFR as follows:

- I. Public Participation and Request for Comments
 - A. Submitting Comments
 - B. Viewing Comments and Documents
 - C. Privacy
 - D. Comments on the Information Collection
- II. Executive Summary
- III. Abbreviations
- IV. Legal Basis
- V. Background
 - A. Existing Requirements for Issuance of Non-Domiciled CLPs and CDLs
 - B. The Need for Secure Identification
 - C. Annual Program Reviews (APRs) of SDLAs
 - D. Recent, Fatal Crashes Involving Drivers With Non-Domiciled CDLs
- VI. Discussion of the Interim Final Rule
 - A. Justification for the IFR
 - B. Overview of the IFR
- VII. International Impacts
- VIII. Section-by-Section Analysis
 - A. Regulatory Provisions
 - B. Guidance Statements and Interpretations
- IX. Regulatory Analyses
 - A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving

Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures
 B. E.O. 14192 (Unleashing Prosperity Through Deregulation)
 C. Congressional Review Act
 D. Advance Notice of Proposed Rulemaking
 E. Regulatory Flexibility Act (Small Entities)
 F. Assistance for Small Entities
 G. Unfunded Mandates Reform Act of 1995
 H. Paperwork Reduction Act
 I. E.O. 13132 (Federalism)
 J. Privacy
 K. E.O. 13175 (Indian Tribal Governments)
 L. National Environmental Policy Act of 1969

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this IFR (FMCSA–2025–0622), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2025-0622/document>, click on this IFR, click “Comment,” and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period.

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the IFR contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the IFR, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked

submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the IFR. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2025-0622/document> and choose the document to review. To view comments, click this IFR, then click “Browse Comments.” 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 20590–0001, between 9 a.m. and 5 p.m., 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.

C. Privacy

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov as described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edits and are searchable by the name of the submitter.

D. Comments on the Information Collection

Written comments and recommendations for the information collection discussed in this IFR should be sent within 60 days of publication to www.reginfo.gov/public/do/PRAMain. Find this information collection by clicking the link that reads “Currently under Review—Open for Public Comments” or by entering OMB control number 2126–0087 in the search bar and clicking on the last entry to reach the “comment” button.

II. Executive Summary

This IFR revises the regulations that allow SDLAs to issue and renew non-domiciled CLPs and CDLs to individuals domiciled in a foreign jurisdiction. The changes strengthen the security of the CDL issuance process and enhance the safety of CMV operations by revising to whom an SDLA may issue a non-domiciled CLP or CDL, what the requirements are for issuance, and when a non-domiciled CLP or CDL must be canceled or revoked. Non-domiciled CDL holders have been involved in several recent fatal crashes. In addition, FMCSA recently uncovered evidence of systemic, nationwide regulatory non-compliance by SDLAs in the issuance of non-domiciled CLPs and CDLs at SDLAs. This IFR revises the regulations to restrict issuance of non-domiciled CLPs and CDLs to individuals maintaining lawful immigration status in the United States in certain employment-based nonimmigrant categories, to certain individuals domiciled in a U.S. territory, and to individuals domiciled in a State that is prohibited from the issuance of CLPs or CDLs as a result of the decertification of the State’s CDL program. The revisions will help ensure that individuals who do not have lawful immigration status in the United States, and those who do have lawful immigration status but whose status is not directly connected to a legitimate, employment-based reason to hold a CDL, will no longer be eligible to obtain non-domiciled CLPs or CDLs.

This rule: (1) limits individuals eligible for non-domiciled CLPs and CDLs to those maintaining lawful immigration status in certain employment-based nonimmigrant categories, certain individuals domiciled in a U.S. territory, and individuals domiciled in a State that is prohibited from issuing CLPs or CDLs because the State’s CDL program is decertified; (2) requires non-citizen applicants (except for lawful permanent residents) to provide an unexpired foreign passport and an unexpired Form I–94/I–94A (Arrival/Departure Record) indicating a specified type of employment-based nonimmigrant status at every issuance, transfer, renewal, and upgrade action defined in the regulation; (3) requires SDLAs to query Systematic Alien Verification for Entitlements (SAVE),¹ administered by U.S. Citizenship and Immigration Services (USCIS), to confirm the applicant’s claim to be in lawful

¹ Available at <https://www.uscis.gov/save>.

immigration status in a specified category; (4) requires that SDLAs retain copies of the application documents for no less than 2 years; (5) requires the expiration date for any non-domiciled CLP or CDL to match the expiration date of the Form I-94/I-94A or 1 year, whichever is sooner; (6) requires the applicant to be present in-person at each renewal; and (7) requires an SDLA to downgrade the non-domiciled CLP or CDL if the State becomes aware that the holder is no longer eligible to hold a non-domiciled CLP or CDL.

III. Abbreviations

APA Administrative Procedure Act
 APR Annual Program Review
 BLS Bureau of Labor Statistics
 CDL Commercial Driver's License
 CDLIS Commercial Driver's License Information System
 CFR Code of Federal Regulations
 CLP Commercial Learner's Permit
 CMV Commercial Motor Vehicle
 DACA Deferred Action for Childhood Arrivals
 DOL Department of Labor
 DOT Department of Transportation
 EAD Employment Authorization Document
 E.O. Executive Order
 FARS Fatality Analysis Reporting System
 FR Federal Register
 ICR Information Collection Request
 IFR Interim Final Rule
 MCMIS Motor Carrier Management Information System
 NAICS North American Industry Classification System
 OES Occupational Employment Statistics
 OIG Office of the Inspector General
 OIRA Office of Information and Regulatory Affairs
 OMB Office of Management and Budget
 RFA Regulatory Flexibility Act
 SAS Service Annual Survey
 SAVE Systematic Alien Verification for Entitlements
 Secretary The Secretary of Transportation
 SDLA State Driver's Licensing Agency
 SSN Social Security Number
 U.S.C. United States Code
 USCIS U.S. Citizenship and Immigration Services

IV. Legal Basis

This IFR is based on the broad authority of the Commercial Motor Vehicle Safety Act of 1986 (CMVSA, 49 U.S.C. 31301, *et seq.*), as amended, which was also the basis on which FMCSA relied in establishing the CDL program and the performance standards with which State CDL programs must comply. The statute requires the Secretary of Transportation (Secretary), after consultation with the States, to prescribe uniform minimum standards “for testing and ensuring the fitness of an individual operating a commercial motor vehicle” (49 U.S.C. 31305(a)). In addition, the statute requires States that issue non-domiciled CDLs to do so in

accordance with regulations established by the Secretary (49 U.S.C. 31311(a)(12)(B)(ii)). The Administrator of FMCSA is delegated authority under 49 U.S.C. 113(f) and 49 CFR 1.87 to carry out the functions vested in the Secretary by 49 U.S.C. chapters 311, 313, and 315 as they relate to CMV operators, programs, and safety.

This IFR is also consistent with the concurrent authorities of the Motor Carrier Safety Act of 1984 (49 U.S.C. 31131, *et seq.*), as amended, and the Motor Carrier Act of 1935 (49 U.S.C. 31502), as amended. The 1984 Act granted the Secretary broad authority to issue regulations “on commercial motor vehicle safety,” including regulations to ensure that “commercial motor vehicles are . . . operated safely” (49 U.S.C. 31136(a)(1)). This IFR is consistent with the safe operation of CMVs. In accordance with 49 U.S.C. 31136(a)(2), the amendments contained in this rule will not impose any “responsibilities . . . on operators of commercial motor vehicles [that would] impair their ability to operate the vehicles safely.” This IFR does not directly address medical standards for drivers (49 U.S.C. 31136(a)(3)) or possible physical effects caused by driving CMVs (49 U.S.C. 31136(a)(4)). FMCSA does not anticipate that this rule will result in the coercion of CMV drivers by motor carriers, shippers, receivers, or transportation intermediaries to operate a CMV in violation of the Federal Motor Carrier Safety Regulations (FMCSRs, 49 U.S.C. 31136(a)(5)).

Pursuant to 49 U.S.C. 31502(b), “[t]he Secretary of Transportation may prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.” This IFR, which addresses the ability of individuals who are domiciled in foreign jurisdictions to operate CMVs in the United States, is related to the safe operation of motor carrier equipment because the CDL program is designed to ensure that only individuals who have been determined by relevant State licensing agencies—in accordance with Federal standards—to be qualified to operate large commercial vehicles are allowed to drive such vehicles on the Nation’s roadways. Both identity verification and skills testing are integral to the determination of a driver’s qualifications and are implicated in this rule.

V. Background

A. Existing Requirements for Issuance of Non-Domiciled CLPs and CDLs

The implementing regulations relating to CDL standards and State compliance with the CDL program are codified under 49 CFR part 383, Commercial Driver’s License Standards; Requirements and Penalties, and 49 CFR part 384, State Compliance with Commercial Driver’s License Program. Under 49 U.S.C. 31311(a)(12)(B)(ii), States are authorized to issue CDLs to individuals who are “not domiciled in a State that issues [CDLs],” but if they choose to issue non-domiciled CDLs, they must do so in accordance with regulations prescribed by FMCSA (49 U.S.C. 31311(a)(12)(B)). The regulations setting forth the standards States must apply when issuing non-domiciled CLPs and CDLs are found at 49 CFR 383.23, 383.71(f), 383.73(f), 384.201, and 384.212(a). To obtain a non-domiciled CLP or CDL under existing § 383.71(f), the applicant must be domiciled either in a *foreign* jurisdiction (defined in § 383.5 to mean “outside the fifty United States and the District of Columbia”) other than a jurisdiction the Administrator has determined to have comparable testing and licensing standards (*i.e.*, Canada and Mexico, see § 383.23, note 1), or in a State that is prohibited from issuing CLPs and CDLs in accordance with § 384.405. A person in these jurisdictions is eligible to apply for a non-domiciled CLP or CDL from any State that elects to issue a non-domiciled CLP or CDL and that complies with the testing and licensing standards contained in subparts F, G, and H of part 383.

State procedures for issuing non-domiciled CLPs and CDLs under § 383.71(f)(2)(i) must require that an applicant domiciled in a foreign jurisdiction show that he or she is registered by providing an unexpired employment authorization document (EAD) issued by USCIS or an unexpired foreign passport accompanied by an approved I-94 form documenting the applicant’s most recent admittance into the United States.

B. The Need for Secure Identification

The events of September 11, 2001, highlighted the need for secure identification, as all but one of the 9/11 hijackers acquired some form of U.S. identification document. Acquisition of these forms of identification assisted them in boarding commercial flights, renting cars, and other activities. The report from the 9/11 Commission recommended that the Federal government set standards for the

issuance of sources of identification, such as driver's licenses, emphasizing that fraud in identification documents goes beyond theft, and that "[a]t many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists."²

In 2006, section 703(a) of the Security and Accountability for Every Port Act of 2006³ required FMCSA to issue regulations implementing the recommendations in a management advisory issued by DOT's Office of the Inspector General (OIG) concerning verification of the legal status of commercial drivers.⁴ In its advisory to DOT's Deputy Secretary, OIG noted vulnerabilities in the CDL program that allowed applicants to obtain a CDL without being legally present in the United States. OIG also noted that the requirement in FMCSR at that time to provide a Social Security number (SSN), without additional verified documentation, did not ensure the applicant's U.S. citizenship or legal presence. OIG recommended that all CDL applicants be required to demonstrate that they are either a U.S. citizen, a permanent legal resident, or otherwise legally present in the United States. OIG further recommended having a requirement for verification of SSNs or for fingerprinting when issuing a CDL to help prevent fraud in the program and further enhance security by verifying applicants' identification.

On May 9, 2011, FMCSA published a final rule implementing section 703 and addressing OIG recommendations.⁵ The rulemaking strengthened the legal presence requirements and increased

the documentation required for CLP and CDL applicants to demonstrate their legal presence in the United States. The final rule revised the CDL regulations to specify that a State may issue a CLP or CDL only to an applicant who is a U.S. citizen or lawful permanent resident of the United States, and may issue a non-domiciled CLP or CDL to foreign applicants (other than applicants from Canada or Mexico) who have temporary or indefinite legal presence in the United States.⁶

C. Annual Program Reviews (APRs) of SDLAs

Each year, FMCSA conducts Annual Program Reviews (APRs) of SDLAs in accordance with 49 U.S.C. 31311 and 49 CFR 384.307 to gauge the States' compliance with the CDL program. This year's APRs (2025 APRs) included a heightened focus on the issuance of non-domiciled CDLs, consistent with Executive Order (E.O.) 14286.⁷ The 2025 APRs uncovered systemic procedural and computer programming errors, significant problems with staff training and quality assurance, and policies that lack sufficient management controls in the issuance of non-domiciled CLPs and CDLs by multiple SDLAs. As a result, SDLAs have issued non-domiciled CDLs to drivers who do not qualify,⁸ issued non-domiciled CDLs that extend beyond a driver's expiration of lawful presence known at the time of issuance, issued non-domiciled CDLs without first validating the drivers' eligibility under § 383.71(f)(2)(i), and engaged in other noncompliant practices. For example, as part of California's APR, FMCSA reviewed a sample of records of drivers issued non-domiciled CDLs and recently found that approximately one in four non-domiciled CDLs were not compliant with requirements in 49 CFR parts 383 and 384. In that same APR, FMCSA uncovered instances where the SDLA issued non-domiciled CDLs with expiration dates as long as 4 years after

the EAD's expiration date—well beyond the driver's authorized employment period. Even more troubling was that some of these non-domiciled CDLs included a passenger and school bus endorsement. Furthermore, the 2025 APRs have shown at least five other States including Colorado, Pennsylvania, South Dakota, Texas, and Washington that have issued non-domiciled CDLs in violation of the regulatory requirements. The 2025 APRs have revealed inconsistencies or failures that demonstrate acute systemic problems across the country in the non-domiciled CDL issuance processes. FMCSA expects the number of States discovered to have improperly issued non-domiciled CDLs to grow as FMCSA's APRs continue.

D. Recent, Fatal Crashes Involving Drivers With Non-Domiciled CDLs

Since the beginning of the 2025 calendar year, FMCSA has identified at least five fatal crashes involving non-domiciled CDL holders. At least two of these drivers were improperly issued a CDL, while others held CDLs that complied with the regulations in place at the time of issuance but would not be eligible for a non-domiciled CDL under the revised regulations. These crashes show the tangible impact of States failing to follow the proper procedures when issuing non-domiciled CDLs, as well as the need for stronger regulations to ensure that non-domiciled drivers present in the United States without lawful immigration status are not able to obtain CLPs and CDLs.

Most recently, on August 12, 2025, the driver of a tractor-trailer, who did not have lawful immigration status⁹ and held a non-domiciled CDL based on a valid USCIS-issued EAD, caused a crash in Florida that killed three people. The Florida Department of Highway Safety and Motor Vehicles stated that its initial, but ongoing, investigation showed that the driver attempted to execute a U-turn in an unauthorized area on the Florida Turnpike in St. Lucie County.¹⁰ A dashcam video widely broadcast across various forms of media shows the CMV crossing in front of a minivan, which crashed into the truck and became lodged under its trailer.¹¹ The driver was later arrested in California on three counts of vehicular

² Thomas H. Kean, Lee H. Hamilton, and the National Commission on Terrorist Attacks, *The 9/11 Commission report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (9/11 Report), Washington, DC, U.S. Government Printing Office, Official Government Edition, July 22, 2004, p. 390. Available at <https://www.gpo.gov/fdsys/pkg/GPO-911REPORT/content-detail.html>.

³ Public Law 109–347, 120 Stat 1884 at 1944 (2006); See 49 U.S.C. 31100 note.

⁴ DOT, OIG, Management Advisory to the Deputy Secretary of Transportation, *Need to Establish a Legal Presence Requirement for Obtaining a Commercial Driver's License*, June 4, 2004, <https://www.oig.dot.gov/sites/default/files/cc2004054.pdf>. See also DOT, OIG, *Improving Testing and Licensing of Commercial Drivers*, Report No. MH–2002–093, May 8, 2002, <https://www.oig.dot.gov/sites/default/files/mh2002093e.pdf>.

⁵ 76 FR 26854 (May 9, 2011). The final rule was effective July 8, 2011, and States were required to be in compliance with subpart B of Part 384 by July 8, 2014. On March 25, 2013, in response to various petitions for reconsideration, FMCSA made minor clarifications to the final rule and extended the date for State compliance to July 8, 2015. See 78 FR 17875 (Mar. 25, 2013); 49 CFR 384.301(f).

⁶ See 76 FR 26854, 26858. The final rule changed the term “Nonresident” to “Non-domiciled” for both CLPs and CDLs to provide greater consistency with FMCSA's authorizing statute (which bases jurisdictional authority to issue CDLs on domicile, not residency), to avoid confusion, and to eliminate any actual or perceived conflicts with DHS immigration programs. Other than the change to “Non-domiciled,” the rule remained as proposed in the NPRM. See 73 FR 19282, 19285 (Apr. 9, 2008).

⁷ Enforcing Commonsense Rules of the Road for America's Truck Drivers, 90 FR 18759, May 2, 2025. See also, <https://www.fmcsa.dot.gov/newsroom/president-trumps-transportation-secretary-sean-p-duffy-announces-nationwide-audit-states>.

⁸ For example, FMCSA is aware that numerous States have issued non-domiciled CDLs to drivers who are domiciled in Mexico, despite the fact that Mexican and Canadian drivers are not eligible for non-domiciled CDLs under 49 CFR 383.71(f).

⁹ The driver was present in the United States without being inspected and admitted or paroled and was in removal proceedings before the Executive Office for Immigration Review.

¹⁰ <https://www.flhsmv.gov/2025/08/16/illegal-uturn-truck-driver-arrested-for-vehicular-homicide/> (accessed Sep. 19, 2025).

¹¹ <https://www.youtube.com/watch?v=HDgHr8KHOzw> (accessed Sep. 19, 2025).

homicide and three counts of manslaughter and returned to Florida for prosecution. The Department of Homeland Security announced that a U.S. Immigration and Customs Enforcement investigation revealed that the driver had been living in the U.S. without lawful immigration status since 2018 after unlawfully crossing the border from Mexico.¹² Preliminary findings from FMCSA's post-crash investigation showed that the driver was not proficient in the English language and also revealed that he had previously been cited for speeding in New Mexico.

This driver had an unexpired EAD and was therefore eligible for a non-domiciled CDL under the existing regulations but was improperly issued a standard (full-term) CDL in Washington in 2023. He was subsequently issued a proper non-domiciled CDL in California, but would not have been eligible for a non-domiciled CDL under the revised regulations requiring a driver to provide an I-94 or I-94A indicating a specified employment-based nonimmigrant status.

In another crash, which occurred on July 11, 2025, a truck tractor traveling on the Delaware Memorial Bridge from New Jersey into Delaware crossed three lanes of traffic and crashed into a concrete wall. The Delaware River and Bay Authority stated that the impact collapsed the concrete wall, and the truck tractor careened into the Delaware River.¹³ The driver of the vehicle, who was killed in the crash, held a non-domiciled CDL. The emergency response for this incident involved significant recovery resources and personnel including a crane and barge repositioned from the active construction site of the Bridge Ship Collision Protection project, the Delaware State Police Marine dive unit, and a fire company. This driver similarly had entered the United States unlawfully, was in removal proceedings, and had a valid USCIS-issued EAD. Because a standalone EAD will no longer suffice as proof of employment eligibility for issuance of non-domiciled CDLs and this driver did not provide an I-94 or I-94A indicating a specified employment-based nonimmigrant status, he would not have been able to obtain his CDL under the revised regulations.

Another crash took place on May 6, 2025, in Thomasville, AL, in which a tractor-trailer hit four vehicles from

behind as they were stopped at a red light.¹⁴ Two people were killed and four people were injured. The driver of the CMV held a valid USCIS-issued EAD, which allowed him to obtain a non-domiciled CDL, but did not provide an I-94 or I-94A indicating a specified employment-based nonimmigrant status. FMCSA's ongoing post-crash investigation has revealed that the driver held the CDL for less than six weeks and initially failed his CDL skills test for speeding and failing to obey a traffic control device before passing the test a few days later. The crash occurred on the driver's third day of employment with the carrier. Because a standalone EAD will no longer suffice as proof of employment eligibility for issuance of non-domiciled CDLs, this driver would not have been able to obtain his CDL under the revised regulations.

On March 14, 2025, a CMV driver caused a multi-vehicle collision in Austin, TX. Witnesses stated that the driver of the 18-wheeler failed to brake and crashed into a long line of stopped and slow-moving traffic ahead of him.¹⁵ The incident involved 17 vehicles, killed five people including two children, and caused 11 more people to be hospitalized. The post-crash scene extended for approximately one-tenth of a mile.¹⁶ The driver was improperly issued a standard (full-term) CDL in Texas despite being eligible for only a non-domiciled CDL, a fact that demonstrates the difficulty SDLAs are currently having in correctly applying the existing regulations. Moreover, since this driver did not provide an I-94 or I-94A indicating a specified employment-based nonimmigrant status, he would not be eligible for a CDL under the revised regulations. A post-crash investigation revealed that this driver's driving record showed two prior citations, for failure to obey a sign/traffic control device and erratic (unsafe) lane changes. The investigation also found that the driver was not in possession of a current medical certificate and had violated the hours of service rules multiple times in the 11 days preceding the crash.

A crash in West Virginia on January 19, 2025, involved a driver of a tractor-

trailer who held a non-domiciled CDL and had two prior citations for speeding. The driver entered the United States unlawfully, is in removal proceedings, and had a valid USCIS-issued EAD. According to news reports, the driver caused a collision on a bridge over Cheat Lake on Interstate 68 resulting in a vehicle falling from the bridge into the lake, killing the person inside.¹⁷ Those reports also state that investigators determined that the driver, who had also struck another vehicle prior to the crash on the bridge, was traveling at an unsafe speed.¹⁸ After being arrested in California and extradited to West Virginia, he was charged with negligent homicide.¹⁹ As with other crashes described above, the driver's lack of an I-94 or I-94A indicating a specified employment-based nonimmigrant status and specifically allowing him to work as a truck driver would have prevented him from receiving a CDL under the revised regulations.

VI. Discussion of the Interim Final Rule

A. Justification for the IFR

Under the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, an agency must typically provide prior notice and an opportunity for public comment before a rule becomes effective. However, the APA provides an exception "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest" (5 U.S.C. 553(b)(B)). With good cause, an agency may also make a rule effective immediately upon publication (5 U.S.C. 553(d)(3)).

FMCSA finds good cause to issue this IFR without prior notice and comment and to make it effective immediately. This finding is based on the determination that notice and public procedure are both contrary to the public interest and impracticable because it would delay the adoption and immediate implementation of strict standards concerning the issuance and renewal of non-domiciled CLPs and CDLs necessary to address a recently

¹² <https://www.dhs.gov/news/2025/08/18/criminal-illegal-alien-recklessly-driving-18-wheeler-kills-three-florida> (accessed Sep. 19, 2025).

¹³ <https://www.drba.net/drba-police-investigating-bobtail-tractor-accident> (accessed Sep. 19, 2025).

¹⁴ <https://www.waka.com/2025/05/07/2-dead-4-injured-in-thomasville-multi-wreck-crash-suspect-in-custody/>; <https://www.southalabamian.com/articles/tuesday-wreck-claims-two/> (accessed Sep. 19, 2025).

¹⁵ <https://apnews.com/article/austin-texas-crash-pileup-five-killed-509a46da52ec4552158d5b1d33f645af>; <https://www.fox7austin.com/news/austin-i-35-crash-lawsuit> (accessed Sep. 19, 2025).

¹⁶ <https://abcnews.go.com/US/5-people-dead-massive-car-crash-involving-17/story?id=119786467> (accessed Sep. 19, 2025).

¹⁷ https://www.wvnews.com/news/wvnews/tragic-fatal-accident-on-cheat-lake-bridge-leads-to-pending-criminal-charges/article_fed01d9c-f846-11ef-9e84-5bcd6ca70bef.html (accessed Sep. 19, 2025).

¹⁸ <https://www.wtae.com/article/fayette-county-cheat-lake-missing-man-charges/64017724> (accessed Sep. 19, 2025).

¹⁹ <https://www.wdvt.com/2025/05/24/sukhjinder-singh-booked-north-central-regional-jail/> (accessed Sep. 19, 2025).

discovered, two-front crisis that constitutes an imminent hazard to public safety and a direct threat to national security.

FMCSA has recently become aware of a critical safety failure that is occurring in two distinct and dangerous ways: the eligibility requirements for obtaining a non-domiciled CLP and CDL are not narrowly tailored to provide a sufficient margin of safety to protect the traveling public, and the existing regulatory framework is unworkable in practice due to systemic deficiencies in State implementation. FMCSA cannot, in good faith, permit a demonstrably failed non-domiciled credential issuance regulatory framework and implementation to continue while conducting a notice and comment rulemaking process.

The first front of this crisis—the overly broad eligibility requirements of the current regulations—has been tragically demonstrated by multiple fatal crashes in 2025 involving drivers who held non-domiciled CDLs (or who were mistakenly issued a standard CDL instead of a non-domiciled CDL), most of which were properly issued in accordance with existing regulations. As discussed in Section V.D. of this preamble, non-domiciled CDL holders have been involved in several recent, fatal crashes that claimed the lives of 12 people (including two children) and caused injuries to 15 people (at least 11 of which were hospitalized). One driver had been in the U.S. illegally since 2018 and would not have been eligible for a non-domiciled CDL under the revised regulation. Two of the drivers had prior citations on their driving records, with one of those drivers also having inconsistencies in his hours-of-service record leading up to the day of the crash. These crashes demonstrate that the existing non-domiciliary credentialing framework is dangerously permissive, creating an untenable risk to the public even when the CDLs were properly issued under the existing standards.

The second front of the crisis is a systemic breakdown in State implementation of the rule, which can have disastrous consequences, as evidenced by the March 14, 2025, fatal crash in Texas caused by a driver with a license improperly issued by Texas and another crash in Florida on August 12, 2025, where the driver had previously been issued an improper license by Washington. As discussed in Section V.C. of this preamble, the scale of this implementation failure was recently uncovered by FMCSA's 2025 APRs, which revealed that States are fundamentally failing to administer the

issuance of non-domiciled credentials to foreign-domiciled applicants properly. FMCSA's APR has demonstrated that approximately one in four non-domiciled CDLs California issued were not compliant with the requirements in 49 CFR parts 383 and 384. Moreover, FMCSA has already confirmed improperly issued non-domiciled CDLs across six States, including California, Colorado, Washington, Texas, Pennsylvania, and South Dakota. FMCSA expects the number of States discovered to have improperly issued non-domiciled CDLs to grow as FMCSA's APRs continue.

When the integrity of the non-domiciled CDL process is in question, the credential itself is compromised and can no longer be trusted to verify an individual's eligibility and qualifications. Although FMCSA's primary focus in this rulemaking is on highway safety, the Agency notes that issuance of CLPs and CDLs to foreign individuals does have national security implications that should not be overlooked. Failure to properly vet such individuals raises the risk that individuals with malicious intent could gain authorized control of CMVs, which can be used to transport hazardous materials and target critical infrastructure or to otherwise carry out a terrorist attack.²⁰ Therefore the non-domiciled CLP and CDL issuance process must be protected to prevent exploitation by bad actors.

In addition, the current regulations for issuing non-domiciled CLPs and CDLs require States to obtain an applicant's complete 10-year driving history from all States where the individual was previously licensed. See § 383.73(b)(3)(iv). However, States are unable to carry out this requirement for individuals whose driving history exists predominantly or solely within a foreign jurisdiction. Without a verified driving record, there is a serious risk that unsafe or high-risk drivers—who may have prior violations, suspensions, or a history of crashes in foreign jurisdictions—could be granted non-domiciled CLPs and CDLs and operate large trucks and buses on U.S.

²⁰ On October 31, 2017, Sayfullo Saipov, who possessed a CDL, carried out a terrorist attack when he used a 6,000-lb. truck to murder eight victims and injure many more, including a 14-year old child, on the Hudson River Bike Path in lower Manhattan. See <https://www.justice.gov/usao-sdny/pr/sayfullo-saipov-be-sentenced-life-prison-2017-truck-attack-isis>. Though the truck used in this attack did not qualify as a *commercial motor vehicle* under the definition in 49 U.S.C. 31132 (because it did not have a gross vehicle weight rating or gross vehicle weight of at least 10,000 pounds), it shows the lethal damage that can be inflicted by a single vehicle in the wrong hands.

roadways. This undermines the integrity and safety of the CLP and CDL issuance process. Though there is a need to handle the issuance processes differently (due to the lack of authority to compel foreign jurisdictions to provide driving records), FMCSA believes that limiting eligibility for non-domiciled CLPs and CDLs (particularly when limited to employees holding an I-94 or I-94A indicating a specified employment-based nonimmigrant status that ensure additional screening of drivers) will increase safety by appreciably reducing the number of non-domiciled CLP and CDL drivers with unknown driver safety records on the Nation's roadways.

The confluence of these recent events and recently uncovered factors creates an imminent concern that the current regulatory framework does not provide a sufficient margin of safety to protect the traveling public. The recent fatal crashes demonstrate that the current regulations related to non-domiciled credentials fail even when properly followed, while the systemic issuance errors and fatal crashes caused by drivers who were improperly issued a license confirm the current regulatory framework has allowed for frequent points of failure—allowing ineligible persons to obtain non-domiciled CLPs and CDLs. This combination constitutes an imminent hazard that warrants immediate action to protect the traveling public.

Furthermore, providing advance notice through a proposed rule is impracticable and contrary to the public interest because it would actively subvert the rule's purpose by creating a foreseeable and concentrated surge in applications that would exacerbate the current safety crisis. A non-domiciled CDL is a high-value economic credential, and historical precedent shows that announcing a closing window for such an opportunity invariably triggers a rush of applicants. For example, when the compliance date for FMCSA's entry-level driver training requirements was approaching, SDLAs saw a large spike in CLP and CDL issuances immediately before applicants would have been subject to the new training requirements. The compliance date for the requirements was February 7, 2022. Data from the Commercial Driver's License Information System (CDLIS)²¹ shows that CLP and CDL issuances steadily increased during 2021 culminating in numbers for December 2021 through February 2022

²¹ See <https://www.aamva.org/technology/systems/driver-licensing-systems/cdlis>.

that were around twice as high as the same time period in the previous year.²²

The incentive and willingness to seek a CDL during a pendency period between a proposed rule and its potential finalization is amplified by the unique nature of the non-domiciled foreign applicant pool. Unlike U.S. citizens, non-citizen nationals residing in a U.S. territory, or lawful permanent residents who must apply for a CDL or CLP in their State of domicile, non-domiciled CDL or CLP applicants are not bound by such requirements. They are uniquely mobile and can strategically apply in any State that issues non-domiciled CDLs or CLPs.

The public notice itself would effectively serve as a guide for this forum shopping. The justification for the rulemaking would identify States with systemic weaknesses and high error rates, inadvertently advertising the path of least resistance. This is likely to funnel a national, and even international, pool of applicants toward the very State agencies least equipped to handle them, overwhelming their capacity for due diligence. Knowing that their window of opportunity was closing, those seeking to obtain a CDL improperly would rush to secure a license before the final rule takes effect. This would dramatically exacerbate the very danger the rulemaking is designed to eliminate, flooding the Nation's roadways with a new cohort of ineligible drivers.

The harm from such a concentrated surge is not speculative—it is foreseeable. Based on FMCSA's own 2025 APRs, California was found to have an error rate in excess of 25 percent and issued approximately 3,820 non-domiciled CDLs and CLPs in June 2025 alone. FMCSA expects a notice-and-comment period would result in this State being inundated with applicants, and extrapolating from the 2025 APR finding in June, could lead to the issuance of potentially over 1,000 improperly issued credentials every month. Even if fewer drivers than expected seek to secure licenses before the regulatory changes take effect, the current processes in noncompliant States indicate that as many as one in four drivers who would normally apply during that timeframe could be issued non-domiciled CLPs and CDLs improperly. Dangerous drivers who would be eligible to obtain a non-domiciled CLP or CDL under the current framework but are at risk of causing

fatal crashes such as those involved in the fatal crashes cited above in West Virginia, Alabama, Delaware, and Florida would equally be incentivized to obtain a non-domiciled CLP or CDL before the enhanced standards became effective, resulting in a higher number of dangerous drivers on America's roadways and threatening public safety.

Therefore, advance notice would create a perverse incentive, turning the period between the publication of the notice and the publication of the final rule into a window of heightened danger and making the standard rulemaking process unworkable and self-defeating. For the same reasons described above, FMCSA finds good cause to make the rule effective on publication, rather than making it effective at least 30 days after publication. States that choose to issue non-domiciled CDLs and CLPs will be required to pause issuance of those CDLs and CLPs until they can ensure compliance with the updated regulations.

Though this IFR is effective immediately, FMCSA invites comments from interested members of the public. These comments must be submitted on or before November 28, 2025. FMCSA will consider these comments and determine whether to make any revisions to the rule as a result of these comments.

B. Overview of the IFR

The current regulations focus on an individual's possession of a valid USCIS-issued EAD or an unexpired foreign passport accompanied by evidence that the individual was inspected and admitted or paroled into the United States. As some of the recent incidents highlighted in Section V demonstrate, this allows individuals without lawful immigration status, including those who entered the United States illegally, to receive non-domiciled CLPs or CDLs as long as they obtain an EAD. This IFR revises the regulations to focus on lawful immigration status in the United States in certain employment-based nonimmigrant categories. An EAD will no longer be sufficient to obtain a non-domiciled CLP or CDL. An EAD only serves as proof that an individual is authorized to work in the United States for a specific time period, not that the individual entered the United States legally by presenting themselves at a port of entry.²³ This standard of

documentation is no longer sufficient to ensure that the non-domiciled CLP and CDL issuance process is narrowly tailored to those individuals who have lawfully entered the United States and should be allowed to drive a CMV. Individuals who do not possess evidence of lawful immigration status as defined in this IFR in certain employment-based nonimmigrant categories, will no longer be eligible to receive non-domiciled CLPs or CDLs. These individuals excluded from eligibility for a non-domiciled CLP or CDL would include asylum seekers, asylees, refugees, and Deferred Action for Childhood Arrivals (DACA) recipients. Although these individuals may be eligible for employment in the United States, they would not be eligible to apply for a non-domiciled CLP or CDL. The rule will continue to allow U.S. citizens and lawful permanent residents, and non-citizen nationals domiciled in a U.S. territory (other than the 50 States and the District of Columbia) to obtain a non-domiciled CLP or CDL in a U.S. State. This rule also does not impact the ability of an individual domiciled in a State that is prohibited from issuing CDLs to obtain a non-domiciled CLP or CDL in another State.

Only those in lawful status in the United States in one of the following employment-based nonimmigrant categories will be permitted to obtain a non-domiciled CLP or CDL: H-2A (Temporary Agricultural Workers), H-2B (Temporary Non-Agricultural Workers), or E-2 (Treaty Investors). No other immigration categories will be eligible for a non-domiciled CLP or CDL under the IFR. These nonimmigrant categories require either a labor certification through the Department of Labor (DOL), current employment, or other specified proof of work established through the Federal visa process.²⁴ These requirements ensure that individuals in the United States under these nonimmigrant categories are already approved to work specific jobs that may require acquisition of a non-domiciled CDL. In addition, being issued the visa by the Department of State, presenting themselves at a valid port of entry to be screened by U.S. Customs and Border Protection, and being issued a Form I-94/94A ensures that these visa holders have entered the United States lawfully and have lawful immigration status. This list of specified nonimmigrant categories does not include every employment-based

²² According to CDLIS CLPs and CDLs issued by month and year: 32,970 in December 2020; 37,571 in January 2021; 43,366 in February 2021; 63,462 in December 2021; 84,291 in January 2022; and 87,672 in February 2022.

²³ An EAD may be issued to certain groups of individuals who may not have presented themselves at a valid port of entry to be screened. See 8 CFR 274a.12.

²⁴ For more information on the requirements and processes required for the listed visas see <https://www.uscis.gov/working-in-the-united-states>.

nonimmigrant category, but encompasses the vast majority of individuals working in such categories that cover jobs that would require the acquisition of a non-domiciled CDL. Keeping the list targeted to CDL-specific employment-based nonimmigrant categories will eliminate confusion regarding who may be eligible for a non-domiciled CLP or CDL and ensure that those credentials are being issued only to those who need them for specific employment purposes. In addition, as discussed in Section VI.A of this preamble, limiting eligibility for non-domiciled CLPs and CDLs (particularly when limited to employees working under one of the specified employment-based nonimmigrant categories that ensure additional screening of drivers) will also increase safety by appreciably reducing the number of non-domiciled CLP and CDL drivers with unknown driver safety records on the Nation's roadways. In consulting with DOL's Office of Foreign Labor Certification, FMCSA understands that employer applications related to commercial trucking typically include some combination of the following job requirements: possess U.S. CDL or foreign CDL equivalent, related work experience (12 months to 2 years), clean driving record, pass drug or medical testing, and knowledge or proficiency in English. This employer screening, in addition to the incentive to avoid unnecessarily repeating the lengthy job order process,²⁵ helps ensure that the population of drivers being hired under one of the specified employment-based nonimmigrant categories are more likely to be drivers with safe driving records.

Individuals in approved employment-based nonimmigrant categories will be required to provide an unexpired Form I-94/94A and unexpired foreign passport at every issuance, transfer, renewal, and upgrade action defined in the regulation. Applicants who are U.S. citizens, lawful permanent residents, or non-citizen nationals domiciled in a U.S. territory will be required to provide any of the documents specified in Table

1 of § 383.71 as proof that they are eligible to receive a non-domiciled CLP or CDL. The expiration date for any non-domiciled CLP or CDL will be the expiration of the alien's period of admission documented on the Form I-94/94A or 1 year, whichever is sooner. This ensures that the SDLA will verify U.S. citizens and non-citizen nationals domiciled in a U.S. territory will be issued a non-domiciled CLP or CDL with an expiration date one year from the date of issuance to ensure consistency in the licensing process, which will reduce confusion for SDLAs issuing these non-domiciled credentials.

Once an applicant has presented the proper documentation, SDLAs will be required to utilize SAVE,²⁶ administered by USCIS, to verify the immigration status and employment-based nonimmigrant category information provided by the applicant. If the information received from SAVE does not confirm the applicant's claim to be in lawful immigration status (*i.e.*, if the applicant's Form I-94/94A "admit until date" has expired) or the applicant's nonimmigrant category as reflected by SAVE is no longer one of those specified in this rule (*i.e.*, no longer denotes H-2A (Temporary Agricultural Workers), H-2B (Temporary Non-Agricultural Workers), or E-2 (Treaty Investors), the SDLA would be prohibited from issuing the non-domiciled CLP or CDL. However, the SDLA may not rely solely on the SAVE response; it must confirm the applicant's claim to be in lawful immigration status in a specified category, it must retain copies of the required documents in its records, and it must provide copies of these documents and proof of SAVE verification to FMCSA upon request. The SDLA will also be required to retain these documents for no less than 2 years. The new requirements for verification through SAVE and records retention ensures that FMCSA has access to relevant information during APRs moving forward to verify the integrity of a State's non-domiciled CLP and CDL issuance process. This will address many of the challenges the Agency encountered in assessing a State's compliance during the current round of APRs caused by the lack of documentation showing the number of non-domiciled CLPs and CDLs issued or that such CLPs and CDLs were properly issued.

SDLAs will be prohibited from renewing non-domiciled CLPs or CDLs by mail and must require the applicant to be present in-person at each renewal.

The rule also contains a mandatory downgrade provision. If a State receives notification from FMCSA, the Department of Homeland Security, the Department of State, or other Federal agency with jurisdiction that a non-domiciled CLP or CDL holder licensed in that State no longer holds lawful nonimmigrant status in a category established in this rule, or if the non-domiciled CLP or CDL holder violates any terms of their immigration status, the SDLA will be required to initiate a process to remove the commercial privilege from the license within 30 days. Each time an SDLA renews, transfers upgrades, amends, corrects, reprints, or otherwise duplicates a previously issued CLP or CDL, the SDLA (in addition to confirming that the applicant's foreign passport is unexpired) must verify through SAVE that the applicant's I-94/94A "admit until date" has not expired and that the applicant's immigration category as noted on the I-94/94A or as confirmed by SAVE, remains listed as H-2A (Temporary Agricultural Workers), H-2B (Temporary Non-Agricultural Workers), or E-2 (Treaty Investors).

VII. International Impacts

Motor carriers and drivers are subject to the laws and regulations of the countries where they operate, unless an international agreement states otherwise. Drivers and carriers should be aware of the regulatory differences between nations in which they operate.

This rule will not impact drivers domiciled in Canada or Mexico. FMCSA has previously determined that CDLs issued by Canadian Provinces and Territories in conformity with the Canadian National Safety Code and "Licencias Federales de Conductor" issued by the United Mexican States are in accordance with the standards of part 383. Under these reciprocity determinations, drivers that live in Canada and Mexico would operate in the United States with the license issued by their country of domicile. Therefore, under the single license provision of § 383.21, a driver holding a CDL issued under the Canadian National Safety Code or a "Licencia Federal de Conductor" issued by Mexico is prohibited from obtaining a non-domiciled CDL, or any other type of driver's license, from a State or other jurisdiction in the United States.

VIII. Section-By-Section Analysis

This section-by-section analysis describes the changes to the regulatory text in numerical order.

²⁵ For example, employers that would like to hire H-2B workers are required by DOL to submit a job order ("Application for Temporary Employment Certification") no more than 90 days and no less than 75 days before the work start date. See 20 CFR 655.15(b). Each job qualification and requirement must be listed in the job order and must be bona fide and consistent with the normal and accepted qualifications and requirements imposed by non-H-2B employers in the same occupation and area of intended employment. 20 CFR 655.18(a)(2). An employer therefore has an incentive to thoroughly screen a prospective employee's driver safety record and apply similar qualifications and requirements to avoid having to go through the application process again, as this would delay the hiring of another driver for more than 75 days.

²⁶ Available at <https://www.uscis.gov/save>.

A. Regulatory Provisions

Section 383.5 Definitions

FMCSA adds a definition of *evidence of lawful immigration status* to § 383.5.

Section 383.71 Driver Application and Certification Procedures

FMCSA revises paragraph (f) of § 383.71.

Section 383.73 State Procedures

FMCSA amends § 383.73 by revising paragraphs (a)(6), (b)(6), (c)(7), (d)(7), and (e)(5); revising the introductory text of paragraph (f)(2); adding a new paragraph (f)(2)(iv), revising paragraph (f)(3), adding new paragraphs (f)(5) and (6), and revising paragraph (m).

Section 384.212 Domicile Requirement

FMCSA adds new paragraphs (a)(1) and (2) to § 384.212.

Section 384.301 Substantial Compliance—General Requirements

FMCSA adds new paragraphs (q) to § 384.301.

B. Guidance Statements and Interpretations

This IFR amends a regulation that has associated guidance statements. Such guidance statements do not have the force and effect of law, are strictly advisory, and are not meant to bind the public in any way. Conformity with guidance statements is voluntary. Guidance is intended only to provide information to the public regarding existing requirements under the law or FMCSA policies. A guidance statement does not alter the substance of a regulation.

FMCSA rescinds the following guidance:

1. FMCSA–CDL–383.23–FAQ001(2023–05–08);²⁷

This guidance document, which refers to individuals present under the DACA immigration policy as a citizen of Mexico, is rescinded. It is no longer applicable under the new requirements to provide evidence of legal status.

2. FMCSA–CDL–383.23–Q1²⁸

This guidance document, which refers to foreign drivers with employment authorization documents, is rescinded. Foreign drivers must meet the new requirements in this rule to obtain non-domiciled CLPs and CDLs and the rest

of the guidance is unnecessary as it is simply a restatement of what is already explained in footnote 1 to § 383.23.

Nomenclature for Non-Domiciled CLPs and CDLs

In addition, some SDLAs were operating under informal guidance previously issued by FMCSA that permitted States to refer to their non-domiciled credentials under different nomenclature. FMCSA notes that during the 2025 APRs, SDLA use of these disparate terms generated confusion for some SDLAs because it made it difficult to determine whether the State did in fact issue non-domiciled credentials in the first place. This IFR supersedes any past guidance on this issue and clarifies that §§ 383.73(f)(2)(ii) and 383.153(c) require that the word “non-domiciled” appear across a CLP or CDL and must “be conspicuously and unmistakably displayed” on the face of the CLP or CDL when a State issues a non-domiciled CLP or CDL. States may not use other nomenclature (such as “limited term” or “temporary”) as a substitute for “non-domiciled,” use restriction codes that require the examination of fine print on the back of the license as a substitute for “non-domiciled” on the face of the credential, or use any other alternatives to conspicuously and unmistakably displaying “non-domiciled” on the face of the CDL or CLP.

IX. Regulatory Analyses

A. E.O. 12866 (*Regulatory Planning and Review*), E.O. 13563 (*Improving Regulation and Regulatory Review*), and DOT Regulatory Policies and Procedures

OMB has determined that this rulemaking is a significant regulatory action under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, because of the substantial Congressional and public interest concerning issuance of non-domiciled CLPs and CDLs. The rulemaking is also significant under DOT Regulatory Policies and Procedures.

This IFR amends the Federal regulations for SDLAs issuing commercial driving credentials to foreign-domiciled individuals. Through this rulemaking, FMCSA restores the integrity of the CDL issuance processes by significantly limiting the authority for SDLAs to issue and renew non-domiciled CLPs and CDLs to individuals domiciled in a foreign jurisdiction.

The analysis below discusses the affected entities, the need for the regulation, and the costs, benefits, and transfers that may result from this IFR.

Analysis Inputs

Wage Rates

FMCSA computes its estimates of labor costs using data gathered from several sources. Labor costs are comprised of wages, fringe benefits, and overhead. Fringe benefits include paid leave, bonuses and overtime pay, health and other types of insurance, retirement plans, and legally required benefits (Social Security, Medicare, unemployment insurance, and workers compensation insurance). Overhead includes any expenses to a firm associated with labor that are not part of employees' compensation; this typically includes many types of fixed costs of managing a body of employees, such as management and human resource staff salaries or payroll services. The economic costs of labor to a firm should include the costs of all forms of compensation and labor related expenses.

FMCSA used the driver wage rate to represent the value of the drivers' time that, in the absence of the rule, would have been spent being gainfully employed and performing duties as a CMV driver. The source for driver wages is the median hourly wage data (May 2024) from DOL, Bureau of Labor Statistics (BLS), Occupational Employment Statistics (OES).²⁹ The CMV driver wage is a weighted average of three occupational codes that require a CDL: 53–3032 Heavy and Tractor-Trailer Truck Drivers, 53–3051 Bus Drivers, School, and 53–3052, Bus Drivers, Transit and Intercity. BLS does not publish data on fringe benefits for specific occupations, but it does for the broad industry groups in its Employer Costs for Employee Compensation release. To calculate the fringe benefits rate, this analysis uses an average hourly wage of \$32.71 and average hourly benefits of \$14.99 for private industry workers in “transportation and warehousing”³⁰ to estimate that fringe benefits are equal to 45.83 percent (\$14.99 ÷ \$32.71) of wages.³¹

²⁹ DOL, BLS, *Occupational Employment Statistics (OES)*, National, May 2024. Available at: <https://www.bls.gov/oes/tables.htm> (accessed Aug. 27, 2025).

³⁰ DOL, BLS, *Table 4: Employer Costs for Employee Compensation for private industry workers by occupational and industry group*, December 2024. Available at: https://www.bls.gov/news.release/archives/ecec_03142025.htm (accessed Sept. 9, 2025).

³¹ FMCSA's standard approach to accounting for the opportunity cost of drivers' time considers

²⁷ Available at <https://www.fmcsa.dot.gov/registration/commercial-drivers-license/may-state-drivers-licensing-agency-sdla-issue-non-domiciled>.

²⁸ Available at <https://www.fmcsa.dot.gov/registration/commercial-drivers-license/may-foreign-driver-employment-authorization-document-obtain>.

FMCSA used the wage rate for employees in office and administrative support to represent the value of the SDLA employees' time that, in the absence of the rule, would have been spent performing other duties and responsibilities. The source for SDLA employees' wages is the median hourly wage data (May 2024) from the BLS' OES. To calculate the fringe benefits rate, this analysis uses an average hourly wage of \$25.56 and average hourly benefits of \$18.95 for State and local government workers in "office and administrative support" to estimate that fringe benefits are equal to 74.14 percent ($\$18.95 \div \$25.56$) of wages. FMCSA uses the Census Bureau's Service Annual Survey (SAS) Table 5 data to calculate overhead expenses and their ratio to gross annual payroll expenses for the North American Industry Classification System (NAICS) 484 (Truck Transportation) and NAICS 485 (Transit and Ground Passenger) industries.³²

FMCSA reviewed SAS data from 2013 through 2021, finding 2015 to be the most appropriate baseline from which to estimate industry overhead rates. While it is typically preferable to use the most recent information, data from 2020 was an anomalous year with especially high overhead rates, likely due to the coronavirus disease 2019 pandemic and subsequent business disruptions. For the 2018 and 2019 SAS tables, Census greatly reduced the number of expenses published in Table 5. Based on the assigned expense categories as overhead, FMCSA followed two steps to calculate the overhead rate. First, FMCSA added together the seven overhead expense categories (expensed purchases of software; data processing and other purchased computer services; purchased repairs and maintenance to buildings, structures, and offices; lease and rental payments for land, buildings, structures, store spaces, and offices; purchased advertising and promotional

services; purchased professional and technical services; and cost of insurance). FMCSA then divided the sum of the overhead expense categories by gross annual payroll. Following this approach including only the seven expense categories most focused on firm fixed expenses, the 2015 overhead expenses in truck transportation would be \$13.0 billion.³³ Dividing the \$13.0 billion overhead by \$62 billion gross annual payroll gives a 21 percent overhead rate for NAICS 484. The 2015 overhead expenses in passenger and ground transportation would be \$3.1 billion. Dividing the \$3.1 billion overhead by the \$13 billion gross annual payroll gives a 23 percent overhead rate for NAICS 485. FMCSA then combined the expense and payroll categories for both industries to calculate an average transportation industry overhead rate of 21 percent for use in this analysis.

TABLE 1—HOURLY MEDIAN WAGE RATE, FRINGE BENEFITS, AND OVERHEAD RATES

BLS occupation code	Occupation	Hourly median wage	Fringe benefits rate (%)	Overhead rate (%)	Median hourly base wage + fringe benefits	Median hourly base wage + fringe benefits + overhead
53–3032; 53–3051; 53–3052.	CDL Driver Composite	NA	45.83	NA	\$39.19	NA
43–1011	First-Line Supervisors of Office and Administrative Support Workers.	\$31.80	74.14	21	55.38	\$62.05

Average SDLA Fee for License Renewal

FMCSA reviewed fees for CDL renewal across all 51 (50 States and the District of Columbia) jurisdictions and found that renewal fees range from \$5 to \$164.50. The average renewal fee is \$55.28, and FMCSA uses an estimate of \$55 to represent the renewal fee paid by non-domiciled CDL applicants.

Crash Costs

FMCSA uses crash cost values to assess and estimate the safety benefits of various regulatory initiatives. FMCSA publishes its methodology for calculating crash costs for fatal, injury, and non-injury crashes on its website.³⁴ The values below incorporate the most

recent crash data from the National Highway Traffic Safety Administration, from calendar year 2023, inflated to 2024 values based on the Consumer Price Index for All Urban Consumers.

TABLE 2—CMV CRASH COST, BY CRASH TYPE
[In 2024 dollars]

Crash type	CMV crash costs
Cost per non injury crash	\$52,864
Cost per injury crash	400,025
Cost per fatal crash	15,739,682

hourly base wage plus fringe benefits, but exclusive of overhead, representing the value to the driver of his or her forgone best alternative (i.e., in the absence of this rule it is assumed these individuals would be working during that time and as such, the analysis values that time at the same amount that they accept in exchange for it, that is, their base wage plus fringe benefits). Including an overhead rate as a component element of the driver wage rate, over and above the base wage and fringe benefits, for the purposes of evaluating the opportunity cost to drivers does not accurately reflect the value as

incident upon the driver (because the value of the overhead component of wage rates is not incident upon, nor received as compensation by, the driver, as are base wages and fringe benefits).

³² See SAS Table 5. Available at: <https://www.census.gov/programs-surveys/sas/data/tables.html> (accessed: Sept. 10, 2025).

³³ The seven expense categories included in this overhead estimate are: "Expensed purchases of software" (\$321 million), "Data processing and other purchased computer services" (\$320 million), "Purchased repairs and maintenance to buildings,

Affected Entities

SDLAs

This IFR will impact the SDLAs in 46 States that currently issue non-domiciled CDLs (AL, MS, NH, TN, and WV do not issue non-domiciled CDLs).

Drivers

This final rule will impact current and prospective non-domiciled CDL holders. Drivers will be required to provide additional documentation, and in some cases will no longer be eligible for a non-domiciled CDL. FMCSA gathered information on current CLP and CDL holders during the APRs discussed earlier in the preamble, and estimates that there are approximately

structures, and offices" (\$541 million), "Lease and rental payments for land, buildings, structures, store spaces, and offices" (\$3,067 million), "Purchased advertising and promotional services" (\$507 million), "Purchased professional and technical services" (\$1,782 million), and "Cost of insurance" (\$6,535 million).

³⁴ Available at https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2024-12/FMC-PRE-240812-001-Federal%20Motor%20Carrier%20Safety%20Administration%20Crash%20Cost%20Methodology%20Report-2024_0.pdf.

200,000 non-domiciled CDL holders, and approximately 20,000 non-domiciled CLP holders. Upon renewal, some number of these individuals will no longer be eligible for a non-domiciled CDL and will have their credential downgraded. In an effort to determine the number of drivers that will still be eligible for non-domiciled CDLs, FMCSA spoke with other Government agencies and reviewed data from SDLAs and other on-line resources. Approximately 500 to 600 individuals receive a H-2B status with the intent to operate a CMV each year. This nonimmigrant classification can be granted for up to the period of time authorized on the temporary labor certification and may be extended for qualifying employment in increments of up to one year.³⁵ FMCSA thus assumes that 500 to 600 individuals will seek a non-domiciled CDL, including renewals or extensions, each year. FMCSA does not have clear estimates of the number of H-2A workers that intend to operate a CMV because it is often incidental to the work they are doing. The Office of Homeland Security Statistics yearbook estimates that approximately 27,240 H-2A visas were issued to individuals from countries other than Canada and Mexico in 2023.³⁶ This represents an upper bound in that it is highly unlikely that all of these individuals would seek a CDL. The Bureau of Labor Statistics (BLS) reports employment based on industry and occupational code. In 2024, BLS estimates that there were approximately 15,000 heavy and tractor-trailer truck drivers in the agricultural industry.³⁷ Many of these drivers are U.S. citizens and would not seek a non-domiciled CDL. FMCSA makes the simplifying assumption that $\frac{1}{3}$ of these individuals hold H-2A status, are not domiciled in either Canada or Mexico, and will be applying for non-domiciled CDLs each year. Including the individuals in the remaining nonimmigrant categories (E-2) FMCSA estimates that SDLAs will issue approximately 6,000 non-domiciled CDLs per year. The remaining roughly 194,000 current non-domiciled CDL holders will exit the freight market, which is discussed in more detail in the cost section.

Motor Carriers

This IFR will impact motor carriers that currently, or intend to, employ non-

domiciled CDL holders that are no longer eligible to receive a credential. Motor carriers that currently employ non-domiciled CDL holders will have some time to adjust to the change as the drivers will be aware if their license will not be renewed under the standards set forth in this IFR. By providing this time for adjustment, FMCSA anticipates that impacts to motor carriers will be mitigated.

Need for the Regulation

As discussed at length in the preamble, the confluence of recent events creates an imminent concern that the current regulatory framework does not provide a sufficient margin of safety to protect the traveling public. The fatal crashes identified above demonstrate that the regulations fail even when properly followed, while the systemic issuance errors confirm the current regulatory framework has allowed for frequent points of failure—enabling ineligible persons to obtain non-domiciled CLPs and CDLs. This combination constitutes an imminent hazard that warrants immediate action to protect the traveling public.

Costs

This IFR will require States and their SDLAs to verify additional documentation, utilize SAVE, and retain copies of the verified documents in their records. FMCSA anticipates that States will issue fewer non-domiciled CDLs, but that each credential will require additional time to verify and retain documents. Currently, States are not required to pay transactions fees to query SAVE and FMCSA does not estimate a fee impact for that transaction. Lastly, States that choose to issue non-domiciled CDLs and CLPs will be required to pause issuance of those CDLs and CLPs until they can ensure compliance with the updated regulations. FMCSA anticipates that States will incur costs in the process of realigning their non-domiciled CDL program issuance with the standards set forth in this IFR.

FMCSA estimates that verifying and retaining additional documentation and running a SAVE query will require approximately 15 minutes of time per query for SDLA personnel. FMCSA estimates that the total cost, across all impacted SDLAs, will total approximately \$93,075 per year (6,000 applicants $\times$ \$62.05 wage rate $\times$ 15 minutes).

SDLAs that choose to issue non-domiciled CDLs will be required to pause issuance of the credential until their program is aligned to the standards set forth in this IFR. Each SDLA has

developed a process that is unique to their State, and as such, will incur different costs to adjust their program. Some program adjustments could include reprogramming the IT system to interpret SAVE results in alignment with the new standards, changing the credential that is issued to ensure that “non-domiciled” is conspicuously and unmistakably displayed on the face of the CLP or CDL, and ensuring that SDLA employees are properly issuing non-domiciled CDLs and retaining appropriate records. FMCSA is unable to estimate a specific cost for each SDLA due to the variance in current non-domiciled CDL issuance (e.g., many SDLA systems already issue credentials with “non-domiciled” displayed on the face of the credential and some SDLAs were already retaining appropriate records to document the issuance process). FMCSA has previously estimated costs of approximately \$70,000 (in 2024 dollars) to develop an interface between the Drug and Alcohol Clearinghouse and the SDLA IT system.³⁸ This would likely overestimate the cost of reprogramming State IT systems to interpret SAVE results because SDLAs are already interfacing with SAVE for purposes of REAL ID and this change will represent an adjustment to the existing interface. It is, however, a reasonable estimate of the average impact for States to align their non-domiciled CDL program with the standards set forth in this rule (inclusive of IT system upgrades, credential updates, and ensuring staff are properly issuing credentials). FMCSA estimates that each of the 46 effected SDLAs will incur costs of \$70,000 in the first year of the analysis, resulting in total first year costs for program realignment of \$3.2 million (46 SDLAs $\times$ \$70,000 = \$3,220,000).

This IFR will also result in costs to non-domiciled CDL drivers as they will now be required to renew their license in person every year, which increases the amount of time needed to renew the license. Previously, some drivers were likely able to renew online or via mail and had expiry dates beyond a one-year timeframe. FMCSA assumes that non-domiciled CDL holders previously had a two-year expiry date and spent approximately one hour (or 30 minutes a year) renewing their license. FMCSA estimates they will now spend four hours, or 3.5 additional hours renewing their license each year. FMCSA estimates the annual in person visit will take an additional 3.5 hours of a driver's time, resulting in total annual costs of

³⁵ See <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2b-temporary-non-agricultural-workers>.

³⁶ Available at <https://ohss.dhs.gov/topics/immigration/yearbook/2023/table25>.

³⁷ Available at <https://data.bls.gov/projections/nationalbMatrix?querybParams=111000&ioType=i>.

³⁸ (86 FR 55718).

\$822,990 (6,000 applicants × \$39.19 × 3.5 hours).

FMCSA anticipates that drivers who will no longer be eligible for a non-domiciled CDL will be able to find similar employment in other sectors (e.g., construction, driving vehicles that don't require a CDL, etc.). They will experience some de minimis costs as they move from one industry to another when their current credential expires.

Regarding potential economic impacts within the freight market, FMCSA looked at data during and after the COVID-19 pandemic to understand how the market could react to a reduction in CDL holders and found that the freight market tends to be flexible and responsive to external factors. During the COVID-19 pandemic the industry saw a historic increase in spot market rates, followed by a record influx of motor carriers and drivers entering the market to meet the increased demand.³⁹ In 2021 there was a nearly 20 percent increase in the number of interstate motor carriers and a 6 percent increase in the number of interstate CDL

drivers.⁴⁰ Since that time, the rates have fallen, as have load volumes and the number of motor carriers. There are roughly 200,000 non-domiciled CDL holders, which is approximately five percent of the 3.8 million active interstate CDL holders in 2024. FMCSA anticipates that these drivers will exit the market within approximately two years as their credential comes up for renewal, and that the market will respond to this change in capacity as it has in the past, with rates adjusting and drivers and carriers entering the market where needed. Further, due to the prolonged two-year period of attrition, motor carriers will have time to adjust their hiring based on the requirements set forth in this IFR, including by marketing available positions to drivers with the proper qualifications to obtain a CDL. As such, FMCSA believes there will be a limited economic impact on the freight market and motor carriers.

Transfers

In addition, drivers who previously paid the renewal fee every two years

will now pay that fee annually. As discussed above, the average renewal fee is \$55, and will now be paid annually instead of biannually, which results in an increase of \$27.50 per year. FMCSA anticipates that drivers will incur additional fees of approximately \$165,000 per year (6,000 drivers × \$27.50). Fees are considered transfer payments, or monetary payments from one group to another that do not affect the total resources available to society, and therefore do not represent actual costs or benefits of the rule.

Total Costs and Transfers

As shown in the table below, FMCSA estimates that the total 10-year cost of the rulemaking (excluding transfers) is approximately \$10.9 million discounted at three percent and \$9.4 million discounted at seven percent. Total annualized impacts range from \$1.6 million discounted at three percent to \$1.3 million discounted at seven percent.

TABLE 3—TOTAL COSTS AND TRANSFERS
[In 2024 dollars]

Analysis year	Total state cost	Total driver cost	Total transfers	Total cost (excluding transfers)	Total cost (discounted at 3 percent)	Total cost (discounted at 7 percent)
1	\$3,313,075	\$822,990	\$165,000	\$4,136,065	\$4,015,597	\$3,865,481
2	93,075	822,990	165,000	916,065	863,479	800,127
3	93,075	822,990	165,000	916,065	838,329	747,782
4	93,075	822,990	165,000	916,065	813,912	698,862
5	93,075	822,990	165,000	916,065	790,206	653,142
6	93,075	822,990	165,000	916,065	767,190	610,413
7	93,075	822,990	165,000	916,065	744,845	570,479
8	93,075	822,990	165,000	916,065	723,150	533,158
9	93,075	822,990	165,000	916,065	702,088	498,279
10	93,075	822,990	165,000	916,065	681,638	465,681
Total	930,750	8,229,900	1,650,000	12,380,650	10,940,434	9,443,403
Annualized					1,557,672	1,344,528

Benefits

FMCSA anticipates that restoring the integrity of non-domiciled CDL license issuance will enhance the safety of CMV operations and is likely to result in improved safety outcomes, such as the reduced frequency and/or severity of crashes or reduced frequency of violations. There is not sufficient evidence, derived from well-designed, rigorous, quantitative analyses, to reliably demonstrate a measurable empirical relationship between the

nation of domicile for a CDL driver and safety outcomes in the United States such as changes in frequency and/or severity of crashes or changes in frequency of violations. FMCSA conducted a literature review and found a few articles focused on the safety performance impacts of undocumented immigrants or illegal aliens, but has not obtained information on how many such drivers have sought to obtain a non-domiciled CDL in the United States.^{41 42}

Given insufficient evidence, a direct quantitative estimate of the potential safety benefits resulting from this IFR cannot be developed.

Break-Even Analysis

When it is not possible to quantify and monetize the estimated benefits (or all costs) of a rule, OMB Circular A-4 suggests that agencies perform a threshold or break-even analysis.⁴³ In the context of this IFR, FMCSA estimated the number of fatal crashes that would need to be avoided as a

³⁹ Available at <https://www.bts.gov/freight-indicators#spot-rates>.

⁴⁰ Data available from MCMIS.

⁴¹ Zhao, Ruinan, *The Impact of granting undocumented immigrants driver's licenses on fatal crashes*, Journal of Policy Analysis and Management (Sept. 1, 2025), available at: <https://onlinelibrary.wiley.com/doi/10.1002/pam.70053?msocid=00e07d21548e668d115f6b375508675a> (accessed Sept. 17, 2025).

⁴² Federation for Immigration Reform. Drivers' Licenses for Illegal Aliens: A bad policy that undermines our immigration laws, available at: <https://www.fairus.org/issue/illegal-immigration/>

⁴³ OMB, Circular A-4, *Regulatory Analysis* (Sept. 17, 2003), available at: <https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf> (accessed Sept. 10, 2025).

drivers-licenses-illegal-aliens-policy-immigration (accessed Sept. 17, 2025).

result of the rule for the benefits to exceed the estimated costs. Applying FMCSA's total annualized cost estimate of \$1,344,528 (at a seven percent discount rate) and FMCSA's per-fatal crash cost estimate \$15,739,682 (both in 2024 dollars), the interim final rule would have positive net benefits if it were to result in 0.085 fewer fatal crashes involving CMVs each year. Extrapolated to a full year, the break-even number of annual avoided crashes would be just 1.3 percent of the identified crashes. As is discussed in detail in the preamble above, FMCSA has identified five fatal crashes in just the first 8 months of 2025 in which the CMV driver responsible for the crash held a non-domiciled CDL that would not have been issued under this final rule. Therefore, FMCSA is confident that this rule would reduce the crash risk associated with such fatal crashes to at least that degree, and that the benefits would be even greater when accounting for non-fatal crashes that would also be avoided. As a result, FMCSA has determined that the benefits of the interim final rule are likely to exceed its costs, including costs discussed above that are unquantified, but are not expected to be large.

B. E.O. 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192, Unleashing Prosperity Through Deregulation, issued on January 31, 2025 (90 FR 9065, Jan. 31, 2025), requires that, for every one new regulation issued by an Agency, at least 10 prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process. Final implementation guidance addressing the requirements of E.O. 14192 was issued by OMB on March 26, 2025. This rule does not meet the definition of "rule" or "regulation" as defined in section 5 of E.O. 14192, because it is issued with respect to an immigration-related function of the United States per section 5(a) of E.O. 14192.

C. Congressional Review Act

This rule is not a *major rule* as defined under the Congressional Review Act (5 U.S.C. 801–808).⁴⁴

⁴⁴ A *major rule* means any rule that OMB finds has resulted in or is likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 804(2)).

D. Advance Notice of Proposed Rulemaking

Under 49 U.S.C. 31136(g), FMCSA is required to publish an advance notice of proposed rulemaking (ANPRM) or proceed with a negotiated rulemaking if a safety rulemaking "under this part"⁴⁵ is likely to lead to the promulgation of a major rule. As this IFR is not likely to result in the promulgation of a major rule, FMCSA is not required to issue an ANPRM or to proceed with a negotiated rulemaking.

E. Regulatory Flexibility Act (Small Entities)

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,⁴⁶ requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact for any rule subject to notice-and-comment rulemaking under the APA unless the agency head certifies that the rule will not have a significant economic impact on a substantial number of small entities. As discussed above, FMCSA has determined that there is good cause to forego prior notice and comment and amend the FMCSR through this IFR. The Regulatory Flexibility Act, therefore, does not require FMCSA to conduct an RFA.

Nonetheless, FMCSA conducted a screening analysis on the impact of the IFR on small entities. This rule has the potential to impact States and drivers. Under the standards of the RFA, as amended, States are not small entities because they do not meet the definition of a *small entity* in section 601 of the RFA. Specifically, States are not small governmental jurisdictions under section 601(5) of the RFA, both because State government is not among the various levels of government listed in section 601(5), and because, even if this were the case, no State, including the District of Columbia, has a population of less than 50,000, which is the criterion to be a small governmental jurisdiction under section 601(5) of the RFA.

CDL holders are not considered small entities because they do not meet the definition of a small entity in Section 601 of the RFA. Specifically, drivers are considered neither a small business under Section 601(3) of the RFA, nor are they considered a small organization under Section 601(4) of the RFA.

⁴⁵ Part B of Subtitle VI of Title 49, United States Code, *i.e.*, 49 U.S.C. chapters 311–317.

⁴⁶ Public Law 104–121, 110 Stat. 857, (Mar. 29, 1996).

Therefore, this rule would not impact a substantial number of small entities.

This rule would require that States verify and retain additional documentation on non-domiciled CLP and CDL applicants and complete a check with SAVE. FMCSA estimates costs to all impacted States of approximately \$93,000 per year. Further drivers would be required to renew their license annually, in-person at the SDLA at an estimated impact of approximately \$988,000 per year, or less than \$120 per driver per year. For these reasons, FMCSA certifies that this action will not have a significant economic impact on a substantial number of small entities.

F. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FMCSA wants to assist small entities in understanding this final rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the IFR will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman (Office of the National Ombudsman, see <https://www.sba.gov/about-sba/oversight-advocacy/office-national-ombudsman>) and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA, 2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. The Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$206 million (which is the value equivalent of \$100 million in 1995,

adjusted for inflation to 2024 levels) or more in any one year. Though this IFR would not result in such an expenditure, and the analytical requirements of UMRA do not apply as a result, FMCSA discusses the effects of this rule elsewhere in this preamble.

H. Paperwork Reduction Act

This IFR contains information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), *collection of information* comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Non-Domiciled Commercial Driver's License Records.

OMB Control Number: 2126–0087.

Summary of the Information

Collection: This information collection request (ICR) covers the collection and retention of the documentation provided to a SDLA during the application process for a non-domiciled CLP or CDL.

Need for Information: The licensed drivers in the United States deserve reasonable assurances that their fellow motorists are properly qualified to drive the vehicles they operate. Under the Commercial Motor Vehicle Safety Act of 1986 (CMVSA, 49 U.S.C. 31301 *et seq.*), as amended, FMCSA established the CDL program and the performance standards with which State CDL programs must comply. The CDL regulations in 49 CFR part 383 prescribe uniform minimum standards for testing and ensuring the fitness of individuals who operating commercial motor vehicles (CMVs), and State compliance with the CDL program is addressed in Part 384. In particular, States that issue non-domiciled CDLs must do so in accordance with §§ 383.71, 383.73 and 384.212.

This collection is intended to ensure that States retain all documents involved in the licensing process for non-domiciled CLP and CDL holders for a period of no less than two years from the date of issuing (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL. If States do not retain this

documentation, FMCSA is severely hindered in its efforts to ensure compliance with the regulatory requirements because States are unable to accurately determine the number of non-domiciled CLPs and CDLs they have issued, or to prove to FMCSA officials that such CLPs and CDLs were properly issued.

Proposed Use of Information: State officials use the information collected from non-domiciled CDL applicants to determine whether an individual is eligible to receive a non-domiciled CDL and to prevent unqualified, and/or disqualified CLP and CDL holders and applicants from operating CMVs on the Nation's highways. During State CDL compliance 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 uncertified and/or disqualified foreign drivers from being issued a non-domiciled CLP or CDL. Failure to collect this information would render the regulations unenforceable.

Description of the Respondents: SDLAs issuing non-domiciled CDLs.

Number of Respondents: 51.

Frequency of Response: Ongoing.

Burden of Response: 6,000 responses.

The associated cost burden is \$93,075.

Estimate of Total Annual Burden: 1,500 hours.

In accordance with 44 U.S.C. 3507(d), FMCSA will submit the proposed information collection amendments to OIRA at OMB for approval.

FMCSA requests comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for FMCSA to perform its 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.

I. E.O. 13132 (Federalism)

FMCSA has analyzed this rule in accordance with the principles and criteria of E.O. 13132, Federalism, and has determined that it does not have federalism implications. E.O. 13132 applies to “policies that have federalism implications,” defined as regulations and other actions that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government” (Sec. 1(a)). The key concept here is “substantial direct effects on the States.” Section 3(b) of the E.O. provides that “[n]ational action limiting the policymaking discretion of the States shall be taken only where there is constitutional and statutory authority for the action and the national activity is appropriate in light of the presence of a problem of national significance.”

The rule amends a single aspect of the CDL program authorized by the CMVSA (49 U.S.C. chapter 313). States have been required to issue all CDLs in accordance with Federal standards for decades and have been required to issue all CLPs in accordance with Federal standards since 2011. Moreover, the CDL program does not have preemptive effect; it is voluntary, and States may withdraw at any time, though doing so will result in the loss of certain Federal-aid highway funds pursuant to 49 U.S.C. 31314. Because this IFR makes only a modest change to requirements already imposed on participating States, FMCSA has determined that it does not have substantial direct effects on the States, on the relationship between the Federal and State governments, or on the distribution of power and responsibilities among the various levels of government.

Nonetheless, FMCSA recognizes that this rule has an impact on the States and their commercial driver licensing operations. Most notably, it requires all States that issue non-domiciled CLPs and CDLs to amend their existing procedures. The Agency continually works with the States to identify CDL program deficiencies that need to be addressed, and it was mostly through these reviews that systemic deficiencies with the non-domiciled CLP and CDL issuance process were identified. Therefore, States that issue non-domiciled CLPs and CDLs are generally already on notice that this aspect of the CDL program is under scrutiny and that procedural changes may be necessary.

Section 6(b) of E.O. 13132 provides in part that “[t]o the extent practicable and permitted by law, no agency shall promulgate any regulation that has federalism implications, that imposes substantial direct compliance costs on State and local governments, and that is not required by statute, unless . . . the agency, prior to the formal promulgation of the regulation, (A) consulted with State and local officials early in the process of developing the proposed regulation.” As described in Section IX.A of the Regulatory Analysis, above, the total cost to States of complying with these new regulations is not expected to be substantial, so the

Agency has determined that consultation is not required. Furthermore, because this is an IFR, there is no “proposed regulation.” The expedited process necessitated by the immediate need to address the issues discovered in the recent APRs means it is not practicable to consult with the States prior to promulgation of this rulemaking. However, FMCSA values input from States and will ensure States have the opportunity to provide input after the publication of the IFR. FMCSA will determine whether any revisions to the rule are warranted as a result of information the Agency receives.

J. Privacy

The Consolidated Appropriations Act, 2005,⁴⁷ requires agencies to assess the privacy impact of a regulation that will affect the privacy of individuals. This rule would not require the collection of personally identifiable information (PII). The supporting Privacy Impact Analysis (PIA), available for review in the docket, gives a full and complete explanation of FMCSA practices for protecting PII in general and specifically in relation to this final rule.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002,⁴⁸ requires Federal agencies to conduct a PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology will collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

FMCSA will complete a Privacy Threshold Assessment (PTA) to evaluate the risks and effects the proposed rulemaking might have on collecting, storing, and sharing personally identifiable information. The PTA will be submitted to FMCSA’s Privacy Officer for review and preliminary adjudication and to DOT’s Privacy Officer for review and final adjudication.

K. E.O. 13175 (Indian Tribal Governments)

This rule does not have Tribal implications under E.O. 13175, Consultation and Coordination with

Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

L. National Environmental Policy Act of 1969

FMCSA analyzed this IFR pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). FMCSA believes this IFR will not have a reasonably foreseeable significant effect on the quality of the human environment. This action falls under a published categorical exclusion and is thus excluded from further analysis and documentation in an environmental assessment or environmental impact statement under DOT Order 5610.1D,⁴⁹ Subpart B, Subsection e, paragraph (6)(s)(7), and (6)(t)(2), which cover regulations pertaining to requirements for State-issued commercial license documentation and having the appropriate laws, regulations, programs, policies, procedures and information systems concerning the qualification and licensing of persons who apply for a CDL, and persons who are issued a CDL.

List of Subjects

49 CFR Part 383

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

49 CFR Part 384

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

Accordingly, FMCSA amends 49 CFR parts 383 and 384 as follows:

PART 383—COMMERCIAL DRIVER’S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

- 1. The authority citation for part 383 continues to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 *et seq.*, and 31502; secs. 214 and 215 of Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 1012(b) of Pub. L. 107–56, 115 Stat. 272, 297, sec. 4140 of Pub. L. 109–59, 119 Stat. 1144, 1746; sec. 32934 of Pub. L. 112–141, 126 Stat. 405, 830; sec. 23019 of Pub. L. 117–58, 135 Stat. 429, 777; and 49 CFR 1.87.

- 2. Amend § 383.5 by adding, in alphabetical order, the definition for “Evidence of lawful immigration status” to read as follows:

§ 383.5 Definitions.

* * * * *

Evidence of lawful immigration status for purposes of subpart B of this part, means:

(1) For applicants domiciled in a foreign jurisdiction (except Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands):

- (i) An unexpired foreign passport; and
- (ii) An unexpired Form I–94/94A issued by the U.S. Department of Homeland Security indicating one of the following classifications: H–2A—Temporary Agricultural Workers, H–2B—Temporary Non-Agricultural Workers, or E–2—Treaty Investors.

(2) For applicants domiciled in Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands: any of the documents specified in Table 1 of section 383.71.

* * * * *

- 3. Amend § 383.71 by revising paragraph (f) to read as follows:

§ 383.71 Driver application and certification procedures.

* * * * *

(f) *Non-domiciled CLP and CDL.* (1) A person must obtain a Non-domiciled CLP or CDL:

(i) If the applicant is domiciled in a foreign jurisdiction, as defined in § 383.5, and the Administrator has not determined that the commercial motor vehicle operator testing and licensing standards of that jurisdiction meet the standards contained in subparts G and H of this part, provided the applicant provides the evidence of lawful immigration status required under paragraph (f)(3)(i)(B) of this section.

(ii) If the applicant is domiciled in a State that is prohibited from issuing CLPs and CDLs in accordance with § 384.405 of this subchapter. That person is eligible to obtain a non-domiciled CLP or CDL from any State that elects to issue a non-domiciled CLP or CDL and that complies with the testing and licensing standards contained in subparts F, G, and H of this part.

(2) An applicant for a non-domiciled CLP and CDL must do both of the following:

(i) Complete the requirements to obtain a CLP contained in paragraph (a) of this section or a CDL contained in paragraph (b) of this section, except as provided in paragraph (f)(3) of this section.

⁴⁷ Public Law 108–447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 4, 2014).

⁴⁸ Public Law 107–347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

⁴⁹ Available at <https://www.transportation.gov/mission/dots-procedures-considering-environmental-impacts>.

(ii) After receipt of the non-domiciled CLP or CDL, and for as long as it is valid, notify the State which issued the non-domiciled CLP or CDL of any adverse action taken by any jurisdiction or governmental agency, foreign or domestic, against his/her driving privileges. Such adverse actions include, but are not limited to, license disqualification or disqualification from operating a commercial motor vehicle for the convictions described in § 383.51. Notifications must be made within the time periods specified in § 383.33.

(3) Eligibility for applicants domiciled in a foreign jurisdiction:

(i) To be eligible for a Non-domiciled CLP or CDL, an applicant domiciled in a foreign jurisdiction must:

(A) Have lawful immigration status in the United States, and

(B) Provide *evidence of lawful immigration status*, as defined in § 383.5.

(ii) No proof of domicile is required.

(iii) An applicant for a non-domiciled CLP or CDL is not required to surrender his/her foreign license.

* * * *

■ 4. Amend § 383.73 by:

■ a. Revising paragraph (a)(6);

■ b. Revising paragraph (b)(6);

■ c. Revising paragraph (c)(7);

■ d. Revising paragraph (d)(7);

■ e. Revising paragraph (e)(5);

■ f. Revising the introductory text of paragraph (f)(2);

■ g. Adding paragraph (f)(2)(iv);

■ h. Revising paragraph (f)(3);

■ i. Adding paragraphs (f)(5) and (6); and

■ j. Revising paragraph (m).

The revisions and additions read as follows:

§ 383.73 State procedures.

(a) * * *

(6) Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(a)(5) and proof of State of domicile specified in § 383.71(a)(6) for applicants domiciled in a State; and for applicants domiciled in a foreign jurisdiction, evidence of lawful immigration status as required by § 383.71(f)(3)(i)(B). Exception: A State is required to check the proof of citizenship or immigration status specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or non-domiciled CLP (for applicants domiciled in a State) and for initial issuance, renewal, upgrade or transfer of a CDL or non-domiciled CDL (for applicants domiciled in a State) for the first time after July 8, 2011, provided

a notation is made on the driver's record confirming that the proof of citizenship or immigration status check required by this paragraph has been made and noting the date it was done. This exception does not apply to applicants domiciled in a foreign jurisdiction.

* * * *

(b) * * *

(6) Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(b)(9) and proof of State of domicile specified in § 383.71(b)(10) for applicants domiciled in a State; and for applicants domiciled in a foreign jurisdiction, evidence of lawful immigration status as required by § 383.71(f)(3)(i)(B). Exception: A State is required to check the proof of citizenship or immigration status specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or non-domiciled CLP (for applicants domiciled in a State) and for initial issuance, renewal, upgrade or transfer of a CDL or non-domiciled CDL (for applicants domiciled in a State) for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or immigration status check required by this paragraph has been made and noting the date it was done. This exception does not apply to applicants domiciled in a foreign jurisdiction.

* * * *

(c) * * *

(7) Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(b)(9) and proof of State of domicile specified in § 383.71(b)(10) for applicants domiciled in a State; and for applicants domiciled in a foreign jurisdiction, evidence of lawful immigration status as required by § 383.71(f)(3)(i)(B). Exception: A State is required to check the proof of citizenship or immigration status specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or non-domiciled CLP (for applicants domiciled in a State) and for initial issuance, renewal, upgrade or transfer of a CDL or non-domiciled CDL (for applicants domiciled in a State) for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or immigration status check required by this paragraph has been made and noting the date it was done. This exception does not apply to applicants domiciled in a foreign jurisdiction.

* * * *

(d) * * *

(7) Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(b)(9) and proof of State of domicile specified in § 383.71(b)(10) for applicants domiciled in a State; and for applicants domiciled in a foreign jurisdiction, evidence of lawful immigration status as required by § 383.71(f)(3)(i)(B). Exception: A State is required to check the proof of citizenship or immigration status specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or non-domiciled CLP (for applicants domiciled in a State) and for initial issuance, renewal, upgrade or transfer of a CDL or non-domiciled CDL (for applicants domiciled in a State) for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or immigration status check required by this paragraph has been made and noting the date it was done. This exception does not apply to applicants domiciled in a foreign jurisdiction.

* * * *

(e) * * *

(5) Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(b)(9) and proof of State of domicile specified in § 383.71(b)(10) for applicants domiciled in a State; and for applicants domiciled in a foreign jurisdiction, evidence of lawful immigration status as required by § 383.71(f)(3)(i)(B). Exception: A State is required to check the proof of citizenship or immigration status specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or non-domiciled CLP (for applicants domiciled in a State) and for initial issuance, renewal, upgrade or transfer of a CDL or non-domiciled CDL (for applicants domiciled in a State) for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or immigration status check required by this paragraph has been made and noting the date it was done. This exception does not apply to applicants domiciled in a foreign jurisdiction.

* * * *

(f) * * *

(2) State procedures for the issuance of a non-domiciled CLP and CDL, for any modifications thereto, and for notifications to the Commercial Driver's License Information System must at a minimum be identical to those pertaining to any other CLP or CDL, except as set forth in paragraphs (f)(2)(i) through (iv) and (f)(3) of this section.

* * * *

(iv) For applicants domiciled in a foreign jurisdiction, the State must ensure that the period of validity of the non-domiciled CLP or CDL does not exceed the Admit Until Date or expiration date on the applicant's I-94/A or 1 year, whichever is sooner.

(3) Documentation of lawful immigration status. (i) Applicants domiciled in a State. The State must require compliance with the standards for providing evidence of lawful immigration status specified in § 383.71(b)(9) of this part.

(ii) Applicants domiciled in a foreign jurisdiction.

(A) Beginning September 29, 2025, the State must not issue (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transfer, renew, or upgrade a non-domiciled CLP or CDL unless, at the time of the transaction, the applicant provides *evidence of lawful immigration status* as defined under § 383.5. Applicants for a non-domiciled CLP or CDL who do not provide evidence of lawful immigration status as required under § 383.71(f)(3)(i)(B) are not eligible for a non-domiciled CLP or CDL.

(B) States must comply with the document verification requirements for applicants domiciled in a foreign jurisdiction set forth in § 383.73(m)(2) before issuing (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL.

(C) States are prohibited from granting non-domiciled CLP or CDL privileges on a temporary or interim basis pending review and validation of an applicant's evidence of lawful immigration status.

* * * * *

(5) Downgrade. If after issuing (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL, the State receives information from FMCSA, the Department of Homeland Security, the Department of State, or other Federal agency with jurisdiction that the applicant no longer has lawful immigration status in the United States in a category specified in paragraph (1)(iii) of the definition of *evidence of lawful immigration status* in § 383.5 of this part, the State must initiate established State procedures for downgrading the non-domiciled CLP or CDL. The downgrade must be completed and recorded on the CDLIS driver record within 30 days of the

State's receipt of such information. As used in this paragraph, the term "downgrade" means the State's removal of the CLP or CDL privilege from the driver's license, as set forth in paragraph (4) the definition of *CDL downgrade* in § 383.5.

(6) Non-domiciled CDL renewal. States must require non-domiciled CLP or CDL renewal be conducted in-person only and must not permit renewal by mail or electronic means.

* * * * *

(m) *Document verification*. Except as provided in paragraphs (m)(1) and (2) of this section, the State must require at least two persons within the driver licensing agency to participate substantively in the processing and verification of the documents involved in the licensing process for initial issuance, renewal or upgrade of a CLP or non-domiciled CLP and for initial issuance, renewal, upgrade or transfer of a CDL or non-domiciled CDL. The documents being processed and verified must include, at a minimum, those provided by the applicant to prove lawful immigration status and (if applicable) domicile, the information filled out on the application form, and knowledge and skills test scores. This section does not require two people to process or verify each document involved in the licensing process.

(1) Exception for applicants domiciled in a State. For offices with only one staff member, at least some of the documents must be processed or verified by a supervisor before issuance or, when a supervisor is not available, copies must be made of some of the documents involved in the licensing process and a supervisor must verify them within one business day of issuance of the CLP, non-domiciled CLP, CDL, or non-domiciled CDL.

(2) Document Verification for applicants domiciled in a foreign jurisdiction. States must verify evidence of lawful immigration status for applicants domiciled in a foreign jurisdiction before initial issuance and before any subsequent issuance (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transfer, renewal, or upgrade of a non-domiciled CLP or CDL.

(i) For offices with only one staff member, all documents must be processed or verified by a supervisor before issuing (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL.

(ii) In reviewing the evidence of lawful immigration status an applicant domiciled in a foreign jurisdiction (except an applicant domiciled in Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands), the State must query the Systematic Alien Verification for Entitlements (SAVE) system (administered by U.S. Citizenship and Immigration Services). If the SAVE final response, including additional verification if needed, does not confirm the applicant's claim to be in lawful immigration status in a category specified in paragraph (1)(ii) of the definition of *evidence of lawful immigration status* in § 383.5 of this part, the State must not issue (which includes amend, correct, reprint, or otherwise duplicate a previously issued CLP or CDL), transfer, renew, or upgrade a non-domiciled CLP or CDL, and must initiate downgrade procedures in accordance with paragraph (f)(5) of this section if the applicant holds an unexpired non-domiciled CLP or CDL.

(iii) The State must retain copies of all documents involved in the licensing process, including documents provided by the applicant to prove lawful immigration status and documents showing the results of any SAVE query to verify an applicant's lawful immigration status, and a supervisor must verify them within one business day of issuing (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL. The State must retain the documents for no less than 2 years from the date of issuing (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL.

* * * * *

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

■ 5. The authority citation for part 384 continues to read as follows:

Authority: 49 U.S.C. 31136, 31301, *et seq.*, and 31502; secs. 103 and 215 of Pub. L. 106–159, 113 Stat. 1748, 1753, 1767; sec. 32934 of Pub. L. 112–141, 126 Stat. 405, 830; sec. 5524 of Pub. L. 114–94, 129 Stat. 1312, 1560; and 49 CFR 1.87.

■ 6. Amend § 383.212 by adding paragraphs (a)(1) and (2) to read as follows:

§ 384.212 Domicile requirement.

(a) * * *

(1) For applicants domiciled in a foreign jurisdiction, the State must:

(i) Comply with the document verification requirements set forth in § 383.73(m)(2) before issuing (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL;

(ii) Retain copies of all documents involved in the licensing process, including documents provided by the applicant to prove lawful immigration status, for a period of no less than 2 years from the date of issuing (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL; and

(iii) Provide copies of all documents involved in the licensing process to FMCSA within 48 hours after request.

(2) [Reserved]

* * * * *

■ 7. Amend § 384.301 by adding paragraph (q) to read as follows:

§ 384.301 Substantial compliance-general requirements.

* * * * *

(q) A State must come into substantial compliance with the requirements of subpart B of this part and part 383 of this chapter related to non-domiciled CLPs and CDLs, effective September 29, 2025, prior to issuing (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL.

Issued under authority delegated in 49 CFR 1.87.

Jesse Elison,
Chief Counsel.

[FR Doc. 2025-18869 Filed 9-26-25; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 140722613-4908-02; RTID 0648-XF240]

Coastal Migratory Pelagic Resources of the Gulf and Atlantic Region; Re-Opening of Commercial Harvest for Atlantic Spanish Mackerel in the Northern Zone

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

ACTION: Temporary rule; re-opening.

SUMMARY: NMFS announces the re-opening of commercial harvest of Spanish mackerel in the northern zone of the Atlantic exclusive economic zone (EEZ). NMFS recently approved a second transfer of commercial quota from the southern zone to the northern zone for the 2025–2026 fishing year. Therefore, NMFS re-opens the commercial harvest of Spanish mackerel in the northern zone for an additional 8 days. The purpose of this temporary rule is to allow commercial fishermen to harvest the increased commercial quota of Spanish mackerel in the northern zone while managing the risk of exceeding the commercial quota.

DATES: This temporary rule is effective from September 29, 2025, through October 6, 2025.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: mary.vara@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish in the Atlantic includes king mackerel, Spanish mackerel, and cobia on the east coast of Florida, and is managed under the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf and Atlantic Region (FMP). The FMP was prepared by NMFS and the Gulf and South Atlantic Fishery Management Councils, was approved by the Secretary of Commerce, and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). All weights described in this document for Spanish mackerel in the Atlantic EEZ apply as either round or gutted weight. The metric conversion for the imperial measurements used in this document is 1 pound (lb) equals approximately 0.45 kilograms.

Atlantic Spanish mackerel are divided into northern and southern zones for management purposes. The northern zone for Spanish mackerel extends in the Atlantic EEZ from New York through North Carolina. The northern boundary of the northern zone extends from an intersection point off New York, Connecticut, and Rhode Island at 41°18'16.249" N latitude and 71°54'28.477" W longitude, and proceeds southeast to 37°22'32.75" N latitude and the intersection point with the outward boundary of the EEZ. The southern boundary of the northern zone extends from the North Carolina and South Carolina state border along a line in a direction of 135°34'55" from true north beginning at 33°51'07.9" N latitude and 78°32'32.6" W longitude to the intersection point with the outward boundary of the EEZ [50 CFR 622.369(b)(2)]. See figure 2 of appendix G to part 622—Spanish Mackerel for an illustration of the management zones.

The commercial annual catch limit (ACL; equal to the commercial quota) for the Atlantic migratory group of Spanish mackerel (Atlantic Spanish mackerel) is 3.33 million lb [50 CFR 622.384(c)(2)]. The commercial quota for Atlantic Spanish mackerel in the northern zone is 662,670 lb and is 2,667,330 lb in the southern zone for the 2025–2026 fishing year, which is March 1, 2025, through February 28, 2026 [50 CFR 622.384(c)(2)(i) and (ii)].

Regulations at 50 CFR 622.384(c)(2)(iii) allow for quota transfers between the northern and southern zones with the approval from the Regional Administrator (RA) of the NMFS Southeast Region. North Carolina or Florida, in consultation with the other states in the respective zones, may request approval from the RA to transfer part or all of a respective zone's annual commercial quota to the other zone. For the purposes of quota closures as described in 50 CFR 622.8, the receiving zone's quota will be the original quota plus any transferred amount for that fishing year only. Landings associated with any transferred quota will be included in the total landings for Atlantic Spanish mackerel, which will be evaluated relative to its total ACL.

NMFS approved and transferred 250,000 lb of Atlantic Spanish mackerel commercial quota from the southern zone to the northern zone in response to a request from the State of Florida in July 2025. Following the transfer, and because NMFS projected that landings of Atlantic Spanish mackerel from the northern zone reached the revised commercial quota, NMFS implemented a commercial closure in the northern

zone on September 20, 2025 (90 FR 44581, September 16, 2025).

In a letter to NMFS dated September 18, 2025, the State of Florida requested the transfer of an additional 75,000 lb of Atlantic Spanish mackerel commercial quota from the southern zone to the northern zone to allow the commercial quota for both zones in this fishing year to be fully harvested. NMFS approved the transfer of commercial quota, and along with the July 2025 transfer of 250,000 lb from the southern zone to the northern zone, the revised northern zone commercial quota for Atlantic Spanish mackerel is 987,670 lb and the revised southern zone commercial quota is 2,342,330 lb for the 2025–2026 fishing year. Pursuant to 50 CFR 622.8(c), NMFS is reopening commercial harvest in the northern zone.

Regulations at 50 CFR 622.388(d)(1)(i) require NMFS to close the commercial sector for Atlantic Spanish mackerel in the northern zone when landings reach or are projected to reach the commercial quota for that zone. NMFS projects that landings of Atlantic Spanish mackerel from the northern zone will reach the revised commercial quota of 987,670 lb with another 8 days of commercial landings. After those 8 days, the commercial sector for Atlantic Spanish mackerel in the northern zone is closed from October 7, 2025 through February 28, 2026, the end of the current fishing year.

During the commercial closure, a person on a vessel that has been issued a valid Federal commercial permit to harvest Atlantic Spanish mackerel may continue to retain this species in the northern zone under the recreational bag and possession limits specified in 50 CFR 622.382(a)(1)(iii) and (2)(i), if recreational harvest of Atlantic Spanish mackerel in the northern zone has not been closed [50 CFR 622.384(e)(1)].

Also during the commercial closure, Atlantic Spanish mackerel from the northern zone, including those fish harvested under the recreational bag and possession limits, may not be purchased or sold. This prohibition does not apply to Atlantic Spanish mackerel from the northern zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor [50 CFR 622.384(e)(2)].

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is taken under 50 CFR 622.8(c), issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment is unnecessary. Such procedure is unnecessary, because the regulations associated with the commercial quota for Atlantic Spanish mackerel in the northern zone and a re-opening to provide an opportunity for the harvest of the revised commercial quota have already been subject to notice and public comment, and all that remains is to notify the public of the commercial sector re-opening.

For the same reason just stated, there is good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: September 25, 2025.

Kelly Denit,

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

[FR Doc. 2025–18914 Filed 9–26–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 241203–0308; RTID 0648–XF222]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfer From New Jersey to North Carolina

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of New Jersey is transferring a portion of their 2025 commercial bluefish quota to the State of North Carolina. This quota adjustment is necessary to comply with the Atlantic Bluefish Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2025 commercial bluefish quotas for New Jersey and North Carolina.

DATES: Effective September 26, 2025 through December 31, 2025.

FOR FURTHER INFORMATION CONTACT: Matthew Rigdon, Fishery Management Specialist, (978) 281–9336.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic bluefish fishery are found in 50 CFR

648.160 through 648.167. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through Florida. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.162, and the final 2025 allocations were published on December 10, 2024 (89 FR 99138).

The final rule implementing amendment 1 to the FMP, as published in the **Federal Register** on July 26, 2000 (65 FR 45844), provided a mechanism for transferring bluefish commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can request approval to transfer or combine bluefish commercial quota under § 648.162(e). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: (1) the transfers would not preclude the overall annual quota from being fully harvested; (2) the transfers address an unforeseen variation or contingency in the fishery; and (3) the transfers are consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Regional Administrator has determined these criteria have been met for the transfers approved in this notification.

New Jersey is transferring 200,000 pounds (lb) (90,718 kilograms (kg)) to North Carolina through mutual agreement of the states. This transfer was requested to ensure North Carolina would not exceed its 2025 state quota. The revised bluefish quotas for 2025 are: New Jersey, 232,630 lb (105,519 kg) and North Carolina, 1,272,012 lb (576,975 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.162(e)(1)(i) through (iii), which was issued pursuant to section 304(b), and is exempted from review under Executive Order 12866.

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

Dated: September 25, 2025.

Kelly Denit,

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

[FR Doc. 2025–18913 Filed 9–26–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648****[Docket No. 241203–0308; RTID 0648–XF260]****Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From Massachusetts to Rhode Island****AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.**ACTION:** Temporary rule; quota transfer.

SUMMARY: NMFS announces that the Commonwealth of Massachusetts is transferring a portion of its 2025 commercial summer flounder quota to the State of Rhode Island. This adjustment to the 2025 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2025 commercial quotas for Massachusetts and Rhode Island.

DATES: Effective September 26, 2025, through December 31, 2025.**FOR FURTHER INFORMATION CONTACT:** Matthew Rigdon, Fishery Management Specialist, (978) 281–9336**SUPPLEMENTARY INFORMATION:**

Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.111. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102, and the final 2025 allocations were published on December 10, 2024 (89 FR 99138).

The final rule implementing Amendment 5 to the FMP, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: (1) the transfers or combinations would not preclude the

overall annual quota from being fully harvested; (2) the transfers address an unforeseen variation or contingency in the fishery; and (3) the transfers are consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Regional Administrator has determined these three criteria have been met for the transfer approved in this notification.

Massachusetts is transferring 609 pounds (lb; 276 kilograms (kg)) of summer flounder to Rhode Island through a mutual agreement between the states. This transfer was requested to repay landings made by an out-of-state permitted vessel under a safe harbor agreement. The revised summer flounder quotas for 2025 are: Massachusetts, 594,240 lb (269,543 kg); and Rhode Island, 1,379,116 lb (625,556 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.102(c)(2)(i) through (iv), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempted from review under Executive Order 12866.

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

Dated: September 25, 2025.

Kelly Denit,

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

[FR Doc. 2025–18923 Filed 9–26–25; 8:45 am]

BILLING CODE 3510–22–P**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648****[Docket No. 241203–0308; RTID 0648–XF089]****Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2025 Winter II Quota****AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.**ACTION:** Temporary rule; in-season adjustment.

SUMMARY: NMFS adjusts the 2025 Winter II commercial scup quota and per-trip Federal landing limit. This action is necessary to comply with regulations implementing Framework Adjustment 3 to the Summer Flounder,

Scup, and Black Sea Bass Fishery Management Plan that established the rollover of unused commercial scup quota from the Winter I to the Winter II period. This notification informs the public of the quota and trip limit changes.

DATES: Effective October 1, 2025, through December 31, 2025.**FOR FURTHER INFORMATION CONTACT:**Matthew Rigdon, Fishery Management Specialist, (978) 281–9336; or Matthew.Rigdon@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS published a final rule for Framework Adjustment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan in the **Federal Register** on November 3, 2003 (68 FR 62250), implementing a process to increase the Winter II (October 1 through December 31) commercial scup quota by the amount of the Winter I (January 1 through April 30) under-harvest and to adjust the Winter II possession limits consistent with the amount of the quota increase, based on the possession limits established through the annual specifications-setting process.

For 2025, the initial Winter II quota is 3,114,608 pounds (lb; 1,412,762 kilograms (kg)). The best available landings information through July 10, 2025, indicates that 1,047,723 lb (475,239 kg) remain of the 8,814,300 lb (3,998,099 kg) Winter I quota. Consistent with Framework 3, the full amount of unused 2025 Winter I quota is being transferred to Winter II, resulting in a revised 2025 Winter II quota of 4,162,331 lb (1,888,02 kg). Because the amount transferred is between 1 and 1.5 million lb (453,592 and 680,338 kg), the Federal per-trip possession limit will increase from 12,000 lb (5,443 kg) to 15,000 lb (6,804 kg), as outlined in the final rule that established the possession limit and quota rollover procedures for this year, published on December 10, 2024 (89 FR 99138). The new possession limit will be effective October 1 through December 31, 2025. The Winter II possession limit will revert to 12,000 lb (5,443 kg) at the start of the next fishing year, which begins January 1, 2026.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.122(d), which was issued pursuant to section 304(b), and is exempted from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on

this action, as notice and comment would be contrary to the public interest. This action transfers unused quota from the Winter I Period to the Winter II Period to make it accessible to the commercial scup fishery and increase fishing opportunities. If the implementation of this in-season action is delayed to solicit prior public comment, the objective of the fishery management plan to achieve the optimum yield from the fishery could be compromised. Deteriorating weather conditions during the latter part of the fishing year may reduce fishing effort, and could also prevent the annual quota from being fully harvested. If this action is delayed, it would reduce the amount of time vessels have to plan their fishing activities and potentially limit their ability to realize the benefits of this quota increase, which would result in negative economic impacts on vessels permitted to fish in this fishery. Moreover, the rollover process being applied here is routine and formulaic and was the subject of notice and comment rulemaking, and the range of potential trip limit changes were outlined in the final 2025 scup specifications that were published on December 10, 2024, which were developed through public notice and comment. The benefit of soliciting additional public comment on this formulaic adjustment would not outweigh the benefits of making this additional quota available to the fishery as quickly as possible.

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

Dated: September 25, 2025.

Kelly Denit,

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

[FR Doc. 2025–18912 Filed 9–26–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 250312–0037; RTID 0648–XF239]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of Pacific Ocean perch in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2025 total allowable catch of Pacific Ocean perch in the Western Regulatory Area of the GOA has been or will be reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 26, 2025, through 2400 hours, A.l.t., December 31, 2025.

FOR FURTHER INFORMATION CONTACT:

Adam Zaleski, 907–206–5802.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared and recommended by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2025 total allowable catch (TAC) of Pacific Ocean perch in the Western Regulatory Area of the GOA is 1,753 metric tons as established by the final 2025 and 2026 harvest specifications for groundfish of the GOA (90 FR 12468, March 18, 2025).

In accordance with § 679.20(d)(2), the Regional Administrator has determined that the 2025 TAC of Pacific Ocean perch has been or will be reached. Therefore, NMFS is requiring that Pacific ocean perch for vessels in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(a)(2) for the remainder of the year, except for Pacific ocean perch in the Western Regulatory Area of the GOA caught by catcher vessels using hook-and-line, pot, or jig gear as described in § 679.20(j), or catcher vessels using trawl gear participating in the electronic monitoring program as described in § 679.21(a)(2).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to

the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of Pacific Ocean perch. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on Pacific Ocean perch catch only became available as of September 22, 2025.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the effective date of this action. This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: September 25, 2025.

Kelly Denit,

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

[FR Doc. 2025–18898 Filed 9–25–25; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 250312–0036; RTID 0648–XE887]

Fisheries of the Exclusive Economic Zone off Alaska; “Other Rockfish” in the Aleutian Islands Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of “other rockfish” in the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2025 “other rockfish” total allowable catch (TAC) in the Aleutian Islands subarea of the BSAI will soon be or has been reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 26, 2025, through 2400 hours, A.l.t., December 31, 2025.

FOR FURTHER INFORMATION CONTACT:

Andrew Olson, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands

Management Area (FMP) prepared and recommended by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2025 “other rockfish” TAC in the Aleutian Islands subarea of the BSAI is 415 metric tons (mt) as established by the final 2025 and 2026 harvest specifications for groundfish in the BSAI (90 FR 12640, March 18, 2025). In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the 2025 “other rockfish” TAC in the Aleutian Islands subarea of the BSAI will soon be or has been reached. Therefore, NMFS is prohibiting retention of “other rockfish” in the Aleutian Islands subarea of the BSAI and requiring that “other rockfish” in the Aleutian Islands

subarea of the BSAI be treated in the same manner as a prohibited species, as described under § 679.21(a), for the remainder of the year, except “other rockfish” species in the Aleutian Islands subarea caught by catcher vessels using hook-and-line, pot, or jig gear as described in § 679.20(j). This action is necessary to prevent exceeding the 2025 “other rockfish” TAC in the Aleutian Islands subarea of the BSAI.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most

recent fisheries data in a timely fashion and would delay prohibiting retention of “other rockfish” in the Aleutian Islands subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on the total catch of “other rockfish” in the Aleutian Islands subarea of the BSAI only became available as of September 25, 2025.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: September 25, 2025.

Kelly Denit,

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

[FR Doc. 2025–18896 Filed 9–25–25; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 90, No. 186

Monday, September 29, 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.

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 120, 124, and 125

Tribal Consultation for SBA's Office of Manufacturing and Trade and Other Small Business Programs and Services Offered by the Agency, With a Focus on SBA's Ongoing Manufacturing, Onshoring and Export Initiatives To Encourage Small Businesses Going Global

AGENCY: U.S. Small Business Administration.

ACTION: Notice of tribal consultation meeting.

SUMMARY: The U.S. Small Business Administration (SBA) announces that it is holding a tribal consultation meeting in Mashantucket, Connecticut requesting comments and input on all issues or concerns relating to any of SBA's programs. Specifically, SBA seeks comments on how SBA best can provide access for tribally owned small businesses to initiatives under its Office of Manufacturing and Trade, with a particular focus on SBA's ongoing onshoring, manufacturing and export initiatives in an effort to encourage small businesses going global. SBA is requesting general comments and input on how these programs are working and is inviting suggestions on potential avenues for improving their efficiency or reducing any unnecessary regulatory burden associated with the programs.

DATES: The Tribal Consultation meeting date is Monday, October 27, 2025, 1:00 p.m. to 4:00 p.m. (EDT), Mashantucket, Connecticut. The Tribal Consultation meeting pre-registration deadline date is October 22, 2025.

ADDRESSES:

1. The Tribal Consultation meeting will be held at the Mashantucket Pequot Museum and Research Center, 110 Pequot Trail, Mashantucket, CT 06338.

2. Send pre-registration requests to attend and/or testify to Diane Cullo, Assistant Administrator of SBA's Office of Native American Affairs, U.S. Small Business Administration, 409 3rd Street

SW, Washington, DC 20416; Diane.Cullo@sba.gov; or Facsimile to (202) 481-2177.

3. Remote participation registration is permitted with pre-registration. To attend the meeting remotely, the public can register here: <https://www.zoomgov.com/j/1612981879?pwd=2VzfKaZ9kvLiQR5hMNvaBbmo5hTfMj.1>.

4. You may submit written comments to SBA by sending them to Diane Cullo, Assistant Administrator, Office of Native American Affairs, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416; or Diane.Cullo@sba.gov.

If you wish to submit confidential business information (CBI), please submit the information to Diane Cullo, Assistant Administrator, Office of Native American Affairs, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416 and highlight the information that you consider to be CBI and explain why you believe this information should be held confidential. SBA will review the information and make a final determination of whether the information will be published or not.

FOR FURTHER INFORMATION CONTACT: Diane Cullo, Assistant Administrator, Office of Native American Affairs, at Diane.cullo@sba.gov or (202) 619-0518.

SUPPLEMENTARY INFORMATION:

I. Background

SBA is requesting comments and input on all programs and services of the Office of Manufacturing and Trade for tribal entities. The Office of Manufacturing and Trade's mission is to enhance the ability of small businesses to compete in the global marketplace.

As SBA's office for the support of small business international trade development, the Office of Manufacturing and Trade works in cooperation with other federal agencies and public- and private-sector groups to encourage small business exports and to assist small businesses seeking to export. Through U.S. Export Assistance Centers, SBA district offices and a variety of service-provider partners, we direct and coordinate SBA's ongoing onshoring and export initiatives to encourage small businesses going global. Comments are encouraged regarding exporting, trade tools for international sales, export loans, and the State Trade Expansion Program (STEP)

grant. SBA also requests comments on its Made in America Manufacturing Initiative including the recently announced 7(a) Manufacturer's Access to Revolving Credit (MARC) loan program.

SBA is requesting general comments and input on how the Administration's programs and services are working and is inviting comments and suggestions on potential avenues for continuing to make all loan programs and services more effective and efficient while continuing to reduce regulatory burden on customers and participants.

President Trump recognizes that increasing domestic manufacturing is critical to U.S. national security.

- In 2023, U.S. manufacturing output as a share of global manufacturing output was 17.4%, down from 28.4% in 2001.

- The decline in manufacturing output has reduced U.S. manufacturing capacity.

- The need to maintain a resilient domestic manufacturing capacity is particularly acute in advanced sectors like autos, shipbuilding, pharmaceuticals, transport equipment, technology products, machine tools, and basic and fabricated metals, where loss of capacity could permanently weaken U.S. competitiveness.

- U.S. stockpiles of military goods are too low to be compatible with U.S. national defense interests.

- If the U.S. wishes to maintain an effective security umbrella to defend its citizens and homeland, as well as allies and partners, it needs to have a large upstream manufacturing and goods-producing ecosystem.

- This includes developing new manufacturing technologies in critical sectors like bio-manufacturing, batteries, and microelectronics to support defense needs.

- Increased reliance on foreign producers for goods has left the U.S. supply chain vulnerable to geopolitical disruption and supply shocks.

- This vulnerability was exposed during the COVID-19 pandemic, and later with Houthi attacks on Middle East shipping.

- From 1997 to 2024, the U.S. lost around 5 million manufacturing jobs and experienced one of the largest drops in manufacturing employment in history.

SBA seeks input on how best to include small business in implementing

the President's initiative to increase domestic manufacturing.

SBA is also seeking input from the Native American community on the general management and operation of its economic development and access to capital programs as part of the Administration's desire to make these programs more effective and improve the delivery of them to the small business community. Accordingly, SBA is interested in receiving comments from representatives of tribes, ANCs and NHOs offering their perspective on how these programs are working generally and providing suggestions for how the programs could be made more efficient to better suit the needs of small businesses owned by these entities.

Tribal Consultation Meeting

The format of this tribal consultation meeting will consist of a panel of SBA representatives who will preside over the session. The oral and written testimony as well as any comments SBA receives will become part of the administrative record for SBA's consideration. Written testimony may be submitted in lieu of oral testimony. SBA will analyze the testimony, both oral and written, along with any written comments received. SBA officials may ask questions of a presenter to clarify or further explain the testimony. The purpose of the tribal consultation is to assist SBA with gathering information to guide SBA's review process and to potentially develop new proposals. SBA will accept written material that the presenter wishes to provide that further supplements his or her testimony. Electronic or digitized copies are encouraged.

The tribal consultation meeting will be held for one day. The meeting will begin at 1:00 p.m. and end at 4:00 p.m. (EDT). SBA will adjourn early if all those scheduled have delivered their testimony.

II. Registration

SBA respectfully requests that any elected or appointed representative of the tribal communities or principal of a tribally owned, ANC-owned or NHO-owned firm that is interested in attending please pre-register in advance and indicate whether you would like to testify at the hearing. Registration requests should be received by SBA by October 22, 2025. Please contact Diane Cullo, Assistant Administrator, Office of Native American Affairs in writing at Diane.Cullo@sba.gov. If you are interested in testifying, please include the following information relating to the person testifying: Name, Organization affiliation, Address, Telephone number,

Email address and Fax number. SBA will attempt to accommodate all interested parties that wish to present testimony. Based on the number of registrants it may be necessary to impose time limits to ensure that everyone who wishes to testify can do so. SBA will confirm in writing the registration of presenters and attendees. (Authority: 15 U.S.C. 634 and E.O. 13175, 65 FR 67249.)

* * * * *

Dated: September 24, 2025.

Diane Cullo,

Assistant Administrator Office of Native American Affairs.

[FR Doc. 2025-18807 Filed 9-26-25; 8:45 am]

BILLING CODE 8026-09-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 36, 43, 45, 48, 89, 91, 107, 108, 119, 133, 135, 137, and 146

[Docket No. FAA-2025-1908; Notice No. 25-07A]

RIN 2120-AL82

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Parts 1540 and 1544

RIN 1652-AA80

Normalizing Unmanned Aircraft Systems Beyond Visual Line of Sight Operations; Denial of Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT); Transportation Security Administration (TSA), Department of Homeland Security (DHS).

ACTION: Notice of proposed rulemaking (NPRM); Denial of extension of comment period.

SUMMARY: This action denies requests for extension of the comment period for the notice of proposed rulemaking (NPRM) titled "Normalizing Unmanned Aircraft Systems Beyond Visual Line of Sight Operations" that was published in the **Federal Register** on August 7, 2025.

DATES: September 29, 2025.

ADDRESSES: The docket for the NPRM is available at <https://www.regulations.gov/> under docket number FAA-2025-1908.

FOR FURTHER INFORMATION CONTACT: Michelle Ferritto, ARM-100, Federal

Aviation Administration, 800 Independence Avenue SW, Washington, DC 20592; Phone: 844 359-6982; Email: 9-FAA-UAS-BVLOS-Rule@faa.gov.

SUPPLEMENTARY INFORMATION: On August 7, 2025, the Federal Aviation Administration (FAA) and the Transportation Security Administration (TSA) published a NPRM titled "Normalizing Unmanned Aircraft Systems Beyond Visual Line of Sight Operations" in the **Federal Register** (90 FR 38212; FAA Notice No. 25-07). In that document, FAA and TSA proposed performance-based regulations to enable the design and operation of unmanned aircraft systems (UAS) at low altitudes beyond visual line of sight (BVLOS) and for third-party services, including UAS Traffic Management, that support these operations. Congress directed the rapid development of this proposed rule in the FAA Reauthorization Act of 2024 knowing that it is needed to support the integration of UAS into the national airspace system. The comment period for the NPRM closes at the end of October 6, 2025.

Denial of Extension of Comment Period

Since publication of the NPRM, FAA has received two requests for extension of the comment period. Michael Ravnitsky¹ asked for an extension of "10 days, or to provide a 20-day opportunity for reply comments." Sky Sail Balloons² requested a general extension of the comment period and suggested that FAA subdivide the rule for comment by area of concern. FAA and TSA have considered and hereby deny these requests.

On June 6, 2025, the President issued Executive Order 14307, "Unleashing American Drone Dominance", which instructed FAA to publish a final rule within 240 days, as appropriate. Meeting that deadline will require extraordinary measures that do not make it practicable to extend the comment period or subdivide the NPRM into separate rulemakings. While FAA and TSA recognize the importance of the proposed rule, the agencies find the 60-day comment period provides ample opportunity for commenters to submit complete and thoughtful comments.

Accordingly, FAA and TSA decline to grant the extension requests and the comment period will close at the end of October 6, 2025. Issued under authority provided by 49 U.S.C. 106(f), 114,

¹ Comment from Michael Ravnitsky, Docket FAA-2025-1908-0025, Aug. 12, 2025.

² Comment from Sky Sail Balloons, Docket FAA-2025-1908-0065, Aug. 22, 2025.

44701, 44901, and 44903(b) in Washington, DC.

Brandon Roberts,

*Executive Director, Office of Rulemaking,
Federal Aviation Administration.*

Susan Tashiro,

*Acting Executive Assistant Administrator,
Operations Support, Transportation Security
Administration.*

[FR Doc. 2025-18873 Filed 9-26-25; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2025-2559; Project Identifier MCAI-2025-00053-T]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD-500-1A10 and BD-500-1A11 airplanes. This proposed AD was prompted by the discovery on the production line that the electrical system harnesses in lavatory A had reduced bend radii, were not properly secured, and did not meet the requirement for clearance from an oxygen supply line. This proposed AD would require an inspection of the sleeve and electrical harness for chafing damage and incorrect installation, and applicable on-condition actions. 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 November 13, 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-2025-2559; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Transport Canada material identified in this proposed AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888-663-3639; email TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca. You may find this material on the Transport Canada website at tc.canada.ca/en/aviation. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2025-2559.

- 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:

Yves Petiotte, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: (202) 975-4867; email: yves.petiotte@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA-2025-2559; Project Identifier MCAI-2025-00053-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 Yves Petiotte, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: (202) 975-4867; email: yves.petiotte@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

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF-2025-45, dated August 29, 2025 (Transport Canada AD CF-2025-45) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus Canada Limited Partnership Model BD-500-1A10 and BD-500-1A11 airplanes. The MCAI states that it was discovered on the production line that electrical system harnesses in lavatory A had reduced bend radii, were not properly secured and did not meet the requirement for clearance from an oxygen supply line. Inadequately secured and installed wire harnesses could create a chafing condition leading to a source of ignition, and when combined with an oxygen leak as well as loss of ventilation, may lead to an uncontrolled fire. 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](https://www.regulations.gov) under Docket No. FAA-2025-2559.

Material Incorporated by Reference Under 1 CFR Part 51

Transport Canada AD CF-2025-45 specifies procedures for an inspection of the sleeve and electrical harness for chafing damage and incorrect installation, and applicable on-condition actions. On-condition actions include repair of damage and

installation of tie-down straps on the electrical harness.

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

FAA’s Determination

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this 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 Transport Canada AD CF–2025–45 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

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 Transport Canada AD CF–2025–45 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF–2025–45 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Material required by Transport Canada AD CF–2025–45 for compliance will be available at *regulations.gov* under Docket No. FAA–2025–2559 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 83 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
3 work-hour × \$85 per hour = \$85	\$0	\$255	\$21,165

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

the results of any required actions. The FAA has no way of determining the

number of aircraft that might need these on-condition action:

ESTIMATED COSTS OF ON-CONDITION INSTALLATIONS *

Labor cost	Parts cost	Cost per product
3 work-hours × \$85 per hour = \$255	\$4,935	\$5,190

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

Authority for This Rulemaking

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

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

Regulatory Findings

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 Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Docket No. FAA–2025–2559; Project Identifier MCAI–2025–00053–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 13, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD-500-1A10 and BD-500-1A11 airplanes, certificated in any category, as identified in Transport Canada AD CF-2025-45, dated August 29, 2025 (Transport Canada AD CF-2025-45).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by the discovery on the production line that electrical system harnesses in lavatory A had reduced bend radii, were not properly secured and did not meet the requirement for clearance from an oxygen supply line. The FAA is issuing this AD to address inadequately secured and installed wire harnesses, which if not addressed, could result in a chafing condition leading to a source of ignition, and when combined with an oxygen leak as well as loss of ventilation, may lead to an uncontrolled fire.

(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, Transport Canada AD CF-2025-45.

(h) Exceptions to Transport Canada AD CF-2025-45

(1) Where Transport Canada AD CF-2025-45 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF-2025-45 refers to January 30, 2025 (the effective date of Transport Canada AD CF-2025-04), this AD requires using the effective date of this AD.

(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 AIR-520, 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 Transport Canada; or Airbus Canada Limited Partnership's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(3) *Required for Compliance (RC)*: Except as required by paragraph (i)(2) of this AD, if any material contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Yves Petiotte, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: (202) 975-4867; email: yves.petiotte@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) Transport Canada AD CF-2025-45, dated August 29, 2025.

(ii) [Reserved]

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

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

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

Issued on September 24, 2025.

Peter A. White,

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

[FR Doc. 2025-18808 Filed 9-26-25; 8:45 am]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2025-2548; Project Identifier AD-2024-00478-T]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company 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 The Boeing Company Model 737-600, -700, -700C, -800, -900, and -900ER series airplanes. This proposed AD was prompted by reports of shim installations at certain stub beam to longitudinal floor beam locations that were not installed per specifications, and an evaluation by the design approval holder indicating inadequate baseline inspections for cracking of the stub beam. This proposed AD would require repetitive inspections for any crack of the stub beam straps at certain stations and repairing any crack found. 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 November 13, 2025.

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

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

- *Fax:* 202-493-2251.

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

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

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2025-2548; 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, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

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

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at regulations.gov under Docket No. FAA-2025-2548.

FOR FURTHER INFORMATION CONTACT: Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3958; email: luis.a.cortez-muniz@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-2025-2548; Project Identifier AD-2024-00478-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, 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 Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3958; email: luis.a.cortez-muniz@faa.gov. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA has received reports of shim installations at the station (STA) 559 to STA 639 stub beam to buttock line (BL) 45 longitudinal floor beam locations that were not installed per specifications, and an evaluation by the design approval holder indicating inadequate baseline inspections for cracking of the stub beam. The FAA is issuing this AD to address potential cracking in the stub beam strap. The unsafe condition, if not addressed, could result in undetected cracks in the stub beam strap that may grow in length and sever the strap, which could adversely affect the structural integrity of the airplane.

FAA’s Determination

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 737-53A1404 RB, Revision 1, dated November 29, 2023. This material specifies procedures for repetitive ultrasonic inspections for any crack of the stub beam straps at STA 578 and STA 597, or STA 578 and STA 601, as applicable. This material specifies procedures for repetitive ultrasonic and open hole eddy current inspections for any crack of the stub beam straps at STA 616 and STA 639. This material also specifies repairing any crack found.

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.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the material already described except as discussed under “Differences Between this Proposed AD and the Referenced Material,” and except for any differences identified as exceptions in the regulatory text of this proposed AD. For information on the procedures and compliance times, see this material at regulations.gov under Docket No. FAA-2025-2548.

Differences Between This Proposed AD and the Referenced Material

Boeing received reports of several crack findings from operators after accomplishment of Boeing Alert Requirements Bulletin 737-53A1404 RB, Revision 1, dated November 29, 2023. The crack findings were discovered prior to the inspection threshold of 34,000 total flight cycles, which is specified in the compliance tables in Boeing Alert Requirements Bulletin 737-53A1404 RB, Revision 1, dated November 29, 2023. Further analysis by Boeing determined that the existing compliance times in Boeing Alert Requirements Bulletin 737-53A1404 RB, Revision 1, dated November 29, 2023, are inadequate and would need to be reduced. Following coordination with Boeing, the FAA is proposing to require reduced compliance times to address the unsafe condition and maintain safety in the fleet.

Additionally, Boeing Alert Requirements Bulletin 737-53A1404 RB, Revision 1, dated November 29, 2023, specifies reduced compliance times for airplanes on which Boeing Business Jet (BBJ) Lower Cabin Altitude Supplemental Type Certificate (STC) ST01697SE has been incorporated. This proposed AD would require using those reduced compliance times, but the reduction would be applied to the reduced compliance times specified in paragraphs (g)(1) through (3) of this AD, not those specified in Boeing Alert Requirements Bulletin 737-53A1404 RB, Revision 1, dated November 29, 2023.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,981 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	Up to 166 work-hours × \$85 per hour = \$14,110 per inspection cycle.	\$0	Up to \$14,110 per inspection cycle.	Up to \$27,951,910 per inspection cycle.

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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:

The Boeing Company: Docket No. FAA–2025–2548; Project Identifier AD–2024–00478–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 13, 2025.

(b) Affected ADs

None.

(c) Applicability

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

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports of shim installations at the station (STA) 559 to STA 639 stub beam to buttock line (BL) 45 longitudinal floor beam locations that were not installed per specifications, and an evaluation by the design approval holder indicating inadequate baseline inspections for cracking of the stub beam. The FAA is issuing this AD to address potential cracking in the stub beam strap. The unsafe condition, if not addressed, could result in undetected cracks in the stub beam strap that may grow in length and sever the strap, which could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Required Inspections

At the applicable time specified in paragraphs (g)(1) through (3) of this AD, except as required by paragraph (i) of this AD, do all applicable inspections identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–53A1404 RB, Revision 1, dated November 29, 2023. If no cracking is found, repeat the inspections thereafter at intervals not to exceed 4,000 flight cycles.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–53A1404, Revision 1, dated November 29, 2023, which is referred to in Boeing Alert Requirements Bulletin 737–53A1404 RB, Revision 1, dated November 29, 2023.

(1) For airplanes that have accumulated fewer than 30,000 total flight cycles as of the effective date of this AD: Before 22,000 total flight cycles, or within 4,000 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 30,000 total flight cycles or greater but fewer than 40,000 total flight cycles as of the effective date of this AD: Within 2,000 flight cycles after the effective date of this AD.

(3) For airplanes that have accumulated greater than 40,000 total flight cycles as of the effective date of this AD: Within 1,000 flight cycles after the effective date of this AD.

(h) Corrective Actions

If any cracking is found during any inspection required by paragraph (g) of this AD, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Compliance Time Exception for Certain Airplanes

For airplanes on which Boeing Business Jet (BBJ) Lower Cabin Altitude Supplemental Type Certificate (STC) ST01697SE has been incorporated: The flight cycle related compliance times are different from those specified in paragraph (g) of this AD. All initial compliance times (thresholds) specified in flight cycles must be reduced to half of those specified in paragraphs (g)(1) through (3) of this AD. All repeat interval compliance times specified in flight cycles must be reduced to one-quarter of those specified in paragraph (g) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

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

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

(k) Related Information

(1) For more information about this AD, contact Luis Cortez-Muniz, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3958; email: *luis.a.cortez-muniz@faa.gov*.

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

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 737-53A1404 RB, Revision 1, dated November 29, 2023.

(ii) [Reserved]

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

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

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

Issued on September 16, 2025.

Lona C. Saccomando,

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

[FR Doc. 2025-18833 Filed 9-26-25; 8:45 am]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2025-2558; Project Identifier MCAI-2021-00022-T]

RIN 2120-AA64

Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) 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 De Havilland Aircraft of Canada Limited Model DHC-8 airplanes. This proposed AD was prompted by reports of cracked barrel nuts at the wing front spar and horizontal stabilizer to vertical stabilizer joint. This proposed AD would require repetitive inspections for cracking and corrosion of the affected barrel nuts and applicable corrective actions. 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 November 13, 2025.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA-2025-2558; 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 (CAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference

- For De Havilland Aircraft of Canada Limited material identified in this proposed AD, contact De Havilland Aircraft of Canada Limited, Dash 8 Series Customer Response Centre, 5800 Explorer Drive, Mississauga, Ontario, L4W 5K9, Canada; telephone North America (toll-free): 855-310-1013, Direct: 647-277-5820; email *thd@dehavilland.com*; website *dehavilland.com*.

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

FOR FURTHER INFORMATION CONTACT: Christopher Spencer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228-7300; email: *9-avs-nyaccos@faa.gov*.

SUPPLEMENTARY INFORMATION:**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include "Docket No. FAA-2025-2558; Project Identifier MCAI-2021-00022-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 the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated

as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Christopher Spencer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228-7300; email: 9-avs-nyaco-cos@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

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF-2020-06R1, dated January 7, 2021 (Transport Canada AD CF-2020-06R1) (also referred to as the MCAI), to correct an unsafe condition for all De Havilland Aircraft of Canada Limited Model DHC-8-100 series airplanes; Model DHC-8-200 series airplanes; Model DHC-8-300 series airplanes (which includes Model DHC-8-314 airplanes); and Model DHC-8-400 series airplanes. Model DHC-8-314 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 there were findings related to cracked barrel nuts at the wing front spar and horizontal stabilizer to vertical stabilizer joint. For those locations, Transport Canada issued AD CF-2011-24R1 (which corresponds to FAA AD 2019-20-09, Amendment 39-19762 (84 FR 56680, October 23, 2019)) and AD CF-2015-13R1 (which corresponds to FAA AD 2018-22-03, Amendment 39-19476 (83 FR 53563, October 24, 2018)) to address the unsafe condition. Barrel nuts are also installed in other locations on the airplane. An investigation determined that the cracking is caused by corrosion from inadequate cadmium plating on the barrel nuts. This condition, if not addressed, could result in failed barrel nuts that could compromise the structural integrity of the affected joints (*i.e.*, of the airplane) and could lead to loss of control of the airplane.

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](https://www.regulations.gov) under Docket No. FAA-2025-2558.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed De Havilland Aircraft of Canada Limited Service Bulletin 8-05-11, dated April 29, 2022. This material specifies procedures for detailed inspections for cracks and corrosion of the barrel nuts at the flight compartment windshield side posts, the nose landing gear trunnion plate assemblies, nacelle lower longeron attachments, the front, mid and rear spar horizontal stabilizer to vertical stabilizer attachments, the bathtub fittings attachments, the wing rib YW23.858 assemblies, and at the wing rib YW42.00 assemblies, and applicable corrective actions (*e.g.*, repairs or replacement).

The FAA also reviewed De Havilland Aircraft of Canada Limited Service Bulletin 84-27-73, dated May 8, 2019; and De Havilland Aircraft of Canada Limited Service Bulletin 8-27-121, dated July 30, 2019. This material specifies procedures, for a detailed inspection for cracks and corrosion of the barrel nuts, having part number (P/N) DSC228-4, at the rudder pedal adjustment mechanism, and applicable corrective actions (*i.e.*, replacement of barrel nuts, having P/N B0203073-4). These documents are distinct since they apply to different airplane models.

The FAA also reviewed De Havilland Aircraft of Canada Limited Service Bulletin 8-27-122, dated July 18, 2019. This material specifies procedures for a detailed inspection for cracks and corrosion of the barrel nuts, having P/N DSC228-5, at the control attachment fittings, and applicable corrective actions (*i.e.*, replacement of barrel nuts, having P/N DSC228-5 with barrel nuts, having P/N B0203073-5).

The FAA also reviewed De Havilland Aircraft of Canada Limited Service Bulletin 84-05-02, dated April 29, 2022. This material specifies procedures for detailed inspections for cracks and corrosion of the barrel nuts at the flight compartment windshield side posts, the vertical stabilizer pitch feel trim frame, the front and rear spar wing to fuselage attachment joint struts and fittings, and the bathtub fitting attachments, and

applicable corrective actions (*e.g.*, repairs or replacement).

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the material already described, except as discussed under "Differences Between This Proposed AD and the MCAI or Referenced Material."

Differences Between This Proposed AD and the MCAI or Referenced Material

Transport Canada AD CF-2020-06R1 introduces new maintenance review board report (MRBR) intervals that the FAA cannot mandate as MRBRs as specified in the MCAI. Instead of mandating the MRBR tasks as done in the Transport Canada AD, the FAA, after coordination with Transport Canada, determined the procedures specified in the service information in paragraphs (g) and (h) of this proposed AD will be used because those procedures refer to the corresponding airplane maintenance manual (AMM) task numbers of the MRBR tasks. Therefore, the FAA proposes to mandate the procedures as specified in the service information in paragraphs (g) and (h) of this proposed AD.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 111 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
Up to 13 work-hours × \$85 per hour = \$680	\$0	\$1,105	\$122,655

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

the results of any required actions. The FAA has no way of determining the

number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 8 work-hours × \$85 per hour = \$680	\$0 *	\$680 *

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

Authority for This Rulemaking

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

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

Regulatory Findings

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:

De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.): Docket No. FAA–2025–2558; Project Identifier MCAI–2021–00022–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 13, 2025.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all De Havilland Aircraft of Canada Limited airplanes, certificated in any category, identified in paragraphs (c)(1) through (4) of this AD.

(1) Model DHC–8–101, –102, –103, and –106 airplanes.

(2) Model DHC–8–201 and –202 airplanes.

(3) Model DHC–8–301, –311, and –315 airplanes.

(4) Model DHC–8–400, –401 and –402 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 14, Hardware; 51, Standard practices/structures.

(e) Unsafe Condition

This AD was prompted by reports of cracked barrel nuts at the wing front spar and horizontal stabilizer to vertical stabilizer joint, which was caused by corrosion from inadequate cadmium plating on the barrel nuts. The FAA is issuing this AD to address cracking and corrosion of the affected barrel nuts. The unsafe condition, if not addressed, could result in failed barrel nuts that could compromise the structural integrity of the airplane and could lead to loss of control of the airplane.

(f) Compliance

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

(g) Actions for Model DHC–8–100, –200, and –300 Series Airplanes

For Model DHC–8–101, –102, –103, and –106 airplanes, Model DHC–8–201 and –202 airplanes, and Model DHC–8–301, –311, and –315 airplanes: Do the actions specified in paragraphs (g)(1) through (4) of this AD.

(1) As of 60 days after the effective date of this AD: At the next flight compartment windshield replacement, do a detailed inspection for cracks and corrosion of the barrel nuts at the windshield side posts and, before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 8–05–11, dated April 29, 2022. Repeat the inspection thereafter at each flight compartment windshield replacement.

(2) Within 6 years since entry into service, or within 60 days after the effective date of this AD, whichever occurs later, do detailed inspections for cracks and corrosion of the barrel nuts at the nose landing gear trunnion plate assemblies, nacelle lower longeron attachments, the front, mid and rear spar horizontal stabilizer to vertical stabilizer attachments, the bathtub fittings attachments, the wing rib YW23.858 assemblies, and the wing rib YW42.00 assemblies, and before further flight, do all applicable corrective

actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 8–05–11, dated April 29, 2022. Repeat the inspection thereafter at intervals not to exceed 6 years.

(3) Within 6 years since entry into service, or within 60 days after the effective date of this AD, whichever occurs later, do a detailed inspection for cracks and corrosion of the barrel nuts, having part number (P/N) DSC228–5, at the control attachment fittings, and before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 8–27–122, dated July 18, 2019. Repeat the inspection thereafter at intervals not to exceed 6 years.

(4) Within 7 years since entry into service, or within 60 days after the effective date of this AD, whichever occurs later, do a detailed inspection for cracks and corrosion of the barrel nuts, having P/N DSC228–4, at the rudder pedal adjustment mechanism, and before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 8–27–121, dated July 30, 2019. Repeat the inspection thereafter at intervals not to exceed 7 years.

(h) Actions for Model DHC–8–400 Series Airplanes

For Model DHC–8–400, –401 and –402 airplanes: Do the actions specified in paragraphs (h)(1) through (3) of this AD.

(1) As of 60 days after the effective date of this AD: At the next flight compartment windshield replacement, do a detailed inspection for cracks and corrosion of the barrel nuts at the flight compartment windshield side posts, and before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84–05–02, dated April 29, 2022. Repeat the inspection thereafter at each flight compartment windshield replacement.

(2) Within 6 years since entry into service, or within 60 days after the effective date of this AD, whichever occurs later, do detailed inspections for cracks and corrosion of the barrel nuts at the vertical stabilizer pitch feel trim frame, the front and rear spar wing to fuselage attachment joint struts and fittings, and the bathtub fitting attachments, and before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84–05–02, dated April 29, 2022. Repeat the inspections thereafter at intervals not to exceed 6 years.

(3) Within 7 years since entry into service, or within 60 days after the effective date of this AD, whichever occurs later, do a detailed inspection for cracks and corrosion of the barrel nuts, having P/N DSC228–4, at the rudder pedal adjustment mechanism, and before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service

Bulletin 84–27–73, dated May 8, 2019. Repeat the inspection thereafter at intervals not to exceed 7 years.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or Transport Canada; or De Havilland Aircraft of Canada Limited's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Additional Information

For more information about this AD, contact Christopher Spencer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7300; email: 9-avs-nyaco-cos@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) De Havilland Aircraft of Canada Limited Service Bulletin 8–05–11, dated April 29, 2022.

(ii) De Havilland Aircraft of Canada Limited Service Bulletin 8–27–121, dated July 30, 2019.

(iii) De Havilland Aircraft of Canada Limited Service Bulletin 8–27–122, dated July 18, 2019.

(iv) De Havilland Aircraft of Canada Limited Service Bulletin 84–05–02, dated April 29, 2022.

(v) De Havilland Aircraft of Canada Limited Service Bulletin 84–27–73, dated May 8, 2019.

(3) For De Havilland Aircraft of Canada Limited material identified in this AD, contact De Havilland Aircraft of Canada Limited, Dash 8 Series Customer Response Centre, 5800 Explorer Drive, Mississauga, Ontario, L4W 5K9, Canada; telephone North America (toll-free): 855–310–1013, Direct: 647–277–5820; email thd@dehavilland.com; website dehavilland.com.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational

Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on September 24, 2025.

Steven W. Thompson,

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

[FR Doc. 2025–18805 Filed 9–26–25; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1245, 1421, 1422, and 1500

[Docket Nos. CPSC–2009–0087, CPSC–2011–0074, CPSC–2021–0014, and CPSC–2021–0015]

Withdrawal of Proposed Regulatory Actions

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of withdrawal of proposed rules.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission or CPSC) is formally withdrawing certain notices of proposed rulemaking issued between October 2009 and July 2024. The Commission does not intend to issue final rules with respect to these proposals. If the Commission decides to pursue future regulatory action in any of these areas, it will issue a new proposed rule.

DATES: The Commission is withdrawing the proposed rules published at 74 FR 55495 (October 28, 2009), 82 FR 22190 (May 12, 2017), 87 FR 43688 (July 21, 2022), and 89 FR 61363 (July 31, 2024) as of September 29, 2025.

FOR FURTHER INFORMATION CONTACT:

Matthew A. Campbell, General Counsel, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–0124; email: mcampbell@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission is withdrawing the proposed rulemaking documents described below. The Commission does not intend to issue final rules with respect to these proposals. If the Commission decides to pursue future regulatory action in any of these areas, it will issue a new proposed rule.

Safety Standard Addressing Blade-Contact Injuries on Table Saws

On October 11, 2011, the Commission started a rulemaking with an advance notice of proposed rulemaking (ANPR).¹ On May 12, 2017, the Commission published a notice of proposed rulemaking (NPR) under the Consumer Product Safety Act (CPSA) proposing to establish a performance standard that requires table saws to limit the depth of cut to no more than 3.5 mm when a test probe, acting as surrogate for a human finger or other body part, approaches the spinning blade at a rate of 1 meter per second (m/s).² Subsequently, on November 1, 2023, the Commission published a supplemental notice of proposed rulemaking.³

Standard for Recreational Off-Highway Vehicles

On October 28, 2009, the Commission started a rulemaking with the publication of an ANPR under the CPSA to consider whether there may be unreasonable risks of injury and death associated with overturning and collisions related to recreational off-highway vehicles (OHVs).⁴

Safety Standard for Fire and Debris-Penetration Hazards

On May 11, 2021, the Commission started a rulemaking with the publication of an ANPR inviting comments concerning the risks of injury associated with OHV fire and debris-penetration hazards.⁵ On July 21, 2022, the Commission published an NPR under the CPSA to propose requirements to prevent debris penetration into the occupant area of OHVs, including recreational off-highway vehicles and utility task/terrain vehicles.⁶

¹ 76 FR 62678 (October 11, 2011) <https://www.federalregister.gov/documents/2011/10/11/2011-26171/table-saw-blade-contact-injuries-advance-notice-of-proposed-rulemaking-request-for-comments-and>.

² 82 FR 22190 (May 12, 2017) <https://www.federalregister.gov/documents/2017/05/12/2017-09098/safety-standard-addressing-blade-contact-injuries-on-table-saws>.

³ Nov. 1, 2023 (88 FR 74909) <https://www.federalregister.gov/documents/2023/11/01/2023-23898/safety-standard-addressing-blade-contact-injuries-on-table-saws>.

⁴ 74 FR 55495 (October 28, 2009) <https://www.federalregister.gov/documents/2009/10/28/E9-25959/standard-for-recreational-off-highway-vehicles>.

⁵ 86 FR 25817 (May 11, 2021) <https://www.federalregister.gov/documents/2021/05/11/2021-09881/off-highway-vehicle-ohv-fire-and-debris-penetration-hazards-advance-notice-of-proposed-rulemaking>.

⁶ 87 FR 43688 (July 21, 2022) <https://www.federalregister.gov/documents/2022/07/21/2022-15355/safety-standard-for-debris-penetration-hazards>.

Banned Hazardous Substances: Aerosol Duster Products Containing More Than 18 mg in Any Combination of HFC-152a and/or HFC-134a

On July 31, 2024, the Commission published a notice of proposed rulemaking to declare that any aerosol duster products that contain more than 18 mg in any combination of HFC-152a and/or HFC-134a are banned hazardous substances under the Federal Hazardous Substances Act (FHSA).⁷

II. Withdrawal of Proposed Rules

The Commission is withdrawing these proposals because, as noted above, the Commission no longer intends to issue final rules with respect to these proposals. If the Commission decides to pursue future regulatory action in any of these areas, it will do so by publishing a new proposed rule or other issuance consistent with the requirements of the Administrative Procedure Act, as applicable.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2025-18810 Filed 9-26-25; 8:45 am]

BILLING CODE 6355-01-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-AS37

Objective Evidence of Pain for Painful Scars Under DC 7804

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to revise 38 CFR 4.118, diagnostic code (DC) 7804 (“Scar(s), unstable or painful”), by adding a note clarifying that VA still requires objective evidence of pain when rating a scar as painful. The inclusion of this note would align with current policy and ensure consistent application of the rating criteria.

DATES: Comments must be received on or before November 28, 2025.

ADDRESSES: You may submit comments through www.regulations.gov under RIN 2900-AS37. That website includes a plain-language summary of this rulemaking. Instructions for accessing agency documents, submitting

⁷ 89 FR 61363 (July 31, 2024) <https://www.federalregister.gov/documents/2024/07/31/2024-16716/banned-hazardous-substances-aerosol-duster-products-containing-more-than-18-mg-in-any-combination-of>.

comments, and viewing the rulemaking docket are available on www.regulations.gov under “FAQ.”

FOR FURTHER INFORMATION CONTACT:

Chad Stodden and Leah Carey, Regulations Analysts, VASRD Regulations Staff, Compensation Service, Veterans Benefits Administration, (202) 461-9700.

SUPPLEMENTARY INFORMATION:

I. Background

As part of the revision of the VA Schedule for Rating Disabilities (VASRD), VA proposes to revise 38 CFR 4.118, DC 7804 (“Scar(s), unstable or painful”), by adding a note clarifying that rating personnel must continue to require objective evidence of pain prior to denoting a scar as painful. Since its inclusion in the VASRD, VA has always required objective evidence of pain to assign a compensable evaluation using this DC. Starting on April 1, 1946, VA titled DC 7804 “Scars, superficial, tender and painful on objective demonstration.” See 29 FR 6718, 6748 (May 22, 1964) (adding the 1945 rating schedule, which became effective April 1, 1946, to part 4 of 38 CFR). On August 30, 2002, VA subsequently retitled DC 7804 “Scars, superficial, painful on examination.” Schedule for Rating Disabilities; the Skin, 67 FR 49590, 49596 (Jul. 31, 2002). Finally, VA changed the title again, effective October 23, 2008, to “Scar(s), unstable or painful.” Schedule for Rating Disabilities; Evaluation of Scars, 73 FR 54708, 54710 (Sep. 23, 2008). The purpose of the most recent title change was threefold. First, VA removed DC 7803, which VA had used to evaluate unstable superficial scars, and moved its evaluation criteria into DC 7804; thus, it was necessary to update DC 7804’s title to include unstable scars. *Id.*; see also 73 FR 428, 430 (Jan. 3, 2008) (proposed rule explaining the change). Second, VA removed the word “superficial” from the title of DC 7804 because VA wanted claims processors to evaluate both superficial and deep scars using this DC. *Id.*; see also 73 FR 430. Finally, VA removed the words “on examination” because “VA’s disability ratings are based on relevant medical evidence; as such, to include ‘on examination’ in the title is redundant.” 73 FR 430.

During the time preceding the 2008 publication, traditional examinations, which included an objective assessment of the condition, were most frequently used in support of claims. Indeed, most relevant medical evidence contained, and still contains, an objective aspect of the evaluation. Podder, V., Lew, V., and Ghassemzadeh, S. “SOAP Notes,”

National Library of Medicine, www.ncbi.nlm.nih.gov/books/NBK482263/ (last visited May 19, 2025); see also Lapum, J. et al. (2021), Objective Assessment. *Physical Examination Techniques: A Nurse's Guide*. <https://pressbooks.library.torontomu.ca/ippa/chapter/chapter-1/> (last visited May 19, 2025). Therefore, the use of “on examination” within the DC title would certainly represent an unnecessary redundancy. Nevertheless, the removal of “on examination” from the title was not intended to change the substantive rating criteria so as to eliminate the requirement of objective evidence for assigning a compensable evaluation for a painful scar. On the contrary, objective evidence of pain remains a necessary component for evaluations under DC 7804, and the VA disability examination includes visual inspection with palpation of all scars. See Scars Disability Benefits Questionnaire, available at www.benefits.va.gov/compensation/docs/scars.pdf. The reason that objective evidence of pain is necessary for a compensable rating under DC 7804 is because pain on evaluation or demonstration shows persistence and chronicity of the effects of the disability upon the person's ordinary activity and is consistent with occupationally significant impairment. See 38 CFR 4.10.

II. Required Regulatory Update

Although VA previously removed the phrase “on examination” from the DC title as an unnecessary redundancy, it is now apparent that an added note re-confirming this longstanding requirement would provide more clarity to veterans and rating personnel. The new note would specify that pain must be confirmed by objective evidence upon evaluation or demonstration. DC 7804 recognizes the impact of pain on functional impairment indicative of occupationally significant disabilities, and although VA accepts subjective evidence when appropriate, VA requires objective indications to support the

subjective reports of pain to award a compensable evaluation under this DC.

In sum, VA intends this proposed change to clarify VA's longstanding policy, but does not intend to alter the substantive rating criteria nor change the way VA compensates veterans under DC 7804. Rather, this rulemaking would merely reinforce and reaffirm VA's original and longstanding requirement of objective evidence when evaluating a painful scar under DC 7804.

Executive Orders 12866, 13563, and 14192

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. This rule is not an E.O. 14192 regulatory action because this rule is not significant under E.O. 12866.

Economic Impact: VA has determined that no transfers or costs are associated with this rulemaking. The changes implemented through this rulemaking will not impact benefit payments or the administration of benefits. This rulemaking will allow VA to ensure all stakeholders are better informed of the requirements and basis for compensable evaluations under DC 7804. Additionally, it will enable VA to ensure more accurate and consistent application of the rating criteria.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). The factual basis for this certification is based on the fact that no small entities or businesses evaluate disabilities for VA benefits. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final

regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

This proposed rule would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

List of Subjects in 38 CFR Part 4

Disability benefits, Pension, Veterans.

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on September 24, 2025, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Taylor N. Mattson,

*Alternate Federal Register Liaison Officer,
Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 4 as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

Subpart B—Disability Ratings

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

■ 2. In § 4.118, add new note (4) to the end of the entry for diagnostic code 7804 to read as follows:

§ 4.118 Schedule of ratings—skin.

* * * * *

	Rating					
	*	*	*	*	*	*
7804 Scar(s), unstable or painful:						
	*	*	*	*	*	*
Note (4): Pain must be confirmed by objective evidence upon evaluation or demonstration						
	*	*	*	*	*	*

■ 3. Amend Appendix A to part 4 by revising the entry for diagnostic code 7804 to read as follows:

Appendix A to Part 4—Table of Amendments and Effective Dates Since 1946

Sec.	Diagnostic code No.
*	*
7804	Criterion July 6, 1950; criterion September 22, 1978; criterion and evaluation October 23, 2008; note 4 [EFFECTIVE DATE OF THE FINAL RULE].
*	*

[FR Doc. 2025-18829 Filed 9-26-25; 8:45 am]

BILLING CODE 8320-01-P

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Parts 174 and 180

[EPA-HQ-OPP-2025-0028; FRL-12474-07-OCSPF]

Receipt of Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities—July 2025

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of and solicits public comment on initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities. The Agency is providing this notice in accordance with the Federal Food, Drug, and Cosmetic Act (FFDCA). EPA uses the month and year in the title to identify when the Agency compiled the petitions identified in this notice of filing. Unit II. of this document identifies certain petitions received in 2021, 2023, 2024, and 2025 that are currently being evaluated by EPA, along with information about each petition, including who submitted the petition and the requested action.

DATES: Comments must be received on or before October 29, 2025.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition (PP) of interest identified in Unit II. of this document, online at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional

instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Each application summary in Unit II. specifies a contact division. The appropriate division contacts are identified as follows:

- BPPD (Biopesticides and Pollution Prevention Division) (Mail Code 7511M); Shannon Borges; main telephone number: (202) 566-1400; email address: BPPDFRNotices@epa.gov.
- RD (Registration Division) (Mail Code 7505T); Charles Smith; main telephone number: (202) 566-1030; email address: RDFFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action provides information that is directed to the public in general.

B. What is the Agency's authority for taking this action?

EPA regulations for residues of pesticide chemicals in or on various food commodities are established under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), requires EPA to publish a notice of receipt of these petitions in the **Federal Register** and provide an opportunity for public comment on the requests.

C. What action is the Agency taking?

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the receipt of pesticide petitions filed under FFDCA section 408 that request the establishment or modification of regulations for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioner. Pursuant to 40 CFR 180.7(f), a summary of the petition identified in this document,

prepared by the petitioner, is included in a docket. EPA has determined that the pesticide petitions described in this document contain data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2), and 40 CFR 180.7(b); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Based upon review of the data supporting these petitions and in accordance with its authority under FFDCA section 408(d)(4)(A)(i), EPA may establish a final tolerance or tolerance exemption that “may vary from that sought by the petitioner.” For example, EPA may determine that it is appropriate to vary the commodity name for consistency with EPA’s Food and Feed Commodity Vocabulary, which is located here <https://www.epa.gov/pesticide-tolerances/food-and-feed-commodity-vocabulary>, or vary the tolerance level based on available data, harmonization interests, or the trailing zeros policy. In addition, when evaluating a petition’s requests for a tolerance or exemption, EPA will consider how use of the pesticide on a crop for which a tolerance is requested may result in residues in or on commodities related to that requested commodity (e.g., whether use on sugar beets for which a tolerance was requested on sugar beet root also requires a tolerance on sugar beet tops or whether use on a cereal grain for which a grain tolerance was requested also requires a tolerance on related animal feed commodities derived from that cereal grain). Public commenters should consider the possibility of such revisions in preparing comments on these petitions.

D. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through <https://www.regulations.gov> or email. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. In addition to one complete version of the comment that includes CBI, a copy of the comment without CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Petitions Received

This unit provides the following information about the petitions:

- The Pesticide Petition (PP) Identification (IN) number;
- EPA docket ID number for the petition;
- Information about the petition (*i.e.*, name of the petitioner, name of the pesticide chemical residue and the commodities for which a tolerance or exemption is sought);
- The analytical method available to detect and measure the pesticide chemical residue or the petitioner's statement about why such a method is not needed; and
- The division to contact for that petition.

Additional information on the petitions may be obtained through the petition summaries that were prepared by the petitioners pursuant to 21 U.S.C. 346a(d)(2)(A)(i)(I) and 40 CFR 180.7(b)(1), which are included in the docket for the petition as identified in this unit.

- *PP 4F9143.* (EPA-HQ-OPP-2025-0103). AgriTitan, LLC., 2910 NE 48th St. Lighthouse Point, FL 33064, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the bactericide and fungicide ultrafine zinc-doped anatase titanium dioxide on food and non-food plants in or on all food commodities. The petitioner believes no analytical method is needed because the levels of the active ingredient residue that may be present on food and non-food crops are orders of magnitude (>1000-fold) below doses used in oral toxicology studies in mammals and the levels approved by FDA (1% w/w) and other organizations as safe for food use. *Contact:* BPPD.

- *PP 1F8976.* (EPA-HQ-OPP-2022-0455). UPL Delaware Inc., and UPL NA Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406, requests to establish tolerances in 40 CFR 180.301 for residues of the fungicide carboxin in or on vegetable, legume, forage and hay, except soybean, subgroup 7-22A at 2 ppm; vegetable, legume, pulse, bean, dried shelled, except soybean, subgroup 6-22E at 0.2 ppm; and vegetable, legume, pulse, pea, dried shelled, subgroup 6-22F at 0.2 ppm. The GLC/MSD method and the Colorimetric Method is used to measure and evaluate the chemical Carboxin. *Contact:* RD.

- *PP 1F8976.* (EPA-HQ-OPP-2022-0455). UPL Delaware Inc., and UPL NA Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406, requests to remove the tolerance in 40 CFR 180.301 for residues of the fungicide carboxin in or on bean, dry, seed. The GLC/MSD method and the Colorimetric Method is used to measure and evaluate the chemical Carboxin. *Contact:* RD.

- *PP 4F9101.* (EPA-HQ-OPP-2025-0042). Syngenta Crop Protection, LLC P.O. Box 18300, Greensboro, NC 27419,

requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide thiabendazole in or on cottonseed crop subgroup 20C at 0.01 ppm. The analytical method used in the residue trials (GRM040.01A) is used to measure and evaluate the chemical thiabendazole. *Contact:* RD.

- *PP4F9148.* (EPA-HQ-OPP-2025-0318). Bayer CropScience LP, 800 N. Lindbergh Blvd., St. Louis, MO 63167, requests to establish a tolerance in 40 CFR 180 for residues of the fungicide fluopyram ((N-[2-[3-chloro-5-(trifluoromethyl)-2-pyridinyl] ethyl]-2-(trifluoromethyl) benzamide) in or on pennycress, seed at 0.3 ppm. The high-performance liquid chromatography-electrospray ionization/tandem mass spectrometry (LC-MS/MS) is used to measure and evaluate the chemical fluopyram. *Contact:* RD.

- *PP 5F9181.* (EPA-HQ-OPP-2025-0392). Bayer CropScience, 800 N. Lindbergh Blvd., St. Louis, MO 63167, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide, Tebuconazole, in or on rice, grain at 10 ppm, rice, husked at 2.4 ppm, rice, polished rice at 1 ppm. The enforcement method for plant commodities has been validated on various commodities. It has undergone successful EPA validation and has been submitted for inclusion in PAM II. The animal method has also been approved as an adequate enforcement method and is used to measure and evaluate the chemical Tebuconazole. *Contact:* RD.

Authority: 21 U.S.C. 346a.

Dated: September 23, 2025.

Kimberly Smith,

Acting Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2025-18902 Filed 9-26-25; 8:45 am]

BILLING CODE 6560-50-P

Notices

Federal Register

Vol. 90, No. 186

Monday, September 29, 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

Agricultural Marketing Service

[Doc. No. AMS–FGIS–25–0519]

Grain Inspection Advisory Committee Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, this notice announces an upcoming meeting of the Grain Inspection Advisory Committee (Committee). The Committee meets no less than once annually to advise the Secretary of Agriculture on the programs and services delivered by the Agricultural Marketing Service (AMS or the Agency) under the U.S. Grain Standards Act. Recommendations by the Committee help AMS meet the needs of its customers, who operate in a dynamic and changing marketplace.

DATES: The meeting will be held on October 28, 2025, from 8:30 a.m. to 5:00 p.m. Central and on October 29, 2025, from 8:30 a.m. to 12:00 p.m. Central.

Written Comments: Any member of the public may file written comments with the Committee before or within 15 days after the date on which the meeting concludes. Comments should be submitted via email to

Anthony.T.Goodeman@usda.gov. The Committee will consider comments submitted on or before 11:59 p.m. ET on October 18, 2025, prior to the meeting. Comments submitted after this date will be provided to the Committee, but the Committee may not have adequate time to consider those comments prior to the meeting. Comments submitted after the conclusion of the meeting will be posted on the public website.

Oral Comments: The Committee is providing the public an opportunity to present oral comments and will accommodate as many individuals and

organizations as time permits. Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. ET, October 18, 2025, and may only register for one speaking slot. Instructions for registering and participating in the meeting can be obtained by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section by or before the deadline.

ADDRESSES: *Meeting Location:* The Committee meeting will take place at the AMS National Grain Center, 10383 N Ambassador Drive, Kansas City, Missouri 64153.

FOR FURTHER INFORMATION CONTACT: Anthony Goodeman by phone at (202) 720–0291 or by email at *Anthony.T.Goodeman@usda.gov*.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to provide advice to AMS with respect to the implementation of the U.S. Grain Standards Act (7 U.S.C. 71–87k). Information about the Committee is available on the AMS website at <https://www.ams.usda.gov/about-ams/facas-advisory-councils/giac>.

The agenda for the upcoming meeting will focus on grain inspection matters including, but not limited to, regulatory updates; technology modernization initiatives; inspection policies; operational updates; and a presentation on how the Agency uses technology for grading other commodities.

The meeting will be open to the public. Public participation will be limited to written statements and interested parties who have registered to present comments orally to the Committee.

Equal opportunity practices, in accordance with USDA policies, will be followed in all membership appointments to the Committee.

In accordance with Federal civil rights law and USDA civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language) should contact the State or local agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

Dated: September 25, 2025.

Egypt Simon,

Acting USDA Committee Management Officer.

[FR Doc. 2025–18824 Filed 9–26–25; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0113]

Bayer U.S.-Crop Science: Determination of Nonregulated Status of MON 95379 Lepidopteran-Protected Maize (Corn) Genetically Engineered To Produce Two Insecticidal Proteins To Protect Against Feeding Damage Caused by Target Lepidopteran Pests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that MON 95379 Lepidopteran-Protected Maize (corn), which was developed using genetic engineering to produce two insecticidal proteins to protect against feeding damage caused by target lepidopteran pests, is no longer considered regulated. Our determination is based on our evaluation of information and data Bayer U.S.-Crop Science submitted in its petition for a determination of nonregulated status, available scientific data, the plant pest risk assessment, and public comments received in response to a previous notice announcing the availability of the petition for nonregulated status and a draft plant pest risk assessment. This notice announces the availability of our written determination and the

availability of the final plant pest risk assessment.

DATES: This change in regulatory status is recognized as of September 24, 2025.

ADDRESSES: You may read the petition, our determination referenced in this notice, and supporting documents by any of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov. Enter APHIS–2020–0113 in the Search field.
- Our reading room, located in 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Tangredi, Biotechnology Regulatory Services, APHIS, USDA, 5601 Sunnyside Avenue, AP100–3–WS–1100, Beltsville, MD 20705; (301) 851–4061; email: joseph.tangredi@usda.gov.

SUPPLEMENTARY INFORMATION: Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*) and the regulations in 7 CFR part 340, “Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,” APHIS regulates, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such organisms and products are considered “regulated articles.”

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340.

APHIS received a petition (APHIS Petition Number 20–205–01p) from Bayer U.S.-Crop Science seeking a determination of nonregulated status for MON 95379 Lepidopteran-Protected Maize (corn) which has been developed using genetic engineering to produce two insecticidal proteins to protect against feeding damage caused by target lepidopteran pests. The petition provides information in support of the position that MON 95379 is unlikely to pose a plant pest risk and therefore should not be regulated under APHIS’ regulations in 7 CFR part 340.

As part of our decision-making process regarding the organism’s regulatory status, APHIS prepared a draft plant pest risk assessment (PPRA) to assess the plant pest risk of the organism. APHIS published the draft PPRA in the **Federal Register** [90 FR 23513–23514, APHIS–2020–0113] and accepted public comments from June 3, 2025, through July 3, 2025. APHIS received five hundred ninety-four comments.

APHIS also prepared and published a draft environmental assessment (EA). However, on July 9, 2025, APHIS issued a Program Update titled “APHIS Announces Update to Practices for Reviewing Petitions Seeking a Determination of Nonregulated Status for Organisms Altered or Produced Through Genetic Engineering,” available at <https://www.aphis.usda.gov/news/program-update/aphis-announces-update-practices-reviewing-petitions-seeking-determination>. In this Program Update, APHIS announced that it will no longer prepare a National Environmental Policy Act analysis to accompany its review of petitions seeking a determination nonregulated status. Therefore, consistent with this July 9, 2025 Program Update, APHIS terminated work on the EA.

Determination

Based on APHIS’ evaluation in the final PPRA of information and data submitted by Bayer U.S.-Crop Science in its petition, available scientific data, and public comments received in response to the petition and PPRA, APHIS has determined that MON 95379 is unlikely to pose a greater plant pest risk than the unmodified comparator and therefore is no longer subject to our regulation governing the introduction of certain organisms developed using genetic engineering.

Copies of the signed determination, final PPRA, and response to comments, as well as the previously published petition and supporting documents, are available as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 24th day of September 2025.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2025–18823 Filed 9–26–25; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Domestic Sugar Program—FY 2025 Reassignment and FY26 Overall Sugar Marketing Allotment, Cane Sugar and Beet Sugar Marketing Allotments and Company Allocations

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture (USDA) is issuing this notice to: (1) revise fiscal year (FY) 2025 (crop year 2024) State cane sugar allotments and allocations to sugarcane processors; and (2) announce the FY 2026 (crop year 2025) overall sugar marketing allotment quantity (OAQ), State cane sugar allotments, and sugar beet and sugarcane processor allocations. Action (1) applies to all domestic cane sugar marketed for human consumption in the United States from October 1, 2024, through September 30, 2025, and action (2) applies to all domestic beet and cane sugar marketed for human consumption in the United States from October 1, 2025, through September 30, 2026.

FOR FURTHER INFORMATION CONTACT: Carlann Unger; telephone: (773) 573–5163; or email, Carlann.Unger@usda.gov. Individuals with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice and text telephone (TTY mode)) or dial 711 for Telecommunications Relay service (both voice and text telephone users can initiate this call from any telephone).

SUPPLEMENTARY INFORMATION:

FY 2025 Cane Reassignment

In accordance with section 359e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee), after evaluating each sugarcane processor’s ability to market its full allocation, USDA is transferring FY 2025 allocations from sugarcane processors with surplus allocation to those with deficit allocation, as shown in the table below. Further evaluation resulted in no adjustments to the beet sector allotments or allocations.

TABLE 1—FY 2025 REVISED BEET AND CANE ALLOTMENTS AND ALLOCATIONS

[Short tons, raw value]

Distribution	Initial FY25 allotments & allocations	FY25 revisions 7/17/2025	Reassignments	Revised allotments & allocations
Beet Sugar	5,682,293	5,682,293	0	5,682,293
Cane Sugar	4,772,708	4,272,708	0	4,272,708
Imports .....	.....	500,000	0	500,000
Total OAQ	10,455,000	10,455,000	0	10,455,500
<i>Beet Processors' Marketing Allocations:</i>				
Amalgamated Sugar Co	1,216,622	1,288,108	0	1,288,108
American Crystal Sugar Co	2,089,791	2,012,222	0	2,012,222
Michigan Sugar Co	586,842	618,790	0	618,790
Minn-Dak Farmers Co-op	394,629	415,265	0	415,265
So. Minn Beet Sugar Co-op	766,929	707,541	0	707,541
Western Sugar Co	579,901	581,552	0	581,552
Wyoming Sugar Company, LLC	47,579	58,813	0	58,813
Total Beet Sugar	5,682,293	5,682,293	0	5,682,293
<i>State Cane Sugar Allotments:</i>				
Florida	2,690,953	2,079,201	– 53,540	2,025,661
Louisiana	2,081,755	2,193,507	53,540	2,247,046
Texas	0	0	0	0
Total Cane Sugar	4,772,708	4,272,708	0	4,272,708
<i>Cane Processors' Marketing Allocations:</i>				
<i>Florida:</i>				
Florida Crystals	1,107,936	724,737	– 58,367	666,370
Growers Co-op. of FL	484,063	410,893	– 11,145	399,748
U.S. Sugar Corp	1,098,954	943,571	15,972	959,542
Total Florida	2,690,953	2,079,201	– 53,540	2,025,661
<i>Louisiana:</i>				
Sugar Growers and Refiners	1,445,222	1,501,101	74,066	1,575,167
M.A. Patout & Sons	636,533	692,406	– 20,526	671,880
Total Louisiana	2,081,755	2,193,507	53,540	2,247,046
<i>Texas:</i>				
Rio Grande Valley	0	0	0	0

* Values may not sum to column total due to rounding.

FY 2026 Overall Allotment Quantity Establishment

The Agricultural Adjustment Act of 1938, as amended, requires USDA to establish the OAQ at a quantity not less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year. USDA is establishing the initial FY 2026 (crop year 2025) OAQ at 10,166,000 STRV, equal to 85 percent of 11,960,000 STRV, the estimated quantity of sugar for domestic human consumption for FY 2026 as forecast in the September 2025 World Agricultural Supply and Demand

Estimates (WASDE) report. Per the Agricultural Adjustment Act of 1938, as amended, 54.35 percent of the OAQ is distributed among beet processors and 45.65 percent is distributed among the sugarcane States and cane processors, with the beet and cane sector allotments distributed to individual processors according to formulas set out in law.¹ Although the Agricultural Adjustment Act of 1938, as amended, directs USDA to assign 325,000 STRV of the cane sector allotment to “offshore States,” CCC has determined that while sugarcane was formerly produced in Puerto Rico and Hawaii, both have

permanently exited sugarcane production. As a result, CCC has allocated the 325,000 STRV of the cane sector allotment previously reserved for offshore States to the mainland sugarcane producing States. Additionally, because no sugarcane crop is forecast to be produced in Texas during FY26 (crop year 2025), the Texas portion of the mainland sugarcane allotment is distributed to other mainland sugarcane producing states. The initial FY 2026 sugar marketing State allotments and processor allocations are listed in the table below.

TABLE 2—INITIAL FY 2026 STATE ALLOTMENTS AND BEET AND CANE PROCESSOR ALLOCATIONS

[Short tons, raw value]

Distribution	Initial FY26 allotments & allocations
Beet Sugar	5,525,221

¹ See 7 U.S.C. 1359aa *et seq.*, and 7 CFR part 1435.

TABLE 2—INITIAL FY 2026 STATE ALLOTMENTS AND BEET AND CANE PROCESSOR ALLOCATIONS—Continued
[Short tons, raw value]

Distribution	Initial FY26 allotments & allocations
Cane Sugar	4,640,779
Total OAQ	10,166,000
<i>Beet Processors' Marketing Allocations:</i>	
Amalgamated Sugar Co	1,182,992
American Crystal Sugar Co	2,031,883
Michigan Sugar Co	570,620
Minn-Dak Farmers Co-op	383,721
So. Minn Beet Sugar Co-op	745,729
Western Sugar Co	564,013
Wyoming Sugar Company, LLC	46,264
Total Beet Sugar	5,525,221
<i>State Cane Sugar Allotments:</i>	
Florida	2,616,569
Louisiana	2,024,210
Texas	0
Total Cane Sugar	4,640,779
<i>Cane Processors' Marketing Allocations:</i>	
<i>Florida:</i>	
Florida Crystals	1,077,310
Growers Co-op. of FL	470,682
U.S. Sugar Corp	1,068,577
Total Florida	2,616,569
<i>Louisiana:</i>	
Sugar Growers and Refiners	1,405,272
M.A. Patout & Sons	618,938
Total Louisiana	2,024,210
<i>Texas:</i>	
Rio Grande Valley	0

* Values may not sum to column total due to rounding.

USDA will closely monitor stocks, consumption, imports and all sugar market and program variables on an ongoing basis and may make program adjustments during FY 2026 if needed.

William Beam,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2025-18818 Filed 9-26-25; 8:45 am]

BILLING CODE 3411-E2-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Oklahoma 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 Oklahoma Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold

virtual business meetings via ZoomGov on Wednesday, October 8, 2025 from 2:00 p.m.–3:00 p.m. CT and on Tuesday, November 4, 2025 from 2:00 p.m.–3:00 p.m. CT. The purpose is for the Committee to review and discuss their project proposal and upcoming meetings.

DATES: The meetings will take place on Wednesday, October 8, 2025 from 2:00 p.m.–3:00 p.m. CT and on Tuesday, November 4, 2025 from 2:00 p.m.–3:00 p.m. CT.

Wednesday, October 8, 2025

- *Registration Link (Audio/Visual):*
<https://www.zoomgov.com/j/1609254215>.
- *Join by Phone (Audio Only):* 1-833-435-1820 USA Toll Free; Webinar ID: # 160 925 4215.

Tuesday, November 4, 2025

- *Registration Link (Audio/Visual):*
<https://www.zoomgov.com/j/1600689136>.
- *Join by Phone (Audio Only):* 1-833-435-1820 USA Toll Free; Webinar ID: # 160 068 9136.

FOR FURTHER INFORMATION CONTACT:

Brooke Peery, Designated Federal Officer (DFO) at bpeery@usccr.gov or by phone at (202) 701-1376.

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 Corrine Sanders, Support Services Specialist, csanders@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 Brooke Peery (DFO) at bpeery@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, Oklahoma 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 csanders@usccr.gov.

Agenda

- I. Welcome & Roll Call
- II. Approval of Minutes
- III. Committee Discussion
- IV. Public Comment
- V. Adjournment

Dated: September 16, 2025.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2025-18858 Filed 9-26-25; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-854]

Certain Chassis and Subassemblies Thereof From Thailand: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain chassis and subassemblies thereof (chassis) from Thailand are being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2024, through December 31, 2024. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 29, 2025.

FOR FURTHER INFORMATION CONTACT: Jacob Keller or Blair Hood, AD/CVD

Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4849 or (202) 482-8329, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on March 24, 2025.¹ On July 18, 2025, Commerce postponed the preliminary determination of this investigation until September 24, 2025.²

For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary 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 Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The products covered by this investigation are chassis from Thailand. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested

¹ See *Certain Chassis and Subassemblies Thereof from Mexico, Thailand, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 90 FR 13457 (March 24, 2025) (*Initiation Notice*).

² See *Certain Chassis and Subassemblies Thereof from Mexico, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 90 FR 33920 (July 18, 2025).

³ See Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Chassis and Subassemblies Thereof from Thailand," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ See *Initiation Notice*.

parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, see the Preliminary Scope Decision Memorandum.⁶ Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*. See the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value is calculated in accordance with section 773 of the Act. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily relied upon facts otherwise available, with adverse inferences for Panus Assembly Co., Ltd. (Panus). For a full description of the methodology underlying the preliminary determination, see the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce calculated an individual estimated weighted-average dumping margin for Dee Siam Manufacturing Co., Ltd. (Dee Siam), the only individually examined exporter and producer for which a rate was calculated in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Dee Siam is the margin assigned to all other producers

⁶ See Memorandum, "Less Than Fair Value and Countervailing Duty Investigations of Certain Chassis and Subassemblies Thereof from Mexico, Thailand, and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum," dated July 28, 2025 (Preliminary Scope Decision Memorandum).

and exporters, pursuant to section 735(c)(5)(A) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
Dee Siam Manufacturing Co., Ltd	46.12	46.12
Panus Assembly Co., Ltd	* 181.57	* 181.57
All Others	46.12	46.12

* This rate is based on facts available with adverse inferences.

Suspension of Liquidation and Cash Deposit Requirements

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. For this preliminary determination, Commerce did not adjust the estimated weighted-average dumping margins. As an extension of adverse inference, pursuant to section 776(b) of the Act, Commerce adjusted Panus's cash deposit rate by the lowest export subsidy rate determined in the CVD

investigation, which is zero percent.⁷ Commerce did not adjust Dee Siam's or the all-other's estimated dumping margin because Commerce preliminarily determined that Dee Siam did not benefit from subsidy programs contingent on exports.⁸

These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination with respect to Dee Siam. However, because Panus is receiving a rate based on facts available with adverse inferences, and Commerce preliminarily determines Panus has been uncooperative, we do not intend to conduct verification of Panus' information.

⁷ See Preliminary Decision Memorandum at 29.

⁸ *Id.*

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.⁹ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁰

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹¹ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to

⁹ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹⁰ See 19 CFR 351.309(c)(2) and (d)(2).

¹¹ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

the service of documents in 19 CFR 351.303(f).¹²

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On September 17, 2025, Panus requested postponement of the final determination.¹³ On September 18, 2025, pursuant to 19 CFR 351.210(e), the petitioner and Dee Siam requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹⁴ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and

(3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: September 24, 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 I

Scope of the Investigation

The merchandise covered by these investigations consists of chassis and subassemblies thereof whether finished or unfinished, whether assembled or unassembled, whether coated or uncoated, regardless of the number of axles, for carriage of containers, or other payloads (including self-supporting payloads) for road, marine roll-on/roll-off (RORO) and/or rail transport. Chassis are typically, but are not limited to, rectangular framed trailers with a suspension and axle system, wheels and tires, brakes, a lighting and electrical system, a coupling for towing behind a truck tractor, and a locking system or systems to secure the shipping container or containers to the chassis using twistlocks, slide pins or similar attachment devices to engage the corner fittings on the container or other payload.

Subject merchandise includes, but is not limited to, the following subassemblies:

- Chassis frames, or sections of chassis frames, including kingpin assemblies, bolsters consisting of transverse beams with locking or support mechanisms, goosenecks, drop assemblies, extension mechanisms and/or rear impact guards;
- Running gear assemblies or axle assemblies for connection to the chassis frame, whether fixed in nature or capable of sliding fore and aft or lifting up and lowering down, which may or may not include suspension(s) (mechanical or pneumatic),

wheel end components, slack adjusters, dressed axles, brake chambers, locking pins, and tires and wheels; and

- Assemblies that connect to the chassis frame or a section of the chassis frame, such as but not limited to, pintle hooks or B-trains (which include a fifth wheel), which are capable of connecting a chassis to a converter dolly or another chassis.

Importation of any of these subassemblies, whether assembled or unassembled, constitutes an unfinished chassis for purposes of these investigations.

Subject merchandise also includes chassis, whether finished or unfinished, entered with components such as, but not limited to: hub and drum assemblies, brake assemblies (either drum or disc), bare axles, brake chambers, suspensions and suspension components, wheel end components, landing gear legs, spoke or disc wheels, tires, brake control systems, electrical harnesses and lighting systems.

Processing of finished and unfinished chassis and components such as trimming, cutting, grinding, notching, punching, drilling, painting, coating, staining, finishing, assembly, or any other processing either in the country of manufacture of the in-scope product or in a third country does not remove the product from the scope. Inclusion of other components not identified as comprising the finished or unfinished chassis does not remove the product from the scope.

Individual components entered and sold by themselves are not subject to the investigations, but components entered with a finished or unfinished chassis are subject merchandise. A finished chassis is ultimately comprised of several different types of subassemblies. Within each subassembly there are numerous components that comprise a given subassembly.

This scope excludes dry van trailers, refrigerated van trailers and flatbed trailers. Dry van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer itself. Refrigerated van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer and being insulated, possessing specific thermal properties intended for use with self-contained refrigeration systems. Flatbed (or platform) trailers consist of load carrying main frames and a solid, flat or stepped loading deck or floor permanently incorporated with and supported by frame rails and cross members.

The finished and unfinished chassis subject to these investigations are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8716.39.0090 and 8716.90.5060. Imports of finished and unfinished chassis may also enter under HTSUS subheading 8716.90.5010. While the HTSUS subheadings are provided for convenience and customs

¹² See *APO and Service Final Rule*.

¹³ See Panus' Letter, "Request to Postpone Final Determination," dated September 17, 2025.

¹⁴ See Petitioner's Letter, "Request for Postponement of Final Determination," dated September 19, 2025; see also Dee Siam's Letter, "Request to Postpone Deadline for Issuing the Final Determination," dated September 19, 2025.

purposes, the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Affiliation
- V. Application of Facts Available and Use of Adverse Inference
- VI. Particular Market Situation
- VII. Discussion of the Methodology
- VIII. Adjustments to the Cash Deposit Rates for Export Subsidies in the Companion Countervailing Duty Investigation
- IX. Currency Conversion
- X. Recommendation

[FR Doc. 2025–18884 Filed 9–26–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–542–806]

Paper File Folders From Sri Lanka: Antidumping Duty Order

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

SUMMARY: Based on affirmative final determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC), Commerce is issuing an antidumping duty (AD) order on paper file folders (file folders) from Sri Lanka.

DATES: Applicable September 29, 2025.

FOR FURTHER INFORMATION CONTACT: Samuel Frost, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8180.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i) of the Tariff Act of 1930, as amended (the Act), on August 8, 2025, Commerce published its affirmative final determination of sales at less than fair value (LTFV) of file folders from Sri Lanka.¹

On September 22, 2025, pursuant to section 735(d) of the Act, the ITC notified Commerce of its final affirmative determinations that an industry in the United States is materially injured by reason of dumped

imports of file folders from Sri Lanka within the meaning of section 735(b)(1)(A)(i) of the Act.²

Scope of the Order

The product covered by this order is file folders from Sri Lanka. For a complete description of the scope of the order, see the appendix to this notice.

AD Order

On September 22, 2025, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured, within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of imports of file folders from Sri Lanka that are sold in the United States at LTFV. Therefore, in accordance with sections 735(c)(2) and 736(a) of the Act, Commerce is issuing this AD order. Because the ITC determined that imports of file folders from Sri Lanka are materially injuring a U.S. industry, unliquidated entries of such merchandise from Sri Lanka, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise on all relevant entries of file folders from Sri Lanka. Antidumping duties will be assessed on unliquidated entries of file folders entered, or withdrawn from warehouse, for consumption on or after May 29, 2025, the date of publication of the *Preliminary Determination*,³ but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination, as further described below.

Continuation of Suspension of Liquidation and Cash Deposits

Except as noted in the “Provisional Measures” section of this notice, in accordance with section 736 of the Act, Commerce intends to instruct CBP to continue to suspend liquidation on all relevant entries of file folders from Sri Lanka, effective on the date of publication of the ITC's final affirmative

injury determination in the **Federal Register**. These instructions suspending liquidation will remain in effect until further notice.

Commerce also intends to instruct CBP to require cash deposits equal to the estimated dumping margins as indicated in the table below. Accordingly, effective on the date of publication in the **Federal Register** of the ITC final injury determination, CBP must require, at the same time that importers would normally deposit estimated duties on the merchandise, a cash deposit equal to the rates listed below. The all-others rate applies to all producers or exporters not specifically listed, as appropriate.

Estimated Dumping Margins

The estimated dumping margins are as follows:

Exporter/producer	Dumping margin (percent)
Lanka Educational Products Pvt Ltd	* 91.28
All Others	57.43

*This rate is based on facts available with adverse inferences.

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. Commerce published its affirmative *Preliminary Determination* on May 29, 2025. Commerce's *Final Determination* was not extended and was published on August 8, 2025. Therefore, the four-month period beginning on the date of the publication of the *Preliminary Determination* ended on September 25, 2025. Pursuant to section 737(b) of the Act, the collection of cash deposits at the rates listed above will begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 733(d) of the Act, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of file folders from Sri Lanka entered, or withdrawn from warehouse, for consumption on or after September 26, 2025, the first day provisional measures were no longer in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**.

¹ See *Paper File Folders from Sri Lanka: Final Affirmative Determination of Sales at Less-Than-Fair Value*, 90 FR 38460 (August 8, 2025).

² See ITC's Letter, “Notification of ITC Final Determination,” dated September 22, 2025.

³ See *Paper File Folders from Sri Lanka: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 90 FR 22696 (May 29, 2025) (*Preliminary Determination*).

Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determination in the **Federal Register**.

Establishment of the Annual Inquiry Service Lists

On September 20, 2021, Commerce published the *Final Rule* in the **Federal Register**.⁴ On September 27, 2021, Commerce also published the *Procedural Guidance* in the **Federal Register**.⁵ The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.

In accordance with the *Procedural Guidance*, for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at <https://access.trade.gov>, within five business days of publication of the notice of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called "AISL-Annual Inquiry Service List."⁶

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that

law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance*,⁷ the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website.

Special Instructions for Petitioner and Foreign Governments

In the *Final Rule*, Commerce stated that, "after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow."⁸ Accordingly, as stated above, the petitioner and the Government of Sri Lanka should submit their initial entries of appearance after publication of this notice in order to appear in the first annual inquiry service lists for this order. Pursuant to 19 CFR 351.225(n)(3), the petitioner and the Government of Sri Lanka will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioner and the Government of Sri Lanka are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the AD order with respect to file folders from Sri Lanka pursuant to section 736(a) of the Act. Interested parties can find a list of AD and countervailing duty orders currently in effect at <https://enforcement.trade.gov/stats/iastats1.html>.

This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: September 24, 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

Scope of the Order

The products within the scope of this order are file folders consisting primarily of paper, paperboard, pressboard, or other cellulose material, whether coated or uncoated, that has been folded (or creased in preparation to be folded), glued, taped, bound, or otherwise assembled to be suitable for holding documents. The scope includes all such folders, regardless of color, whether or not expanding, whether or not laminated, and with or without tabs, fasteners, closures, hooks, rods, hangers, pockets, gussets, or internal dividers. The term "primarily" as used in the first sentence of this scope means 50 percent or more of the total product weight, exclusive of the weight of fasteners, closures, hooks, rods, hangers, removable tabs, and similar accessories, and exclusive of the weight of the packaging.

Subject folders have the following dimensions in their folded and closed position: lengths and widths of at least 8 inches and no greater than 17 inches, regardless of depth.

The scope covers all varieties of folders, including but not limited to manila folders, hanging folders, fastener holders, classification folders, expanding folders, pockets, jackets, and wallets.

Excluded from the scope are:

- mailing envelopes with a flap bearing one or more adhesive strips that can be used permanently to seal the entire length of a side such that, when sealed, the folder is closed on all four sides;
- binders, with two or more rings to hold documents in place, made of paperboard or pressboard encased entirely in plastic;
- binders consisting of a front cover, back cover, and spine, with or without a flap; to be excluded, a mechanism with two or more metal rings must be included on or adjacent to the interior spine;
- non-expanding folders with a depth exceeding 2.5 inches and that are closed or closeable on the top, bottom, and all four sides (e.g., boxes or cartons);
- expanding folders that have: (1) 13 or more pockets; (2) a flap covering the top; (3) a latching mechanism made of plastic and/or metal to close the flap; and (4) an affixed plastic or metal carry handle;
- folders that have an outer surface (other than the gusset, handles, and/or closing mechanisms, if any) that is covered entirely with fabric, leather, and/or faux leather;
- fashion folders, which are defined as folders with all of the following characteristics: (1) plastic lamination covering the entire exterior of the folder; (2) printing, foil stamping, embossing (i.e., raised relief patterns that are recessed on the opposite side), and/or debossing (i.e., recessed relief patterns that are raised on the opposite side), covering the entire exterior surface area of the folder; (3) at least two

⁴ See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021) (*Final Rule*).

⁵ See *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*, 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

⁶ This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A-000-000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as "AISL-January Anniversary." Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

⁷ See *Procedural Guidance*, 86 FR at 53206.

⁸ See *Final Rule*, 86 FR at 52335.

visible and printed or foil stamped colors (other than the color of the base paper), each of which separately covers no less than 10 percent of the entire exterior surface area; and (4) patterns, pictures, designs, or artwork covering no less than thirty percent of the exterior surface area of the folder;

- portfolios, which are folders having: (1) a width of at least 16 inches when open flat; (2) no tabs or dividers; and (3) one or more pockets that are suitable for holding letter size documents and that cover at least 15 percent of the surface area of the relevant interior side or sides; and
- report covers, which are folders having: (1) no tabs, dividers, or pockets; and (2) one or more fasteners or clips, each of which is permanently affixed to the center fold, to hold papers securely in place.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) category 4820.30.0040. Subject imports may also enter under other HTSUS classifications. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

[FR Doc. 2025–18886 Filed 9–26–25; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–190, C–570–191]

Sol Gel Alumina-Based Ceramic Abrasive Grains From the People's Republic of China: Antidumping Duty Order and Countervailing Duty Order

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

SUMMARY: Based on affirmative final determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC), Commerce is issuing the antidumping duty (AD) and countervailing duty (CVD) orders on sol gel alumina-based ceramic abrasive grains (ceramic abrasive grains) from the People's Republic of China (China).

DATES: Applicable September 29, 2025.

FOR FURTHER INFORMATION CONTACT: Thomas Cloyd (AD China) or Suresh Maniam (CVD China), AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1246 or (202) 482–1603, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 705(d) and 735(d) of the Tariff Act of 1930, as

amended (the Act), on August 15, 2025, Commerce published its affirmative final determination of sales at less than fair value (LTFV) of ceramic abrasive grains from China,¹ and its affirmative final determination that countervailable subsidies are being provided to producers and exporters of ceramic abrasive grains from China.²

On September 19, 2025, pursuant to sections 705(d) and 735(d) of the Act, the ITC notified Commerce of its final affirmative determinations that an industry in the United States is materially injured by reason of dumping imports of ceramic abrasive grains from China, and subsidized imports of ceramic abrasive grains from China, within the meaning of sections 705(b)(1)(A)(i) and 735(b)(1)(A)(i) of the Act.³

Scope of the Orders

The products covered by these orders are ceramic abrasive grains from China. For a complete description of the scope of the orders, *see* the Appendix to this notice.

AD Order

On September 19, 2025, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of ceramic abrasive grains from China that are sold in the United States at less than fair value.⁴ Therefore, in accordance with section 735(c)(2) and 736 of the Act, Commerce is issuing this AD order. Because the ITC determined that imports of ceramic abrasive grains from China are materially injuring a U.S. industry, unliquidated entries of such merchandise from China, entered or withdrawn from warehouse for consumption are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the

normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise on all relevant entries of ceramic abrasive grains from China. Antidumping duties will be assessed on unliquidated entries of ceramic abrasive grains entered, or withdrawn from warehouse, for consumption on or after June 2, 2025, the date of publication of the *Preliminary LTFV Determination*.⁵

Continuation of Suspension of Liquidation and Cash Deposits—AD

Commerce intends to instruct CBP to continue to suspend liquidation on all relevant entries of ceramic abrasive grains from China, in accordance with section 736 of the Act. These instructions suspending liquidations will remain in effect until further notice.

Commerce also intends to instruct CBP to require cash deposits equal to the estimated weighted-average dumping margin indicated in the table below, adjusted by the relevant subsidy offsets. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determination, CBP must require, at the same time as importers would normally deposit estimated customs duties on subject merchandise, a cash deposit equal to the rates listed in the table below.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margin is as follows:

Exporter/producer	Weighted-average dumping margin (percent)
China-wide Entity ⁶	* 7 88.32

* This rate is based on facts available with adverse inferences.

CVD Order

As stated above, based on the above-referenced affirmative final determination by the ITC that an industry in the United States is

¹ See *Sol Gel Alumina-Based Ceramic Abrasive Grains from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 90 FR 39366 (August 15, 2025) (*Final LTFV Determination*).

² See *Sol Gel Alumina-Based Ceramic Abrasive Grains from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 90 FR 39367 (August 15, 2025) (*Final CVD Determination*).

³ See ITC's Letter, "Notification of ITC Final Determinations," dated September 19, 2025 (ITC Notification Letter).

⁴ *Id.*

⁵ See *Sol Gel Alumina-Based Ceramic Abrasive Grains from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 90 FR 23319 (June 2, 2025) (*Preliminary LTFV Determination*).

⁶ This rate is based on facts available with adverse inferences.

⁷ See *Final LTFV Determination*. Commerce notes that the *Preliminary LTFV Determination* and the *Final LTFV Determination* incorrectly applied an export subsidy offset of 16.10 percent *ad valorem*. The correct export subsidy offset is 0.00 percent *ad valorem*, pursuant to Commerce's *Final CVD Determination*.

materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of ceramic abrasive grains from China,⁸ in accordance with section 705(c)(2) of the Act, Commerce is issuing this CVD order. Moreover, because the ITC determined that imports of ceramic abrasive grains from China are materially injuring a U.S. industry, unliquidated entries of subject merchandise from China, entered, or withdrawn from warehouse, for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce intends to direct CBP to assess, upon further instructions by Commerce, countervailing duties on all relevant entries of ceramic abrasive grains from China, which are entered, or withdrawn

from warehouse, for consumption on or after May 22, 2025, the date of publication of the *Preliminary CVD Determination*,⁹ but will not include entries occurring after the expiration of the provisional measures period and before the publication of the ITC’s final injury determination under section 705(b) of the Act, as further described in the “Provisional Measures—CVD” section of this notice.

Suspension of Liquidation and Cash Deposits—CVD

In accordance with section 706 of the Act, Commerce intends to instruct CBP to reinstitute the suspension of liquidation of ceramic abrasive grains from China, effective on the date of publication of the ITC’s final affirmative injury determination in the **Federal Register**, and to assess, upon further instruction by Commerce, pursuant to

section 706(a)(1) of the Act, countervailing duties on each entry of subject merchandise in an amount based on the net countervailable subsidy rates below. On or after the date of publication of the ITC’s final injury determination in the **Federal Register**, CBP must require, at the same time as importers would normally deposit estimated customs duties on this merchandise, a cash deposit equal to the rates listed in the table below. These instructions suspending liquidation will remain in effect until further notice. The all-others rate applies to all producers or exporters not specifically listed below, as appropriate.

Estimated Countervailing Duty Subsidy Rates

The estimated countervailing duty subsidy rates are as follows:

Company	Subsidy rate (percent <i>ad valorem</i>)
Qingdao SISA Abrasives Co., Ltd	* 165.05
Shandong Imerys Mount Tai Co., Ltd	* 165.05
Futong Industry Co., Ltd	* 165.05
Guangzhou Qianyang Metals & Machine	* 165.05
Kumthai Abrasives Co., Ltd	* 165.05
Luoyang Runbao Super Abrasives Co	* 165.05
More Superhard Products Co., Ltd	* 165.05
Qingdao Roy Grinding Material Co	* 165.05
Reckel Advanced Materials Co., Ltd	* 165.05
Zhengshou Haixu Abrasives Co	* 165.05
All Others	165.05

* This rate is based on facts available with adverse inferences.

Provisional Measures—CVD

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. Commerce published the *Preliminary CVD Determination* on May 22, 2025.¹⁰ As such, the four-month period beginning on the date of the publication of the *Preliminary CVD Determination* ended on September 18, 2025.

In accordance with section 703(d) of the Act, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated

entries of ceramic abrasive grains from China entered, or withdrawn from warehouse, for consumption, on or after September 19, 2025, the date on which the provisional measures expired, until and through the day preceding the date of publication of the ITC’s final injury determination in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC’s affirmative final injury determination in the **Federal Register**.

Establishment of the Annual Inquiry Service Lists

On September 20, 2021, Commerce published the *Final Rule* in the **Federal**

Register.¹¹ On September 27, 2021, Commerce also published the *Procedural Guidance* in the **Federal Register**.¹² The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.

⁸ See ITC Notification Letter.
⁹ See *Sol Gel Alumina-Based Ceramic Abrasive Grains from the People’s Republic of China: Preliminary Affirmative Countervailing Duty*

Determination, 90 FR 21893 (May 22, 2025) (*Preliminary CVD Determination*).
¹⁰ *Id.*
¹¹ See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing*

Duty Laws, 86 FR 52300 (September 20, 2021) (*Final Rule*).
¹² See *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*, 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

In accordance with the *Procedural Guidance*, for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at <https://access.trade.gov>, within five business days of publication of the notice of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called "AISL-Annual Inquiry Service List."¹³

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance*,¹⁴ the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website.

Special Instructions for Petitioner and Foreign Governments

In the *Final Rule*, Commerce stated that, "after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list

in the years that follow."¹⁵ Accordingly, as stated above, the petitioner and the Government of China should submit their initial entries of appearance after publication of this notice in order to appear in the first annual inquiry service lists for these orders. Pursuant to 19 CFR 351.225(n)(3), the petitioner and the Government of China will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioner and the Government of China are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the AD order with respect to ceramic abrasive grains from China and the CVD order with respect to ceramic abrasive grains from China, pursuant to sections 706(a) and 736(a) of the Act. Interested parties can find a list of AD and CVD orders currently in effect at <https://enforcement.trade.gov/stats/iastats1.html>.

These orders are published in accordance with sections 706(a) and 736(a) of the Act and 19 CFR 351.211(b).

Dated: September 24, 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

Scope of the Orders

The merchandise covered by these orders is sol gel alumina-based ceramic abrasive grains which are comprised of minimum 94% aluminum oxide (Al₂O₃), and may contain other compounds, including, but not limited to, titanium dioxide, silicon dioxide, calcium oxide, sodium superoxide, ferric oxide, magnesium oxide, di-aluminum magnesium tetroxide, lanthanum oxide, lanthanum magnesium oxide, zirconium dioxide, or zirconium carbonate. Grain sizes of sol gel alumina-based ceramic abrasive grains range from 0.85 mm to 0.0395 mm (which corresponds to American National Standards Institute (ANSI) grit sizes from 20 to 280).

Shapes include but are not limited to angular, sharp, extra sharp, blocky, splintery, round stripped, triangular or shaped like extruded rods or stars.

Ceramic abrasive grains have unique crystalline structures that impart certain advanced properties, such as their extreme hardness and strength ranging between 16 and 22 gigapascals by the Vickers Diamond

Indent Method, high melting point (2050 °C), and a single- or multi-phase microstructure, which may contain multiple phases, having crystalline sizes ranging from 0.05 to 30µm. These ceramic abrasive grains include but are not limited to blue, white, white-translucent, or off-white opaque colors.

Sol gel alumina-based ceramic abrasive grains are covered by the scope of these orders, whether or not incorporated into downstream articles, including but not limited to, abrasive papers, grinding wheels, grinding cylinders, and grinding discs. When incorporated into downstream articles, only the sol gel alumina-based ceramic abrasive grains component of such articles is covered by the product scope, and not the downstream product as a whole.

The merchandise subject to these orders is properly classified under subheadings 2818.10.2010 and 2818.10.2090 of the Harmonized Tariff Schedule of the United States (HTSUS). Other merchandise subject to the current scope, including when incorporated into the abovementioned downstream articles, may be classified under HTSUS subheadings 2818.10.1000, 2818.20.0000, 2818.30.0000, 3824.99.1100, 3824.99.1900, 6805.10.0000, 6805.20.0000, 6805.30.1000, 6805.30.5000, 6804.22.1000, 6804.22.4000, 6804.22.6000, 8204.12.0000, 8474.90.0010, 8474.90.0020, 8474.90.0050, and 8474.90.0090. Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

[FR Doc. 2025–18882 Filed 9–26–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–865]

Certain Chassis and Subassemblies Thereof From Mexico: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain chassis and subassemblies thereof (chassis) from Mexico are being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2024, through December 31, 2024. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 29, 2025.

FOR FURTHER INFORMATION CONTACT: Jun Jack Zhao or Thomas Gilgunn, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade

¹³ This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as "AISL-January Anniversary." Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

¹⁴ See *Procedural Guidance*, 86 FR at 53206.

¹⁵ See *Final Rule*, 86 FR at 52335.

Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1396 or (202) 482-4236, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on March 24, 2025.¹ On July 18, 2025, Commerce postponed the preliminary determination of this investigation until September 24, 2025.²

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary 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 Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The products covered by this investigation are chassis from Mexico. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,⁴ the *Initiation*

Notice set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁶ Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has relied on facts available under section 776(a) of the Act for Hyundai de Mexico S.A. de C.V. (HYMEX). Furthermore, pursuant to section 776(b) of the Act, Commerce has preliminarily relied upon facts otherwise available, with adverse inferences for HYMEX. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely on facts

otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters. For a full description of the methodology underlying Commerce's analysis, *see* the Preliminary Decision Memorandum.

Rate for Non-Responsive Companies

The following nine exporters and/or producers of chassis from Mexico did not respond to the quantity and value (Q&V) questionnaire: (1) BRD Trailers, S.A. de C.V.; (2) Carrocerias Gallegos S.A. de C.V.; (3) Comercializadora Nimmka; S.A. de C.V. (d/b/a Atro Remolques y Carroceria); (4) Carrocerias Corpus Christi S.A. DE C.V.; (5) Fruehauf de Mexico; S.A. de C.V.; (6) Lodi Trailers; (7) Norstar Trailers Mexico S de R.L. de C.V. (d/b/a Iron Bull Trailers); (8) Semiremolques El Paisano S.A. de C.V.; and (9) Ventura Trailers (collectively, the non-responsive companies). We find that, by not responding to the Q&V questionnaire, these companies withheld necessary information that was requested of them, failed to provide information within the deadlines established and significantly impeded this proceeding. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(1) and (2)(A)–(C) of the Act, we are basing the antidumping duty rate for the non-responsive companies on facts otherwise available.

In addition, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit responses to Commerce's Q&V questionnaire, the non-responsive companies did not cooperate to the best of their ability in this investigation. Accordingly, we preliminarily find that an adverse inference is warranted to ensure that the non-responsive companies will not obtain a more favorable result than had they fully complied with our request for information. For more information on the application of adverse facts available (AFA), *see* "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memorandum.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

¹ *See Certain Chassis and Subassemblies Thereof from Mexico, Thailand, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 90 FR 13457 (March 24, 2025) (*Initiation Notice*).

² *See Certain Chassis and Subassemblies Thereof from Mexico, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 90 FR 33920 (July 18, 2025).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Chassis and Subassemblies Thereof from Mexico" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ *See Initiation Notice*.

⁶ *See* Memorandum, "Less Than Fair Value and Countervailing Duty Investigations of Certain Chassis and Subassemblies Thereof from Mexico, Thailand, and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum," dated July 28, 2025 (Preliminary Scope Decision Memorandum).

Exporter/producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent) ⁷
Hyundai de Mexico S.A. de C.V	*32.37	0.00
BRD Trailers, S.A. de C.V	*32.37	0.00
Carrocerías Gallegos S.A. de C.V	*32.37	0.00
Commercializadora Nimmka, S.A. de C.V. (d/b/a Atro Remolques y Carrocería)	*32.37	0.00
Carrocerías Corpus Christi S.A. DE C.V	*32.37	0.00
Fruehauf de Mexico, S.A. de C.V	*32.37	0.00
Lodi Trailers	*32.37	0.00
Norstar Trailers Mexico S de R.L. de C.V. (d/b/a Iron Bull Trailers)	*32.37	0.00
Semiremolques El Paisano S.A. de C.V	3* 2.37	0.00
Ventura Trailers	*32.37	0.00
All Others	32.37	0.00

* Rate based on facts available with adverse inferences.

Suspension of Liquidation and Cash Deposit Requirements

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies

countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. Any such adjusted cash deposit rate may be found in the “Preliminary Determination” section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire.

These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the individually examined company HYMEX in this investigation, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose.

Verification

Because HYMEX, the mandatory respondent in this investigation, did not provide information requested by

Commerce, and Commerce preliminarily determines HYMEX has been uncooperative, we will not conduct verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of the preliminary determination, unless the Secretary alters the time limit.⁸ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.⁹ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁰

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their briefs that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹¹ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries

⁸ See 19 CFR 351.309(c)(1)(i); see also 19 CFR 351.303 for general filing requirement.

⁹ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹⁰ See 19 CFR 351.309(c)(2) and (d)(2).

¹¹ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

⁷ We adjusted the cash deposit rates for export subsidies of 50.73 percent (comprised of 13.62 percent for Program for the Manufacturing Industry, Maquiladora, and Export Services (IMMEX), 13.62 percent for Eight Rule Permit, 13.62 percent for Duty Drawback, 6.55 percent for Bancomext Financing, 3.32 percent for State of Coahuila de Zaragoza—Law of Economic Development. See *Certain Chassis and Subassemblies from Mexico: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 90 FR 36137 (August 1, 2025), and accompanying Preliminary Decision Memorandum at 25–26.

included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹²

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On September 18, 2025, pursuant to section 735(a)(2)(B) of the Act and 19 CFR 351.210(b)(2)(i) and (ii), the petitioner and HYMEX requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹³ In accordance with

section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: September 24, 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 I

Scope of the Investigation

The merchandise covered by this investigation consists of chassis and subassemblies thereof whether finished or unfinished, whether assembled or unassembled, whether coated or uncoated, regardless of the number of axles, for carriage of containers, or other payloads (including self-supporting payloads) for road, marine roll-on/roll-off (RORO) and/or rail transport. Chassis are typically, but are not limited to, rectangular framed trailers with a suspension and axle system, wheels and tires, brakes, a lighting and electrical system, a coupling for towing behind a truck tractor, and a locking system or systems to secure the shipping container or containers to the chassis using twistlocks, slide pins or similar attachment devices to engage the corner fittings on the container or other payload.

Subject merchandise includes, but is not limited to, the following subassemblies:

- Chassis frames, or sections of chassis frames, including kingpin assemblies,

Coalition (the petitioner), consisting of: Cheetah Chassis Corporation and Stoughton Trailers LLC.

bolsters consisting of transverse beams with locking or support mechanisms, goosenecks, drop assemblies, extension mechanisms and/or rear impact guards;

- Running gear assemblies or axle assemblies for connection to the chassis frame, whether fixed in nature or capable of sliding fore and aft or lifting up and lowering down, which may or may not include suspension(s) (mechanical or pneumatic), wheel end components, slack adjusters, dressed axles, brake chambers, locking pins, and tires and wheels; and

- Assemblies that connect to the chassis frame or a section of the chassis frame, such as but not limited to, pintle hooks or B-trains (which include a fifth wheel), which are capable of connecting a chassis to a converter dolly or another chassis.

Importation of any of these subassemblies, whether assembled or unassembled, constitutes an unfinished chassis for purposes of this investigation.

Subject merchandise also includes chassis, whether finished or unfinished, entered with components such as, but not limited to: hub and drum assemblies, brake assemblies (either drum or disc), bare axles, brake chambers, suspensions and suspension components, wheel end components, landing gear legs, spoke or disc wheels, tires, brake control systems, electrical harnesses and lighting systems.

Processing of finished and unfinished chassis and components such as trimming, cutting, grinding, notching, punching, drilling, painting, coating, staining, finishing, assembly, or any other processing either in the country of manufacture of the in-scope product or in a third country does not remove the product from the scope. Inclusion of other components not identified as comprising the finished or unfinished chassis does not remove the product from the scope.

Individual components entered and sold by themselves are not subject to the investigation, but components entered with a finished or unfinished chassis are subject merchandise. A finished chassis is ultimately comprised of several different types of subassemblies. Within each subassembly there are numerous components that comprise a given subassembly.

This scope excludes dry van trailers, refrigerated van trailers and flatbed trailers. Dry van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer itself. Refrigerated van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer and being insulated, possessing specific thermal properties intended for use with self-contained refrigeration systems. Flatbed (or platform) trailers consist of load carrying main frames and a solid, flat or stepped loading deck or floor permanently incorporated with and supported by frame rails and cross members.

¹² See APO and Service Final Rule.

¹³ See Petitioner's Letter, "Request for Postponement of Final Determination," and HYMEX's Letter, "HT's Request to Postpone Final Determination," dated September 18, 2025. The petitioner is the U.S. Chassis Manufacturers

The finished and unfinished chassis subject to this investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8716.39.0090 and 8716.90.5060. Imports of finished and unfinished chassis may also enter under HTSUS subheading 8716.90.5010. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Affiliation
- V. Application of Facts Available, Use of Adverse Inferences, and Corroboration
- VI. All-Others Rate
- VII. Adjustment to Cash Deposit Rates for Export Subsidies in the Companion CVD Investigation
- VIII. Recommendation

[FR Doc. 2025–18883 Filed 9–26–25; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–867]

High Purity Dissolving Pulp From Brazil: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

DATES: Applicable September 29, 2025.

FOR FURTHER INFORMATION CONTACT: Gordon Struck at (202) 482–8151 and Sarah Keith at (202) 482–0264, respectively, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 2025, the U.S. Department of Commerce (Commerce) initiated a countervailing duty (CVD) investigation of imports of high purity dissolving pulp (dissolving pulp) from Brazil.¹ Currently, the preliminary determination is due no later than November 6, 2025.

¹ See *High Purity Dissolving Pulp from Brazil: Initiation of Countervailing Duty Investigation*, 90 FR 43174 (September 8, 2025) (*Initiation Notice*).

Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a CVD investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act permits Commerce to postpone the preliminary determination in a CVD investigation until no later than 130 days after the date on which Commerce initiated the investigation if: (A) the petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On September 22, 2025, the petitioners² submitted a timely request that Commerce postpone the preliminary CVD determination.³ The petitioners stated that postponement of the preliminary determination is necessary to allow petitioners and Commerce sufficient time to evaluate the initial questionnaire responses submitted by the Government of Brazil (GOB) and Bracell Bahia Specialty Celulose SA (Bracell), the mandatory respondent, before submitting LTAR benchmark information or new subsidy allegations.⁴ Extending the preliminary determination will also ensure there is sufficient time to issue supplemental questionnaires to the GOB and Bracell, as necessary, and sufficient time to evaluate all relevant subsidy programs.⁵

In accordance with 19 CFR 351.205(e), the petitioner submitted its request for postponement of the preliminary determination in this investigation 25 days or more before the scheduled date of the preliminary determination and stated the reasons for its request. Commerce finds no compelling reason to deny the request. Therefore, in accordance with section

² The petitioners are Rayonier Advanced Materials Inc. and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO.

³ See Petitioners' Letter, "Petitioners' Request to Fully Extend the Preliminary Determination," dated September 22, 2025.

⁴ *Id.*

⁵ *Id.*

703(c)(1)(A) of the Act, Commerce is postponing the deadline for the preliminary determinations in these investigations to no later than 130 days after the date on which it initiated this investigation, *i.e.*, January 12, 2026.⁶ Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: September 24, 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. 2025–18881 Filed 9–26–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–849]

Certain Chassis and Subassemblies Thereof From the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain chassis and subassemblies thereof (chassis) from the Socialist Republic of Vietnam (Vietnam) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2024, through December 31, 2024. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 29, 2025.

FOR FURTHER INFORMATION CONTACT: Elizabeth Beuley or Benito Ballesteros, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington,

⁶ Because the deadline for these submissions falls on the weekend (*i.e.*, January 10, 2026), the deadline became the next business day (*i.e.*, January 12, 2026). See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

DC 20230; telephone: (202) 482–3269 or (202) 482–7425, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on March 24, 2025.¹ On July 18, 2025, Commerce postponed the preliminary determination of this investigation until September 24, 2025.²

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary 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 Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The products covered by this investigation are chassis from Vietnam. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce’s regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product

coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁶ Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export price in accordance with section 772(a) of the Act. Because Vietnam is a non-market economy (NME), within the meaning of section 771(18) of the Act, Commerce has calculated normal value (NV) in accordance with section 773(c) of the Act. For a full description of the methodology underlying Commerce’s preliminary determination, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice*,⁷ Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.⁸

Separate Rate Companies and the Vietnam-Wide Entity

In this investigation, Commerce received two separate rate applications, from Thaco Special Vehicles

Manufacturing Limited Company and Thaco Industries Trailers and Heavy Steel Structures Manufacturing Limited Liability Company (collectively, Thaco⁹), and we are preliminarily granting a separate rate to Thaco. In calculating the rate for non-individually examined separate rate respondents in an NME LTFV investigation, Commerce normally looks to section 735(c)(5)(A) of the Act, which pertains to the calculation of the all-others rate in a market economy LTFV investigation, for guidance. Pursuant to section 735(c)(5)(A) of the Act, normally this rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for those companies individually examined, excluding zero and *de minimis* estimated weighted-average dumping margins and any estimated weighted-average dumping margins based entirely under section 776 of the Act.

Thaco is the only respondent that Commerce individually examined in this investigation, and Commerce preliminarily calculated an estimated weighted-average dumping margin for Thaco that is not zero, *de minimis*, or based entirely on facts available. Accordingly, while there are no separate rate respondents in this investigation, because we preliminarily find that the Vietnam-wide entity cooperated in this investigation, we preliminarily assigned the estimated weighted-average dumping margin calculated for Thaco to the Vietnam-wide entity.¹⁰

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Producer	Exporter	Estimated weighted-average dumping margin (percent)
Thaco Special Vehicles Manufacturing Limited Company; Thaco Industries Trailers and Heavy Steel Structures Manufacturing Limited Liability Company.	Thaco Special Vehicles Manufacturing Limited Company; Thaco Industries Trailers and Heavy Steel Structures Manufacturing Limited Liability Company.	511.16

¹ See *Certain Chassis and Subassemblies Thereof from Mexico, Thailand, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 90 FR 13457 (March 24, 2025) (*Initiation Notice*).

² See *Certain Chassis and Subassemblies Thereof from Mexico, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair Value Investigations*, 90 FR 33920 (July 18, 2025).

³ See Memorandum, “Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Chassis and Subassemblies Thereof from the Socialist Republic of Vietnam,” dated concurrently

with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ See *Initiation Notice*.

⁶ See Memorandum, “Less Than Fair Value and Countervailing Duty Investigations of Certain Chassis and Subassemblies Thereof from Mexico, Thailand, and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum,” dated July 28, 2025 (Preliminary Scope Decision Memorandum).

⁷ See *Initiation Notice*, 90 FR at 13461.

⁸ See Enforcement and Compliance’s Policy Bulletin No. 05.1, regarding, “Separate-Rates

Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries,” (April 5, 2005) (Policy Bulletin 05.1), available on Commerce’s website at <https://enforcement.trade.gov/policy/bull05-1.pdf>.

⁹ We preliminarily determine that Thaco Special Vehicles Manufacturing Limited Company and Thaco Industries Trailers and Heavy Steel Structures Manufacturing Limited Liability Company should be collapsed and treated as a single entity. *See* Preliminary Decision Memorandum at 5–6.

¹⁰ See Preliminary Decision Memorandum at the section, “Separate Rates,” for further discussion.

Producer	Exporter	Estimated weighted-average dumping margin (percent)
Vietnam-wide Entity		511.16

Suspension of Liquidation and Cash Deposit Requirements

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted average amount by which NV exceeds U.S. price, as indicated in the chart above as follows: (1) for the producer/exporter combination listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Vietnamese producers/exporters of merchandise under consideration that have not established eligibility for their own separate rate, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the Vietnam-wide entity; and (3) for all third-country exporters of the merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Vietnam producer/exporter combination (or the Vietnam-wide entity) that supplied that third-country exporter. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard

under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this investigation.¹¹ A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹² Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹³

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁴ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries

¹¹ See 19 CFR 351.309(c)(1)(i); see also 19 CFR 351.303 (for general filing requirements).

¹² See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹³ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁴ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁵

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party’s name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On September 17, 2025, pursuant to section 735(a)(2)(B) of the Act and 19 CFR 351.210(e), Thaco requested that Commerce postpone the final

¹⁵ See *APO and Service Final Rule*.

determination and that provisional measures be extended to a period not to exceed six months.¹⁶ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: September 24, 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 I

Scope of the Investigation

The merchandise covered by this investigation consists of chassis and subassemblies thereof whether finished or unfinished, whether assembled or unassembled, whether coated or uncoated, regardless of the number of axles, for carriage of containers, or other payloads (including self-supporting payloads) for road, marine roll-on/roll-off (RORO) and/or rail transport. Chassis are typically, but are not limited to, rectangular framed trailers with a suspension and axle system, wheels and tires, brakes, a lighting and electrical system, a coupling for towing behind a truck tractor, and a locking system or systems to secure the shipping container or containers to the chassis using twistlocks, slide pins or similar attachment devices to engage the corner fittings on the container or other payload.

Subject merchandise includes, but is not limited to, the following subassemblies:

- Chassis frames, or sections of chassis frames, including kingpin assemblies, bolsters consisting of transverse beams with locking or support mechanisms, goosenecks, drop assemblies, extension mechanisms and/or rear impact guards;
- Running gear assemblies or axle assemblies for connection to the chassis frame, whether fixed in nature or capable of sliding fore and aft or lifting up and lowering down, which may or may not include suspension(s) (mechanical or pneumatic), wheel end components, slack adjusters, dressed axles, brake chambers, locking pins, and tires and wheels; and
- Assemblies that connect to the chassis frame or a section of the chassis frame, such as but not limited to, pintle hooks or B-trains (which include a fifth wheel), which are capable of connecting a chassis to a converter dolly or another chassis.

Importation of any of these subassemblies, whether assembled or unassembled, constitutes an unfinished chassis for purposes of this investigation.

Subject merchandise also includes chassis, whether finished or unfinished, entered with components such as, but not limited to: hub and drum assemblies, brake assemblies (either drum or disc), bare axles, brake chambers, suspensions and suspension components, wheel end components, landing gear legs, spoke or disc wheels, tires, brake control systems, electrical harnesses and lighting systems.

Processing of finished and unfinished chassis and components such as trimming, cutting, grinding, notching, punching, drilling, painting, coating, staining, finishing, assembly, or any other processing either in the country of manufacture of the in-scope product or in a third country does not remove the product from the scope. Inclusion of other components not identified as comprising the finished or unfinished chassis does not remove the product from the scope.

Individual components entered and sold by themselves are not subject to the investigation, but components entered with a finished or unfinished chassis are subject merchandise. A finished chassis is ultimately comprised of several different types of subassemblies. Within each subassembly there are numerous components that comprise a given subassembly.

This scope excludes dry van trailers, refrigerated van trailers and flatbed trailers. Dry van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer itself. Refrigerated van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer and being insulated, possessing specific thermal properties intended for use with self-contained refrigeration systems. Flatbed (or

platform) trailers consist of load carrying main frames and a solid, flat or stepped loading deck or floor permanently incorporated with and supported by frame rails and cross members.

The finished and unfinished chassis subject to this investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8716.39.0090 and 8716.90.5060. Imports of finished and unfinished chassis may also enter under HTSUS subheading 8716.90.5010. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- Summary
- Background
- Period of Investigation
- Affiliation and Single Entity Treatment
- Discussion of the Methodology
- Currency Conversion
- Recommendation

[FR Doc. 2025–18885 Filed 9–26–25; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF217]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is holding a public hybrid meeting of its Scientific and Statistical Committee (SSC) to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, October 8, 2025, beginning at 9 a.m. Webinar Registration information: <https://nefmc-org.zoom.us/j/9tWKn-W-Q8ye9NSu-tPRTA>.

ADDRESSES: This meeting is being held at the Hilton Garden Inn Boston Logan; 100 Boardman St., Boston, MA 02128; Phone: (617) 567–6789.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

¹⁶ See Thaco's Letter, "Request to Extend Final Determination," dated September 17, 2025.

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Agenda

The SSC will meet to consider the information provided by the Council's Scallop and Groundfish Plan Development Teams, including stock assessment or data update information where appropriate; recommend the overfishing limits and acceptable biological catches for: Atlantic sea scallops for fishing years (FY) 2026 & 2027 (default); Ocean pout for FY 2026–2030; and Atlantic wolffish for FY 2026–2030. Other business will be discussed as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe, Executive Director, at 978-465-0492, at least 5 days prior to the meeting date.

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

Dated: September 25, 2025.

Rey Israel Marquez,

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

[FR Doc. 2025-18859 Filed 9-26-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF221]

Marine Mammals; File No. 29152

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Adam Gilbertsen, University of Minnesota, 689 23rd Avenue Southeast, MRF Room 1-151, Minneapolis, MN 55455, has applied in due form for a permit to import, export, and receive marine mammal parts for scientific research.

DATES: Written comments must be received on or before October 29, 2025.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 29152 from the list of available applications. These documents are also available upon written request via email to NMFS.Pr1Comments@noaa.gov.

Written comments on this application should be submitted via email to NMFS.Pr1Comments@noaa.gov. Please include File No. 29152 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to NMFS.Pr1Comments@noaa.gov. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan, Ph.D., or Jennifer Skidmore, (301) 427-8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant requests a 5-year research permit to import, export, and receive marine mammal parts to derive, cryopreserve, and characterize cell lines for comparative virology experiments. Parts from up to 30 cetaceans and 30 pinnipeds, excluding walrus, per year may be obtained from the following foreign or domestic legal sources: other researchers, captive animals, subsistence harvests, bycatch in legal fisheries, museums, scientific collections, and foreign stranded animals.

In compliance with the National Environmental Policy Act of 1969 (42

U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: September 25, 2025.

Shannon Bettridge,

Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2025-18867 Filed 9-26-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF134]

Marine Mammals and Endangered Species

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

ACTION: Notice; issuance of permits and permit amendments.

SUMMARY: Notice is hereby given that permits and permit amendments have been issued under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), as applicable.

ADDRESSES: The permits and related documents are available for review upon written request via email to NMFS.Pr1Comments@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Courtney Smith, Ph.D. (File No. 22629), Amy Hapeman (File No. 28217), Erin Markin, Ph.D., (File No. 29010), and Sara Young (File No. 23188); at (301) 427-8401.

SUPPLEMENTARY INFORMATION: The requested permits have been issued under the MMPA of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226), as applicable. Notices were published in the **Federal Register** on the dates listed below that requests for a permit or permit amendment had been submitted.

To locate the **Federal Register** notice that announced our receipt of the application and a complete description

of the activities, go to <https://www.federalregister.gov> and search for

the file number provided in table 1 below.

TABLE 1—ISSUED PERMITS AND PERMIT AMENDMENTS

File No.	Version No.	RTID	Applicant	Previous Federal Register notice	Issuance date
22629	04	0648–XA471	Mystic Aquarium, 55 Coogan Boulevard, Mystic, CT 06355 (Responsible Party: Susette Tibus).	85 FR 56219, September 11, 2020.	August 15, 2025.
23188	03	0648–XB081	Institute of Marine Sciences, University of California at Santa Cruz, 130 McAllister Way, Santa Cruz, CA 95060 (Responsible Party: Daniel Costa, Ph.D.).	86 FR 26013, May 12, 2021.	August 18, 2025.
28217	N/A	0648–XE722	Douglas Nowacek, Ph.D., Duke University, 135 Duke Marine Lab Rd., Beaufort, NC 28516.	90 FR 23032, May 30, 2025.	August 11, 2025.
29010	N/A	0648–XE978	Caribbean Oceanic Restoration and Education Foundation, 2608 Fish Bay, St. John, VI 00830 (Responsible Party: Rebecca Gibbel, DVM).	90 FR 27529, June 27, 2025.	August 19, 2025.

In compliance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed for File Nos. 28217 and 23188, are categorically excluded from the requirement to prepare an environmental assessment (EA) or environmental impact statement (EIS).

For File No. 22629, an EA was prepared for the original permit (85 FR 56219, September 11, 2020) analyzing the effects of the permitted activities on the human environment in compliance with NEPA. Based on the analyses in that EA, NMFS determined that issuance of that permit would not significantly impact the quality of the human environment and that preparation of an EIS was not required. That determination is documented in a Finding of No Significant Impact (FONSI), signed on August 27, 2020. NMFS determined that issuance of this minor amendment (No. 22629–04) with a 1 year extension would not change the findings of the original EA and FONSI.

For File No. 29010, NMFS has determined that the activities proposed are consistent with the Preferred Alternative in the Final Programmatic EIS for the Coral Reef Conservation Program (NMFS 2020), and that issuance of the permit would not have a significant adverse impact on the human environment.

As required by the ESA, as applicable, issuance of these permits was based on a finding that such permits: (1) were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and

policies set forth in section 2 of the ESA.

Dated: September 25, 2025.

Shannon Bettridge,
Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service.
[FR Doc. 2025–18868 Filed 9–26–25; 8:45 am]
BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

Correction

In notice document 2025–17979, appearing on pages 44809–44810 in the issue of Wednesday, September 17, 2025, make the following correction:

On page 44809, in the second column, in the **DATES** section, “September 17, 2025” should read “October 17, 2025”.

[FR Doc. C1–2025–17979 Filed 9–26–25; 8:45 am]
BILLING CODE 0099–10–D

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–HA–0055]

Submission for OMB Review; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs (OASD(HA)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 29, 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: Reginald Lucas, (571) 372–7574, whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: SCORE™ Well-Being and Engagement Survey; OMB Control Number 0720–SCOR.

Type of Request: New.

Number of Respondents: 6,873.

Responses per Respondent: 1.

Annual Responses: 6,873.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 1,718.

Needs and Uses: The 2001 National Defense Authorization Act addresses patient safety in military and veteran’s healthcare and requires an examination of systemic factors which lead to medical error. The Safety Culture, Operational reliability, Resilience/ burnout, and Engagement (SCORE™) Survey, a validated commercial assessment tool for patient safety that

engages all levels of staff from executive leaders to frontline teams, is a response to this legislation. The SCORE™ is conducted at Defense Health Network National Capital Region military medical treatment facilities for all staff members to provide data necessary for driving cultural change.

Affected Public: Federal government; individuals or households.

Frequency: As required.

Respondent's Obligation: Voluntary.

DOD Clearance Officer: Mr. Reginald Lucas.

Dated: September 25, 2025.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2025–18822 Filed 9–26–25; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2025–OESE–0152]

School-Based Mental Health Grant Program

AGENCY: U.S. Department of Education.

ACTION: Final priorities, requirements, and definitions.

SUMMARY: The Department of Education (Department) announces final priorities, requirements, and definitions under the School-Based Mental Health Services (SBMH) Program, Assistance Listing Number (ALN) 84.184H. We may use one or more of these priorities, requirements, and definitions for competitions in fiscal year (FY) 2025 and later years. These final priorities, requirements, and definitions are designed to target activities with the purpose of increasing the number of credentialed school-based mental health services providers, specifically school psychologists, in high-need local educational agencies (LEAs) available to provide mental health services to students. These priorities, requirements, and definitions replace the Notice of Final Priorities, Requirements, and Definitions published in the **Federal Register** on October 4, 2022 (87 FR 60092). However, those priorities, requirements, and definitions remain in effect for previous grant competitions in which the notices inviting applications (NIAs) were published before the Department finalized the proposed priorities, requirements, and definitions in this notice.

DATES: The final priorities, requirements and definitions are effective October 29, 2025.

FOR FURTHER INFORMATION CONTACT:

Dana Carr, U.S. Department of

Education, 400 Maryland Avenue SW, Room 4B210, Washington, DC 20202–6450. Telephone: (202)987–0119. Email: oe.se.school.mental.health@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Purpose of this Regulatory Action: On July 17, 2025, the Department published a notice of proposed priorities, requirements, and definitions (NPP) in the **Federal Register** (90 FR 33353). Through this regulatory action, we establish final priorities, requirements, and definitions that the Department may use for competitions in fiscal year (FY) 2025 and later years.

Summary of the Major Provisions of This Regulatory Action: The NPP contained background information and our reasons for proposing the priorities, requirements, and definitions. There is a minor clarification between the proposed priorities, requirements, and definitions and the final priorities, requirements, and definitions established in this notice of final priorities, requirements, and definitions (NFP), as discussed in the *Analysis of Comments and Changes* section in this document.

Purpose of Program: The SBMH program provides competitive grants to State educational agencies (SEAs)(as defined in 20 U.S.C. 7801(30)), LEAs (as defined in 20 U.S.C. 7801(49), and consortia of LEAs to increase the number of credentialed school-based mental health services providers, specifically school psychologists, delivering mental health services to students in high-need LEAs.

Program Authority: Section 4631(a)(1)(B) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7281(a)(1)(B)).

Public Comment: In response to our invitation in the NPP, the Department received comments from over 2,400 commenters on the proposed priorities, requirements, and definitions.

Generally, we do not address technical and other minor changes, or suggested changes that the law does not authorize us to make under applicable statutory authority. In addition, we do not address general comments regarding concerns not directly related to the proposed priorities, requirements, or definitions.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities and definitions since publication of the NPP follows.

General Comments

Comments: Many commenters supported the proposed changes to the priorities, requirements, and definitions, such as those related to limiting the scope of the program, and specific restrictions related to using program funds to support gender ideology and increasing requirements related to parental consent. A few commenters, however, suggested that the Department not support the expenditure of funds for mental health grants and instead recommended that the Department remain solely focused on supporting academic achievement. Other commenters opposed some of the proposed changes to the priorities, as well as some of the requirements and definitions, as detailed below.

Discussion: We appreciate the comments expressing support for the priorities, requirements, and definitions. The Department recognizes the connection between mental health and learning. Students facing mental health challenges may be unable to focus on learning, and increasing the capacity of schools to provide needed services to students may support these students' academic engagement. In addition, the Department is committed to implementing the Bipartisan Safer Communities Act as planned, which requires the Department to support mental health grant programs through FY 2026.

Changes: None.

Comments: Several commenters encouraged the Department to allow Institutions of Higher Education (IHEs) to be eligible applicants in this program. One commenter stated that IHEs would help address the needs of high-need LEAs to employ and retain school psychologists by creating partnerships and a workforce pipeline.

Discussion: This program is intended to address workforce shortages by providing SEAs and LEAs with funds to recruit and retain credentialed providers who are available to meet their immediate workforce needs. Therefore, we think SEAs and LEAs are the most appropriate recipients for these funds. This approach also meets the Department's broader goal of returning education to States.

Changes: None.

Comments: One commenter noted that some applicants would benefit from technical assistance on raising matching funds for the grant.

Discussion: Although this grant program historically required matching funds to be eligible to apply, this is no longer required in this program. However, the Department encourages

SEAs and LEAs to develop sustainable funding models for any mental health services that are necessary to meet the needs of their students, particularly those most in need of early intervention and intensive mental health services.

Changes: None.

Priorities

Comments: Many commenters recommended that the Department revise the priorities, requirements, and definitions, where applicable, to include recruitment, retention, and respecialization of school counselors, social workers, and other school-based mental health service providers, in addition to school psychologists). Many commenters suggested these changes because they believe school counselors and school social workers are necessary to meet the full continuum of mental health needs of students, and are critical to strengthening family-school partnerships. One commenter noted that the definition of “high-need LEA” proposed in the NPP underscores the need for a comprehensive, rather than narrowly specialized, response from a range of providers. A few commenters also believe that other professionals, such as those licensed as occupational therapists or licensed family therapists, should also be included because, in some States, their credential allows them to provide necessary mental health services to students. Many commenters also pointed out that the functions of school psychologists delineated in the notice are not commonly carried out by school psychologists, but rather undertaken by school social workers, school counselors, or other school-based mental health providers. Commenters stated that one function school psychologists often carry out is educational testing. Additionally, many commenters noted the prevalent school-based mental health workforce shortages that would be alleviated by allowing a range of professionals to be included in this program.

Discussion: The Department believes that school psychologists are the school-based officials who are clinically trained and licensed to provide early intervention and intensive mental health services to students most in need. While commenters may support a team of school-based mental health providers that includes school counselors, school social workers, and other professionals, such as licensed occupational therapists or licensed family therapists, the Department believes school psychologists are best suited to provide these clinical services and is choosing to prioritize SBMH funds accordingly.

Over the past several years, concerns about the mental health of children and youth have increased.¹ From documented increases in emergency room visits for mental health crises to reports of increased sadness and hopelessness among adolescents, the Department believes schools play a role in helping to meet youth mental health service needs.^{2,3} The Department is focusing this program on school psychologists, as opposed to school counselors and school social workers, because these individuals have training that is uniquely focused on the intersection between students’ behaviors, motivations, disabilities, mental health and the impact that all of these variables may have on learning. While other providers may have a more focused skillset or may support students more generally, school psychologists are trained to both assess and identify students with the greatest mental and behavioral health needs and provide targeted services to address those needs and re-engage students in learning.

While schools may continue to hire and train school counselors and social workers using State and local funds, the Department’s policy approach is to use its limited Federal funds to focus on school psychologists because of their expertise to both assess and identify students with the greatest needs and provide specialized services appropriate to those needs.

Changes: None.

Comments: Many commenters noted that rural LEAs face unique challenges in recruiting, training, reskilling, and retaining school psychologists in rural areas. One commenter recommended that the Department provide additional resources or incentives for developing innovative approaches to training and retaining school psychologists in rural areas, such as distance learning programs, stipends for internships, or State-specific credentialing pathways that recognize prior experience.

¹ For example, death due to suicide among adolescents ages 12–17 increased by 75.7% (rising from 3.7 to 6.5 deaths per 100,000 population) between 2008 and 2021. See 2023 National Healthcare Quality and Disparities Report. Available at: <https://www.ahrq.gov/research/findings/nhqrdr/nhqrdr23/index.html>. Accessed September 22, 2025.

² Feuer V., Mooneyham G.C., Malas N.M., Pediatric Boarding Consensus Guidelines Panel. Addressing the Pediatric Mental Health Crisis in Emergency Departments in the US: Findings of a National Pediatric Boarding Consensus Panel. *J Acad Consult Liaison Psychiatry*. 2023 Nov–Dec;64(6):501–511.

³ U.S. Department of Health and Human Services. Centers for Disease Control and Prevention. 2023 Youth Risk Behavior Survey Results. Available at: <https://www.cdc.gov/yrbbs/results/2023-yrbbs-results.html>. Accessed September 22, 2025.

Discussion: We appreciate these comments highlighting the unique challenges of rural LEAs. Rural LEAs can use this opportunity to propose a project that creates or enhances innovative respecialization and retention strategies to increase the number of available credentialed school psychologists. We note the Department has a priority available in the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.227, which authorizes the Department to prioritize rural areas, if appropriate for a given competition. As such, we decline to make any changes.

Changes: None.

Comments: Although a few commenters supported the use of funds to exclusively focus on intensive mental health services, and one commenter suggested not including mental health services at all, many commenters recommended that the Department expand the focus of the priorities, requirements, and definitions, where applicable from focusing on early intervention and intensive mental health services to include the full continuum of services and approaches aligned with a Multi-Tiered System of Support (MTSS). A MTSS continuum, as noted by many commenters, includes universal or preventive approaches for the entire student body and school to decrease the need for higher-level and intensive mental health services. One commenter suggested that Priority 3 specifically could be edited to replace “intensive” with “comprehensive” to broaden the focus. A few commenters encouraged the Department to require that all projects or practices be “evidence based,” which includes comprehensive approaches.

Discussion: The Department is prioritizing evidence-based early intervention and intensive mental health services in this program to maximize Federal funds to support mental health services for students who need them. SEAs and LEAs can opt to use other available Federal, State, or local funding to deliver universal or preventive approaches that complement early intervention and intensive services provided under this grant program.

Changes: None.

Comments: A few commenters recommended that the Department explicitly include substance abuse as part of the service delivery scope in the priorities, requirements, and definitions, as applicable.

Discussion: The Department recognizes the complex intersection of substance use and mental health. School psychologists trained and hired to provide early intervention and intensive

mental health services under this program can address these needs as part of their provision of mental health services to the extent they impact the student's engagement in school. However, funds cannot be used for other substance use treatment services apart from early intervention or intensive mental health services.

Changes: None.

Comments: Several commenters suggested that the Department refine the requirements for the respecialization plan described in proposed priority 4. Several commenters suggested that the Department specify that respecialization should align with National Association of School Psychologists standards and not be a substitute for a State credential. Several commenters expressed concern that the requirement would potentially allow respecialization in this context to be used as a mechanism to lower the standards to become a school psychologist. Additionally, a few commenters noted that respecialization will take a long time and will delay care. One commenter recommended that the Department consider expanding the language to encourage States to examine and expand their current reciprocity policies to ensure qualified professionals have pathways to licensure when relocating to different States.

Discussion: We appreciate these comments. The Department believes that respecialization plans are a strategy that should be available to SEAs to address the current shortage of school psychologists. SEAs may propose plans to create or enhance innovative approaches to respecialization that simultaneously encourage professional retraining and alternative pathways to obtain a State-license or State-certification to increase the number of available credentialed school psychologists while also maintaining high expectations for training and quality for these credentialed professionals.

Changes: None.

Comment: One commenter recommended that the Department add a competitive preference priority to award more points to current grantees with a proven record of success.

Discussion: The Department encourages eligible applicants, including current grantees, to apply for funding in any year in which a Notice Inviting Applications (NIA) for this program is offered. The Department does not establish or identify the type of priority (Absolute, Competitive Preference, or Invitational) through an NFP but separately in the NIA in which the priority is used.

Changes: None.

Requirements

Comments: A few commenters supported Program Requirement (d), which prohibits the use of funds for "gender ideology," "political activism," "racial stereotyping," and "hostile environments for students of particular races." Many commenters expressed that this requirement would actively threaten the mental health and safety of transgender students or those who identify as LGBTQ+, and that it could create barriers to access for needed mental health services. One commenter stated that the proposed rule unlawfully discriminates against students who identify as transgender and could conflict with State or local laws protecting students and establishing licensing and certification requirements.

Discussion: The Department believes it is not the role of school psychologists to promote particular ideologies or stereotypes when addressing the mental health needs of students. The intent of Program Requirement (d) is not to harm or limit services to students, but to ensure that program funds are particularly focused on providing targeted mental health services without tying such services to particular ideologies or stereotypes. The four prohibitions on the use of funds in Program Requirement (d) reflect the Department's concern regarding the prior administration's *policy* to use SBMH program funds in ways that strayed from the original intent and purposes of the SBMH program. For example, the 2022 Notice of Final Priorities for this program (87 FR 60092 (October 4, 2022)) established priorities that incentivized racial preferencing and racial stereotyping in order to receive preference for grant funding. In the current NFP, these requirements on their face do not impose any barriers or restrictions whatsoever on students receiving mental health services, and, as explained below, are instead concerned with addressing activities the Department anticipates could result in violations of federal law. Additionally, the Department does not believe that Program Requirement (d) would impact the ability of any school psychologist to receive a license or certification. The Department is not aware of any licensing or certification authority that would require adherence to, or compliance with, any of the grant funding prohibitions in Program Requirement (d) in order to receive a license or certification. Similarly, the Department is not aware of State laws compelling adherence or compliance

with these grant funding prohibitions as described herein.

Changes: None.

Comments: Many commenters recommended that the Department define the terms included in Program Requirement (d), including "gender ideology," "political activism," "racial stereotyping," and "hostile environments for students of particular races." Many commenters asked that the Department also provide examples of allowable activities. A few commenters pointed out that the terms used in the proposed requirement are overly broad, do not contain a reasoned explanation for incorporating these terms into the grant program, and no standards exist against which to assess potential activities.

Discussion: As noted above, the four prohibitions identified in Program Requirement (d) reflect the Department's concern regarding the prior administration's policy to use SBMH program funds in ways that strayed from the original intent and purposes of the SBMH program. For example, the 2022 Notice of Final Priorities for this program (87 FR 60092 (October 4, 2022)) established priorities that incentivized racial preferencing and racial stereotyping as a condition to receive a grant. While the Department declines to further define these prohibitions as their terms are commonly used and understood, we would view potential violations of these prohibitions similarly to potential violations of our civil rights laws. For instance, using federal funds for "gender ideology" may be inconsistent with Title IX of the Education Amendments Act of 1972 (20 U.S.C. 1681 *et seq.*). "Political activism" is conduct that could be inconsistent with the restrictions described in 31 U.S.C. 1352 and 2 CFR 200.450. And using funds to engage in "Racial stereotyping" or create "hostile environments for students of particular races" may be inconsistent with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).

Regarding commenters' requests for the Department to provide guidance regarding allowable activities, we encourage commenters to read resources such as the Department of Justice's "Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination,"⁴ which contains many helpful examples, and the President's Executive Order 14168, which describes

⁴ See <https://www.justice.gov/opa/pr/justice-department-releases-guidance-recipients-federal-funding-regarding-unlawful>. Last Accessed September 22, 2025.

the policy of the federal government regarding gender ideology.⁵

Changes: None.

Comments: Many commenters stated that the Department should promote safe and healthy learning environments for all students, and that Requirement (d), which prohibits applicants who receive an award under this program from using program funds for promoting or endorsing: (1) gender ideology, (2) political activism, (3) racial stereotyping, or (4) hostile environments for students of particular races actually creates an unsafe school climate because of the chilling effects of limiting speech with, or services for, specific students.

Discussion: The Department disagrees that Program Requirement (d) would limit speech or services to students. Indeed, by its plain language, Program Requirement (d) is a requirement on use-of-funds that applies to potential grantees under this program. Had the Department sought to more affirmatively establish participation requirements or limit the eligible students to be served under this program, it would have done so. Rather, the Department has left it up to potential grantees to determine how they will provide “intensive mental health services and supports to individual students most in need of those services” within the requirements established for this program. Additionally, regarding the commenters’ concerns for student speech, since the seminal Supreme Court case *Tinker v. Des Moines* (393 U.S. 503) (1969), students have enjoyed robust First Amendment protections in school settings and, in general, do not “shed their constitutional rights . . . at the schoolhouse gate”. This includes school-based therapeutic settings. No such prohibition regarding speech is contemplated by these plain use-of-grant-funds requirements. However, to be responsive to commenter’s concerns, and to further clarify that the Department’s priorities delineate limits on only the use of grant funds for the SBMH program, we have revised the lead-in to the requirement to clarify these prohibitions are not repugnant to the First Amendment to the Constitution of the United States.

Changes: The Department has revised Program Requirement (d) by removing “promoting and endorsing.”

Comments: One commenter stated that Requirement (e), which requires that applicants that receive an award under this program must ensure that

school psychologists funded by this grant begin delivering services to students as soon as possible, but not later than 270 days from award, is not reasonable. The commenter encouraged approaches such as respecialization of already licensed mental health professionals to expedite training and hiring school-based mental health professionals.

Discussion: The Department believes, and has seen evidence from past grantees, that 270 days from the grant award date is sufficient to begin providing early intervention and intensive mental health services to students most in need. Applicants that need more time to build their workforce pipeline to provide services may wish to consider applying for the Mental Health Service Professional Demonstration Program when offered.

Changes: None.

Comments: None.

Discussion: Consistent with other Departmental regulatory actions, the Department is including a severability clause within the NFP.

Changes: The following severability clause has been added to the NFP: “If any provision of this NFP or its application to any person, act, or practice is held invalid, the remainder of the NFP or the application of its provisions to any other person, act, or practice will not be affected thereby.”

Comments: Although a few commenters supported the parental consent processes described in Requirement (g), many commenters recommended that the Department amend the requirement to allow SEAs and LEAs to oversee or manage parental consent policies and practices, including allowing for an “opt-out” approach for mental health services.

Discussion: The Department believes that parents are the primary decision makers in their children’s education and can make the best choices for their children. As such, parents should be informed about mental health services that their children might receive at school.

Changes: None.

Definitions

Comments: Many commenters suggested broadening the definition of “early intervention” services to include universal or preventive approaches. Many commenters believe that the definition of “early intervention” is too restrictive and does not account for the full continuum of mental health services for students. One commenter recommended that the definition be broadened to “school psychological services.”

Discussion: Although the definition of early intervention services may not represent the continuum of services that a school provides, the Department’s preference is to focus these funds on early intervention and intensive mental health services to ensure schools are providing the necessary clinical mental health services that some students need to support their academic success in school.

Changes: None.

Comments: One commenter suggested changing the definition of “high-need LEA” to include “community violence,” as they believe that “school violence” is too limiting.

Discussion: The Department appreciates this comment, however, there are other Federal, State, and local resources to address community violence. The Department believes that this program should focus on addressing the impact of violence that occurs at school and directly disrupts the learning environment.

Changes: None.

Comments: One commenter recommended that the definition of “recruit or recruitment” include (1) creating or expanding mentor programs; (2) providing continuing professional development or funds to attend relevant continuing professional development opportunities; (3) providing stipends for obtaining and maintaining the Nationally Certified School Psychologist credential; and (4) supporting membership in professional school psychology associations to ensure ongoing access to collaborative networks, relevant resources, research, and tools to support best practices in school psychology.”

Discussion: We appreciate these comments and note that the types of activities suggested by the commenter are allowable recruitment and retention strategies.

Changes: None.

Comments: One commenter recommended a revised definition of “respecialization” and provided text for consideration. Specifically, the commenter recommended emphasizing that respecialization is a systematic process that outlines specific strategies for retraining or following an alternative pathway to a State-license or State-certification. The commenter suggested strategies in addition to those proposed, including incorporating prior training and preparation to develop an individualized training program that would provide supplemental coursework and experiences to qualify them for State credentialing as a school psychologist. Additionally, the commenter recommended allowing

⁵ See <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>. Last Accessed September 22, 2025.

grantees to use funds that help individuals to obtain and maintain school psychology credentials.

Discussion: The Department believes that SEA applicants who receive funding under this program can use sound judgement in determining the best strategies to encourage respecialization to meet their need for additional school psychologists.

Changes: None.

Final Priorities

The Department establishes the following priorities for use in this program. We may use one or more of these priorities in any year in which this program is in effect.

Priority 1—SEAs proposing to increase the number of credentialed school psychologists employed in high-need LEAs.

To meet this priority, an SEA must propose a plan to recruit and retain credentialed school psychologists for employment in high-need LEAs.

Priority 2—LEAs proposing to increase the number of credentialed school psychologists employed in high-need LEAs.

To meet this priority, a high-need LEA or a consortium of high-need LEAs must propose a plan to recruit and retain credentialed school psychologists for employment in high-need LEAs.

Priority 3—SEAs or LEAs increasing the number of credentialed school psychologists delivering early intervention and intensive mental health services in high-need LEAs.

To meet this priority, applicants must propose to increase the number of credentialed school psychologists who will engage in the following:

(a) Providing intensive mental health services and supports to individual students most in need of those services,

(b) Providing early intervention mental health services to address acute concerns and determine if intensive mental health services are needed, and

(c) Building necessary capacity and local support to ensure the provision of intensive mental health services beyond the life of the grant.

Priority 4—SEAs proposing respecialization for existing professionals to become credentialed school psychologists.

To meet this priority, an SEA must propose to increase the number of credentialed school psychologists employed in high-need LEAs by implementing a respecialization plan. The respecialization plan must support professionals who hold, at a minimum, a degree in a related field (e.g., special education, clinical psychology, community counseling) to obtain a

license or certification from the SEA or relevant State regulatory body as a school psychologist.

Types of Priorities: When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Requirements

The Department establishes the following application and program requirements for this program. We may apply one or more of these requirements in any year in which the program is in effect.

Application Requirements

(a) SEA applicants must identify in their applications the specific high-need LEAs that will benefit from the grant or how they will identify and select the high-need LEAs designated to benefit from the grant.

(b) LEA applicants must describe how they and each LEA in the consortium, if applicable, meets the definition of high-need LEA.

(c) Applicants must include in their applications the most recently available data on the number of credentialed school psychologists delivering services in the high-need LEA(s) and the projected number of credentialed school psychologists that will be hired and retained to deliver services in the high-need LEA(s) for each year of the project using funds from this grant.

Program Requirements

(a) Eligible Applicants for this program are one or both of SEAs, as defined in 20 U.S.C. 7801(49), or LEAs, as defined in 20 U.S.C. 7801(30), including consortia of LEAs.

(b) Administrative costs for SEA applicants that receive an award under this program may not exceed 10 percent of the annual grant award.

Administrative costs for LEA applicants that receive an award under this program may not exceed 5 percent of the annual grant award.

(c) Applicants that receive an award under this program must use grant funds to supplement, and not supplant, non-Federal funds that would otherwise be available for activities funded under this program.

(d) Applicants that receive an award under this program are prohibited from using program funds for: (1) gender ideology, (2) political activism, (3) racial stereotyping, or (4) hostile environments for students of particular races.

(e) Applicants that receive an award under this program must ensure that school psychologists funded by this grant begin delivering services to students as soon as possible, but not later than 270 days from award.

(f) Applicants that receive an award under this program must ensure that any school psychologist hired under this grant, including any provider that offers telehealth services (as defined in this notice), is credentialed by the State to work in an elementary school (as defined in 20 U.S.C. 7801(19)) or secondary school (as defined in 20 U.S.C. 7801(45)).

(g) Applicants that receive an award under the program must comply with section 4001(a) of Title IV of the ESEA. In carrying out the Informed Written Consent requirements described in paragraph (a)(1), the exception in (a)(2)(B)(i) only applies after the applicant has documented that it has made multiple repeated attempts through various communication methods to obtain parent consent. Subsequently, where parent consent is not obtained under (a)(2), not including the provisions in (B)(ii), the parent of a child participating in such services will be provided notice of initial and subsequent service delivery.

(h) Applicants that receive an award under this program must ensure that any school psychologist offering services (including telehealth services) does so in a manner consistent with the Family Educational Rights and Privacy Act (FERPA), the Protection of Pupil Rights Amendment (PPRA), the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act, as well as all other applicable Federal, State, and local laws.

Final Definitions

The Department establishes definitions of “credentialed,” “early intervention mental health services,” “high-need LEA,” “intensive mental health services,” “recruitment,” “respecialization,” “retention,” and “telehealth” for use in this program. We may apply these definitions in any year in which this program is in effect.

Credentialed means an individual who possesses a valid license or certificate from the SEA or relevant regulatory body as a school psychologist approved by the State to provide services aligned with the practice of school psychology.

Early intervention mental health services mean services for students who are exhibiting signs of distress or impairment or are at heightened risk of needing mental health services. Based on current best practices in school psychology for serving an individual student, early intervention mental health services may include, for example, screening and referrals, small group services, or brief individualized interventions.

High-need LEA means an LEA that has a significant need for additional school psychologists based on:

(a)(1) a ratio of students to school psychologists that exceeds a ratio of 500 students to 1 school psychologist and (2) high rates of school violence, poverty, substance use, suicide, trafficking, or other adverse childhood experiences;

(b) having received a Project School Emergency Response to Violence (SERV) grant from the U.S. Department of Education since October 1, 2020; or

(c) having experienced a traumatic event since January 1, 2025, and did not receive a Project School Emergency Response to Violence (SERV) grant from the U.S. Department of Education.

Intensive mental health services mean services for students with identified mental health needs that limit engagement throughout the school day. Based on the best clinical approach to serving an individual student, intensive mental health services may include, for example, individual, group, or family therapy services, or coordination of services with providers serving the student in a non-school setting.

Recruit or Recruitment means strategies that help attract and hire credentialed school psychologists, including by doing at least one of the following:

(1) Providing an annual salary or stipend to newly hired school psychologists.

(2) Creating pathways to grant cross-State credentialing reciprocity for school psychologists.

(3) Providing hiring incentives and supports, for example, increasing pay; offering monetary incentives for relocation to serve in high-need LEAs; providing services via telehealth; creating hybrid roles that allow for leadership, academic, or research opportunities; and offering service scholarship programs, such as those that provide grants in exchange for a commitment to serve in the LEA for a minimum number of years.

Respecialization means strategies that provide opportunities for professional retraining and alternative pathways to obtain a State-license or State-certification as a school psychologist for individuals who hold, at a minimum, a degree in a related field (e.g., special education, clinical psychology, community counseling). Strategies include one or more of the following:

(1) Revising, updating, or streamlining requirements for such individuals so that additional training or other requirements focus only on the training needed to obtain a credential as a school psychologist.

(2) Providing a stipend or making a payment to support the training needed to obtain a credential as a school psychologist.

(3) Offering flexible options for completing training needed to obtain a credential as a school psychologist.

(4) Offering other meaningful activities that result in such individuals obtaining a credential as a school-psychologist.

Retain or Retention means strategies to help ensure that credentialed school psychologists stay in their position to avoid gaps in service and unfilled positions, including by—

(1) Providing opportunities for advancement or leadership, such as career pathways programs, recognition and award programs, and mentorship programs; and

(2) Offering incentives and supports to help mitigate shortages, for example, increasing pay; offering monetary incentives for relocation to serve in high-need LEAs; providing services via telehealth; offering service scholarship programs, such as those that provide grants in exchange for a commitment to serve in a high-need LEA for a minimum number of years; and developing paid internship programs.

Telehealth means the use of electronic information and telecommunication technologies to support and promote long-distance clinical mental health care, patient and professional mental health-related education, and

administration. Technologies include videoconferencing, the internet, store-and-forward imaging, streaming media, and landline and wireless communications.

Severability: If any provision of this NFP or its application to any person, act, or practice is held invalid, the remainder of the NFP or the application of its provisions to any other person, act, or practice will not be affected thereby.

Executive Orders 12866, 13563, and 14192

Regulatory Impact Analysis: This regulatory action is not a significant regulatory action subject to review by the Office of Management and Budget under section 3(f) of Executive Order 12866. Since this regulatory action is not a significant regulatory action under section 3(f) of Executive Order 12866, it is not considered an “Executive Order 14192 regulatory action.” We have also reviewed this regulatory action under Executive Order 13563. We are issuing the priorities, requirements, and definitions only on a reasoned determination that their benefits would justify their costs. The Department believes that this regulatory action is consistent with the principles in Executive Order 13563. We also have determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions. In accordance with these Executive Orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined are necessary for administering the Department’s programs and activities.

Discussion of Costs and Benefits: The Department believes that these proposed priorities, requirements, and definitions would not impose significant costs on eligible entities, whose participation in this program is voluntary, and whose costs can generally be covered with grant funds. As a result, the proposed priorities, requirements, and definitions would not impose any particular burden, except when an entity voluntarily elects to apply for a grant. The proposed priorities, requirements, and definitions would help ensure that the grant program selects high-quality applicants to implement activities that meet the goals of the program. We believe these benefits would outweigh any associated costs.

Intergovernmental Review: This action is subject to Executive Order

12372 and the regulations in 34 CFR part 79. This document provides early notification of our specific plans and actions for this program.

Regulatory Flexibility Act

Certification: This section considers the effects that the final regulations may have on small entities in the educational sector as required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Secretary certifies that this regulatory action would not have a significant economic impact on a substantial number of small entities. The small entities that these priorities, requirements, and definitions would affect are LEAs applying for and receiving funds under this program. We believe that the costs imposed on an applicant by the priorities, requirements, and definitions would be limited to paperwork burden related to preparing an application and that the benefits of the priorities, requirements, and definitions would outweigh any costs incurred by the applicant.

Participation in this program is voluntary. For this reason, the priorities, requirements, and definitions would impose no burden on small entities unless they applied for funding under the program. Eligible applicants would determine whether to apply for funds and would weigh the requirements for preparing applications, and any associated costs, against the likelihood of receiving funding and the requirements for implementing projects under the program. Eligible applicants most likely would apply only if they determine that the likely benefits exceed the costs of preparing an application. The likely benefits include the potential receipt of a grant as well as other benefits that may accrue to an entity through its development of an application, such as the use of that application to seek funding from other sources to address a shortage in school-based mental health services providers.

Paperwork Reduction Act: In the NPP, we explained that the proposed priorities, requirements, and definitions contained information collection requirements that are covered under OMB control number 1810-0772 and that the priorities, requirements, and definitions did not affect the currently approved data collection. Since publishing the NPP, we have conducted a review of the final priorities, requirements, and definitions and believe it would be most efficient to collect the information associated with the priorities, requirements, and definitions using the more broadly used, also approved Generic Application Package for Departmental Generic Grant

Programs (OMB control number 1894-0006).

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or another accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other Department documents published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access Department documents published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Hayley B. Sanon,

Principal Deputy Assistant Secretary and Acting Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2025-18900 Filed 9-26-25; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Applications for New Awards; School-Based Mental Health Services Grant Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2025 funds for the School-Based Mental Health Services Grant program (SBMH).

DATES:

Applications Available: September 29, 2025.

Deadline for Transmittal of Applications: October 29, 2025.

The Department will post a preapplication presentation for prospective applicants. To access the preapplication presentation, visit the

SBMH web page at <https://www.ed.gov/grants-and-programs/grants-birth-grade-12/safe-and-supportive-schools/school-based-mental-health-services-grant-program>.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on August 29, 2025 (90 FR 42234) and available at <https://www.federalregister.gov/documents/2025/08/29/2025-16571/common-instructions-and-information-for-applicants-to-department-of-education-discretionary-grant>.

FOR FURTHER INFORMATION CONTACT:

Amy Banks, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202-6450.

Telephone: (202) 987-1780. Email: Amy.Banks@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The SBMH program provides competitive grants to State educational agencies (SEAs) (as defined in 20 U.S.C. 7801(49)), local educational agencies (LEAs) (as defined in 20 U.S.C. 7801(30)), and consortia of LEAs to increase the number of credentialed school-based mental health services providers delivering mental health services to students in high-need LEAs.

Assistance Listing Number: 84.184H.

OMB Control Number: 1894-0006.

Eligible Applicants: SEAs, as defined in 20 U.S.C. 7801(49), or LEAs, as defined in 20 U.S.C. 7801(30), including consortia of LEAs.

Application Requirements: These requirements are from the Notice of Final Priorities, Requirements, and Definitions (NFP) published elsewhere in this issue of the **Federal Register**. Application requirement (a) applies to SEAs only; and application requirement (b) applies to LEAs only. Application requirement (c) applies to all applicants.

(a) SEA applicants must identify in their applications the specific high-need LEAs that will benefit from the grant or how they will identify and select the high-need LEAs designated to benefit from the grant.

(b) LEA applicants must describe how they and each LEA in the consortium, if applicable, meets the definition of high-need LEA.

(c) Applicants must include in their applications the most recently available data on the number of credentialed school psychologists delivering services in the high-need LEA(s) and the projected number of credentialed school psychologists that will be hired and retained to deliver services in high-need LEA(s) for each year of the project using funds from this grant.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds:

\$180,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards:

\$1,250,000–\$1,750,000.

Estimated Average Size of Awards:

\$1,500,000.

Estimated Number of Awards: 25–35.

Note: The Department is not bound by any estimates in this notice. Contingent upon the availability of funds and the quality of applications, the Department anticipates making awards for the full 48-months using available appropriations.

Project Period: Up to 48 months.

Background: Our Nation's schools should be safe and secure settings where children can learn and grow to their full potential. However, over the last several years the decline of children and youth mental health has become a serious concern for our Nation. Given the importance of improving child and youth mental health, this notice includes four priorities to increase the number of available school psychologists. These priorities will provide funding to SEAs and LEAs to increase the number of available school psychologists to improve mental or behavioral health services provision for students.

Note: The provision of medical services by such services providers is not an allowable use of funds under this grant.

Priorities: This competition has three absolute priorities and two competitive preference priorities. Absolute priorities 1, 2, and 3 are from the NFP for the SBMH Program published elsewhere in this issue of the **Federal Register**. Competitive preference priority 1 is from the NFP and competitive preference priority 2 is from 34 CFR 75.227.

Absolute Priorities: For FY 2025 and any subsequent year in which we make awards from the list of unfunded applications from this competition,

these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet Absolute Priorities 1 and 3, or applications that meet Absolute Priorities 2 and 3.

The Secretary intends to create two funding slates for SBMH applications, one slate for applications that meet Absolute Priorities 1 and 3 and a second slate for applications that meet Absolute Priorities 2 and 3. As a result, the Secretary may fund applications out of the overall rank order.

These priorities are:

Priority 1—SEAs proposing to increase the number of credentialed school psychologists employed in high-need LEAs.

To meet this priority, an SEA must propose a plan to recruit and retain credentialed school psychologists for employment in high-need LEAs.

Priority 2—LEAs proposing to increase the number of credentialed school psychologists employed in high-need LEAs.

To meet this priority, a high-need LEA or a consortium of high-need LEAs must propose a plan to recruit and retain credentialed school psychologists for employment in high-need LEAs.

Priority 3—SEAs or LEAs increasing the number of credentialed school psychologists delivering early intervention and intensive mental health services in high-need LEAs.

To meet this priority, applicants must propose to increase the number of credentialed school psychologists who will engage in the following:

(a) Providing intensive mental health services and supports to individual students most in need of those services,

(b) Providing early intervention mental health services to address acute concerns and determine if intensive mental health services are needed, and

(c) Building necessary capacity and local support to ensure the provision of intensive mental health services beyond the life of the grant.

Competitive Preference Priorities: For FY 2025 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 3 points to an application from an SEA that meets Competitive Preference Priority 1. We award an additional 3 points to an application from an SEA, LEA, or consortium of LEAs, that meets Competitive Preference Priority 2.

The total number of competitive preference points an SEA applicant may compete for is 6. The total number of competitive preference points an LEA or

consortium of LEAs applicant may compete for is 3. As stated previously, these entities will not be competing against one another.

An applicant must clearly identify in the project abstract and the project narrative section of its application the competitive preference priority or priorities it wishes the Department to consider for purposes of earning competitive preference priority points.

These priorities are:

Competitive Preference Priority 1—SEAs proposing respecialization for existing professionals to become credentialed school psychologists. (up to 3 points)

To meet this priority, an SEA must propose to increase the number of credentialed school psychologists employed in high-need LEAs by implementing a respecialization plan. The respecialization plan must support professionals who hold, at a minimum, a degree in a related field (e.g., special education, clinical psychology, community counseling) to obtain a license or certification from the SEA or relevant State regulatory body as a school psychologist.

Competitive Preference Priority 2—Rural Applicants. (0 or 3 points)

Under this priority, an applicant must demonstrate the following:

(a) The applicant proposes to serve a community that is served by one or more LEAs—

(i) With a National Center for Education Statistics (NCES) locale code of 32, 33, 41, 42, or 43; or

(ii) With a NCES locale code of 41, 42, or 43.

Program Requirements:

These program requirements are from the NFP published elsewhere in this issue of the **Federal Register**.

(a) Eligible Applicants for this program are one or both of SEAs, as defined in 20 U.S.C. 7801(49), or LEAs, as defined in 20 U.S.C. 7801(30), including consortia of LEAs.

(b) Administrative costs for SEA applicants that receive an award under this program may not exceed 10 percent of the annual grant award. Administrative costs for LEA applicants that receive an award under this program may not exceed 5 percent of the annual grant award.

(c) Applicants that receive an award under this program must use grant funds to supplement, and not supplant, non-Federal funds that would otherwise be available for activities funded under this program.

(d) Applicants that receive an award under this program are prohibited from using program funds for: (1) gender ideology, (2) political activism, (3) racial

stereotyping, or (4) hostile environments for students of particular races.

(e) Applicants that receive an award under this program must ensure that school psychologists funded by this grant begin delivering services to students as soon as possible, but not later than 270 days from award.

(f) Applicants that receive an award under this program must ensure that any school psychologist hired under this grant, including any services provider that offers telehealth services (as defined in this notice), is credentialed to work in an elementary school (as defined in 20 U.S.C. 7801(19)) or secondary school (as defined in 20 U.S.C. 7801(45)).

(g) Applicants that receive an award under the program must comply with section 4001(a) of part A of Title IV of the Elementary and Secondary Education Act of 1965, as amended (ESEA). In carrying out the Informed Written Consent requirements described in paragraph (a)(1), the exception in (a)(2)(B)(i) only applies after the applicant has made multiple repeated attempts through various communication methods to obtain parent consent. Subsequently, where parent consent is not obtained under (a)(2), not including the provisions in (B)(ii), the parent of a child participating in such services will be provided notice of initial and subsequent service delivery.

(h) Applicants that receive an award under this program must ensure that any school psychologist offering services (including telehealth services) does so in a manner consistent with the Family Educational Rights and Privacy Act (FERPA), the Protection of Pupil Rights Amendment (PPRA), the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act, as well as all other applicable Federal, State, and local laws.

Selection Criteria:

The selection criteria for this competition are from 34 CFR 75.210. The points assigned to each criterion are indicated in the parentheses next to the criterion. An applicant may earn up to a total of 100 points based on the selection criteria. Non-Federal peer reviewers will evaluate and score each application program narrative against the following selection criteria:

(a) Need for the Project: (Up to 20 points)

The Secretary considers the need for the proposed project.

(1) In determining the need for the proposed project, the Secretary considers the extent to which the

specific nature and magnitude of gaps or challenges are identified and the extent to which these gaps or challenges will be addressed by the services, supports, infrastructure, or opportunities described in the proposed project.

(b) Quality of the Project Design: (Up to 30 points)

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified, measurable, and ambitious yet achievable within the project period, and aligned with the purposes of the grant program. (Up to 20 points)

(ii) The extent to which the proposed project demonstrates that it is designed to build capacity and yield sustainable results that will extend beyond the project period. (Up to 10 points)

(c) Adequacy of resources. (Up to 30 points)

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which the budget is adequate to support the proposed project and the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (Up to 20 points)

(ii) The extent to which the costs are reasonable in relation to the number of persons to be served, the depth and intensity of services, and the anticipated results and benefits. (Up to 10 points)

(d) Quality of the management plan. (Up to 20 points)

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers one or more of the following factors:

(i) The feasibility of the management plan to achieve project objectives and goals on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (Up to 10 points)

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project. (Up to 10 points)

Performance Measures: For the purpose of Department reporting under 34 CFR 75.110, we have established the

following performance measures for the School-Based Mental Health Services Grant Program:

(a) The unduplicated, cumulative number of new school psychologists hired for each high-need LEA as a result of the grant.

(b) The unduplicated, cumulative number of school psychologists retained in high-need LEAs as a result of the grant.

(c) The ratio of students to school psychologist for each high-need LEA served by the grant, and the numbers of school psychologists and students used to calculate the ratio.

These measures constitute the Department's indicators of success for this program. Consequently, we advise an applicant for a grant under this program to give careful consideration to these measures in conceptualizing the approach for its proposed project plan. Each grantee will be required to provide, in its annual performance and final reports, data about its progress in meeting these measures.

Performance measure targets: The applicant must propose annual targets for the measures listed above in their application. Applicants must also provide the following information as directed under 34 CFR 75.110(b) and (c):

(1) An explanation of how each proposed performance target is ambitious (as defined in this notice) yet achievable compared to the baseline (as defined in this notice) for the performance measure.

(2) An explanation of the data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data.

(3) An explanation of the applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

Note: If the applicant does not have experience with collection and reporting of performance data through other projects or research, the applicant should provide other evidence of capacity to successfully carry out data collection and reporting for its proposed project.

The reviewers of each application will score related selection criteria on the basis of how well an applicant has considered these measures in conceptualizing the approach and evaluation of the project.

All grantees must submit an annual performance report and final performance report with information that is responsive to these performance measures.

Definitions:

The definitions of “credentialed,” “early intervention mental health services,” “high-need LEA,” “intensive mental health services,” “recruit or recruitment,” “respecialization,” “retain or retention,” and “telehealth” are from the NFP published elsewhere in this issue of the **Federal Register**. The definitions of “local educational agency” and “State educational agency” are from 20 U.S.C. 7801.

Credentialed means an individual who possesses a valid license or certificate from the SEA or relevant regulatory body as a school psychologist approved by the State to provide services aligned with the practice of school psychology.

Early intervention mental health services mean services for students who are exhibiting signs of distress or impairment or are at heightened risk of needing mental health services. Based on current best practices in school psychology for serving an individual student, early intervention mental health services may include, for example, screening and referrals, small group services, or brief individualized interventions.

High-need LEA means an LEA that has a significant need for additional school psychologists based on:

(a)(1) a ratio of students to school psychologists that exceeds a ratio of 500 students to 1 school psychologist and (2) high rates of school violence, poverty, substance use, suicide, trafficking, or other adverse childhood experiences;

(b) having received a Project School Emergency Response to Violence (SERV) grant from the U.S. Department of Education since October 1, 2020; or

(c) having experienced a traumatic event since January 1, 2025, and did not receive a Project School Emergency Response to Violence (SERV) grant from the U.S. Department of Education.

Intensive mental health services mean services for students with identified mental health needs that limit engagement throughout the school day. Based on the best clinical approach to serving an individual student, intensive mental health services may include, for example, individual, group, or family therapy services, or coordination of services with providers serving the student in a non-school setting.

Local educational agency means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or

other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(1) The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(2) The term includes an elementary or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Elementary and Secondary Education Act of 1965, as amended (ESEA) with the smallest student population, except that the school shall not be subject to the jurisdiction of any SEA other than the Bureau of Indian Education.

(3) The term includes educational service agencies and consortia of those agencies.

(4) The term includes the SEA in a State in which the SEA is the sole educational agency for all public schools.

Recruit or Recruitment means strategies that help attract and hire credentialed school psychologists, including by doing at least one of the following:

(1) Providing an annual salary or stipend to newly hired school psychologists.

(2) Creating pathways to grant cross-State credentialing reciprocity for school psychologists.

(3) Providing hiring incentives and supports, for example, increasing pay; offering monetary incentives for relocation to serve in high-need LEAs; providing services via telehealth; creating hybrid roles that allow for leadership, academic, or research opportunities; and offering service scholarship programs, such as those that provide grants in exchange for a commitment to serve in the LEA for a minimum number of years.

Respecialization means strategies that provide opportunities for professional retraining and alternative pathways to obtain a State-license or State-certification as a school psychologist for individuals who hold, at a minimum, a degree in a related field (e.g., special education, clinical psychology, community counseling). Strategies include one or more of the following:

(1) Revising, updating, or streamlining requirements for such individuals so that additional training or other requirements focus only on the training needed to obtain a credential as a school psychologist.

(2) Providing a stipend or making a payment to support the training needed to obtain a credential as a school psychologist.

(3) Offering flexible options for completing training needed to obtain a credential as a school psychologist.

(4) Offering other meaningful activities that result in such individuals obtaining a credential as a school-psychologist.

Retain or Retention means strategies to help ensure that credentialed school psychologists stay in their position to avoid gaps in service and unfilled positions, including by—

(1) Providing opportunities for advancement or leadership, such as career pathways programs, recognition and award programs, and mentorship programs; and

(2) Offering incentives and supports to help mitigate shortages, for example, increasing pay; offering monetary incentives for relocation to serve in high-need LEAs; providing services via telehealth; offering service scholarship programs, such as those that provide grants in exchange for a commitment to serve in a high-need LEA for a minimum number of years; and developing paid internship programs.

State educational agency means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

Telehealth means the use of electronic information and telecommunication technologies to support and promote long-distance clinical mental health care, patient and professional mental health-related education, and administration. Technologies include videoconferencing, the internet, store-and-forward imaging, streaming media, and landline and wireless communications.

Program Authority: Section 4631(a)(1)(B) of the ESEA (20 U.S.C. 7281(a)(1)(B)).

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR

part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The NFP.

1. a. *Cost Sharing or Matching*: This competition does not require cost sharing or matching.

b. *Supplement-Not-Supplant*: This competition's supplement, supplant requirement is described in the Program Requirements section of this notice.

c. *Indirect Cost Rate Information*: This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see www2.ed.gov/about/offices/list/ocfo/intro.html.

d. *Administrative Cost Limitation*: This program's Administrative Cost Limitation is described above in the Program Requirements section of this notice.

2. *Subgrantees*: Under 34 CFR 75.708(b) and (c) an SEA grantee under this competition may award subgrants to directly carry out project activities described in its application to the following types of entities: LEAs. The SEA grantee may award subgrants to entities it has identified in an approved application or that it selects through a competition under procedures established by the grantees. However, an SEA grantee is not required to award subgrants and may instead administer the program directly. Additionally, under 34 CFR 75.708 (b) and (c) LEAs are not authorized to make subgrants.

III. Application and Submission Information

1. Application Submission

Instructions: Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on August 29, 2025 (90 FR 42234) and available at <https://www.federalregister.gov/documents/2025/08/29/2025-16571/common-instructions-and-information-for-applicants-to-department-of-education-discretionary-grant>, which contain requirements and information on how to submit an application.

2. *Intergovernmental Review*: This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this

competition. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make an award by the end of FY 2025.

3. *Funding Restrictions*: Section 4001(b) prohibits the use of funds for medical services or drug treatment or rehabilitation, except for integrated student supports, specialized instructional support services, or referral to treatment for impacted students, which may include students who are victims of, or witnesses to, crime or who illegally use drugs. This prohibition does not preclude the use of funds to support mental health counseling and support services, including those provided by a mental health services provider outside of school, so long as such services are not medical.

4. *Recommended Page Limit*: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 15 pages and (2) follow the formatting standards described in the Common Instructions for Applicants to Department of Education Discretionary Grant Programs.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; the one-page abstract, resumes, bibliography, charts with timelines and milestones, or letters of support. However, the recommended page limit does apply to all of the application narrative.

IV. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other Department documents published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access Department documents published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Hayley B. Sanon,

Principal Deputy Assistant Secretary and Acting Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2025-18895 Filed 9-26-25; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket ID ED-2025-OESE-0153]

Mental Health Service Professional Demonstration Grant Program

AGENCY: U.S. Department of Education.

ACTION: Final priorities, requirements, and definitions.

SUMMARY: The Department of Education (Department) announces final priorities, requirements, and definitions under the Mental Health Service Professional Demonstration Grant Program (MHSP), Assistance Listing Number (ALN) 84.184X. We may use one or more of these priorities, requirements, and definitions for competitions in fiscal year (FY) 2025 and later years. These final priorities, requirements, and definitions are designed to better target activities to address shortages of school-based mental health services providers, specifically school psychologists, in high-need local educational agencies (LEAs). These priorities, requirements, and definitions replace the Notice of Final Priorities, Requirements, and Definitions published in the **Federal Register** on October 4, 2022 (87 FR 60083). However, those priorities, requirements, and definitions remain in effect for previous grant competitions in which the notices inviting applications (NIAs) were published before the Department finalized the proposed priorities, requirements, and definitions in this notice.

DATES: The final priorities, requirements, and definitions are effective October 29, 2025.

FOR FURTHER INFORMATION CONTACT:

Dana Carr, U.S. Department of Education, 400 Maryland Avenue SW, Room 4B210, Washington, DC 20202-6450. Telephone: (202) 987-0119. Email: Mental.Health@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Purpose of this Regulatory Action: On July 17, 2025, the Department published a notice of proposed priorities, requirements, and definitions (NPP) in the **Federal Register** (90 FR 33349). Through this regulatory action, we establish final priorities, requirements, and definitions that the Department may use for competitions in fiscal year (FY) 2025 and later years.

Summary of the Major Provisions of This Regulatory Action: The NPP contained background information and our reasons for proposing the priorities, requirements, and definitions. There is a minor clarification between the proposed priorities, requirements, and definitions and the final priorities, requirements, and definitions established in this notice of final priorities, requirements, and definitions (NFP), as discussed in the *Analysis of Comments and Changes* section in this document.

Purpose of Program: The MHSP program provides competitive grants to State educational agencies (SEAs) (as defined in 20 U.S.C. 7801(30)) and local educational agencies (LEAs) (as defined in 20 U.S.C. 7801(49)) to address the shortage of credentialed school-based mental health services providers, specifically school psychologists, in high-need LEAs.

Program Authority: Section 4631(a)(1)(B) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7281(a)(1)(B)).

Public Comment: In response to our invitation in the NPP, the Department received comments from over 1,900 commenters on the proposed priorities, requirements, and definitions.

Generally, we do not address technical and other minor changes, or suggested changes that the law does not authorize us to make under applicable statutory authority. In addition, we do not address general comments regarding concerns not directly related to the proposed priorities, requirements, or definitions.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities and definitions since publication of the NPP follows.

General Comments

Comments: Many commenters supported the proposed priorities, requirements, and definitions, such as those related to limiting the scope of the program, and specific restrictions related to using program funds to support gender ideology and increasing requirements related to parental consent. A few commenters, however,

suggested that the Department not support the expenditure of funds for mental health grants and instead recommended that the Department remain solely focused on supporting academic achievement. Other commenters opposed some of the proposed changes to the priorities, as well as some of the requirements and definitions, as detailed below.

Discussion: We appreciate the comments expressing support for the priorities, requirements, and definitions. The Department recognizes the connection between mental health and learning. Students facing mental health challenges may be unable to focus on learning, and increasing the capacity of schools to provide needed services to students may support these students' academic engagement. In addition, the Department is committed to implementing the Bipartisan Safer Communities Act as planned, which requires the Department to support mental health grant programs through FY 2026.

Changes: None.

Priorities

Comments: Many commenters recommended that the Department revise the priorities, requirements, and definitions, where applicable, to include training of State-licensed or certified school counselors and social workers, in addition to school psychologists. Many commenters suggested these changes because they believe school counselors and school social workers are necessary to meet the full continuum of mental health needs of students. A few also stated that other professionals, such as those licensed as occupational therapists or licensed family therapists, should also be included because, in some States, their credential allows them to provide necessary mental health services to students. In addition, many commenters pointed out that the functions of school psychologists delineated in the notice are not commonly carried out by school psychologists, but rather undertaken by school social workers, school counselors, or other school-based mental health providers. Commenters stated that one function school psychologists often carry out is educational testing.

Discussion: The Department believes that school psychologists are the school-based officials who are clinically trained and licensed to provide early intervention and intensive mental health services to students most in need. While commenters may support a team of school-based mental health providers that includes school counselors, school

social workers, and other professionals, such as licensed occupational therapists or licensed family therapists, the Department believes school psychologists are best suited to provide these clinical services and is choosing to prioritize SBMH funds accordingly.

Over the past several years, concerns about the mental health of children and youth have increased.¹ From documented increases in emergency room visits for mental health crises, to reports of increased sadness and hopelessness among adolescents, the Department believes schools play an integral role in helping to meet youth mental health service needs.^{2,3} The Department is focusing this program on school psychologists, as opposed to school counselors and school social workers, because these individuals have training that is uniquely focused on the intersection between students' behaviors, motivations, disabilities, mental health and the impact that all of these variables may have on learning. While other providers may have a more focused skillset or may support students more generally, school psychologists are trained to both assess and identify students with the greatest mental and behavioral health needs and provide targeted services to address those needs and re-engage students in learning.

While schools may continue to hire and train school counselors and social workers using State and local funds, the Department's policy approach is to use its limited Federal funds to focus on school psychologists because of their expertise to both assess and identify students with the greatest needs and provide specialized services appropriate to those needs.

Changes: None.

Comments: Many commenters noted that rural LEAs face unique challenges in recruiting and retaining school psychologists, given the limited number of graduate programs in rural areas.

Discussion: Rural LEAs can use this opportunity to partner with Institutions

¹ For example, death due to suicide among adolescents ages 12–17 increased by 75.7% (rising from 3.7 to 6.5 deaths per 100,000 population) between 2008 and 2021. See 2023 National Healthcare Quality and Disparities Report. Available at: <https://www.ahrq.gov/research/findings/nhqdr/nhqdr23/index.html>. Accessed September 22, 2025.

² Feuer V, Mooneyham GC, Malas NM. Pediatric Boarding Consensus Guidelines Panel. Addressing the Pediatric Mental Health Crisis in Emergency Departments in the US: Findings of a National Pediatric Boarding Consensus Panel. J Acad Consult Liaison Psychiatry. 2023 Nov–Dec;64(6):501–511.

³ U.S. Department of Health and Human Services. Centers for Disease Control and Prevention. 2023 Youth Risk Behavior Survey Results. Available at: <https://www.cdc.gov/yrbbs/results/2023-yrbbs-results.html>. Accessed September 22, 2025.

of Higher Education (IHEs), or other entities recognized by the State, to create or enhance sustainable workforce pipeline approaches to increase the number of participants, and graduates who are preparing for a credential in school psychology. Additionally, the Department has a priority available in the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.227, which authorizes the Department to prioritize rural areas, if appropriate for a given competition. As such, we decline to make any changes.

Changes: None.

Comments: Although a few commenters support the use of funds to exclusively focus on intensive services, and one commenter suggested not including intensive services at all, many commenters recommended that the Department expand the priorities, requirements, and definitions where applicable from focusing on early intervention and intensive services to include the full continuum of services and approaches aligned with a Multi-Tiered System of Support (MTSS). A MTSS continuum, as noted by many commenters, includes universal or preventive approaches for the entire student body and school to decrease the need for higher-level and intensive services.

Discussion: The Department is prioritizing early intervention and intensive mental health services in this program to maximize Federal funds to support mental health services for students who need them and wants to ensure that graduate training programs are properly preparing school psychology graduate candidates to provide these services

Changes: None.

Comments: A few commenters recommended that the Department include substance abuse as part of the service delivery scope in the priorities, requirements, and definitions, as applicable.

Discussion: The Department recognizes the complex intersection of substance use and mental health. School psychologists trained and hired to provide early intervention and intensive mental health services under this program can address these needs as part of their provision of mental health services to the extent they impact the student's engagement in school. However, funds cannot be used for other substance use treatment services apart from early intervention or intensive mental health services.

Changes: None.

Requirements

Comments: Many commenters encouraged the Department to include IHEs as eligible applicants as part of Program Requirement (a).

Discussion: The Department is committed to returning education to the States. As such, SEAs and their LEAs are the appropriate recipients of these funds, rather than IHEs. However, the Department recognizes that IHEs, as well as other entities recognized by the State, or the State itself, are important partners to ensuring high-quality preparation of school psychologists. Accordingly, applicants are required to describe in their applications how their proposed projects will include a school-based mental health partnership, designed to train school psychology graduate candidates that includes an eligible partner, as defined in this notice. Applicants that receive an award under this program must provide within six months of award a memorandum of understanding (MOU), a memorandum of agreement (MOA), or letter of agreement documenting the applicant's school-based mental health partnership that includes an eligible partner.

Changes: None.

Comments: One commenter suggested that Program Requirement (b) related to supplementing, not supplanting State and local funds may hinder the ability of LEAs to build the infrastructure needed for their school-based mental health workforce, particularly for rural and underserved areas.

Discussion: The supplement, not supplant requirement in this program is consistent with grant requirements across many of the Department's programs and ensures that limited Federal funds are used efficiently and complement State and local initiatives.

Changes: None.

Comments: A few commenters recommended that the Department eliminate Program Requirement (c), which establishes a cap on SEA and LEA administrative costs. Commenters stated that the administrative cap on LEAs could limit their ability to carry out project activities by creating a financial burden.

Discussion: The Department believes that these funds should be used to deliver early intervention and intensive mental health services to students and only a limited amount of Federal funds should be used to cover administrative costs of the program. LEAs can use State or local funds for additional programmatic and administrative costs.

Changes: None.

Comments: Although a few commenters supported Program

Requirement (d), which prohibits the use of funds for "gender ideology," "political activism," "racial stereotyping," and "hostile environments for students of particular races," many recommended eliminating this Program Requirement, citing potential harm to students as well as the ambiguity of the terms included. Many commenters expressed that this requirement would actively threaten the mental health and safety of transgender students or those who identify as LGBTQ+, and that it could create barriers to access for needed mental health services. One commenter stated that the proposed rule unlawfully discriminates against students who identify as transgender and could conflict with State or local laws protecting students and establishing licensing and certification requirements.

Discussion: The Department believes it is not the role of school psychologists to promote particular ideologies or stereotypes when addressing the mental health needs of students. The intent of Program Requirement (d) is not to harm or limit services to students, but to ensure that program funds are particularly focused on providing targeted mental health services without tying such services to particular ideologies or stereotypes. The four prohibitions on the use of funds in Program Requirement (d) reflect the Department's concern regarding the prior administration's policy to use MHSP program funds in ways that strayed from the original intent and purposes of the MHSP program. For example, the 2022 Notice of Final Priorities for this program (87 FR 60083 (October 4, 2022)) established priorities that incentivized racial preferencing and racial stereotyping in order to receive preference for grant funding. In the current NFP, these requirements on their face do not impose any barriers or restrictions whatsoever on students receiving mental health services, and, as explained below, are instead concerned with addressing activities the Department anticipates could result in violations of federal law. Additionally, the Department does not believe that Program Requirement (d) would impact the ability of any school psychologist to receive a license or certification. The Department is not aware of any licensing or certification authority that would require adherence to, or compliance with, any of the grant funding prohibitions in Program Requirement (d) in order to receive a license or certification. Similarly, the Department is not aware of State laws compelling adherence or compliance

with these grant funding prohibitions as described herein.

Changes: None.

Comments: Many commenters recommended that the Department define the terms included in Program Requirement (d), including “gender ideology,” “political activism,” “racial stereotyping,” and “hostile environments for students of particular races.” Many commenters asked that the Department also provide examples of allowable activities. A few commenters pointed out that the terms used in the proposed requirement are overly broad, do not contain a reasoned explanation for incorporating these terms into the grant program, and no standards exist against which to assess potential activities.

Discussion: As noted above, the four prohibitions identified in Program Requirement (d) reflect the Department’s concern regarding the prior administration’s policy to use MHSP program funds in ways that strayed from the original intent and purposes of the MHSP program. For example, the 2022 Notice of Final Priorities for this program (87 FR 60083 (October 4, 2022)) established priorities that incentivized racial preferencing and racial stereotyping as a condition to receive a grant. While the Department declines to further define these prohibitions as their terms are commonly used and understood, we would view potential violations of these prohibitions similarly to potential violations of our civil rights laws. For instance, using federal funds for “gender ideology” may be inconsistent with Title IX of the Education Amendments Act of 1972 (20 U.S.C. 1681 *et seq.*). “Political activism” is conduct that could be inconsistent with the restrictions described in 31 U.S.C. 1352 and 2 CFR 200.450. And using funds to engage in “Racial stereotyping” or create “hostile environments for students of particular races” may be inconsistent with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).

Regarding commenters’ requests for the Department to provide guidance regarding allowable activities, we encourage commenters to read resources such as the Department of Justice’s “Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination,”⁴ which contains many helpful examples, and the President’s Executive Order 14168, which describes

the policy of the federal government regarding gender ideology.⁵

Changes: None.

Comments: Many commenters stated that the Department should promote safe and healthy learning environments for all students, and that Requirement (d), which prohibits applicants who receive an award under this program from using program funds for promoting or endorsing: (1) gender ideology, (2) political activism, (3) racial stereotyping, or (4) hostile environments for students of particular races actually creates an unsafe school climate because of the chilling effects of limiting speech with, or services for, specific students.

Discussion: The Department disagrees that Program Requirement (d) would limit speech or services to students. Indeed, by its plain language, Program Requirement (d) is a requirement on use-of-funds that applies to potential grantees under this program. Had the Department sought to more affirmatively establish participation requirements or limit the eligible students to be served under this program, it would have done so. Rather, the Department has left it up to potential grantees to determine how they will provide “intensive mental health services and supports to individual students most in need of those services” within the requirements established for this program. Additionally, regarding the commenters’ concerns for student speech, since the seminal Supreme Court case *Tinker v. Des Moines* (393 U.S. 503) (1969), students have enjoyed robust First Amendment protections in school settings and, in general, do not “shed their constitutional rights. . . at the schoolhouse gate”. No such prohibition regarding speech is contemplated by these plain use-of-grant-funds requirements. However, to be responsive to commenter’s concerns, and to further clarify that the Department’s priorities delineate limits on only the use of grant funds for the MHSP program, we have revised the lead-in to the requirement to clarify these prohibitions are not repugnant to the First Amendment to the Constitution of the United States.

Changes: The Department has revised Program Requirement (d) by removing “promoting and endorsing.”

Comments: None.

Discussion: Consistent with other Departmental regulatory actions, the Department is including a severability clause within the NFP. The clause is

intended to clarify that each provision within the NFP stands on its own because each provision is distinct and has its own rationale for inclusion, the effect of which varies depending on the identified provision.

Changes: The following severability clause has been added to the NFP: “If any provision of this NFP or its application to any person, act, or practice is held invalid, the remainder of the NFP or the application of its provisions to any other person, act, or practice will not be affected thereby.”

Definitions

Comments: Many commenters suggested broadening the definition of “early intervention” services to include universal or preventive approaches. Many commenters believe that the definition of “early intervention” is too restrictive and does not account for the full continuum of mental health services for students.

Discussion: Although the definition of early intervention services may not represent the continuum of services that a school provides, the Department’s preference is to focus these funds on increasing the number of credentialed school psychologists who are available to provide early intervention and intensive mental health services to ensure schools are equipped to provide the necessary clinical mental health services that some students need to support their academic success in school.

Changes: None.

Comments: Several commenters suggested that the definition of “eligible institution of higher education partner” be expanded to include any program of study that leads to a graduate degree in any profession that prepares candidates to obtain any State mental health professional license or certification under State law to provide mental health services.

Discussion: Given the shortages of school psychologists, the Department is focusing this program on training a sufficient number of school psychologists to provide mental health services in school settings. School psychologists are uniquely positioned to provide clinical mental health services to students and, as such, any IHE partners should be focused on training and preparing school psychologists.

Changes: None.

Comments: One commenter suggested changing the definition of “high-need LEA” to include “community violence,” as they believe that “school violence” is too limiting.

Discussion: The Department appreciates this comment, however,

⁴ See <https://www.justice.gov/opa/pr/justice-department-releases-guidance-recipients-federal-funding-regarding-unlawful>. Last Accessed September 22, 2025.

⁵ See <https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>. Last Accessed September 22, 2025.

there are other Federal, State, and local resources to address community violence. The Department believes that this program should focus on addressing the impact of violence that occurs at school and directly disrupts the learning environment.

Changes: None.

Comments: One commenter suggested changing the definition of “high-need LEA” to remove the requirement that the LEA must have experienced a traumatic event since January 1, 2025 or have received a Project SERV grant. They contend that this is an arbitrary distinction and does not account for the number of high-need LEAs or schools that have experienced ongoing trauma or who did not apply for or receive a Project SERV grant.

Discussion: The Department believes that these limited funds are best used to support students most in need, including those recovering from recent traumatic events, such as those who have received a Project SERV grant. Also, to clarify, for LEAs that have not experienced a traumatic event since January 1, 2025, the LEAs may still meet the definition of high-need LEAs if they have a ratio of students to school psychologists that exceeds 500 students to 1 school psychologist and high rates of school violence, poverty, substance use, suicide, trafficking, or other adverse childhood experiences.

Changes: None.

Final Priorities

The Department establishes the following priorities for use in this program. We may use one or more of these priorities in any year in which this program is in effect.

Priority 1—Enhance SEA efforts to address shortages of school psychologists in high-need LEAs.

To meet this priority, an SEA applicant must propose a project designed to train and place school psychology graduate candidates into high-need LEAs for the purpose of fulfilling requirements necessary to complete a degree and obtain a license or certification as a credentialed school psychologist.

Priority 2—Expand the capacity of high-need LEAs to address shortages of school psychologists.

To meet this priority, the applicant must propose a project designed to train and place school psychology graduate candidates into high-need LEAs for the purpose of fulfilling requirements necessary to complete a degree and obtain a license or certification as a credentialed school psychologist.

Priority 3—Increase the number of credentialed school psychologists

available to deliver early intervention mental health services and intensive mental health services in high-need LEAs.

To meet this priority, applicants must propose to increase the number of credentialed school psychologists available to engage in:

(a) Providing intensive mental health services and supports to individual students most in need of those services,

(b) Providing early intervention mental health services to address acute concerns and determine if intensive mental health services are needed.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Requirements

The Department establishes the following application and program requirements for this program. We may apply one or more of these requirements in any year in which the program is in effect.

Application Requirements

(a) SEA applicants must identify in their applications the specific high-need LEAs that will benefit from the grant or describe how they will identify and select the high-need LEAs that will benefit from the grant.

(b) Applicants must describe in their applications a school-based mental health partnership designed to train school psychology graduate candidates and place them into participating high-need LEAs.

(c) Applicants must include in their applications the most recently available data on the number of school psychologists in the high-need LEA(s) and the projected number of school psychology graduate candidates that will be trained and placed into employment in the identified LEA(s) for each year of the plan using funds from this grant.

Program Requirements

(a) Eligible applicants for this program are one or both of SEAs, as defined in 20 U.S.C. 7801(49), or LEAs, as defined in 20 U.S.C. 7801(30), including consortia of LEAs.

(b) Applicants that receive an award under this program must use grant funds to supplement, and not supplant, non-Federal funds that would otherwise be available for activities funded under this program.

(c) Administrative costs for SEA applicants that receive an award under this program may not exceed 10 percent of the annual grant award.

Administrative costs for applicants that are LEAs and consortia of LEAs may not exceed five percent of the annual grant award.

(d) Applicants that receive an award under this program are prohibited from using program funds for: (1) gender ideology, (2) political activism, (3) racial stereotyping, or (4) hostile environments for students of particular races.

(e) Applicants that receive an award under this program must provide within six months of award a memorandum of understanding (MOU), a memorandum of agreement (MOA), or letter of agreement documenting the applicant's school-based mental health partnership, as defined in this notice to the Department. The agreement must be signed by each entity's authorized representative. The agreement must detail each entity's roles and responsibilities in training and placing school psychology graduate candidates into high-need LEAs to achieve the goals and objectives of the project.

(f) Applicants that receive an award under the program must comply with section 4001(a) of Title IV of the ESEA. In carrying out the Informed Written Consent requirements described in paragraph (a)(1), the exception in (a)(2)(B)(i) only applies after the applicant has documented that it has made multiple repeated attempts through various communication methods to obtain parent consent. Subsequently, where parent consent is not obtained under (a)(2), not including the provisions in (a)(2)(B)(ii), the parent of a child participating in such services

will be provided notice of initial and subsequent service delivery.

(g) Applicants that receive an award under this program must ensure that any school psychologist or any school psychology graduate candidate offering services does so in a manner consistent with the Family Educational Rights and Privacy Act (FERPA), the Protection of Pupil Rights Amendment (PPRA), the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act, as well as all other applicable Federal, State, and local laws.

Final Definitions

The Secretary establishes the definitions of “credentialed,” “early intervention mental health services,” “eligible institution of higher education partner,” “high-need LEA,” “intensive mental health services,” “school psychology graduate candidate,” “school-based mental health partnership,” for use in this program. We may apply these definitions in any year in which this program is in effect.

Credentialed means an individual who possesses a valid license or certificate from the SEA or relevant regulatory body as a school psychologist approved by the State to provide services aligned with the practice of school psychology.

Early intervention mental health services mean services for students who are exhibiting signs of distress or impairment or are at heightened risk of needing mental health services. Based on current best practices in school psychology for serving an individual student, early intervention mental health services may include, for example, screening and referrals, small group services, and or brief individualized interventions.

Eligible institution of higher education partner means an institution of higher education as defined in 20 U.S.C. 1002 that offers a program of study that leads to a master’s degree or other graduate degree in school psychology that prepares graduate candidates for a State credential as a school psychologist.

High-need LEA means an LEA that has a significant need for additional school psychologists based on:

(a)(1) a ratio of students to school psychologists that exceeds a ratio of 500 students to 1 school psychologist and (2) high rates of school violence, poverty, substance use, suicide, trafficking, or other adverse childhood experiences;

(b) having received a Project School Emergency Response to Violence

(SERV) grant from the U.S. Department of Education since October 1, 2020; or

(c) having experienced a traumatic event since January 1, 2025, and did not receive a Project School Emergency Response to Violence (SERV) grant from the U.S. Department of Education.

Intensive mental health services mean services for students with identified mental health needs that limit engagement throughout the school day. Based on the best clinical approach to serving an individual student, intensive mental health services may include, for example, individual, group, or family therapy services, or coordination of services with providers serving the student in a non-school setting.

School psychology graduate candidate means an individual who is (a) pursuing a Master’s degree, or State-recognized equivalent, in school psychology and (b) will be eligible upon completion of the program for a license or certification from a State or national credentialing authority as a school psychologist approved by the State to deliver school-based mental health services.

School-based mental health partnership is the formal relationship, established for the purpose of training and placing school psychology graduate candidates into high-need LEAs, between the eligible applicant (one or more high-need LEAs or an SEA) and its partners, who must include:

(a) One or more eligible institutions of higher education partners, as defined in this notice, or

(b) One or more entities, recognized by the State, to train and prepare school psychology graduate candidates for a school psychology credential; or

(c) State entities such as Governors, State workforce development agencies or boards, State vocational rehabilitation agencies, or State higher education agencies.

Severability: If any provision of this NFP or its application to any person, act, or practice is held invalid, the remainder of the NFP or the application of its provisions to any other person, act, or practice will not be affected thereby.

Executive Orders 12866, 13563, and 14192

Regulatory Impact Analysis: This regulatory action is not a significant regulatory action subject to review by the Office of Management and Budget under section 3(f) of Executive Order 12866. This regulatory action is not considered an “Executive Order 14192 regulatory action.” We have also reviewed this regulatory action under Executive Order 13563. We are issuing

the priorities, requirements, and definitions only on a reasoned determination that their benefits would justify their costs. The Department believes that this regulatory action is consistent with the principles in Executive Order 13563. We also have determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions. In accordance with these Executive Orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined are necessary for administering the Department’s programs and activities.

Discussion of Costs and Benefits: The Department believes that these proposed priorities, requirements, and definitions would not impose significant costs on eligible entities, whose participation in this program is voluntary, and whose costs can generally be covered with grant funds. As a result, the proposed priorities, requirements, and definitions would not impose any particular burden, except when an entity voluntarily elects to apply for a grant. The proposed priorities, requirements, and definitions would help ensure that the grant program selects high-quality applicants to implement activities that meet the goals of the program. We believe these benefits would outweigh any associated costs.

Intergovernmental Review: This action is subject to Executive Order 12372 and the regulations in 34 CFR part 79. This document provides early notification of our specific plans and actions for this program.

Regulatory Flexibility Act

Certification: This section considers the effects that the final regulations may have on small entities in the educational sector as required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Secretary certifies that this regulatory action would not have a significant economic impact on a substantial number of small entities. The small entities that these priorities, requirements, and definitions would affect are LEAs applying for and receiving funds under this program. We believe that the costs imposed on an applicant by the priorities, requirements, and definitions would be limited to paperwork burden related to preparing an application and that the benefits of the priorities, requirements, and definitions would outweigh any costs incurred by the applicant.

Participation in this program is voluntary. For this reason, the priorities, requirements, and definitions would impose no burden on small entities unless they applied for funding under the program. Eligible applicants would determine whether to apply for funds and would weigh the requirements for preparing applications, and any associated costs, against the likelihood of receiving funding and the requirements for implementing projects under the program. Eligible applicants most likely would apply only if they determine that the likely benefits exceed the costs of preparing an application. The likely benefits include the potential receipt of a grant as well as other benefits that may accrue to an entity through its development of an application, such as the use of that application to seek funding from other sources to address a shortage in school-based mental health services providers.

Paperwork Reduction Act: In the NPP, we explained that the proposed priorities, requirements, and definitions contained information collection requirements that are covered under OMB control number 1810-0772 and that the priorities, requirements, and definitions did not affect the currently approved data collection. Since publishing the NPP, we have conducted a review of the final priorities, requirements, and definitions and believe it would be most efficient to collect the information associated with the priorities, requirements, and definitions using the more broadly used, also approved Generic Application Package for Departmental Generic Grant Programs (OMB control number 1894-0006).

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or another accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other Department documents published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access Department documents published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Hayley B. Sanon,

Principal Deputy Assistant Secretary and Acting Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2025-18893 Filed 9-26-25; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Accrediting Agency Currently Undergoing Review During the Period of Recognition by the U.S. Secretary of Education

AGENCY: U.S. Department of Education, Accreditation Group, Office of Postsecondary Education.

ACTION: Call for written third-party comments.

SUMMARY: This notice provides information to members of the public on submitting written comments for accrediting agencies currently undergoing review during the period of recognition by the U.S. Secretary of Education.

DATES: Comments must be received on or before October 31, 2025.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Daggett, Director, Accreditation Group, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Room 5C104, Washington, DC 20202, telephone: (202) 453-7615, or email: elizabeth.daggett@ed.gov.

SUPPLEMENTARY INFORMATION: This request for written third-party comments concerning the performance of accrediting agencies during their period of recognition is pursuant to 34 Code of Federal Regulations (CFR) § 602.33(c)(4)(iii)(B).

Additional information for this accrediting agency will be added to the agenda for the Winter 2026 National Advisory Committee on Institutional Quality and Integrity (NACIQI) meeting, notice of which was published November 6, 2024 (89 FRN 88046). The meeting date and location have not been determined but will be announced in a later **Federal Register** notice.

Agencies Under Review and Evaluation:

The Department requests written comments from the public on the following accrediting agency, which is

currently undergoing review and evaluation during their period of recognition by the Department's Office of Postsecondary Education Accreditation Group, in accordance with the procedures set forth in 34 CFR 602.33. Inquiries under 34 Code of Federal Regulations (CFR) § 602.33: Midwifery Education Accreditation Council (MEAC).

a. 34 CFR 602.33 review initiated by inquiry letter dated March 19, 2025 (letter available at <https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/college-accreditation/accreditation-postsecondary-education-institutions>). The review has identified noncompliance with the Criteria in 34 CFR 602.15(a)(1).

Submission of Written Comments Regarding a Specific Accrediting Agency Under Review:

Written comments about the recognition of a specific accrediting agency must be received on or before October 31, 2025, in the ThirdPartyComments@ed.gov mailbox and include the subject line "Written Comments: (agency name)." The email must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number of the person(s) making the comment. Comments should be submitted as a Microsoft Word document or in a medium compatible with Microsoft Word (not a PDF file) that is attached to an electronic mail message (email) or provided in the body of an email message. Comments about an agency must relate to the agency's compliance with the Criteria identified in the inquiry finding specifically listed above.

The Criteria are available at <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-602?toc=1>.

Only written material submitted by the deadline to the email address listed in this notice, and in accordance with these instructions, become part of the official record concerning agencies scheduled for review and are considered by the Department and NACIQI in their deliberations.

A later **Federal Register** notice will describe how to register to provide oral comments at the Winter 2026 meeting regarding the recognition of a specific accrediting agency or State approval agency.

Electronic Access to this Document:

The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you

can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

(Authority: 20 U.S.C. 1011c.)

Signing Authority

This document of the U.S. Department of Education was signed on September 24, 2025, by Christopher J. McCaghren, ED.D., *Acting Assistant Secretary Office of Postsecondary Education*. That document with the original signature and date is maintained by the U.S. Department of Education. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned has been authorized to sign the document in electronic format for publication, as an official document of the U.S. Department of Education. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Tracey St. Pierre,

*Director, Office of Executive Secretariat,
Office of the Secretary, U.S. Department of Education.*

[FR Doc. 2025-18865 Filed 9-26-25; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Applications for New Awards; Mental Health Service Professional Demonstration Grant Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2025 funds for the Mental Health Service Professional Demonstration Grant program (MHSP).

DATES:

Applications Available: September 29, 2025.

Deadline for Transmittal of Applications: October 29, 2025.

The Department will post a preapplication presentation for

prospective applicants. To access the preapplication presentation, visit the MHSP web page at <https://www.ed.gov/grants-and-programs/grants-birth-grade-12/safe-and-supportive-schools/mental-health-service-professional-demonstration-grant-program>.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on August 29, 2025 (90 FR 42234) and available at <https://www.federalregister.gov/documents/2025/08/29/2025-16571/common-instructions-and-information-for-applicants-to-department-of-education-discretionary-grant>.

FOR FURTHER INFORMATION CONTACT:

Nicole White, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202-6450. Telephone: (202) 987-1594. Email: Mental.Health@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The MHSP program provides competitive grants to State educational agencies (SEAs, as defined in 20 U.S.C. 7801(49)) and local educational agencies (LEAs, as defined in 20 U.S.C. 7801(30)) to address the shortage of credentialed (as defined in the Notice of Final Priorities) school-based mental health services providers, specifically school psychologists, in high-need LEAs.

Assistance Listing Number: 84.184X.

OMB Control Number: 1894-0006.

Eligible Applicants: SEAs, as defined in 20 U.S.C. 7801(49), or LEAs, as defined in 20 U.S.C. 7801(30), including consortia of LEAs.

Application Requirements: These requirements are from the Notice of Final Priorities, Requirements, and Definitions (NFP) published elsewhere in this issue of the **Federal Register**.

(a) SEA applicants must identify in their applications the specific high-need LEAs that will benefit from the grant or describe how they will identify and select the high-need LEAs that will benefit from the grant.

(b) Applicants must describe in their applications a school-based mental health partnership designed to train school psychology graduate candidates and place them into participating high-need LEAs.

(c) Applicants must include in their applications the most recently available data on the number of school psychologists in the high-need LEA(s) and the projected number of school psychology graduate candidates that will be trained and placed into employment in the identified LEA(s) for each year of the plan using funds from this grant.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds:

\$90,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards:

\$750,000–\$1,250,000.

Estimated Average Size of Awards:

\$1,000,000.

Estimated Number of Awards: 18–24.

Note: The Department is not bound by any estimates in this notice. Contingent upon the availability of funds and the quality of applications, the Department anticipates making awards for the full 48-months using available appropriations.

Project Period: Up to 48 months.

Background: Our Nation's schools should be safe and secure settings where children can learn and grow to their full potential. However, over the last several years the decline of children and youth mental health has become a serious concern for our Nation. Given the importance of improving child and youth mental health, this notice includes three priorities aimed at increasing State and local capacity to improve students' mental health. These priorities will provide funding to SEAs and LEAs to develop tailored strategies that enhance their school psychologist workforce pipeline.

Priorities:

This competition has three absolute priorities and one competitive preference priority. Absolute priorities 1, 2, and 3 are from the NFP published elsewhere in this issue of the **Federal Register**. The Competitive preference priority is from 34 CFR 75.227.

Absolute Priorities: For FY 2025 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet Absolute Priorities 1 and 3, or applications that meet Absolute Priorities 2 and 3.

The Secretary intends to create two funding slates for MHSP applications,

one slate for applications that meet Absolute Priorities 1 and 3 and a second slate for applications that meet Absolute Priorities 2 and 3. As a result, the Secretary may fund applications out of the overall rank order.

These priorities are:

Priority 1—Enhance SEA efforts to address shortages of school psychologists in high-need LEAs.

To meet this priority, an SEA applicant must propose a project designed to train and place school psychology graduate candidates into high-need LEAs for the purpose of fulfilling requirements necessary to complete a degree and obtain a license or certification as a credentialed school psychologist.

Priority 2—Expand the capacity of high-need LEAs to address shortages of school psychologists.

To meet this priority, the applicant must propose a project designed to train and place school psychology graduate candidates into high-need LEAs for the purpose of fulfilling requirements necessary to complete a degree and obtain a license or certification as a credentialed school psychologist.

Priority 3—Increase the number of credentialed school psychologists available to deliver early intervention mental health services and intensive mental health services in high-need LEAs.

To meet this priority, applicants must propose to increase the number of credentialed school psychologists available to engage in:

(a) Providing intensive mental health services and supports to individual students most in need of those services,

(b) Providing early intervention mental health services to address acute concerns and determine if intensive mental health services are needed.

Competitive Preference Priority: For FY 2025 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award an additional 3 points to an application that meets the priority.

An applicant must clearly identify in the project abstract and the project narrative section of its application if it wishes the Department to consider it for purposes of earning competitive preference priority points.

This priority is:

Rural Applicants (0 or 3 points).

Under this priority, an applicant must demonstrate the following:

(a) The applicant proposes to serve a community that is served by one or more LEAs—

(i) With a National Center for Education Statistics (NCES) locale code of 32, 33, 41, 42, or 43; or

(ii) With a NCES locale code of 41, 42, or 43.

Program Requirements:

These program requirements are from the NFP published elsewhere in this issue of the **Federal Register**.

(a) Eligible applicants for this program are one or both of SEAs, as defined in 20 U.S.C. 7801(49), or LEAs, as defined in 20 U.S.C. 7801(30), including consortia of LEAs.

(b) Applicants that receive an award under this program must use grant funds to supplement, and not supplant, non-Federal funds that would otherwise be available for activities funded under this program.

(c) Administrative costs for SEA applicants that receive an award under this program may not exceed 10 percent of the annual grant award.

Administrative costs for applicants that are LEAs and consortia of LEAs may not exceed five percent of the annual grant award.

(d) Applicants that receive an award under this program are prohibited from using program funds for: (1) gender ideology, (2) political activism, (3) racial stereotyping, or (4) hostile environments for students of particular races.

(e) Applicants that receive an award under this program must provide within six months of award a memorandum of understanding (MOU), a memorandum of agreement (MOA), or letter of agreement documenting the applicant's school-based mental health partnership, as defined in this notice to the Department. The agreement must be signed by each entity's authorized representative. The agreement must detail each entity's roles and responsibilities in training and placing school psychology graduate candidates into high-need LEAs to achieve the goals and objectives of the project.

(f) Applicants that receive an award under the program must comply with section 4001(a) of Title IV of the Elementary and Secondary Education Act of 1965, as amended (ESEA). In carrying out the Informed Written Consent requirements described in paragraph (a)(1), the exception in (a)(2)(B)(i) only applies after the applicant has documented that it has made multiple repeated attempts through various communication methods to obtain parent consent.

Subsequently, where parent consent is not obtained under (a)(2), not including the provisions in (a)(2)(B)(ii), the parent of a child participating in such services will be provided notice of initial and subsequent service delivery.

(g) Applicants that receive an award under this program must ensure that any school psychologist or any school psychology graduate candidate offering services does so in a manner consistent with the Family Educational Rights and Privacy Act (FERPA), the Protection of Pupil Rights Amendment (PPRA), the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act, as well as all other applicable Federal, State, and local laws.

Selection Criteria:

The selection criteria for this competition are from 34 CFR 75.210. The points assigned to each criterion are indicated in the parentheses next to the criterion. An applicant may earn up to a total of 100 points based on the selection criteria. Non-Federal peer reviewers will evaluate and score each application program narrative against the following selection criteria:

(a) *Need for the project.* (Up to 20 points)

The Secretary considers the need for the proposed project.

(1) In determining the need for the proposed project, the Secretary considers the extent to which the specific nature and magnitude of gaps or challenges are identified and the extent to which these gaps or challenges will be addressed by the services, supports, infrastructure, or opportunities described in the proposed project.

(b) *Quality of the project design.* (Up to 30 points)

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified, measurable, and ambitious yet achievable within the project period, and aligned with the purposes of the grant program. (Up to 20 points)

(ii) The extent to which the proposed project demonstrates that it is designed to build capacity and yield sustainable results that will extend beyond the project period. (Up to 10 points)

(c) *Adequacy of resources.* (Up to 30 points)

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which the budget is adequate to support the proposed project and the costs are reasonable in

relation to the objectives, design, and potential significance of the proposed project. (Up to 20 points)

(ii) The extent to which the costs are reasonable in relation to the number of persons to be served, the depth and intensity of services, and the anticipated results and benefits. (Up to 10 points)

(d) *Quality of the management plan.* (Up to 20 points)

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers one or more of the following factors:

(i) The feasibility of the management plan to achieve project objectives and goals on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (Up to 10 points)

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project. (Up to 10 points)

Performance Measures: The Department has established the following performance measures for Department reporting under 34 CFR 75.110 for the Mental Health Service Professional Demonstration Grant Program:

(a) The unduplicated, cumulative number of school psychologists trained by the grantee under the project to provide school-based mental health services in high-need LEAs.

(b) The unduplicated, cumulative number of school psychologists placed in a practicum or internship by the grantee in high-need LEAs to provide school-based mental health services.

(c) The unduplicated, cumulative number of school psychologists hired by high-need LEAs to provide school-based mental health services.

These measures constitute the Department's indicators of success for this program. Consequently, we advise an applicant for a grant under this program to give careful consideration to these measures in conceptualizing the approach and evaluation for its proposed project. Each grantee will be required to provide, in its annual performance report, data about its progress in meeting these measures.

Performance measure targets: The applicant must propose annual targets for the measures listed above in their application. Applications must also provide the following information as directed under 34 CFR 75.110(b) and (c):

(1) An explanation of how each proposed performance target is

ambitious (as defined in this notice) yet achievable compared to the baseline (as defined in this notice) for the performance measure.

(2) An explanation of the data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and

(3) An explanation of the applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

Note: If the applicant does not have experience with the collection and reporting of performance data through other projects or research, the applicant should provide other evidence of capacity to successfully carry out data collection and reporting for its proposed project.

The reviewers of each application will score related selection criteria on the basis of how well an applicant has considered these measures in conceptualizing the approach and evaluation of the project.

All grantees must submit an annual performance report and final performance report with information that is responsive to these performance measures.

Definitions:

The definitions of "credentialed," "early intervention mental health services," "eligible institution of higher education partner," "high-need LEA," "intensive mental health services," "school psychology graduate candidate," and "school-based mental health partnership" are from the NFP published elsewhere in this issue of the **Federal Register**. The definitions of "local educational agency" and State educational agency are from 20 U.S.C. 7801.

Credentialed means an individual who possesses a valid license or certificate from the SEA or relevant regulatory body as a school psychologist approved by the State to provide services aligned with the practice of school psychology.

Early intervention mental health services mean services for students who are exhibiting signs of distress or impairment or are at heightened risk of needing mental health services. Based on current best practices in school psychology for serving an individual student, early intervention mental health services may include, for example, screening and referrals, small group services, and brief individualized interventions.

Eligible institution of higher education partner means an institution of higher education as defined in 20 U.S.C. 1002 that offers a program of study that leads to a master's degree or other graduate degree in school psychology that prepares graduate candidates for a State credential as a school psychologist.

High-need LEA means an LEA that has a significant need for additional school psychologists based on:

(a)(1) a ratio of students to school psychologists that exceeds a ratio of 500 students to 1 school psychologist and (2) high rates of school violence, poverty, substance use, suicide, trafficking, or other adverse childhood experiences;

(b) having received a Project School Emergency Response to Violence (SERV) grant from the U.S. Department of Education since October 1, 2020; or

(c) having experienced a traumatic event since January 1, 2025, and did not receive a Project School Emergency Response to Violence (SERV) grant from the U.S. Department of Education.

Intensive mental health services mean services for students with identified mental health needs that limit engagement throughout the school day. Based on the best clinical approach to serving an individual student, intensive mental health services may include, for example, individual, group, or family therapy services, or coordination of services with providers serving the student in a non-school setting.

Local educational agency means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(1) The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(2) The term includes an elementary or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the

Elementary and Secondary Education Act of 1965, as amended (ESEA) with the smallest student population, except that the school shall not be subject to the jurisdiction of any SEA other than the Bureau of Indian Education.

(3) The term includes educational service agencies and consortia of those agencies.

(4) The term includes the SEA in a State in which the SEA is the sole educational agency for all public schools.

School psychology graduate candidate means an individual who is (a) pursuing a Master's degree, or State-recognized equivalent, in school psychology and (b) will be eligible upon completion of the program for a license or certification from a State or national credentialing authority as a school psychologist approved by the State to deliver school-based mental health services.

School-based mental health partnership is the formal relationship, established for the purpose of training and placing school psychology graduate candidates into high-need LEAs, between the eligible applicant (one or more high-need LEAs or an SEA) and its partners, who must include:

(a) One or more eligible institutions of higher education partners, as defined in this notice, or

(b) One or more entities, recognized by the State, to train and prepare school psychology graduate candidates for a school psychology credential; or

(c) State entities such as Governors, State workforce development agencies or boards, State vocational rehabilitation agencies, or State higher education agencies.

State educational agency means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

Program Authority: Section 4631(a)(1)(B) of the ESEA (20 U.S.C. 7281(a)(1)(B)).

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for

Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The NFP.

1. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This competition's supplement, supplant requirement is described in the Program Requirements section of this notice.

c. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see www2.ed.gov/about/offices/list/ocfo/intro.html.

d. *Administrative Cost Limitation:* This program's Administrative Cost Limitation is described above in the Program Requirements section of this notice.

2. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

III. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on August 29, 2025 (90 FR 42234) and available at <https://www.federalregister.gov/documents/2025/08/29/2025-16571/common-instructions-and-information-for-applicants-to-department-of-education-discretionary-grant>, which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make an award by the end of FY 2025.

3. *Funding Restrictions:* Section 4001(b) prohibits the use of funds for medical services or drug treatment or rehabilitation, except for integrated student supports, specialized instructional support services, or referral to treatment for impacted students, which may include students who are victims of, or witnesses to, crime or who illegally use drugs. This prohibition does not preclude the use of funds to support mental health counseling and support services,

including those provided by a mental health services provider outside of school, so long as such services are not medical.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 15 pages and (2) follow the formatting standards described in the Common Instructions for Applicants to Department of Education Discretionary Grant Programs.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; the one-page abstract, resumes, bibliography, charts with timelines and milestones, or letters of support. However, the recommended page limit does apply to all of the application narrative.

IV. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, Braille, large print, audiotape, compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other Department documents published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access Department documents published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Hayley B. Sanon,

Principal Deputy Assistant Secretary and Acting Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2025-18894 Filed 9-26-25; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

[Docket Nos. 12–100–LNG and 23–109–LNG]

**Southern LNG Company, L.L.C.;
Application To Amend Long-Term
Authorization To Export Liquefied
Natural Gas to Non-Free Trade
Agreement Nations To Include Certain
Bunkering Activities**

AGENCY: Office of Fossil Energy and Carbon Management, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy and Carbon Management (FECM) (formerly the Office of Fossil Energy (FE)) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Amendment Application), filed by Southern LNG Company, L.L.C. (Southern LNG) on July 31, 2025, and supplemented on September 11, 2025. Southern LNG seeks to amend its existing long-term authorization to export domestically produced liquefied natural gas (LNG) to non-free trade agreement countries set forth in DOE/FE Order No. 3956 (as amended)—specifically to allow such exports (1) in approved containers loaded onto vessels and (2) in bulk, loaded into bunkering vessels for ship-to-ship transfer as marine fuel to ships located within the territorial seas of foreign countries (including that country's ports). No other part of the existing authorization would be affected. Southern LNG also seeks to amend an application it filed in a separate proceeding, to allow additional exports to non-FTA countries, to include the same amendments to the activities it seeks for its existing authorization. Southern LNG filed the Amendment Application under the Natural Gas Act (NGA).

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, on October 29, 2025.

ADDRESSES:

Electronic Filing by email (strongly encouraged): fergas@hq.doe.gov.

Postal Mail, Hand Delivery, or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy and Carbon Management, Forrestal Building, Room 3E–056, 1000 Independence Avenue SW, Washington, DC 20585.

Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we

encourage respondents to submit filings electronically to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT:

Jennifer Wade or Peri Ulrey, U.S.

Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability, Office of Fossil Energy and Carbon Management, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–4749 or (202) 586–7893, jennifer.wade@hq.doe.gov or peri.ulrey@hq.doe.gov

Irene V. Norville, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Energy Delivery and Resilience, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (240) 702–5679, irene.norville@hq.doe.gov

SUPPLEMENTARY INFORMATION: On December 16, 2016, in Order No. 3956 (as amended),¹ DOE authorized Southern LNG to export domestically produced LNG by vessel from the Elba Island Terminal in Chatham County, Georgia, to any country with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries), pursuant to NGA section 3(a).² Southern LNG is authorized to export this LNG in a volume equivalent to 130 billion cubic feet (Bcf) per year (Bcf/yr) of natural gas³ for a term extending through December 31, 2050.⁴

On September 25, 2023, Southern LNG filed an application for authorization to export an additional

28.25 Bcf/yr from the Elba Island Terminal to non-FTA countries in Docket No. 23–109–LNG.⁵ DOE published notice of this application in the **Federal Register** on October 24, 2023.⁶ That application remains pending.

In the Amendment Application filed on July 31, 2025, Southern LNG seeks to utilize additional methods for the export of LNG: “(i) in approved ISO containers loaded in such containers onto vessels, and (ii) in bulk, loaded into bunkering vessels for transfer as marine fuel to ships located within the territorial sea of a foreign country (including ships located in foreign ports)[.]”⁷ Southern LNG asks DOE to “amend [its authorizations] to add transfers of U.S.-sourced LNG in bunkering operations conducted within the territorial seas of foreign countries (including ports of such foreign countries) to the categories of activities to which those authorizations apply.”⁸ In support of its request, Southern LNG notes that DOE clarified its jurisdiction over LNG transferred to a receiving ship for use as marine fuel in an order issued to JAX LNG, LLC in February 2025.⁹ According to Southern LNG, “[t]he modified authorization sought in this Amendment Application should be deemed to be consistent with the public interest . . . for the same reasons as [its current authorizations] and [as DOE] has authorized JAX LNG, LLC to engage in exports of LNG through bunkering operations in the territorial waters of foreign countries.”¹⁰

On September 11, 2025, Southern LNG filed a supplement to the Amendment Application “to (i) add a docket to [its] Amendment Application and to request that DOE/FECM authorize the actions requested in [its] Amendment Application as part of its order in that proceeding; and (ii) clarify certain aspects of its original

¹ *Southern LNG Co., L.L.C.*, DOE/FE Order No. 3956, Docket No. 12–100–LNG, Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Elba Island Terminal in Chatham County, Georgia to Non-Free Trade Agreement Nations (Dec. 16, 2016), *amended by* DOE/FE Order No. 3956–A (Dec. 30, 2020) (extending export term).

² 15 U.S.C. 717b(a).

³ Southern LNG holds a corresponding authorization to export LNG to countries with which the United States has a FTA requiring national treatment for trade in natural gas, in a volume equivalent to 182.5 Bcf/yr of natural gas. When it applied for this authorization, Southern LNG requested the same volume for non-FTA export. Under NGA section 3(c), 15 U.S.C. 717b(c), DOE was required to grant the FTA export in the full volume requested. However, because the Federal Energy Regulatory Commission, under its own NGA section 3 authority, had only approved a facility with an export capacity of up to 130 Bcf/yr, DOE only authorized that volume for non-FTA export. The volumes authorized in each authorization are not additive to one another.

⁴ *Southern LNG Co., L.L.C.*, DOE/FE Order No. 3956, *as amended by* DOE/FE Order No. 3956–A.

⁵ Southern LNG Company, L.L.C., Application for Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, Docket No. 23–109–LNG (Sept. 25, 2023).

⁶ 88 FR 73008 (Oct. 24, 2023).

⁷ Southern LNG Company, L.L.C., Application to Amend Long-Term, Multi-Contract Authorization to Export Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations to Include Exports of LNG by Ship-to-Ship Transfers Within the Territorial Seas and Ports of Foreign Countries, Docket Nos. 12–54–LNG and 12–100–LNG, at 7 (July 31, 2025) [hereinafter Amendment App.].

⁸ *Id.* at 2. Southern LNG requests the amendment for both its FTA and non-FTA authorizations. The FTA authorization is under a separate proceeding (Docket No. 12–54–LNG) not subject to this Notice.

⁹ *Id.* at 3 (citing *JAX LNG, LLC*, DOE/FECM Order No. 5233–A, Docket No. 24–73–LNG, Order Granting Request for Rehearing and Clarification and Modifying Order (Feb. 25, 2025)).

¹⁰ *Id.* at 5.

request[.]”¹¹ In the Amendment Application Supplement, Southern LNG asks DOE to also authorize bunkering events for the additional 28.25 Bcf/yr of natural gas it seeks to export to non-FTA countries in Docket No. 23–109–LNG.¹² Southern LNG further clarifies that the term “bunkering events” as used in its Amendment Application includes both ship-to-ship fuel transfers and ISO container loading.¹³ Additionally, Southern LNG clarifies that it does not qualify under the small-scale natural gas exports rule under 10 CFR 590.208(a), as incorrectly stated in its Amendment Application.¹⁴

Additional details can be found in the Amendment Application and Amendment Application Supplement, posted on the DOE website at <https://www.energy.gov/sites/default/files/2025-07/2025.07.31%20SLNG%20Amendment%20DOE%20Bunkering%20%28Final%29.pdf>, and <https://www.energy.gov/sites/default/files/2025-09/2025.09.10.%20SLNG%20Amendment%20DOE%20Bunkering%20Supplement%20%28executed%29.pdf>, respectively.

DOE Evaluation

In reviewing the Amendment Application, DOE will consider any issues required by law or policy under NGA section 3(a), DOE’s regulations, and any other documents deemed appropriate.

Parties that may oppose the Amendment Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Amendment Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable, addressing

the Amendment Application. Interested parties will be provided 30 days from the date of publication of this Notice in the **Federal Register** in which to submit comments, protests, motions to intervene, or notices of intervention. The public previously was given an opportunity to intervene in, protest, and comment on Southern LNG’s long-term non-FTA application in this docket. Therefore, DOE will not consider comments or protests that do not bear directly on the Amendment Application.

Any person wishing to become a party to the proceeding evaluating the Amendment Application must file a motion to intervene or notice of intervention.¹⁵ The filing of comments or a protest with respect to the Amendment Application will not serve to make the commenter or protestant a party to this proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Amendment Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590, including the service requirements.

Filings may be submitted using one of the following methods:

(1) Submitting the filing electronically at fergas@hq.doe.gov;

(2) Mailing the filing to the Office of Regulation, Analysis, and Engagement at the address listed in the **ADDRESSES** section; or

(3) Hand delivering the filing to the Office of Regulation, Analysis, and Engagement at the address listed in the **ADDRESSES** section.

For administrative efficiency, DOE prefers filings to be filed electronically. All filings must include a reference to “Docket Nos. 12–100–LNG and 23–109–LNG” or “Southern LNG Amendment Application” in the title line. Filings must be submitted in English to be considered.¹⁶

For electronic submissions: Please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the

documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner.

The Amendment Application, and any filed protests, motions to intervene, notices of intervention, and comments will be available electronically on the DOE website at www.energy.gov/fecm/regulation.

A decisional record on the Amendment Application will be developed through responses to this Notice by parties, including the parties’ written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Order may be issued based on the official record, including the Amendment Application and responses filed by parties pursuant to this Notice, in accordance with 10 CFR 590.316.

Signed in Washington, DC, on September 25, 2025.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability.

[FR Doc. 2025–18830 Filed 9–26–25; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Proposed Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Notice and request for comments.

SUMMARY: EIA invites public comment on the proposed three-year extension, with changes, to the Petroleum Supply Reporting System (PSRS), as required under the Paperwork Reduction Act of 1995. The PSRS consists of six weekly surveys that make up the Weekly Petroleum Supply Reporting System (WPSRS), eight monthly surveys that make up the Monthly Petroleum Supply Reporting System (MPSRS), and one annual survey.

DATES: EIA must receive all comments on this proposed information collection no later than November 28, 2025. If you anticipate any difficulties in submitting your comments by the deadline, contact the person listed in the **ADDRESSES**

¹¹ Southern LNG Company, L.L.C., Supplement to Application to Amend Long-Term, Multi-Contract Authorization to Export Natural Gas to Free Trade Agreement and Non-Free Trade Agreement Nations to Include Exports of LNG by Ship-to-Ship Transfers Within the Territorial Seas and Ports of Foreign Countries, Docket Nos. 12–54–LNG *et al.*, at 1 (Sept. 11, 2025) [hereinafter Amendment App. Supp.].

¹² Amendment App. Supp. at 3–4.

¹³ *Id.* at 2.

¹⁴ *Id.*

¹⁵ Status as an intervenor in prior proceeding(s) in this docket does not continue to this proceeding evaluating Southern LNG’s Amendment Application, and therefore any person interested in intervening to address the Amendment Application must file a new motion to intervene (or notice of intervention, as applicable). 10 CFR 590.303.

¹⁶ Executive Order 14224 of March 1, 2025, *Designating English as the Official Language of the United States*, 90 FR 11363 (Mar. 6, 2025).

section of this notice as soon as possible.

ADDRESSES: You may submit comments, identified by OMB control number 1905–0165, by email at EIA-FRNcomments@eia.gov. Include the OMB control number listed in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Kenneth Pick, EIA Clearance Officer, at (202) 586–5562. The forms and instructions are available on EIA's website at www.eia.gov/survey/.

SUPPLEMENTARY INFORMATION: EIA uses WPSRS surveys to collect data from a sample of operators on input, production, imports, and inventory levels of crude oil, hydrocarbon gas liquids, petroleum products, and biofuels. EIA uses MPSRS surveys to collect data from all in-scope operators on input, production, imports, biofuel feedstocks consumed, refinery capacity, biofuel plant production capacity, fuels consumed in plant operations, and annual storage capacity of crude oil, hydrocarbon gas liquids petroleum products, and biofuels. EIA uses annual Form EIA–820 to collect data on refinery capacity, refinery fuels and feedstocks consumed, and the quantity of crude oil received by method of transportation.

This information collection request contains:

- (1) *OMB No.:* 1905–0165;
- (2) *Information Collection Request Title:* Petroleum Supply Reporting System (PSRS);
- (3) *Type of Request:* Three-year extension with changes;
- (4) *Purpose:* The surveys included in the PSRS collect information that is largely unavailable from other sources on production, input, inventory levels, imports, inter-regional movements, and fuels and feedstocks consumed for plant operation, for crude oil, hydrocarbon gas liquids, petroleum products, and biofuels. PSRS surveys also collect storage capacities for crude oil, hydrocarbon gas liquids, petroleum products, and biofuels, refinery capacities, biofuel production capacities, and biofuel feedstocks consumed.

EIA requires data from PSRS surveys to meet the requirements of energy data users for credible, reliable, and timely energy information. EIA uses PSRS survey data in statistical reports including, but not limited to, the Weekly Petroleum Status Report (WPSR), Petroleum Supply Monthly (PSM), and the Monthly Energy Review (MER). EIA uses PSRS survey data to support analysis and projection work with results reported in the Short-Term

Energy Outlook (STEO), Annual Energy Outlook (AEO), and other reports. EIA makes reports available at <https://www.eia.gov/>. EIA also uses PSRS data to complete monthly and annual reports of U.S. petroleum and biofuel supplies to the International Energy Agency to support U.S. participation as an IEA member country. In some cases, agencies outside of EIA publish data sourced from PSRS surveys in their own reports: for example, bioenergy statistics reported by the U.S. Department of Agriculture.

Data from PSRS surveys provide data to inform policy and business decisions. The data promote efficient markets by providing transparency to petroleum and biofuel supplies. Use of PSRS data by academic researchers, educators, news media, and the general public promotes understanding of energy and its interaction with the economy and the environment.

(4a) *Proposed Changes to Information Collection:* EIA proposes minor modifications to all PSRS survey instructions to align the language with other PSRS surveys, without substantially changing the intention of the language.

Form EIA–819, Monthly Report of Fuels From Non-Biogenic Waste and Biofuels (Change to Form and Instructions)

EIA proposes three modifications to Form EIA–819 form and instructions:

1. EIA proposes changing the name of the form from *Monthly Biofuels Fuel Oxygenates, Isooctane, and Isooctene Report* to *Monthly Report of Fuels from Non-Biogenic Waste and Biofuels* to allow the data collection to evolve with industry changes in non-traditional technologies and feedstocks to produce fuels to supplement traditional petroleum fuels.

2. EIA proposes revision of the disclosure language in the instructions to align treatment of EIA–819 data with that of all other PSRS surveys. The current disclosure rules for feedstock consumption are a remnant of the discontinued EIA–22M, *Monthly Biodiesel Production Survey*. Industry has repeatedly expressed interest in getting more data on feedstock consumption for all plants and separately for biodiesel and renewable diesel plants. The current disclosure rules do not allow for publishing that level of detail. The proposed revision would treat biofuel feedstock consumption the same as all other petroleum supply feedstock data, allowing for publication of aggregate data that may allow for estimation of information reported by a specific respondent when few respondents

report, or the data is dominated by one or two large respondents.

3. EIA proposes discontinuation of Part 10 of the Form EIA–819. Respondents have not reported any data in part 10a since its inception. EIA eliminated the data collected in part 10b from petroleum balances published in the *Petroleum Supply Monthly* beginning in 2019. We continued to collect and publish Methyl Tertiary Butyl Ether (MTBE) and Ethyl Tertiary Butyl Ether (ETBE) production, but EIA has determined this data collection has limited use.

(5) *Annual Estimated Number of Respondents:* 4,671;

EIA–800 consists of 105 respondents
EIA–802 consists of 50 respondents
EIA–803 consists of 95 respondents
EIA–804 consists of 105 respondents
EIA–805 consists of 790 respondents
EIA–806 consists of 180 respondents
EIA–809 consists of 150 respondents
EIA–810 consists of 133 respondents
EIA–812 consists of 110 respondents
EIA–813 consists of 240 respondents
EIA–814 consists of 290 respondents
EIA–815 consists of 1,475 respondents
EIA–816 consists of 450 respondents
EIA–817 consists of 40 respondents
EIA–819 consists of 275 respondents
EIA–820 consists of 133 respondents
Pretest methodology consists of 50 respondents

(6) *Annual Estimated Number of Total Responses:* 4,671;

(7) *Annual Estimated Number of Burden Hours:* 185,686;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* \$17,638,313 (185,686 estimated burden hours times \$94.99). EIA estimates that respondents will have no additional costs associated with the surveys other than the burden hours and the maintenance of the information during the normal course of business.

Comments are invited on whether or not: (a) The proposed collection of information is necessary for the proper performance of agency functions, including whether the information will have a practical utility; (b) EIA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used, is accurate; (c) EIA can improve the quality, utility, and clarity of the information it will collect; and (d) EIA can minimize the burden of the collection of information on respondents, such as automated collection techniques or other forms of information technology.

Statutory Authority: 15 U.S.C. 772(b) and 42 U.S.C. 7101 *et seq.*

Signed in Washington, DC, on September 25, 2025.

Samson A. Adeshiyun,

Director, Office of Statistical Methods and Research, U.S. Energy Information Administration.

[FR Doc. 2025–18870 Filed 9–26–25; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RC11–6–021]

North American Electric Reliability Corporation: Notice of Filing

Take notice that on September 23, 2025, the North American Electric Reliability Corporation submitted an annual report on the Find, Fix, Track and Compliance Exception programs, in accordance with the Federal Energy Regulatory Commission's (Commission) Orders.¹

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Such notices, motions, or protests must be filed on or before the comment date.

The Commission encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filing is accessible online through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. For assistance with any FERC Online service, email FERCOnlineSupport@ferc.gov or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Comment Date: 5:00 p.m. Eastern Time on October 8, 2025.

Dated: September 24, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–18836 Filed 9–26–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR25–69–000.

Applicants: Columbia Gas of Ohio, Inc.

Description: 284.123 Rate Filing: Application to Revise Statement of Operating Conditions to be effective 8/28/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5024.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: RP25–1154–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: 4(d) Rate Filing: Negotiated Rate Agreement Filing—Pfizer Inc. to be effective 10/7/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5081.

Comment Date: 5 p.m. ET 10/6/25.

Docket Numbers: RP25–1155–000.

Applicants: Kern River Gas Transmission Company.

Description: 4(d) Rate Filing: 2025 Miscellaneous Modifications Filing to be effective 11/1/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5084.

Comment Date: 5 p.m. ET 10/6/25.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests,

service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, community organizations, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: September 24, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025–18835 Filed 9–26–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. UL25–1–000]

FirstLight: Notice of Pending Jurisdictional Inquiry, and Soliciting Comments, Protests, and Motions To Intervene

On April 4, 2025, the Federal Energy Regulatory Commission (Commission) received a request from the U.S. Department of the Interior (Interior) for an updated jurisdictional determination for the unlicensed Tunnel Hydroelectric Project. The project is located on the Quinebaug River in New London County, Connecticut.

Pursuant to section 23(b)(1) of the Federal Power Act (FPA),¹ a non-federal hydroelectric project must be licensed if it: (a) is located on a navigable water of the United States; (b) occupies lands or reservations of the United States; (c) utilizes surplus water or waterpower from a government dam;² or (d) is located on a stream over which Congress has Commerce Clause jurisdiction, is constructed or modified on or after August 26, 1935, and affects the interests of interstate or foreign commerce.

A stream is navigable under section 3(8) of the FPA³ if: (1) it is currently

¹ 16 U.S.C. 817(1).

² A project that meets condition (a), (b), or (c) is not required to be licensed if it holds a still valid pre-1920 federal permit.

³ 16 U.S.C. 796(8).

¹ See *N. Am. Elec. Reliability Corp.*, 138 FERC ¶ 61,193 (2012); *N. Am. Elec. Reliability Corp.*, 143 FERC ¶ 61,253 (2013); *N. Am. Elec. Reliability Corp.*, 148 FERC ¶ 61,214 (2014); *N. Am. Elec. Reliability Corp.*, Docket No. RC11–6–004 (Nov. 13, 2015) (delegated letter order).

being used or is suitable for use, or (2) it has been used or was suitable for use in the past, or (3) it could be made suitable for use in the future by reasonable improvements, to transport persons or property in interstate or foreign commerce.⁴ Navigability under section 3(8) of the FPA is not destroyed by obstructions or disuse of many years; personal or private use may be sufficient to demonstrate the availability of the river for commercial navigation; and the seasonal floatation of logs is sufficient to determine that a river is navigable.

Commission staff previously investigated the Commission's jurisdiction over the Tunnel Hydroelectric Project. On December 6, 1979, Commission staff determined that the project was non-jurisdictional based on Commission staff's finding that there was insufficient evidence that the Quinebaug River was navigable at the site of the Tunnel Project and that there was no post-1935 construction at the project.⁵ Interior requests that the Commission reexamine navigability of the Quinebaug River and look specifically at the river's use or suitability for commercial use. A stream's suitability for commercial use can be demonstrated based on its physical characteristics, as well as its actual use or suitability for use for recreational boating, if this information shows the river is suitable for the simpler types of commercial navigation.⁶

In response to Interior's request, Commission staff is investigating the jurisdictional status of the Tunnel Hydroelectric Project (UL25-1-000). A copy of Interior's request may be viewed on the Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number, UL25-1-000. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502-8659.

The Commission is soliciting comments, motions to intervene, and protests in this proceeding. Comments, motions to intervene, and protests must be filed by *45 days from notice or November 10, 2025, by 5:00 p.m. Eastern Time*. Anyone may submit

comments, a protest, or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, 211, and 214. In determining the appropriate action to take, the Commission will consider all protests or comments filed, but only those who file a motion to intervene in accordance with the Commission's Rule may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include Docket Number UL25-1-000.

For further information, please contact Maryam Akhavan at (202) 502-6110 or maryam.akhavan@ferc.gov.

Dated: September 24, 2025.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2025-18838 Filed 9-26-25; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC25-147-000.

Applicants: Duke Energy Florida, LLC, Peninsula Power Holdings L.P.

Description: Joint Application for Authorization Under Section 203 of the

Federal Power Act of Duke Energy Florida, LLC, et al.

Filed Date: 9/23/25.

Accession Number: 20250923-5152.

Comment Date: 5 p.m. ET 10/14/25.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG25-538-000.

Applicants: Green River Energy Center, LLC.

Description: Green River Energy Center, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 9/24/25.

Accession Number: 20250924-5100.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: EG25-539-000.

Applicants: PVS 2, LLC.

Description: PVS 2, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 9/24/25.

Accession Number: 20250924-5106.

Comment Date: 5 p.m. ET 10/15/25.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14-1594-003; ER14-1596-003.

Applicants: Lone Valley Solar Park II LLC, Lone Valley Solar Park I LLC.

Description: Supplement to 03/17/2021, Notice of Change in Status of Lone Valley Solar Park I LLC, et al.

Filed Date: 9/18/25.

Accession Number: 20250918-5181.

Comment Date: 5 p.m. ET 10/9/25.

Docket Numbers: ER15-734-003; ER16-2290-004.

Applicants: Spartan Renewable Energy, Inc., Wolverine Power Supply Cooperative, Inc.

Description: Updated Triennial Market Power Analysis for Central Region of Wolverine Power Supply Cooperative, Inc., et al.

Filed Date: 9/23/25.

Accession Number: 20250923-5158.

Comment Date: 5 p.m. ET 11/24/25.

Docket Numbers: ER20-547-005; ER20-2448-001; ER21-133-001; ER21-1962-002; ER21-736-002; ER16-498-005; ER16-499-005; ER16-500-005; ER14-41-006; ER14-42-006; ER12-1911-006; ER12-1912-006; ER12-1913-006; ER12-1915-006; ER12-1916-006; ER12-1917-006.

Applicants: RE McKenzie 6 LLC, RE McKenzie 5 LLC, RE McKenzie 4 LLC, RE McKenzie 3 LLC, RE McKenzie 2 LLC, RE McKenzie 1 LLC, RE Rosamond Two LLC, RE Rosamond One LLC, RE Mustang 4 LLC, RE Mustang 3 LLC, RE Mustang LLC, RE Slate 1 LLC, Mulberry BESS LLC, HDSI, LLC, American Kings

⁴ See *Rochester Gas and Elec. Corp.*, 344 F.2d 594, 596 (2d Cir. 1965).

⁵ See *Conn. Light & Power Co.*, 9 FERC ¶ 62,146 (1979).

⁶ See *FPL Energy Maine Hydro LLC v. FERC*, 287 F.3d 1151, 1158 (D.C. Cir. 2002) (affirming navigability finding based on stream characteristics and test trips by canoe).

Solar, LLC, Goldman Sachs Renewable Power Marketing LLC.

Description: Supplement to March 3, 2022 Notice of Non-Material Change in Status of Goldman Sachs Renewable Power Marketing LLC, et al.

Filed Date: 10/6/22.

Accession Number: 20221006–5180.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–2410–001.

Applicants: Green Grid Energy LLC.

Description: Report Filing: Supplemental Letter Notifying of Changes to the MBR Database to be effective N/A.

Filed Date: 9/19/25.

Accession Number: 20250919–5139.

Comment Date: 5 p.m. ET 10/10/25.

Docket Numbers: ER25–2682–000.

Applicants: FL Solar 8, LLC.

Description: Supplement to 06/27/2025, FL Solar 8, LLC tariff filing.

Filed Date: 9/19/25.

Accession Number: 20250919–5179.

Comment Date: 5 p.m. ET 9/24/25.

Docket Numbers: ER25–3070–001.

Applicants: Midcontinent

Independent System Operator, Inc., Indianapolis Power & Light Company.

Description: Tariff Amendment:

Indianapolis Power & Light Company submits tariff filing per 35.17(b): 2025–09–23 Amendment for IPL dba AES Transition to Forward Looking Formula Rate to be effective 12/1/2025.

Filed Date: 9/23/25.

Accession Number: 20250923–5146.

Comment Date: 5 p.m. ET 10/14/25.

Docket Numbers: ER25–3424–001.

Applicants: Duke Energy Progress,

LLC, Duke Energy Carolinas, LLC.

Description: Tariff Amendment: Duke Energy Carolinas, LLC submits tariff filing per 35.17(b): Limited Amendment to Pending Revisions to Attachment C–1 to be effective 11/24/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5134.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3493–000.

Applicants: American Electric Power Service Corporation.

Description: 205(d) Rate Filing: AEPSC submits FAs with Buckeye Power—SA No. 1336 to be effective 11/24/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5018.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3494–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA, SA No. 6922; AF1–158 to be effective 11/24/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5023.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3495–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA No. 6031 & ICSA No. 6032; Queue No. AB2–136 to be effective 11/24/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5027.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3496–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: 1276R39 Evergy Metro NITSA NOA to be effective 9/1/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5029.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3497–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: 3101R7 Heartland Consumers Power District NITSA and NOA to be effective 9/1/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5046.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3498–000.

Applicants: MPH Cross Island Power, LLC.

Description: Initial Rate Filing: Application for Market-Based Rate Authorization and Request for Waivers to be effective 9/25/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5071.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3499–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: NSA, Original Service Agreement No. 7750; Queue No. AE2–029 to be effective 11/24/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5095.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3500–000.

Applicants: Midcontinent Independent System Operator, Inc., Northern States Power Company, a Minnesota Corporation.

Description: 205(d) Rate Filing: Northern States Power Company, a Minnesota corporation submits tariff filing per 35.13(a)(2)(iii): 2025–09–24 SA 2420 NSPM-CapX Brookings Owners 2nd Rev T–T to be effective. 9/26/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5098.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3501–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of UCSA SA No. 6946; MISO J1464 to be effective 11/24/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5108.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3502–000.

Applicants: Milford Gen Lead, LLC.

Description: 205(d) Rate Filing: Amended and Restated Tenant in Common Agreement to be effective 9/25/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5110.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3503–000.

Applicants: Milford Wind Corridor Phase I, LLC.

Description: 205(d) Rate Filing: Amended and Restated Tenant in Common Agreement to be effective 9/25/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5113.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3504–000.

Applicants: Milford Wind Corridor Phase II, LLC.

Description: 205(d) Rate Filing: Amended and Restated Tenant in Common Agreement to be effective 9/25/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5117.

Comment Date: 5 p.m. ET 10/15/25.

Docket Numbers: ER25–3505–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of ICSA, SA No. 5634; AC2–088/AD1–136 re: cancellation to be effective 11/24/2025.

Filed Date: 9/24/25.

Accession Number: 20250924–5131.

Comment Date: 5 p.m. ET 10/15/25.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For

other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, community organizations, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Dated: September 24, 2025.

Carlos D. Clay,
Deputy Secretary.

[FR Doc. 2025-18834 Filed 9-26-25; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2025-0026; FRL-12472-07-OCSPP]

Pesticide Product Registration; Receipt of Applications for New Uses (July 2025)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt and request for comment.

SUMMARY: This document announces the Agency's receipt of and solicits comment on applications to register new pesticide products containing currently registered active ingredients that would entail a change in use pattern. The Agency is providing this notice in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA uses the month and year in the title to identify when the Agency complied the applications identified in this notice of receipt. Unit II. of this document identifies certain applications received in 2024 that are currently being evaluated by EPA, along with information about each application, including when it was received, who submitted the application, and the purpose of the application.

DATES: Comments must be received on or before October 29, 2025.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the EPA File Symbol or the EPA Registration Number of interest as shown in Unit II. of this document, through the *Federal eRulemaking Portal* at <https://www.regulations.gov>. Follow

the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Each application summary in Unit II. specifies a contact division. The appropriate division contacts are identified as follows:

- RD (Registration Division) (Mail Code 7505T); Charles Smith; main telephone number: (202) 566-1030; email address: RD@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action provides information that is directed to the public in general.

B. What is the Agency's authority for taking this action?

EPA is taking this action pursuant to section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136a(c)(4), and 40 CFR 152.102.

C. What action is the Agency taking?

EPA is hereby providing notice of receipt and opportunity to comment on the applications to register new uses for pesticide products containing currently registered active ingredients that were received during the covered period. Notice of receipt of these applications does not imply a decision by the Agency on these applications. For actions being evaluated under EPA's public participation process for registration actions, there will be an additional opportunity for public comment on the proposed decisions. Please see EPA's public participation website for additional information on this process (<https://www.epa.gov/pesticide-registration/public-participation-process-registration-actions>).

D. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through <https://www.regulations.gov> or email. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. In addition to one complete version of the comment that includes CBI, a copy of the comment

without CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Applications To Register New Uses

This unit provides the following information about the applications received during this period: The EPA File Symbol or Registration number(s); EPA docket ID number for the application; name and address of the applicant; name of the active ingredient, product type and proposed uses; and the division to contact for that application. Additional information about the application may also be available in the related docket for the application as identified in this unit.

- *EPA Registration Numbers:* 264-1077, 264-1078. *Docket ID number:* EPA-HQ-OPP-2025-0318. *Applicant:* Bayer CropScience LP, 800 N Lindbergh Blvd., St. Louis, MO 63167. *Active ingredient:* Fluopyram. *Product type:* Fungicide. *Proposed use:* Pennycress, seed. *Date of Receipt:* August 13, 2024. *Contact:* RD.

(Authority: 7 U.S.C. 136 *et seq.*)

Dated: September 23, 2025.

Kimberly Smith,

Acting Director, Information Technology and Resources Management Division, Office of Program Support

[FR Doc. 2025-18840 Filed 9-26-25; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2025-0024; FRL-12473-07-OCSPP]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients (July 2025)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Agency's receipt of and solicits comment on applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. The Agency is providing this notice in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA uses the month and year in the title to identify when the Agency

complied the applications identified in this notice of receipt. Unit II. of this document identifies certain applications received in 2024 that are currently being evaluated by EPA, along with information about each application, including when it was received, who submitted the application, and the purpose of the application.

DATES: Comments must be received on or before October 29, 2025.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the *EPA File Symbol* or the *EPA Registration Number* of interest as shown in Unit II. of this document, online at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Each application summary in Unit II. specifies a contact division. The appropriate division contacts are identified as follows:

- BPPD (Biopesticides and Pollution Prevention Division) (Mail Code 7511M); Shannon Borges; main telephone number: (202) 566-1400; email address: BPPDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action provides information that is directed to the public in general.

B. What is the Agency's authority for taking this action?

EPA is taking this action pursuant to section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136a(c)(4), and 40 CFR 152.102.

C. What action is the Agency taking?

EPA is hereby providing notice of receipt and opportunity to comment on applications to register pesticide products containing active ingredients not included in any currently registered pesticide products that were received during the covered period. Notice of receipt of these applications does not imply a decision by the Agency on these applications. For actions being evaluated under EPA's public

participation process for registration actions, there will be an additional opportunity for public comment on the proposed decisions. Please see EPA's public participation website for additional information on this process (<https://www.epa.gov/pesticide-registration/public-participation-process-registration-actions>).

D. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through <https://www.regulations.gov> or email. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. In addition to one complete version of the comment that includes CBI, a copy of the comment without CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Registration Applications Received

This unit provides the following information about the applications received during this period: The EPA File Symbol or Registration number(s); EPA docket ID number for the application; name and address of the applicant; name of the active ingredient, product type and proposed uses; and the division to contact for that application. Additional information about the application may also be available in the related docket for the application as identified in this unit.

- *File Symbol:* 103494-E. *Docket ID number:* EPA-HQ-OPP-2025-0098. *Applicant:* AgriTitan, LLC., 2910 NE 48th St. Lighthouse Point, FL 33064. *Product name:* AgriTitan™. *Active ingredient:* Bactericide and fungicide—ultrafine zinc-doped anatase titanium dioxide at 3.2%. *Proposed use:* For control of bacterial and fungal diseases of foliage, flowers and stems on food crops and ornamentals in shade houses, outdoor nurseries, and outdoor landscape plantings. *Date of Receipt:* July 17, 2024. *Contact:* BPPD.

(Authority: 7 U.S.C. 136 *et seq.*)

Dated: September 23, 2025.

Kimberly Smith,

Acting Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2025-18842 Filed 9-26-25; 8:45 am]

BILLING CODE 6560-50-P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Board of Directors Meeting

SUMMARY: Notice of the forthcoming regular meeting of the Board of Directors of the Farm Credit System Insurance Corporation (FCSIC), is hereby given in accordance with the provisions of the Bylaws of the FCSIC.

DATES: 10 a.m., Wednesday, October 8, 2025.

ADDRESSES: You may observe the open portions of this meeting in person at 1501 Farm Credit Drive, McLean, Virginia 22102-5090, or virtually. If you would like to virtually attend, at least 24 hours in advance, visit [FCSIC.gov](https://www.fcsic.gov), select "News & Events," then select "Board Meetings." From there, access the linked "Instructions for board meeting visitors" and complete the described registration process.

FOR FURTHER INFORMATION CONTACT: If you need more information or assistance for accessibility reasons, or have questions, contact Ashley Waldron, Secretary to the Board. Telephone: 703-883-4009. TTY: 703-883-4056.

SUPPLEMENTARY INFORMATION: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public. The following matters will be considered:

Portions Open to the Public

- Approval of July 9, 2025, Minutes
- Quarterly FCSIC Financial Reports
- Quarterly Report on Insured Obligations
- Quarterly Report on Annual Performance Plan
- Annual Performance Plan
- Annual Budget

Portions Closed to the Public

- Quarterly Report on Insurance Risk

Ashley Waldron,

Secretary to the Board.

[FR Doc. 2025-18801 Filed 9-26-25; 8:45 am]

BILLING CODE 6705-01-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 October 29, 2025.

A. Federal Reserve Bank of Cleveland (Jenni M. Frazer, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566. Comments can also be sent electronically to Comments.applications@clev.frb.org:

1. *Marquette Mutual Holding Company, Erie, Pennsylvania*; to become a bank holding company by acquiring Marquette Savings Bank, also of Erie, Pennsylvania.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2025-18866 Filed 9-26-25; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Report of Net Debit Cap and Max Cap Resolution (FR 2226; OMB No. 7100-0217).

DATES: Comments must be submitted on or before November 28, 2025.

ADDRESSES: You may submit comments, identified by FR 2226, by any of the following methods:

- *Agency website:* <https://www.federalreserve.gov/>. Follow the instructions for submitting comments, including attachments. *Preferred method.*
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.
- *Hand Delivery/Courier:* Same as mailing address.
- *Other Means:* publiccomments@frb.gov. You must include the OMB number or the FR number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments received will be made available on the Board's website at <https://www.federalreserve.gov/apps/proposals/> 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. Public comments may also be viewed electronically or in person in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory

Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 2226. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Collection title: Report of Net Debit Cap and Max Cap Resolution.

Collection identifier: FR 2226.

OMB control number: 7100–0217.

General description of collection: The Report of Net Debit Cap and Max Cap Resolution comprises three resolutions, which are filed by a depository institution's board of directors depending on its needs. Federal Reserve Banks collect these data annually to provide information that is essential for their administration of the Board's Payment System Risk (PSR) policy.

Proposed revisions: The Board proposes to revise the FR 2226 to take into account existing recordkeeping provisions in the PSR policy that have not been included in previous clearances. The resolutions and self-assessment supporting documentation should be retained for review by the institution's primary supervisor.

Frequency: Annually.

Respondents: Depository Institutions with a master account at an Administrative Reserve Bank.

Total estimated number of respondents: 825.

Total estimated change in burden: 206.

Total estimated annual burden hours: 1,096.

Board of Governors of the Federal Reserve System, September 25, 2025.

Erin M. Cayce,

Assistant Secretary of the Board.

[FR Doc. 2025–18876 Filed 9–26–25; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks (FR 2225; OMB No. 7100–0216).

DATES: Comments must be submitted on or before November 28, 2025.

ADDRESSES: You may submit comments, identified by FR 2225, by any of the following methods:

- *Agency website:* <https://www.federalreserve.gov/>. Follow the instructions for submitting comments, including attachments. *Preferred method.*
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.
- *Hand Delivery/Courier:* Same as mailing address.
- *Other Means:* publiccomments@frb.gov. You must include the OMB number or the FR number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments received will be made available on the Board's website at <https://www.federalreserve.gov/apps/proposals/> 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. Public comments may also be viewed electronically or in person in Room M–4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452–3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and

assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 2225. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Collection title: Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks.

Collection identifier: FR 2225.

OMB control number: 7100–0216.

General description of collection: The Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks is required for foreign banking organizations (FBOs) that wish to, and are eligible to, establish a non-zero net debit cap for their U.S. branches and agencies under the Federal Reserve Policy on Payment System Risk (PSR policy).

Proposed revisions: The Board proposes the following changes to the FR 2225 form and instructions that will help clarify ambiguities, and requests additional data fields that will assist Federal Reserve system staff with verifying the information submitted by FBOs. In addition to electronic submission via electronic communication, FBOs will be permitted to submit the FR 2225 through Reporting Central, a platform used for submission of other Federal Reserve reports. The proposed revisions are described below and are intended to be effective March 2026.

Adding institution identifiers—The Board is proposing to add the RSSD ID fields (for both the foreign bank and the U.S. branch or agency responding for the foreign bank) and the ABA Number (for the U.S. branch or agency only). The information will assist staff at the Administrative Reserve Bank to accurately process the submissions in cases such as where the foreign bank has a complex multi-tiered system with multiple U.S. branches of agencies.

Clarifying reporting option 1.b—Currently, the reporting option in 1.b allows the respondents to select one of two options for reporting their worldwide capital “Equity only” or “Total qualifying capital.” The Board is proposing to relabel the reporting option in 1.b from “Equity only” to “Tier 1 capital.” The instructions to the form currently clarify that the “Equity only” option is the core capital under the Basel Capital Accords. Core capital is also known as the Tier 1 capital. The clarification in the form and instructions will help to ensure that respondents report the Tier 1 capital and not the Common Equity Tier 1 Capital (a component of Tier 1) given the reference to “Equity” in the reporting option.

Adding a request that institutions provide supporting documentation—The Board is proposing to add language requesting that the institution attach or provide links to supporting documentation for the figures reported in Items 1 and 2.

Adding a request that respondents identify legal entity reorganizations—The Board is proposing a new field requesting information on whether there have been reorganizations for the foreign banks that have impacted the worldwide capital and, if so, to provide an explanation. Requesting this information will assist staff at the Administrative Reserve Bank with verifying the values provided.

Clarifying the Authorized Officer signature requirement—The Board is clarifying that the Authorized Officer signing the FR 2225 must be listed on the Federal Reserve’s Official Authorization List (OAL) and must submit their name and title. Individuals on the OAL are authorized to execute agreements, transact business, and issue instructions on behalf of the respondents. Therefore, this clarification will ensure that an individual has the authority to submit the FR 2225.

Adding clarifying suggestions to fields—The Board is proposing adding suggestions to the response fields by referencing language from the instructions to the FR 2225. In addition, the full date for the fiscal year ending field is required. Further, the FR 2225 respondents are requested to provide full amounts of values without rounding. These clarifications and suggestions will assist the respondents with accurately filing the FR 2225 and will also result in fewer erroneous submissions of data.

Updating contact information fields—The Board is proposing to add an email field for a contact at the responding entity who may be contacted in cases where staff at the Administrative Reserve Bank has a question about the submission.

Allowing submission of the form in Reporting Central—The Board is proposing that respondents will be able to submit the FR 2225 through Reporting Central in addition to the currently-available mechanism for submitting the form as a PDF through electronic mail. Reporting Central will provide an efficient method for submitting the form and any other supporting statements.

Removing address fields for physical submission of the form to the Administrative Reserve Bank—The Board is proposing to eliminate the address fields at the end of the form that

correspond to the Administrative Reserve Bank receiving the form. The fields are no longer required given that the FR 2225 will be submitted electronically either via email or through Reporting Central.

Frequency: Annually, event-generated.

Respondents: FBOs with U.S. branches or agencies that wish to and are eligible to establish a non-zero net debit cap for their U.S. branches and agencies under the PSR policy.

Total estimated number of respondents: 48.

Total estimated change in burden: 6.

Total estimated annual burden hours: 45.

Board of Governors of the Federal Reserve System, September 25, 2025.

Erin M. Cayce,

Assistant Secretary of the Board.

[FR Doc. 2025–18875 Filed 9–26–25; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Selected Balance Sheet Items for Discount Window Borrowers (FR 2046; OMB No. 7100–0289).

DATES: The information collection revisions are effective October 29, 2025.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452–3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB

inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportingforms/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 2046.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Information Collection

Collection title: Selected Balance Sheet Items for Discount Window Borrowers.

Collection identifier: FR 2046.

OMB control number: 7100–0289.

General description of collection: The Board's Regulation A—Extensions of Credit by Federal Reserve Banks (12 CFR part 201) states that a Reserve Bank shall require any information it believes appropriate or desirable to ensure that each discount window borrower uses the credit provided in a manner consistent with Regulation A. Regulation A also requires that each Reserve Bank shall keep itself informed of the general character and amount of loans and investments of a depository institution. Balance sheet data are collected on the FR 2046 report from certain institutions that borrow from the discount window in order to monitor discount window borrowing.

Frequency: Weekly.

Respondents: Depository Institutions.

Total estimated number of respondents: 27.

Total estimated change in burden: 0.

Total estimated annual burden hours: 143.

Current actions: On March 27, 2025, the Board published a notice in the **Federal Register** (90 FR 13861) requesting public comment for 60 days on the extension, with revision, of the FR 2046. The Board proposed to remove the FR 2046 reporting exemption for seasonal credit borrowers. The comment period for this notice expired on May 27, 2025. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, September 25, 2025.

Erin M. Cayce,

Assistant Secretary of the Board.

[FR Doc. 2025–18874 Filed 9–26–25; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10410]

Agency Information Collection Activities: Proposed Collection; 30-Day Emergency Extension Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Centers for Medicare and Medicaid Services (CMS) submitted a request to the Office of Management and Budget (OMB) for an emergency extension of the information collection request currently approved under OMB control number 0938–1147 (CMS–10410), entitled “Medicaid Program; Eligibility Changes under the Affordable Care Act of 2010.” In accordance with the implementing regulations of the PRA at 5 CFR 1320.13, CMS requested an emergency extension to enable the collection to remain active while CMS completes the pending PRA extension process and to prevent the public harm that would ensue in the event of a lapse of approval. No changes are being made to the reporting and recordkeeping requirements.

The information collection is currently in the midst of its required 60-day public comment period which ends on November 7, 2025 (September 8, 2025, 90 FR 43189). The public can submit comments via the instructions provided in the notice.

To ensure OMB approval of the currently approved information collection remains valid during the PRA extension process, CMS submitted a request to the OMB on September 25, 2025, for a short-term emergency extension to extend the expiration date from October 31, 2025, to November 30, 2025. The emergency extension is intended to avoid the potential for public harm by providing CMS with enough time to publish the required 30-day **Federal Register** notice at the end of the current 60-day comment period

and submit the extension to OMB for their review and approval.

William N. Parham, III

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2025–18826 Filed 9–26–25; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB #: 0970–0542]

Submission for Office of Management and Budget Review; Domestic Victims of Human Trafficking Program Data

AGENCY: Office on Trafficking in Persons, Administration for Children and Families, Department of Health and Human Services.

ACTION: Request for Public Comments.

SUMMARY: The Office on Trafficking in Persons (OTIP), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting an extension of approval with revisions of an Office of Management and Budget (OMB) approved information collection: Domestic Victims of Human Trafficking (DVHT) Program Data (OMB #0970–0542; expiration date 2/28/2026).

DATES: *Comments due within 30 days of publication.*

ADDRESSES: The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202509-0970-011. You can also obtain copies of the proposed collection of information by emailing infocollection@acf.hhs.gov. Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Trafficking Victims Protection Act of 2000 (TVPA), as amended, authorizes the HHS Secretary to expand benefits and services to victims of severe forms of trafficking in persons in the United States without regard to their immigration status. The TVPA also authorizes HHS to establish and strengthen programs to assist U.S. citizens and lawful permanent residents who have experienced sex trafficking or severe forms of trafficking in persons (22 U.S.C. 7105(f)(1)). Acting under a delegation of authority from the Secretary of HHS, ACF awards cooperative agreements to organizations to assist U.S. citizens and lawful

permanent residents who have experienced human trafficking, the DVHT Program. The DVHT Program includes two distinct programs: the Domestic Victims of Human Trafficking Services and Outreach Program (DVHT-SO) and the Victims of Human Trafficking in Native Communities Demonstration Program (VHT-NC). Through the DVHT Program, grant recipients provide comprehensive case management to domestic survivors of human trafficking in traditional case management and Native community settings.

OTIP proposes to continue to collect information to measure grant project performance, provide technical assistance to grant recipients, assess program outcomes, inform program

evaluation, respond to congressional inquiries and mandated reports, and inform policy and program development that is responsive to the needs of victims.

The information collection captures information on participant demographics (e.g., age, sex, type of trafficking experienced, service location) and services provided, along with aggregate information on outreach activities conducted, subrecipients enrolled, and dollars spent per service. Minor nonsubstantive updates have been made to performance indicators under this collection to simplify response options or to bring the collection into alignment with OTIP’s grant recipient reporting database, the Anti-Trafficking Information

Management System (ATIMS). Certain data element response options that do not pertain to OTIP’s domestic victim service programs were removed (e.g., Refugee Cash Assistance, Refugee Medical Assistance, Refugee Social Services) and certain data elements have been simplified for respondent clarity.

Respondents: DVHT Program grant recipients and clients of those programs, specifically DVHT-SO and VHT-NC funding recipients.

Annual Burden Estimates: Based on review of performance data received pertaining to the number of clients served through DVHT programs and funding levels, the total number of respondents for each form has been lowered. The time to complete each form remains the same.

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Client Characteristics and Program Entry	900	1	0.75	675	225
Client Case Closure	900	1	0.167	150.3	50.1
Barriers to Service Delivery and Monitoring	35	4	0.167	23.4	7.8
Client Service Use and Delivery	900	1	0.25	225	75
Client Outreach	35	4	0.3	42	14
Subrecipient Enrollment	35	3	0.167	17.5	5.8
Client Service Costs	35	1	0.75	26.25	8.75

Estimated Total Annual Burden Hours: 386.45.
(Authority: 22 U.S.C. 7105.)

Mary C. Jones,
ACF/OPRE Certifying Officer.
[FR Doc. 2025–18864 Filed 9–26–25; 8:45 am]
BILLING CODE 4184–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–E–5683]

Determination of Regulatory Review Period for Purposes of Patent Extension; MIPLYFFA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for MIPLYFFA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a

patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by November 28, 2025. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by March 30, 2026. See “Petitions” in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 28, 2025. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the

instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2024–E–5683 for “Determination of Regulatory Review Period for Purposes of Patent Extension; MIPLYFFA.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Jack Dan, Office of Regulatory Policy, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6200, Silver Spring, MD 20993, 240–402–6940.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biological product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product’s regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA’s determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, MIPLYFFA (arimoclomol), indicated for use in combination with miglustat for the treatment of neurological manifestations of Niemann-Pick disease type C (NPC) in adult and pediatric patients 2 years of age and older. Subsequent to this approval, the USPTO received a patent term restoration application for MIPLYFFA (U.S. Patent No. 11,045,460) from Zevra Denmark A/S and the USPTO requested FDA’s assistance in determining the patent’s eligibility for patent term restoration. In a letter dated March 17, 2025, FDA advised the USPTO that this human drug product

had undergone a regulatory review period and that the approval of MIPLYFFA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product’s regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for MIPLYFFA is 6,941 days. Of this time, 5,414 days occurred during the testing phase of the regulatory review period, while 1,527 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* September 21, 2005. The applicant claims May 9, 2016, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was September 21, 2005, which was 30 days after FDA receipt of an earlier IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* July 17, 2020. FDA has verified the applicant’s claim that the new drug application (NDA) for MIPLYFFA (NDA 214927) was initially submitted on July 17, 2020.

3. *The date the application was approved:* September 20, 2024. FDA has verified the applicant’s claim that NDA 214927 was approved on September 20, 2024.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,179 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must

contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to <https://www.regulations.gov> at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–18786 Filed 9–26–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–N–5579]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Accreditation of Third-Party Certification Bodies To Conduct Food Safety Audits and Issue Certifications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by October 29, 2025.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function. The OMB control number for this information collection is 0910–0750.” Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations,

Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Accreditation of Third-Party Certification Bodies To Conduct Food Safety Audits and Issue Certifications—21 CFR Part 1, Subpart M

OMB Control Number 0910–0750—Extension

This information collection supports FDA’s Accredited Third-Party Certification Program (also referred to as the third-party food program or TPP), administered under section 808 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 384d), and codified in 21 CFR part 1, subpart M (21 CFR 1.600 through 1.725) of Agency regulations. The regulation communicates eligibility criteria, assessment standards, and establishes procedures and requirements for participation. For more information visit our website at <https://www.fda.gov/food/importing-food-products-united-states/accredited-third-party-certification-program>.

Under TPP, accreditation bodies (ABs) apply to FDA for recognition. Recognized ABs accredit third-party certification bodies (CBs) under the program, except in limited circumstances. The accredited CBs conduct food safety audits and issue food or facility certifications to eligible foreign entities. Section 808(c)(2)(B) of the FD&C Act specifies that FDA uses certifications issued by accredited CBs under TPP in deciding whether to admit certain imported food (both food for human and food for animals) into the United States that we have determined poses a food safety risk under section 801(q) of the FD&C Act (21 U.S.C. 381(q)) and in deciding whether an importer is eligible to participate in a program for expedited review and entry under section 806 of the FD&C Act (21 U.S.C. 384b). Under TPP, FDA may grant recognition of an AB for up to 5 years from the date of recognition. There are current AB participants that are recognized through fiscal year 2027 or 2028 and will need to submit renewal of recognition applications to continue their participation. Specific requirements and procedures are found in 21 CFR part 1, subpart M.

There are approximately 200,000 foreign food (both food for human and

food for animals) exporters who offer their food products for import into the United States. These foreign food exporters include approximately 130,000 food production facilities and approximately 71,000 farms. A proportion of these foreign food exporters may offer food subject to mandatory certification requirements under section 801(q)(3) of the FD&C Act. In that case, to continue importing food products into the United States, eligible entities must either obtain certification from a CB accredited under TPP, or obtain certification from a foreign government designated by FDA. We assume in any given year, 75 foreign food exporters will be subject to requirements in section 801(q) of the FD&C Act.

Use of accredited CBs and food and facility certifications issued under TPP helps reduce the number of redundant audits necessary to assess compliance with food safety requirements of the FD&C Act and applicable regulations. We have developed Forms FDA 3997 and FDA 3997a to enable respondents to submit required data elements using FDA’s Unified Registration Listing System (FURLS), an electronic portal (Forms FDA 3997 for ABs and 3997a for CBs) that enables respondents to complete data fields and provide information to FDA electronically. The AB and CB portals provide a standardized format for entering information, prompting respondents for input, and facilitating FDA’s review of the submittal. Respondents are subject to user fees for application, renewal, and annual fees, as set forth in 21 CFR 1.700 through 1.725. The user fee rates are calculated each fiscal year and published in the **Federal Register** before the start of a new fiscal year. Electronic portal instructions and user fee information may be accessed at <https://www.fda.gov/food/importing-food-products-united-states/accredited-third-party-certification-program>.

Respondents to the collection of information are the accredited CBs that conduct audits and issue certifications to eligible entities, the ABs and CBs seeking to participate in TPP, and the recognized ABs and accredited CBs complying with the TPP requirements. An accredited CB is a foreign government, agency of a foreign government, foreign cooperative, or any other third party that a recognized AB (or, in the case of direct accreditation, FDA) has determined meets the applicable requirements of TPP and is accredited to conduct food safety audits and to issue food or facility certifications to eligible entities. An AB is an authority, such as a private third-

party, foreign government, or foreign agency, that performs accreditation of CBs. A recognized AB is an AB that FDA has determined meets the

applicable requirements of TPP and is authorized to accredit CBs under TPP. In the **Federal Register** on June 27, 2025 (90 FR 27625), FDA published a 60-day notice requesting public

comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

21 CFR Part 1; Subpart M	Number of respondents	Number of responses per respondent ²	Total annual responses	Average burden per response ²	Total hours
AB applications, applications for renewals, notifications, and revocations.	25	11.36	284	3.18	903
CB certifications, regulatory audits and assessments, notifications.	208	147.30	30,638	0.25 (15 minutes) ..	7,660
CB applications for direct accreditation & renewal	1	1	1	90	90
Total			30,923	.....	8,653

¹ There are no capital costs or operating and maintenance costs associated with annual reporting.

² Figures rounded to nearest 1/100th as calculated based on total number of records and hours.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

21 CFR part 1; subpart M	Number of recordkeepers	Number of records per recordkeeper ²	Total annual records	Average burden per recordkeeping ²	Total hours
AB documenting procedures for accreditation; maintaining applicable records.	25	426.56	10,664	0.25 (15 minutes) ..	2,666
AB establishing and updating public list of CBs	25	1	25	52.8	1,320
CB documenting certification procedures; maintaining applicable records (audits, certifications, serious risks).	208	113.04	23,512	0.35 (~20 minutes)	8,229
CB establishing and updating public list of eligible entities	208	1.31	272	44.19	12,020
Contract modification	7	9	63	2	126
Total			34,536	.....	24,361

¹ There are no capital or operating and maintenance costs associated with the annual recordkeeping burden.

² Figures rounded to the nearest 1/100th as calculated based on total number of records and hours.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate. However, a miscalculation in the burden estimate was identified during a review of the prior renewal and has been corrected.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–18814 Filed 9–26–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2024–E–5282; FDA–2024–E–5283]

Determination of Regulatory Review Period for Purposes of Patent Extension; NIKTIMVO

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for NIKTIMVO and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by November 28, 2025. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by March 30, 2026. See “Petitions” in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The [https://](https://www.regulations.gov)

www.regulations.gov electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 28, 2025. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your

comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket Nos. FDA-2024-E-5282; and FDA-2024-E-5283 for “Determination of Regulatory Review Period for Purposes of Patent Extension; NIKTIMVO.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with § 10.20 (21

CFR 10.20) and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Jack Dan, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6200, Silver Spring, MD 20993, 240-402-6940.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product’s regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA’s determination of the length of a regulatory review period for a human biological product will include

all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product NIKTIMVO (axatilimab-csfr). NIKTIMVO is a colony stimulating factor-1 receptor (CSF-1R)-blocking antibody indicated for the treatment of chronic graft-versus-host disease (cGVHD) after failure of at least two prior lines of systemic therapy in adult and pediatric patients weighing at least 40 kg. Subsequent to this approval, the USPTO received a patent term restoration application for NIKTIMVO (U.S. Patent Nos. 9,908,939; 10,039,826) from UCB BIOPHARMA SRL, and the USPTO requested FDA’s assistance in determining these patents’ eligibility for patent term restoration. In a letter dated March 17, 2025, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of NIKTIMVO represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product’s regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for NIKTIMVO is 2,605 days. Of this time, 2,374 days occurred during the testing phase of the regulatory review period, while 231 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* June 29, 2017. FDA has verified the applicant’s claim that the date the investigational new drug application became effective was on June 29, 2017.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* December 28, 2023. FDA has verified the applicant’s claim that the biologics license application (BLA) for NIKTIMVO (BLA 761411) was initially submitted on December 28, 2023.

3. *The date the application was approved:* August 14, 2024. FDA has verified the applicant’s claim that BLA 761411 was approved on August 14, 2024.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension.

In its application for patent extension, this applicant seeks 921 or 1,293 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to <https://www.regulations.gov> at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–18809 Filed 9–26–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–P–1028]

Determination That SEMPRES–D (Acrivastine and Pseudoephedrine Hydrochloride) Capsules, 8 Milligrams and 60 Milligrams, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that SEMPRES–D (acrivastine and pseudoephedrine hydrochloride) capsules, 8 milligrams (mg) and 60 mg, was not withdrawn from sale for reasons of safety or effectiveness. This determination will

allow FDA to approve abbreviated new drug applications (ANDAs) for acrivastine and pseudoephedrine hydrochloride capsules, 8 mg and 60 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT:

Stacy Kane, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6236, Silver Spring, MD 20993–0002, 301–796–8363, Stacy.Kane@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the “Approved Drug Products With Therapeutic Equivalence Evaluations,” which is known generally as the “Orange Book.” Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug’s NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

SEMPRES–D (acrivastine and pseudoephedrine hydrochloride) capsules, 8 mg and 60 mg, is the subject of NDA 019806, held by Endo Pharmaceuticals, and initially approved on March 25, 1994. SEMPRES–D is indicated for relief of symptoms associated with seasonal allergic rhinitis

such as sneezing, rhinorrhea, pruritus, lacrimation, and nasal congestion.

In a letter dated August 3, 2020, Endo Pharmaceuticals notified FDA that SEMPRES–D (acrivastine and pseudoephedrine hydrochloride) capsules, 8 mg and 60 mg, was being discontinued, and FDA moved the drug product to the “Discontinued Drug Product List” section of the Orange Book.

Pharmobedient Consulting, LLC submitted a citizen petition dated April 1, 2025 (Docket No. FDA–2025–P–1028), under 21 CFR 10.30, requesting that the Agency determine whether SEMPRES–D (acrivastine and pseudoephedrine hydrochloride) capsules, 8 mg and 60 mg, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that SEMPRES–D (acrivastine and pseudoephedrine hydrochloride) capsules, 8 mg and 60 mg, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that SEMPRES–D (acrivastine and pseudoephedrine hydrochloride) capsules, 8 mg and 60 mg, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of SEMPRES–D (acrivastine and pseudoephedrine hydrochloride) capsules, 8 mg and 60 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list SEMPRES–D (acrivastine and pseudoephedrine hydrochloride) capsules, 8 mg and 60 mg, in the “Discontinued Drug Product List” section of the Orange Book. The “Discontinued Drug Product List” delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to SEMPRES–D (acrivastine and pseudoephedrine hydrochloride) capsules, 8 mg and 60 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency

will advise ANDA applicants to submit such labeling.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–18813 Filed 9–26–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–E–5755]

Determination of Regulatory Review Period for Purposes of Patent Extension; DIAMONDBACK 360 CORONARY ORBITAL ATHERECTOMY DEVICE

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for DIAMONDBACK 360 CORONARY ORBITAL ATHERECTOMY DEVICE and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 28, 2025. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or

anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2017–E–5755 for “Determination of Regulatory Review Period for Purposes of Patent Extension; DIAMONDBACK 360 CORONARY ORBITAL ATHERECTOMY DEVICE.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly

available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Jack Dan, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6200, Silver Spring, MD 20993, 240–402–6940.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent

was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA has approved for marketing the medical device, DIAMONDBACK 360 CORONARY ORBITAL ATHERECTOMY DEVICE. DIAMONDBACK 360 CORONARY ORBITAL ATHERECTOMY DEVICE is indicated for a change in the design of the DIAMONDBACK 360 Coronary Orbital Atherectomy System (OAS), called OAS Micro Crown. Subsequent to this approval, the USPTO received a patent term restoration application for DIAMONDBACK 360 CORONARY ORBITAL ATHERECTOMY DEVICE (U.S. Patent No. 9,055,966) from Cardiovascular Systems, Inc., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 16, 2017, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of DIAMONDBACK 360 CORONARY ORBITAL ATHERECTOMY DEVICE represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that the FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for DIAMONDBACK 360 CORONARY ORBITAL ATHERECTOMY DEVICE is 1,069 days. Of this time, 848 days occurred during the testing phase of the regulatory review period, while 221 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) involving this device became effective:* April 17, 2014. FDA has verified the applicant's claim that the date the investigational device exemption (IDE) required under section 520(g) of the act for human tests to begin became effective April 17, 2014.

2. *The date an application was initially submitted with respect to the device under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e):* August 11, 2016. FDA has verified the applicant's claim that the premarket approval application (PMA) for DIAMONDBACK 360 CORONARY ORBITAL ATHERECTOMY DEVICE

(PMA P130005/S014) was initially submitted August 11, 2016.

3. *The date the application was approved:* March 19, 2017. FDA has verified the applicant's claim that PMA P130005/S014 was approved on March 19, 2017.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application(s) for patent extension, this applicant seeks 645 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to <https://www.regulations.gov> at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–18780 Filed 9–26–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–E–5023 and FDA–2024–E–5024]

Determination of Regulatory Review Period for Purposes of Patent Extension; TRICLIP

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for TRICLIP and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 28, 2025. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged.

Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the

public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket Nos. FDA-2024-E-5023 and FDA-2024-E-5024 for “Determination of Regulatory Review Period for Purposes of Patent Extension; TRICLIP.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the

information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Jack Dan, Office of Regulatory Policy, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6200, Silver Spring, MD 20993, 240-402-6940.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product’s regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA’s determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA has approved for marketing the medical device, TRICLIP. TRICLIP is indicated for improving quality of life and functional status in patients with symptomatic severe tricuspid regurgitation despite optimal medical

therapy, who are at intermediate or greater risk for surgery and in whom transcatheter edge-to-edge valve repair is clinically appropriate and is expected to reduce tricuspid regurgitation severity to moderate or less, as determined by a multidisciplinary heart team. Subsequent to this approval, the USPTO received a patent term restoration application for TRICLIP (U.S. Patent Nos. 10,743,876; 11,141,158) from Abbott Cardiovascular Systems Inc., and the USPTO requested FDA’s assistance in determining these patents’ eligibility for patent term restoration. In a letter dated March 17, 2025, FDA advised the USPTO that this medical device had undergone a regulatory review period and that the approval of TRICLIP represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product’s regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for TRICLIP is 2,497 days. Of this time, 2,100 days occurred during the testing phase of the regulatory review period, while 397 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) involving this device became effective:* June 2, 2017. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the act for human tests to begin became effective on June 4, 2017. However, FDA records indicate that the IDE was determined substantially complete for clinical studies to have begun on June 2, 2017, which represents the IDE effective date.

2. *The date an application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e):* March 2, 2023. FDA has verified the applicant’s claim that the premarket approval application (PMA) for TRICLIP (PMA P230007) was initially submitted March 2, 2023.

3. *The date the application was approved:* April 1, 2024. FDA has verified the applicant’s claim that PMA P230007 was approved on April 1, 2024.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application(s) for patent extension,

this applicant seeks 650 or 860 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to <https://www.regulations.gov> at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–18781 Filed 9–26–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–0352]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance for Industry on Establishing That a Tobacco Product Was Commercially Marketed in the United States

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by October 29, 2025.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function. The OMB control number for this information collection is 0910–0775. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10 a.m.–12 p.m, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRASaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Guidance for Industry on Establishing That a Tobacco Product Was Commercially Marketed in the United States as of February 15, 2007

OMB Control Number 0910–0775—Extension

This information collection supports Food and Drug Administration guidance. The Federal Food, Drug, and Cosmetic Act (FD&C Act) authorizes FDA to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors.

Tobacco products are governed by chapter IX of the FD&C Act (sections 900 through 920) (21 U.S.C. 387 through 387t). Section 201(rr) of the FD&C Act (21 U.S.C. 321(rr)), as amended, defines a tobacco product as any product made or derived from tobacco, or containing nicotine from any source, that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product). Section 910 of the FD&C Act sets out premarket requirements for new tobacco products. The term new tobacco product is defined as any tobacco product (including those products in test markets) that was not commercially

marketed in the United States as of February 15, 2007, or any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery, or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after February 15, 2007 (section 910(a)(1) of the FD&C Act).

FDA refers to tobacco products that were commercially marketed (including those products in test markets) in the United States as of February 15, 2007, as Pre-Existing tobacco products. Pre-Existing tobacco products are not considered new tobacco products and are not subject to the premarket requirements of section 910 of the FD&C Act. The guidance document associated with this information collection provides information on how a manufacturer may establish that a tobacco product was commercially marketed in the United States as of February 15, 2007. A Pre-Existing tobacco product (except such products exclusively in test markets) may also serve as the predicate tobacco product in a section 905(j) report (intended to be used toward demonstrating substantial equivalence) for a new tobacco product (section 905(j)(1A)(i)) of the FD&C Act.

The guidance document “Establishing That a Tobacco Product Was Commercially Marketed in the United States as of February 15, 2007 (Revised)” (2023) (<https://www.fda.gov/regulatory-information/search-fda-guidance-documents/establishing-tobacco-product-was-commercially-marketed-united-states-february-15-2007-revised>) recommends that the manufacturer submit information adequate to demonstrate that the tobacco product was commercially marketed in the United States as of February 15, 2007. Examples of such information may include, but are not limited to, the following: dated copies of advertisements, dated catalog pages, dated promotional material, and dated bills of lading.

In the **Federal Register** of June 27, 2025 (90 FR 27632), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
Submit evidence of commercial marketing in the United States as of February 15, 2007	500	1	500	5	2,500

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA’s estimate of the number of respondents is based on the fact that requesting an Agency determination of the Pre-Existing status of a tobacco product under the guidance is not required and also on the number of Pre-Existing tobacco product submissions received from 2011 to October 2024. All new tobacco products require a marketing authorization order from FDA before introducing such products in the U.S. market. If a deemed new tobacco product was on the market as of August 8, 2016, a marketing application was required to be submitted by September 9, 2020 as required by the Court, and as set forth in the Center for Tobacco Products compliance policy (see exception for premium cigars).¹ A marketing application must be submitted and receive authorization to market a new tobacco product that was not on the market as of August 8, 2016.² The number of hours to gather the evidence is FDA’s estimate of how long it might take a manufacturer to review, gather, and submit dated information if making a request for Agency determination.

FDA further estimates it would take a manufacturer approximately 5 hours to put together this collection of evidence and to submit the package to FDA for review. FDA estimates that it would take approximately 2,500 hours annually to respond to this collection of information.

We have adjusted our burden estimate, which has resulted in a decrease to the currently approved burden. Our estimated burden for the information collection reflects an overall decrease of 2,500 hours and a corresponding decrease of 500 responses. The number of submissions FDA received to establish marketing as

of February 15, 2007 has decreased and we have therefore revised the number of respondents to the information collection based on this data.

Grace R. Graham,
Deputy Commissioner for Policy, Legislation, and International Affairs.
[FR Doc. 2025–18806 Filed 9–26–25; 8:45 am]
BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–0339]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Mitigation Strategies To Protect Food Against Intentional Adulteration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by October 29, 2025.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function. The OMB control number for this information collection is 0910–0812. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three

White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Mitigation Strategies To Protect Food Against Intentional Adulteration

OMB Control Number 0910–0812—Reinstatement

This information collection supports FDA regulations. Under the Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the FDA Food Safety Modernization Act (FSMA), certain provisions have been established to protect against the intentional adulteration of food. Section 418 of the FD&C Act (21 U.S.C. 350g) addresses intentional adulteration in the context of facilities that manufacture, process, pack, or hold food and are required to register under section 415 of the FD&C Act (21 U.S.C. 350d). Section 419 of the FD&C Act (21 U.S.C. 350h) addresses intentional adulteration in the context of fruits and vegetables that are raw agricultural commodities. Section 420 of the FD&C Act (21 U.S.C. 350i) addresses intentional adulteration in the context of high-risk foods and exempts farms except for farms that produce milk. These provisions are codified at part 121 (21 CFR part 121) and include requirements that an owner, operator, or agent in charge of a facility must:

- Prepare and implement a written food defense plan that includes a vulnerability assessment to identify significant vulnerabilities and actionable process steps, mitigation strategies, and procedures for food defense monitoring, corrective actions, and verification (§ 121.126 (21 CFR 121.126));
- identify any significant vulnerabilities and actionable process steps by conducting a vulnerability assessment for each type of food manufactured, processed, packed, or held at the facility using appropriate methods to evaluate each point, step, or

¹ *Cigar Ass’n of Am. v. FDA*, No. 16–cv–01460, Dkt. No. 277 (D.D.C. Aug. 9, 2023). FDA has appealed this decision. See <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/enforcement-priorities-electronic-nicotine-delivery-system-ends-and-other-deemed-products-market>.

² See <https://www.fda.gov/tobacco-products/manufacturing/submit-tobacco-product-applications-deemed-tobacco-products#:~:text=On%20August%208%2C%202016%2C%20all,authorization%20requirements%20in%20the%20Federal.>

procedure in a food operation (§ 121.130 (21 CFR 121.130));

- identify and implement mitigation strategies at each actionable process step to provide assurances that the significant vulnerability at each step will be significantly minimized or prevented and the food manufactured, processed, packed, or held by the facility will not be adulterated. For each mitigation strategy implemented at each actionable process step, include a written explanation of how the mitigation strategy sufficiently minimizes or prevents the significant vulnerability associated with the actionable process step (§ 121.135 (21 CFR 121.135));

- establish and implement mitigation strategies management components, as appropriate to ensure the proper implementation of each such mitigation strategy, taking into account the nature of the mitigation strategy and its role in the facility's food defense system (21 CFR 121.138);

- establish and implement food defense monitoring procedures, for monitoring the mitigation strategies, as appropriate to the nature of the mitigation strategy and its role in the facility's food defense system (§ 121.140 (21 CFR 121.140));

- establish and implement food defense corrective action procedures that must be taken if mitigation strategies are not properly implemented, as appropriate to the nature of the actionable process step and the nature of the mitigation strategy (§ 121.145 (21 CFR 121.145));

- establish and implement specified food defense verification activities, as appropriate to the nature of the mitigation strategy and its role in the facility's food defense system (§ 121.150 (21 CFR 121.150));

- conduct a reanalysis of the food defense plan (21 CFR 121.157);

- ensure that all individuals who perform required food defense activities

are qualified to perform their assigned duties (§ 121.4 (21 CFR 121.4)); and

- establish and maintain certain records, including the written food defense plan (vulnerability assessment, mitigation strategies and procedures for food defense monitoring, corrective actions, and verification) and documentation related to training of personnel. All records are subject to certain general recordkeeping and record retention requirements (§§ 121.301 through 121.330 (21 CFR 121.301 through 121.330)).

Under the regulations, an owner, operator, or agent in charge of a facility must prepare, or have prepared, and implement a written food defense plan, including written identification of actionable process steps, written mitigation strategies, written procedures for defense monitoring, written food defense corrective actions, and written food defense verification procedures.

The purpose of the information collection is to ensure compliance with the provisions under part 121 related to protecting food from intentional adulteration. The regulations are intended to address hazards that may be intentionally introduced to foods, including by acts of terrorism, with the intent to cause widespread harm to public health. Under the regulations, domestic and foreign food facilities that are required to register under the FD&C Act are required to identify and implement mitigation strategies to significantly minimize or prevent significant vulnerabilities identified at actionable process steps in a food operation.

To facilitate the collection of information, FDA offers tools and educational materials related to protecting food from intentional adulteration, including the FDA Food Defense Plan Builder, a user-friendly tool designed to help owners and operators of food facilities develop a personalized food defense plan, and the

Mitigation Strategies Database, a database for the food industry providing a range of preventative measures that firms may choose to implement. These and other informational resources are available at <https://www.fda.gov/food/food-defense/food-defense-tools-educational-materials>. FDA also offers a small entity compliance guide titled "Mitigation Strategies to Protect Food Against Intentional Adulteration" (August 2017) to inform domestic and foreign food facilities about compliance with regulations to protect against intentional adulteration. Further, FDA developed two draft guidance documents titled "Mitigation Strategies to Protect Food Against Intentional Adulteration: Draft Guidance for Industry" (March 2019) and "Supplemental Draft Guidance for Industry: Mitigation Strategies to Protect Food Against Intentional Adulteration" (February 2020). Once finalized, the draft guidance documents would assist the food industry in developing and implementing the elements of a food defense plan. These guidance documents are available at <https://www.fda.gov/food/food-defense>. All Agency guidance documents are issued in accordance with our good guidance practice regulations in 21 CFR 10.115, which provide for public comment at any time.

Description of Respondents: The respondents to this information collection are manufacturers, processors, packers, and holders of retail food products marketed in the United States.

In the **Federal Register** of July 2, 2025, 90 FR 29025, we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received. We retain, therefore, our estimate of burden for the information collection, which is as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity; 21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Exemption for food from very small businesses; § 121.5.	18,080	1	18,080	0.5 (30 minutes)	9,040

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

Activity; 21 CFR 121	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Food Defense Plan; § 121.126	3,247	1	3,247	23	74,681
Actionable Process Steps; § 121.130	9,759	1	9,759	20	195,180

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹—Continued

Activity; 21 CFR 121	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Mitigation Strategies; § 121.135(b)	9,759	1	9,759	20	195,180
Monitoring, Corrective Actions, Verification; §§ 121.140(a), 121.145(a)(1), 121.150(b).	9,759	1	9,759	175	1,707,825
Training; § 121.4	367,203	1	367,203	0.67 (40 minutes) ...	246,026
Records; §§ 121.305, 121.310	9,759	1	9,759	10	97,590
Total					2,516,482

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–18811 Filed 9–26–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Initial and Reconciliation Application Forms To Report Graduate Medical Education Data and Full-Time Equivalent Residents Trained by Hospitals Participating in the Children's Hospitals Graduate Medical Education Payment Program; and FTE Resident Assessment Forms To Report FTE Residents Trained by Organizations Participating in the CHGME Payment Program and the Teaching Health Center Graduate Medical Education Program, OMB No. 0915–0247—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than October 29, 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 Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Samantha Miller, the HRSA Information Collection Clearance Officer, at paperwork@hrsa.gov or call (301) 443–3983.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Initial and Reconciliation Application Forms to Report Graduate Medical Education Data and Full-Time Equivalent Residents Trained by Hospitals Participating in the Children's Hospitals Graduate Medical Education Payment Program; and Full-Time Equivalent Resident Assessment Forms to Report Full-Time Equivalent Residents Trained by Organizations Participating in the Children's Hospitals Graduate Medical Education Payment Program and the Teaching Health Center Graduate Medical Education Program, OMB No. 0915–0247—Revision.

Abstract: The Healthcare Research and Quality Act of 1999 (Pub. L. 106–129) established the Children's Hospitals Graduate Medical Education (CHGME) Payment Program, Section 340E of the Public Health Service Act, most recently amended by the Dr. Benjy Frances Brooks Children's Hospital Graduate Medical Education Support Reauthorization Act of 2018 (Pub. L. 115–241). In 2010, the Patient Protection and Affordable Care Act (Pub. L. 111–148) established the Teaching Health Center Graduate Medical Education (THCGME) Program, Section 340H of the Public Health Service Act. The CHGME Payment

Program and the THCGME Program provide federal funding to support graduate medical education programs that train medical and dental residents and fellows. Specifically, the CHGME Payment Program supports residency programs at freestanding children's hospitals that train residents in pediatric, pediatric subspecialty, and non-pediatric care. The THCGME Program supports training for primary care residents/fellows (in family medicine, internal medicine, pediatrics, internal medicine-pediatrics, obstetrics and gynecology, psychiatry, general dentistry, pediatric dentistry, and geriatrics) in community-based ambulatory patient care settings. Children's hospitals and teaching health centers funded by HRSA's CHGME and THCGME programs, respectively, are required to report the number of full-time equivalent (FTE) residents trained during the federal fiscal year. HRSA contracts fiscal intermediaries to assess FTE resident counts reflected in participating children's hospitals' and teaching health centers' applications to determine any changes to the resident FTE counts initially reported. Fiscal intermediaries audit the data reported by the children's hospitals and the teaching health centers and report the verified FTE resident counts to HRSA. Evaluating the data from children's hospitals and teaching health centers ensures compliance with Medicare regulations and HRSA program requirements when determining the number of FTE residents eligible for funding. HRSA plans to submit an ICR because the current OMB clearance for the CHGME Payment Program application and the FTE resident assessment forms and exhibits used by both the CHGME and THCGME programs expire on December 31, 2025. All CHGME Payment Program applications and the FTE resident assessment forms and exhibits used by both the CHGME and THCGME programs are the same as currently approved.

A 60-day notice was published in the **Federal Register** on May 28, 2025, vol. 90, No. 101; pp. 22496–97. HRSA received two public comments. Below is a summary of key themes raised in the comments and HRSA's response:

Support for the CHGME Payment Program

A commenter provided support of the CHGME Payment Program, stating that the Program is the only federal program that specifically supports pediatric and pediatric subspecialty training at the nation's children's hospitals. The commenter cited HRSA's National Center for Workforce Analysis fact sheet with Program accomplishments showing CHGME Payment Program-participating children's hospitals trained 55 percent of all pediatric residents and 56 percent of all pediatric subspecialists in the United States in the 2023–2024 academic years and provided valuable care to the nation's children, including those in military-connected families and rural and underserved communities. Both commenters expressed their satisfaction with HRSA's efforts to reduce reporting burden through its plans to adopt Centers for Medicare & Medicaid Services' direct graduate medical education methodology for determining the weighted FTE count for children's hospitals participating in the CHGME Payment Program.

HRSA appreciates the commenters' support for the CHGME Payment Program and the agency's efforts to minimize administrative burden on children's hospitals who must report FTE counts to the CHGME Payment Program and the Centers for Medicare & Medicaid Services.

Recommendations To Reduce Burden

Both comments expressed the following:

- Stated that the time, effort, and costs associated with tracking residents, gathering the data, and completing the forms is burdensome.
- Expressed concern about the amount of information collected on HRSA's forms. Commenters encouraged HRSA to increase the use of automation, improve the efficiency of their processes to improve accuracy, reduce duplication, ensure the efficient use of

hospital resources, and enable the CHGME hospitals to focus their resources on their training programs.

- Recommended HRSA implement clear guidelines and definitions, streamline data requests to encompass the most relevant information, use Medicare cost report data where appropriate, improve the data submission software, and fully utilize automation when possible.

HRSA appreciates these comments; however, they are not directly related to the data gathered as part of this notice. The data collection instruments associated with this notice collect hospital level data and aggregate FTE resident counts. Commenters mentioned the collection of burdensome, sensitive data directly from residents, which is due to HRSA in July—a very busy time for teaching hospitals. These comments appear to be directed at the CHGME annual performance report forms (OMB No. 0906–0086), which have a July deadline and require the collection of sensitive data directly from residents. The annual performance report forms collect more comprehensive individual level information rather than the aggregate information on FTEs in this data collection.

HRSA clarifies that the submission times for the forms included in this notice are as follows: (1) the reconciliation applications forms are due in early May, (2) the FTE assessment data is required during the fall and winter of each fiscal year, and (3) the initial application forms have a late August or early September submission date. The data gathered as part of this notice is hospital level data and aggregate FTE resident counts. Because the comments received are outside the scope of this final notice, HRSA is not addressing comments pertaining to the annual performance report forms and data collection.

Need and Proposed Use of the Information: Information collected will be used during the CHGME Payment Program initial application process and the reconciliation process for both the CHGME and THCGME programs to calculate the amount of graduate medical education payments that should be distributed to participating children's hospitals and teaching health centers. The CHGME Payment Program

application forms and the FTE resident assessment forms for both the CHGME and THCGME programs will also be used to confirm the eligibility of the applicant children's hospitals, determine the number of FTE residents trained by participants in the CHGME and THCGME programs, and determine their compliance with the programs' requirements.

Likely Respondents: CHGME Payment Program applicants, CHGME Payment Program participants, and fiscal intermediaries auditing data submitted by the participating children's hospitals and teaching health centers.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. 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. The total annual burden hours estimated for this ICR are summarized in the table below. CHGME participating children's hospitals report their FTE residents using forms and exhibits approved by OMB (#0915–0247). THCGME participating teaching health centers report their FTE residents using forms, tools, and exhibits approved by OMB (#0915–0342 and #0915–0367). The FTE resident assessment forms and exhibits currently approved for use by the CHGME Payment Program under OMB clearance #0915–0247 will be reviewed or completed by the fiscal intermediaries during the audit of the FTE residents reported by the teaching health centers participating in the THCGME Program. The FTE resident assessment forms and exhibits are submitted to HRSA for approval. The fiscal intermediaries currently reviewing or completing the forms and exhibits during the audit of children's hospitals will use the same forms and exhibits during the audit of teaching health centers.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Total estimated annualized burden hours: form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Application Cover Letter (CHGME Initial and Reconciliation)	60	2	120	0.33	39.6
HRSA 99 Form (CHGME Initial and Reconciliation)	60	2	120	0.33	39.6
HRSA 99-1 Form (CHGME Initial)	60	1	60	26.50	1,590.0
HRSA 99-1 Form (CHGME Reconciliation)	60	1	60	6.50	390.0
HRSA 99-1 (Supplemental) (CHGME FTE Resident Assessment Only)	30	2	60	3.67	220.2
HRSA 99-2 Form (CHGME Initial)	60	1	60	11.33	679.8
HRSA 99-2 Form (CHGME Reconciliation)	60	1	60	3.67	220.2
HRSA 99-4 Form (CHGME Reconciliation)	60	1	60	12.50	750.0
HRSA 99-5 Form (Initial and Reconciliation)	60	2	120	0.33	39.6
CFO Form Letter (CHGME Initial and Reconciliation)	60	2	120	0.33	39.6
Exhibit 2 (CHGME Initial and Reconciliation)	60	2	120	0.33	39.6
Exhibit 3 (CHGME Initial and Reconciliation)	60	2	120	0.33	39.6
Exhibit 4 (CHGME Initial and Reconciliation)	60	2	120	0.33	39.6
Conversation Record (CHGME FTE Resident Assessment Only)	30	2	60	3.67	220.2
Exhibit C (CHGME and THCGME FTE Resident Assessment)	30	4	120	3.67	440.4
Exhibit E (CHGME and THCGME FTE Resident Assessment)	30	4	120	3.67	440.4
Exhibit F (CHGME and THCGME FTE Resident Assessment)	30	4	120	3.67	440.4
Exhibit N (CHGME and THCGME FTE Resident Assessment)	30	4	120	3.67	440.4
Exhibit O(1) (CHGME and THCGME FTE Resident Assessment)	30	4	120	3.67	440.4
Exhibit O(2) (HRSA 99-1) (CHGME FTE Resident Assessment Only)	30	2	60	26.5	1,590.0
Exhibit P (Reconciliation Tool) (CHGME and THCGME FTE Resident Assessment)	30	4	120	3.67	440.4
Exhibit P(2) (CHGME and THCGME FTE Resident Assessment)	30	4	120	3.67	440.4
Exhibit S (CHGME and THCGME FTE Resident Assessment)	30	4	120	3.67	440.4
Exhibit T (CHGME FTE Resident Assessment Only)	30	2	60	3.67	220.2
Exhibit T(1) (CHGME FTE Resident Assessment Only)	30	2	60	3.67	220.2
Exhibit 1 (CHGME FTE Resident Assessment Only)	30	2	60	0.33	19.8
Exhibit 2 (CHGME FTE Resident Assessment Only)	30	2	60	0.33	19.8
Exhibit 3 (CHGME FTE Resident Assessment Only)	30	2	60	0.33	19.8
Exhibit 4 (CHGME FTE Resident Assessment Only)	30	2	60	0.33	19.8
Total	* 90	.....	** 180	.....	9,980.40

* The total number of respondents is 90 because children's hospitals (60) and fiscal intermediaries (30) are completing the forms.

** The total number of responses is 180 because children's hospitals (60) and fiscal intermediaries for the CHGME audits (60) and the THCGME audits (60) are completing the forms.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2025-18774 Filed 9-26-25; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, Translational Research in Neurology and Neuropsychiatry. November 07,

2025, 09:00 a.m. to November 07, 2025, 06:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on September 19, 2025, 90 FR 45235, Doc No. 2025-18130.

This meeting is being amended to change the date from November 7, 2025, to November 14, 2025. The meeting is closed to the public.

Dated: September 4, 2025.

Denise M. Santeufemio,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025-18887 Filed 9-26-25; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Strategic Preparedness and Response

Single Source Cooperative Agreement to the National Emerging Special Pathogens Training and Education Center

AGENCY: Administration for Strategic Preparedness and Response (ASPR), U.S. Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: ASPR intends to provide a five-year single-source Cooperative

Agreement (CoAg) to the National Emerging Special Pathogens Training and Education Center (NETEC). The CoAg will enable NETEC to continue to lead special pathogen preparedness and response for currently active or emergent High Consequence Infectious Disease (HCID) threats. The total proposed cost of the single-source CoAg is \$7,730,000 for Fiscal Year (FY) 2025. Supporting collaboration between the U.S. Public Health Service and public and private community health programs and agencies to respond to health emergencies is an authority provided to HHS under section 311(c) of the *Public Health Service Act*.

DATES: The five-year period of performance is from September 30, 2025, through September 29, 2030. The FY 2025 budget period is September 30, 2025, through September 29, 2026. FY 2025 award amount: \$7,730,000.

FOR FURTHER INFORMATION CONTACT: Jennifer Hannah; Director, Office of Health Care Readiness, (202) 245-0722; Jennifer.Hannah@hhs.gov.

SUPPLEMENTARY INFORMATION: The Office of Health Care Readiness (OHCR) is the program office for this CoAg.

Single Source Justification

This National Special Pathogen System (NSPS) is a national, tiered system-of-care—similar to the National Trauma Care System—with four facility levels that have increasing capabilities to care for patients that have suspected or confirmed HClDs. NETEC is a consortium consisting of Emory University, the Nebraska Medicine/ University of Nebraska Medical Center, and the New York City (NYC) Health + Hospitals/Bellevue. Congressionally designated as the NSPS Coordinating Body, NETEC has served as a special pathogen response advisor to ASPR and the United States Government for over a decade. In this role, NETEC leads 13 Regional Emerging Special Pathogen Treatment Centers (RESPTCs), or Level 1 facilities, to act as regional hubs for special pathogen readiness in the United States (U.S.). NETEC is the architect of the NSPS System of Care Strategy and implementation plan and has brokered relationships with hundreds of health care partners across the U.S. and globally to advance special pathogen preparedness and response capabilities. Due to the complexity and scale of this role, the level of technical and clinical subject matter expertise needed, and the unique capabilities required, NETEC is the only entity that can serve in this role.

During recent outbreaks including avian influenza, Argentine and Bolivian

Hemorrhagic Fever, and Nipah Virus, NETEC provided training materials, situational awareness, technical assistance, and recommendations on patient care to relevant health care entities, enabling high-quality, lifesaving special pathogen care for patients. NETEC directly supports state-level capabilities for special pathogen readiness, partnering with state public health departments and providing consultative services to help strengthen private and public sector health care partners. In FY 2024 alone, NETEC addressed 74 requests for consultation and provided targeted support services to entities like the South Dakota Department of Public Health, which worked with NETEC to revise their concept of operations for responding to HCID threats and facilitating cross-jurisdictional exercises with neighboring states in the region. This award will enable NETEC to build on these capabilities and strengthen the NSPS to build resilience against HCID threats, including avian influenza.

The timing of this award requires a single-source of funding for NETEC, as this award is intended to enable NETEC to continue to lead special pathogen preparedness and response for currently active or emergent HCID threats. The NSPS serves a critical role in streamlining special pathogen preparedness and response, ultimately saving patient lives and avoiding preventable outbreaks. For example, when a patient in Iowa was diagnosed with Lassa Fever, all components of the NSPS quickly activated to prevent a potential outbreak in the U.S. NETEC coordinated with five health care facilities, including RESPTCs, for a timely and effective response, including managing infection control, preventing secondary transmission among 180 close contacts, and maintaining situational awareness across all response partners. This rapid and coordinated response resulted in zero additional infections. An interruption or delay will disrupt NETEC's ability to carry out critical activities needed to prevent and mitigate HCID threats. Through this award, ASPR will collaborate with NETEC to continue to build capabilities and capacity to protect the health of the nation, mitigate impacts of current and emerging HClDs, and save lives.

John Knox,

*Principal Deputy Assistant Secretary,
Administration for Strategic Preparedness
and Response.*

[FR Doc. 2025-18825 Filed 9-26-25; 8:45 am]

BILLING CODE 4150-37-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2025-0296]

**Information Collection Request to
Office of Management and Budget;
OMB Control Number: 1625-0057**

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625-0057, Small Passenger Vessels; with change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before November 28, 2025.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG-2025-0296] to the Coast Guard using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the "Public participation and request for comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at <https://www.regulations.gov>. Additionally, copies are available from: Commandant (CG-C5I-P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593-7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone (571) 607-4058, or email hqs-dg-m-cg-61-pii@uscg.mil for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C., chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden

on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, USCG–2025–0296, and must be received by November 28, 2025.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Small Passenger Vessels—Title 46 CFR Subchapters K and T.

OMB Control Number: 1625–0057.

Summary: The information requirements are necessary for the proper administration and enforcement of the program on safety of commercial vessels as it affects small passenger vessels. The requirements affect small passenger vessels (under 100 gross tons) that carry more than 6 passengers.

Need: Under the authority of 46 U.S.C. 3305 and 3306, the Coast Guard prescribed regulations for the design, construction, alteration, repair and operation of small passenger vessels to secure the safety of individuals and property on board. The Coast Guard uses the information in this collection to ensure compliance with the requirements.

Forms

- CG–5256, U.S. Coast Guard Inspected Small Passenger Vessel [sticker].

Basis for the Change in the Number of Forms: The Coast Guard removed four forms from this ICR to eliminate double counting of the responses and hour burden. Forms CG–841 (Certificate of Inspection), CG–854 (Temporary Certificate of Inspection), CG–948 (Permit to Proceed to Another Port for Repairs) and CG–949 (Permit to Carry Excursion Party) are currently accounted for within ICR 1625–0032 (Vessel Inspection Related Forms and Reporting Requirements Under Title 46 U.S. Code). Removing the four forms from this ICR ensures that the reporting and recordkeeping requirements are only accounted for once per occurrence. Additionally, as the four forms have a broader use than just small passenger vessels, retaining them in ICR 1625–0032 is preferred as that collection accounts for all 46 U.S. Code vessels subject to inspection.

Respondents: Owners and operators of small passenger vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 406,113 hours to 421,124 hours a year, due to an increase in the estimated annual number of respondents.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.)

Dated: September 16, 2025.

Bradley E. White,

(Acting) Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2025–18843 Filed 9–26–25; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0076]

Agency Information Collection Activities; Extension; Recordkeeping Requirements

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than November 28, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0076 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

Email. Submit comments to: CBP_PRA@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the

public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Record Keeping Requirements.

OMB Number: 1651-0076.

Form Number: N/A.

Current Actions: Extension.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: The North American Free Trade Agreement Implementation Act, Title VI, known as the Customs Modernization Act (Mod Act) amended Title 19 U.S.C. 1508, 1509 and 1510 by revising Customs and Border Protection (CBP) laws related to recordkeeping, examination of books and witnesses, regulatory audit procedures and judicial enforcement. Specifically, the Mod Act expanded the list of parties subject to CBP recordkeeping requirements; distinguished between records which pertain to the entry of merchandise and financial records needed to substantiate the correctness of information contained in entry documentation; and identified a list of records which must be maintained and produced upon request by CBP. The information and records are used by CBP to verify the accuracy of the claims made on the entry documents regarding the tariff status of imported merchandise, admissibility, classification/nomenclature, value and rate of duty applicable to the entered goods. The Mod Act recordkeeping requirements are provided for by 19 CFR 163. Instructions are available at: <http://www.cbp.gov/document/publications/recordkeeping>.

The respondents to this information collection are members of the trade community who are familiar with CBP regulations.

Type of Information Collection: Mod Act Record Keeping.

Estimated Number of Respondents: 5,459.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 5,459.

Estimated Time per Response: 1,040 hours.

Estimated Total Annual Burden Hours: 5,677,360.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2025-18845 Filed 9-26-25; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651-0025]

Agency Information Collection Activities; Extension; Port of Diversion

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than November 28, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0025 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

Email. Submit comments to: CBP_PRA@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border

Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Report of Diversion.

OMB Number: 1651-0025.

Form Number: 26.

Current Actions: Extension with a decrease in burden hours.

Type of Review: Extension (with change).

Affected Public: Businesses.

Abstract: CBP Form 26, *Report of Diversion*, is used to track vessels traveling coastwise from U.S. ports to other U.S. ports when a change occurs in scheduled itineraries. This form is initiated by the vessel owner or agent to notify and request approval by CBP for a vessel to divert while traveling coastwise from a U.S. port to another

U.S. port, or a vessel traveling to a foreign port having to divert to a U.S. port when a change occurs in the vessel itinerary. CBP Form 26 collects information such as the name and nationality of the vessel, the expected port and date of arrival, and information about any related penalty cases, if applicable. This information collection is authorized by 46 U.S.C. 60105 and is provided for in 19 CFR 4.91. This form is being utilized as part of the Vessel Entrance and Clearance System Public Test which has been very successful. CBP is pending regulatory change to move the test into a requirement.

CBP Form 26 is accessible at: http://www.cbp.gov/sites/default/files/documents/CBP%20Form%2026_0.pdf.
Type of Information Collection: Form 26.

Estimated Number of Respondents: 73.

Estimated Number of Annual Responses per Respondent: 18.

Estimated Number of Total Annual Responses: 1,314.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 111.

Seth D. Renkema,
Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.
[FR Doc. 2025-18854 Filed 9-26-25; 8:45 am]
BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY
Customs and Border Protection
Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds of Customs Duties
AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.
SUMMARY: This notice advises the public that the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will remain the same from the previous quarter. For the calendar quarter beginning October 1, 2025, the interest rates for underpayments will be 7 percent for both corporations and non-corporations. The interest rate for overpayments will be 7 percent for non-corporations and 6 percent for corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.
DATES: The rates announced in this notice are applicable as of October 1, 2025.
FOR FURTHER INFORMATION CONTACT: Bruce Ingalls, Revenue Division, Collection Refunds & Analysis Branch, 8899 E 56th Street, Mail Stop 203J, Indianapolis, IN 46249; telephone (317) 298-1107.
SUPPLEMENTARY INFORMATION:

Background
Pursuant to 19 U.S.C. 1505 and Treasury Decision 85-93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 provides different interest rates applicable to overpayments: one for corporations and one for non-corporations.
The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective

for a quarter are determined during the first-month period of the previous quarter.
In Revenue Ruling 2025-18, the IRS determined the rates of interest for the calendar quarter beginning October 1, 2025, and ending on December 31, 2025. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (4%) plus three percentage points (3%) for a total of seven percent (7%) for both corporations and non-corporations. For overpayments made by non-corporations, the rate is the Federal short-term rate (4%) plus three percentage points (3%) for a total of seven percent (7%). For corporate overpayments, the rate is the Federal short-term rate (4%) plus two percentage points (2%) for a total of six percent (6%). These interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties remain the same as the previous quarter. These interest rates are subject to change for the calendar quarter beginning January 1, 2026, and ending on March 31, 2026.
For the convenience of the importing public and U.S. Customs and Border Protection personnel, the following list of IRS interest rates used, covering the period from July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate overpayments (Eff. 1-1-99) (percent)
070174	063075	6	6	.....
070175	013176	9	9	.....
020176	013178	7	7	.....
020178	013180	6	6	.....
020180	013182	12	12	.....
020182	123182	20	20	.....
010183	063083	16	16	.....
070183	123184	11	11	.....
010185	063085	13	13	.....
070185	123185	11	11	.....
010186	063086	10	10	.....
070186	123186	9	9	.....
010187	093087	9	8	.....
100187	123187	10	9	.....
010188	033188	11	10	.....

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
040188	093088	10	9	.....
100188	033189	11	10	.....
040189	093089	12	11	.....
100189	033191	11	10	.....
040191	123191	10	9	.....
010192	033192	9	8	.....
040192	093092	8	7	.....
100192	063094	7	6	.....
070194	093094	8	7	.....
100194	033195	9	8	.....
040195	063095	10	9	.....
070195	033196	9	8	.....
040196	063096	8	7	.....
070196	033198	9	8	.....
040198	123198	8	7	.....
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	033116	3	3	2
040116	033118	4	4	3
040118	123118	5	5	4
010119	063019	6	6	5
070119	063020	5	5	4
070120	033122	3	3	2
040122	063022	4	4	3
070122	093022	5	5	4
100122	123122	6	6	5
010123	093023	7	7	6
100123	123124	8	8	7
010125	123125	7	7	6

Jeffrey Caine,

Chief Financial Officer, U.S. Customs and
Border Protection.

[FR Doc. 2025–18772 Filed 9–26–25; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0005]

Agency Information Collection Activities; Extension; Application- Permit-Special License Unlading- Lading-Overtime Services

AGENCY: U.S. Customs and Border
Protection (CBP), Department of
Homeland Security.

ACTION: 60-Day notice and request for
comments.

SUMMARY: The Department of Homeland
Security, U.S. Customs and Border
Protection (CBP) will be submitting the
following information collection request
to the Office of Management and Budget
(OMB) for review and approval in
accordance with the Paperwork
Reduction Act of 1995 (PRA). The
information collection is published in
the **Federal Register** to obtain comments
from the public and affected agencies.

DATES: Comments are encouraged and
must be submitted (no later than
November 28, 2025) to be assured of
consideration.

ADDRESSES: Written comments and/or
suggestions regarding the item(s)

contained in this notice must include the OMB Control Number 1651–0005 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

Email. Submit comments to: *CBP_PRA@cbp.dhs.gov*.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Application-Permit-Special License Unlading-Lading-Overtime Services.

OMB Number: 1651–0005.

Form Number: 3171.

Current Actions: Extension.

Type of Review: Extension (with change).

Affected Public: Businesses.

Abstract: The Application-Permit-Special License Unlading-Lading-Overtime Services (U.S. Customs and Border Protection (CBP) Form 3171) is used by commercial carriers and importers as a request for permission to unlade imported merchandise, baggage, or passengers. It is also used to request overtime services from CBP officers in connection with lading or unlading of merchandise, or the entry or clearance of a vessel, including the boarding of a vessel for preliminary supplies, ship's stores, sea stores, or equipment not to be re-laden. CBP Form 3171 is provided for by 19 CFR 4.3, 4.7a, 4.8, 4.10, 4.30, 4.39, 4.91, 10.60, 24.16, 122.38, 123.8, 146.32 and 146.34.

This form is accessible at: <http://www.cbp.gov/newsroom/publications/forms?title=3171>.

This form is being utilized as part of the Vessel Entrance and Clearance System Public Test which has been very successful. CBP is considering regulatory change to move the test into a requirement.

Type of Information Collection: Form 3171.

Estimated Number of Respondents: 1,591.

Estimated Number of Annual Responses per Respondent: 56.

Estimated Number of Total Annual Responses: 89,096.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 11,879.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2025–18850 Filed 9–26–25; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0110]

Agency Information Collection Activities; Revision; Visa Waiver Signatory Carrier Program (Form I–775)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than November 28, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0110 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments: *Email.* Submit comments to: *CBP_PRA@cbp.dhs.gov*.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of

information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Visa Waiver Signatory Carrier Program (Form I-775).

OMB Number: 1651-0110.

Form Number: I-775.

Current Actions: Revision.

Type of Review: Revision.

Affected Public: Businesses.

Abstract: Section 233(a) of the Immigration and Nationality Act (INA) (8 U.S.C. 1223(a)) provides for the necessity of a transportation contract. The statute provides that the Attorney General may enter into contracts with transportation lines for the inspection and admission of noncitizens coming into the United States from a foreign territory or from adjacent islands. No such transportation line shall be allowed to land any such noncitizen in the United States until and unless it has entered into any such contracts which may be required by the Attorney General. Pursuant to the Homeland Security Act of 2002, this authority was transferred to the Secretary of Homeland Security.

The Visa Waiver Program Carrier Agreement (CBP Form I-775) is used by carriers to request acceptance by CBP into the Visa Waiver Program (VWP). This form is an agreement whereby carriers agree to the terms of the VWP as delineated in Section 217(e) of the INA (8 U.S.C. 1187(e)). Once participation is granted, CBP Form I-775 serves to hold carriers liable for certain transportation costs, to ensure the completion of required forms, and to require sharing passenger data, among other requirements. Regulations are promulgated at 8 CFR 217.6, Carrier Agreements. A fillable copy of CBP Form I-775 is accessible at: <https://www.cbp.gov/sites/default/files/assets/documents/2019-Aug/CBP%20Form%20I-775.pdf>.

Proposed Change: The requirement to submit original documents bearing original signatures of company representatives, was modified to include electronic transfer of CBP Form I-775 while COVID-19 restrictions were in place. CBP would like to make the electronic submission and approval of this information permanent.

Type of Information Collection: I-775.
Estimated Number of Respondents: 220.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 220.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 110.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2025-18848 Filed 9-26-25; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651-0082]

Agency Information Collection Activities; Extension; African Growth and Opportunity Act (AGOA) Textile Certificate of Origin

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than November 28, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0082 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

Email. Submit comments to: CBP_PRA@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177,

Telephone number 202-325-0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: African Growth and Opportunity Act (AGOA) Textile Certificate of Origin.

OMB Number: 1651-0082.

Form Number: N/A.

Current Actions: Extension.

Type of Review: Extension (with change).

Affected Public: Businesses.

Abstract: The African Growth and Opportunity Act (AGOA) was adopted by the U.S. with the enactment of the Trade and Development Act of 2000 (Pub. L. 106-200). The objectives of AGOA are (1) to provide for extension of duty-free treatment under the Generalized System of Preferences (GSP) to import sensitive articles normally excluded from GSP duty treatment, and (2) to provide for the

entry of certain eligible textile and apparel articles from the countries of sub-Saharan Africa free of duty and free of any quantitative limits.

For preferential treatment of textile and apparel articles under AGOA, the exporter or producer, or the exporter's or producer's authorized agent having knowledge of the facts, is required to prepare a certificate of origin and provide it to the importer. The certificate of origin includes information such as contact information for the importer, exporter, and producer; the basis for which preferential treatment is claimed; and a description of the imported merchandise. The importers are required to have the certificate in their possession at the time of the claim, and to provide it to U.S. Customs and Border Protection (CBP) upon request. The collection of this information is provided for in 19 CFR 10.214, 10.215, and 10.216.

Instructions for complying with this regulation are posted on *CBP.gov* website at: <https://www.cbp.gov/trade/rulings/informed-compliance-publications>.

This collection of information applies to the importing and trade community who are familiar with import procedures and with the CBP regulations.

Type of Information Collection: AGOA Textile Certificate of Origin.
Estimated Number of Respondents: 5.
Estimated Number of Annual Responses per Respondent: 1.
Estimated Number of Total Annual Responses: 5.
Estimated Time per Response: 20 minutes.
Estimated Total Annual Burden Hours: 2.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.
 [FR Doc. 2025-18851 Filed 9-26-25; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651-0057]

Agency Information Collection Activities; Extension; Country of Origin Marking Requirements for Containers or Holders

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than November 28, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0057 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:
Email. Submit comments to: *CBP_PRA@cbp.dhs.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3)

suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Country of Origin Marking Requirements for Containers or Holders.

OMB Number: 1651-0057.

Form Number: N/A.

Current Actions: Extension.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: Section 304 of the Tariff Act of 1930, as amended, 19 U.S.C. 1304, requires each imported article of foreign origin, or its container, to be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article or container permits, with the English name of the country of origin. The marking informs the ultimate purchaser in the United States of the country in which the contents was manufactured or produced. The marking requirements for containers or holders of imported merchandise are provided for by 19 CFR 134.22(b).

The respondents to this information collection are members of the trade community who are familiar with CBP requirements and regulations.

Type of Information Collection: Country of Origin Marking.

Estimated Number of Respondents: 250.

Estimated Number of Annual Responses per Respondent: 40.

Estimated Number of Total Annual Responses: 10,000.

Estimated Time per Response: 15 seconds.

Estimated Total Annual Burden Hours: 41.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.
 [FR Doc. 2025-18847 Filed 9-26-25; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY**U.S. Customs and Border Protection****[OMB Control Number 1651–0052]****Agency Information Collection Activities; Extension; User Fees****AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.**ACTION:** 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than November 28, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0052 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

Email. Submit comments to: CBP_PRA@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should

address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection*Title:* User Fees.*OMB Number:* 1651–0052.*Form Number:* 339A, 339C, 339V.*Current Actions:* Extension.*Type of Review:* Extension (without change).*Affected Public:* Carriers.

Abstract: The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (Pub. L. 99–272, 100 Stat. 82; 19 U.S.C. 58c), as amended, authorizes the collection of user fees by U.S. Customs and Border Protection (CBP). The collection of these fees requires submission of information from the party remitting the fees to CBP. This collection of information is provided for by 19 CFR 24.22. In certain cases, this information is submitted on one of three forms including the CBP Form 339A for payment upon arrival or prepayment of the annual user fee for a private aircraft (19 CFR 24.22(e)(1) and (2)), CBP Form 339C for prepayment of the annual user fee for a commercial vehicle (19 CFR 24.22(c)(3)), and CBP Form 339V for payment upon arrival or prepayment of the annual user fee for a private vessel (19 CFR 24.22(e)(1) and (2)). All forms can be accessed at: https://www.cbp.gov/newsroom/publications/forms?title_1=339.

The information on these forms may also be filed electronically at: <https://dtops.cbp.dhs.gov/>.

Similarly, as authorized by COBRA, as amended, CBP collects fees from each carrier or operator using an express consignment carrier facility (ECCF) or a centralized hub facility as provided in

19 CFR 24.23(b)(4). The payment must be made to CBP on a quarterly basis and must cover the individual fees for all subject transactions that occurred during a calendar quarter. 19 CFR 24.23(b)(4)(i). The information set forth in 19 CFR 24.23(b)(4)(iii)(B) must be included with the quarterly payment (ECCF Quarterly Report). In cases of overpayments, carriers or operators using an ECCF or a centralized hub facility may send a request to CBP for a refund in accordance with 19 CFR 24.23(b)(4)(iii)(C). This request must specify the grounds for the refund.

In addition, CBP requires a prospective ECCF to include a list of all carriers or operators intending to use the facility, as well as other information requested in the application for approval of the ECCF in accordance with 19 CFR 128.11(b)(2). ECCFs are also required to provide to CBP at the beginning of each calendar quarter, a list of all carriers or operators currently using the facility and notify CBP whenever a new carrier or operator begins to use the facility or whenever a carrier or operator ceases to use the facility in accordance with 19 CFR 128.11(b)(7)(iv).

Type of Information Collection: Form 339A.

Estimated Number of Respondents: 35,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 35,000.

Estimated Time per Response: 16 minutes.

Estimated Total Annual Burden Hours: 9,333.

Type of Information Collection: Form 339C.

Estimated Number of Respondents: 80,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 80,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 26,667.

Type of Information Collection: Form 339V.

Estimated Number of Respondents: 16,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 16,000.

Estimated Time per Response: 16 minutes.

Estimated Total Annual Burden Hours: 4,267.

Type of Information Collection: ECCF Quarterly Report.

Estimated Number of Respondents: 18.
Estimated Number of Annual Responses per Respondent: 4.
Estimated Number of Total Annual Responses: 72.
Estimated Time per Response: 2 hours.
Estimated Total Annual Burden Hours: 144.
Type of Information Collection: EECF Refund Request.
Estimated Number of Respondents: 0.
Estimated Number of Annual Responses per Respondent: 0.
Estimated Number of Total Annual Responses: 0.
Estimated Time per Response: 30 minutes.
Estimated Total Annual Burden Hours: 0.
Type of Information Collection: ECCF Application and List of Couriers.
Estimated Number of Respondents: 3.
Estimated Number of Annual Responses per Respondent: 4.
Estimated Number of Total Annual Responses: 12.
Estimated Time per Response: 30 minutes.
Estimated Total Annual Burden Hours: 6.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2025-18852 Filed 9-26-25; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651-0022]

Agency Information Collection Activities; Revision; Entry Summary

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than November 28, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0022 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

Email. Submit comments to: *CBP_PRA@cbp.dhs.gov*.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Entry Summary.

OMB Number: 1651-0022.

Form Number: 7501.

Current Actions: Revision.

Type of Review: Revision.

Affected Public: Importer, importer's agent for each import transaction.

Abstract: CBP Form 7501, *Entry Summary*, is used to identify merchandise entering the commerce of the United States, and to document the amount of duty and/or tax paid. CBP Form 7501 is submitted by the importer, or the importer's agent, for each import transaction. The data on this form is used by CBP as a record of the import transaction; to collect the proper duty, taxes, certifications, and enforcement information; and to provide data to the U.S. Census Bureau for statistical purposes. CBP Form 7501 must be filed within 10 working days from the time of entry of merchandise into the United States. Collection of the data on this form is authorized by 19 U.S.C. 1484 and provided for by 19 CFR 141.61 and 19 CFR 142.11. CBP Form 7501 and accompanying instructions can be found at: https://www.cbp.gov/newsroom/publications/forms?title_1=7501.

Previously approved revision to Form 7501:

For certain Harmonized Tariff Schedule (HTS) classifications of steel imports, the country where the steel used in the manufacture of the product was melted and poured; the country where the steel used in the manufacture of the product was melted and poured applies to the original location where the raw steel is first produced in a steel-making furnace in a liquid state; and then poured into its first solid shape.

For certain HTS classifications of aluminum imports, the countries where the largest and second largest volume of primary aluminum used in the manufacture of the imported aluminum product was smelted; and the country where the aluminum used in the imported aluminum product was most recently cast. The fields requiring identification of the countries where the largest volume of primary aluminum used in the manufacture of the product was smelted applies to the country where the largest volume of new aluminum metal is produced from alumina (or aluminum oxide) by the electrolytic Hall-Héroult process. Importers may be required to report if primary aluminum from specific countries is used in the imported aluminum product, if required by law and/or Presidential Proclamation.¹

¹ The February 24, 2023 Presidential Proclamation on Adjusting Imports of Aluminum Into the United States requires importers to provide to CBP information necessary to identify the

Importers will be required to report on the Form 7501 the steel country of melt and pour and aluminum countries of smelt and cast for imports under those steel and aluminum HTS classifications subject to the Commerce Department's steel and aluminum import license applications, and where applicable, the Section 232 steel and aluminum measures.

These data fields will substantially align the Form 7501 reporting requirements with the Commerce Department's existing reporting requirements for steel melt and pour and aluminum smelt and cast countries for steel and aluminum import license applications under 19 CFR 360.103(c)(1) and 19 CFR 361.103(c)(1). The aluminum and steel license application information is used by the Commerce Department for monitoring of anticipated imports of certain aluminum and steel products into the United States. The Form 7501 data is used by CBP to determine, when imports are entered for consumption, the proper amount of duties, applicable fees, taxes, and imports subject to quota.

These data fields are also required to enforce the tariff rate quotas for imported steel and aluminum established by the following Presidential Proclamations under section 232 of the Trade Expansion Act of 1962, as amended: for products of the European Union, Proclamation 10327 of December 27, 2021 (87 FR 1, January 3, 2022) and Proclamation 10328 of December 27, 2021 (87 FR 11, January 3, 2022); for products of Japan (steel-only), Proclamation 10356 of March 31, 2022 (87 FR 19351, April 1, 2022); and for products of the United Kingdom, Proclamation 10405 of May 31, 2022 (87 FR 33583, June 3, 2022) and Proclamation 10406 of May 31, 2022 (87 FR 33591, June 3, 2022); and any amendments to these Proclamations.

New Changes: Updates to the form 7501 instructions have been made; changes listed specifically in the supporting statement document.

Type of Information Collection: 7501 Formal Entry (Electronic submission).

Estimated Number of Respondents: 2,336.

Estimated Number of Annual Responses per Respondent: 9,903.

Estimated Number of Total Annual Responses: 23,133,408.

countries where the primary aluminum used in the manufacture of certain imports of aluminum articles are smelted and information necessary to identify the countries where such aluminum articles imports are cast. This notice proposes to add the aluminum smelt and cast data fields to Form 7501 independently from the February 24, 2023 Proclamation.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 1,920,073.

Type of Information Collection: 7501 Formal Entry (Paper Submission).

Estimated Number of Respondents: 28.

Estimated Number of Annual Responses per Respondent: 9,903.

Estimated Number of Total Annual Responses: 277,284.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 92,336.

Type of Information Collection: 7501 Formal Entry w/Softwood Lumber Act of 2008 (Paper Only).

Estimated Number of Respondents: 210.

Estimated Number of Annual Responses per Respondent: 1,905.

Estimated Number of Total Annual Responses: 400,050.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 266,433.

Type of Information Collection: 7501 Informal Entry (Electronic Submission).

Estimated Number of Respondents: 1,883.

Estimated Number of Annual Responses per Respondent: 2,582.

Estimated Number of Total Annual Responses: 4,861,906.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 403,538.

Type of Information Collection: 7501 Informal Entry (Paper Submission).

Estimated Number of Respondents: 19.

Estimated Number of Annual Responses per Respondent: 2,582.

Estimated Number of Total Annual Responses: 49,058.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 12,265.

Type of Information Collection: 7501A Document/Payment Transmittal (Paper Only).

Estimated Number of Respondents: 20.

Estimated Number of Annual Responses per Respondent: 60.

Estimated Number of Total Annual Responses: 1,200.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 300.

Type of Information Collection: Exclusion Approval Information Letter.

Estimated Number of Respondents: 5,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 5,000.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 250.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2025-18849 Filed 9-26-25; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651-0027]

Agency Information Collection Activities; Extension; Record of Vessel Foreign Repair or Equipment Purchase.

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than November 28, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0027 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:
Email. Submit comments to: CBP_PRA@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via

email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Record of Vessel Foreign Repair or Equipment Purchase.

OMB Number: 1651-0027.

Form Number: 226.

Current Actions: Extension.

Type of Review: Extension (with/ change).

Affected Public: Businesses.

Abstract: 19 U.S.C. 1466(a) provides for a 50 percent *ad valorem* duty assessed on a vessel master or owner for any repairs, purchases, or expenses incurred in a foreign country by a commercial vessel registered in the United States. CBP Form 226, Record of Vessel Foreign Repair or Equipment Purchase, is used by the master or owner of a vessel to declare and file entry on equipment, repairs, parts, or materials purchased for the vessel in a

foreign country. This information enables CBP to assess duties on these foreign repairs, parts, or materials. CBP Form 226 is provided for by 19 CFR 4.7 and 4.14 and is accessible at: <https://www.cbp.gov/document/forms/form-226-record-vessel-foreign-repair-or-equipment-purchase>.

This form is being utilized as part of the Vessel Entrance and Clearance System Public Test which has been very successful. CBP is considering regulatory change to move the test into a requirement.

Type of Information Collection: Form 226.

Estimated Number of Respondents: 303.

Estimated Number of Annual Responses per Respondent: 35.

Estimated Number of Total Annual Responses: 10,605.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 21,210.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2025-18846 Filed 9-26-25; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651-0124]

Agency Information Collection Activities; Extension; Transport Under Customs Seal

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than November 28, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0124 in

the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

Email. Submit comments to: CBP_PRA@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Transport under Customs Seal.

OMB Number: 1651-0124.

Form Number: N/A.

Current Actions: Extension.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: The United States is a signatory to several international Customs conventions governing cargo container and road vehicle certification procedures that specify the technical requirements that containers and road vehicles must meet to be acceptable for transport under Customs seal. U.S. Customs and Border Protection (CBP) has the responsibility of administering the procedures within Title 19, Part 115 for the purpose of certifying U.S.-manufactured containers and road vehicles for use in international transport under Customs seal. The certification process involves container and road vehicle manufacturers, owners, or operators submitting applications for approval to the certifying authorities (the entities designated in 19 CFR 115.6: The American Bureau of Shipping; International Cargo Gear Bureau, Inc.; The National Cargo Bureau, Inc.). Applications to request certification approval from the above-mentioned certifying authorities are submitted directly to these organizations on the appropriate forms (*i.e.*, that are created by the organizations themselves). The certification process is voluntary for manufacturers, and therefore Part 115 does not require certification of said container and road vehicles. A certification of compliance facilitates the efficient movement of containers and road vehicles across international territories. The procedures for obtaining a certification of a container or vehicle are set forth in 19 CFR part 115.

The respondents to this information collection are members of the trade community who are familiar with CBP regulations.

Type of Information Collection: Cargo Container/Vehicle Certification.

Estimated Number of Respondents: 25.

Estimated Number of Annual Responses per Respondent: 120.

Estimated Number of Total Annual Responses: 3,000.

Estimated Time per Response: 3.5 hours.

Estimated Total Annual Burden Hours: 10,500.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.
[FR Doc. 2025-18853 Filed 9-26-25; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651-0100]

Agency Information Collection Activities; Extension; Petition for Remission or Mitigation of Forfeitures and Penalties Incurred

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than November 28, 2025) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0100 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

Email. Submit comments to: CBP_PRA@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written

comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Petition for Remission or Mitigation of Forfeitures and Penalties Incurred.

OMB Number: 1651-0100.

Form Number: 4609.

Current Actions: Extension.

Type of Review: Extension (without change).

Affected Public: Individuals and Businesses.

Abstract: CBP Form 4609, *Petition for Remission of Forfeitures and Penalties Incurred*, is completed, and filed with the CBP FPF Officer designated in the notice of claim by individuals who have been found to be in violation of one or more provisions of the Tariff Act of 1930, or other laws administered by CBP. Persons who violate the Tariff Act of 1930, or other laws administered by CBP, are entitled to file an administrative petition seeking remission or mitigation of a fine, penalty, or forfeiture incurred under these laws. This petition is submitted on CBP Form 4609. The information provided on this form is used by CBP personnel as a basis for granting relief from forfeiture or penalty. CBP Form 4609 is authorized by 19 U.S.C. 1618 and provided for by 19 CFR 171.1. It is accessible at: <https://www.cbp.gov/newsroom/publications/forms?title=4609>.

This collection of information applies to members of the public who may not be familiar with import procedures and CBP regulations. It may also be used by

the importing and trade community who are familiar with import procedures and with the CBP regulations.

Type of Information Collection: CBP Form 4609.

Estimated Number of Respondents: 1,610.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 1,610.

Estimated Time per Response: 14 minutes.

Estimated Total Annual Burden Hours: 376.

Seth D. Renkema,
Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.
[FR Doc. 2025–18855 Filed 9–26–25; 8:45 am]
BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2025–N022;
FXES11130100000–256–FF01E00000]

Endangered Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation and survival of endangered species under the Endangered Species Act (ESA). We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing the requested permits, we will take into consideration any

information that we receive during the public comment period.

DATES: We must receive your written comments on or before October 29, 2025.

ADDRESSES:

Document availability and comment submission: Submit a request for copies of the applications and related documents and submit any comments by one of the following methods. All requests and comments should specify the applicant name and application number (e.g., Dana Ross, ES001705):

- *Email:* permitsR1ES@fws.gov.
- *U.S. Mail:* Tanya Sommer, Threatened and Endangered Species Program Manager, Ecological Services, U.S. Fish and Wildlife Service, Pacific Regional Office, 911 NE 11th Avenue, Portland, OR 97232–4181.

FOR FURTHER INFORMATION CONTACT: Karen Colson, Regional Recovery Permit Coordinator, Ecological Services, (503) 231–6283 (telephone); permitsR1ES@fws.gov (email). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would allow the applicants to conduct activities intended to promote recovery of a species listed as endangered under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA’s definition of “take” includes such activities as pursuing, harassing, trapping, capturing, or collecting, in addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing the requested permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

Application No.	Applicant, city, state	Species	Location	Take activity	Permit action
PER10883533	Sea Life Park, Waimanalo, HI.	Hawksbill sea turtle (<i>Eretmochelys imbricata</i>).	Hawai'i	Receive unreleasable individuals; handle, hold, collect biometrics; maintain in captivity for education and outreach; transport; and salvage.	New.
PER19353559	Maui Ocean Center Marine Institute, Wailuku, HI.	Hawksbill sea turtle (<i>Eretmochelys imbricata</i>), Leatherback sea turtle (<i>Dermochelys coriacea</i>), and Loggerhead sea turtle (<i>Caretta caretta</i>).	Hawai'i	Survey; capture, measure, weigh, biosample, mark/tag, ultrasound, lavage; transport; rehabilitate; outreach and education; hold compromised hatchlings; release; necropsy; and salvage.	New.

Application No.	Applicant, city, state	Species	Location	Take activity	Permit action
ES702631	U.S. Fish and Wildlife Service, Pacific Regional Office, Portland, Oregon.	All species under the jurisdiction of the Pacific Regional Office. Lists of species for each of the applicable locations (see Location column in this table) can be found at the following website: https://ecos.fws.gov/ecp/report/species-listings-by-state-to-tals?statusCategory=Listed .	American Samoa, Guam, Northern Mariana Islands, Outlying Pacific Islands, Hawaii, Idaho, Oregon, and Washington.	Ecological studies and recovery actions, including survey, capture, handle, mark, monitor, collect, propagate, release, and outplant.	Renew with changes.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue a permit to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Tanya Sommer,

Threatened and Endangered Species Program Manager, Pacific Region.

[FR Doc. 2025-18844 Filed 9-26-25; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

Geological Survey

[Docket No. USGS-2025-0105; OMB Control Number 1028-0132; GX19ZQ00G402A00]

Agency Information Collection Activities; ShakeAlert

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA), the U.S. Geological Survey (USGS) is proposing an extension to an existing information collection for approval by the Office of Management and Budget (OMB).

DATES: Interested persons are invited to submit comments on or before November 28, 2025.

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

■ **Internet:** <https://www.regulations.gov>. Search for and submit comments on Docket No. USGS-2025-0105.

■ **U.S. Mail:** USGS, Information Collections Clearance Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192.

You may view this information collection request (ICR) at <http://www.reginfo.gov/public/do/PRAMain>.

FOR FURTHER INFORMATION CONTACT:

Robert M. de Groot by email at rdegroot@usgs.gov or by telephone at 626-583-7225. 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: In accordance with the PRA of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How the agency might minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: This information is being collected for the purposes of understanding 1) the continued feasibility of ShakeAlert-powered alerts through the wireless emergency alerts via the Integrated Public Alerts and Warning System (IPAWS) managed by the Federal Emergency Management Agency, and 2) the latency of transmissions in California, Oregon, and Washington. This collection is critical to determine technological latencies of ShakeAlert notifications through IPAWS. Better understanding is required to know how much time people will have to take protective actions once they receive an alert. Further, knowledge of where the

latencies exist, and why, can help us improve and streamline our systems. This involves live testing of the system with a population reporting back to us.

Title of Collection: ShakeAlert.

OMB Control Number: 1028–0132.

Form Number: None.

Type of Review: Extension of a currently approved OMB control number.

Respondents/Affected Public:

Individual households.

Total Estimated Number of Annual Respondents: 1,000.

Total Estimated Number of Annual Responses: 1,000.

Estimated Completion Time per Response: 7 minutes.

Total Estimated Number of Annual Burden Hours: 117.

Respondent's Obligation: Voluntary.

Frequency of Collection: Bi-annually.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor, nor is a person required to respond to, a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Allison Faris,

Deputy Center Director, Southwest Region.

[FR Doc. 2025–18888 Filed 9–26–25; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; #O2412–014–004–047181.1]

Filing of Plats of Survey, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file plats of survey 30-calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming. These surveys, which were executed at the request of the U.S. Forest Service, the Bureau of Reclamation, and the BLM are necessary for the management of these lands.

DATES: Protests must be received by the BLM no later than October 29, 2025, which is the date of official filing.

ADDRESSES: You may submit written protests to the Wyoming State Director at WY926, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT:

Jeremy D. Davis, Acting BLM Wyoming Chief Cadastral Surveyor, by telephone at 307–775–6467 or by email at j65davis@blm.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 for contacting Mr. Davis. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the BLM Wyoming State Office, Cheyenne, Wyoming.

Sixth Principal Meridian, Wyoming

T. 49 N., R. 87 W., Group No. WY1088, dependent resurvey, accepted March 25, 2025.

T. 15 N., R. 86 W., Group No. WY1081, dependent resurvey, accepted March 31, 2025.

T. 46 N., R. 85 W., Group No. WY1050, dependent resurvey and survey, accepted April 15, 2025.

T. 42 N., R. 85 W., Group No. WY1100, dependent resurvey and survey, accepted June 24, 2025.

Sixth Principal Meridian, Nebraska

T. 22 N., R. 26 W., Group No. NE0193, dependent resurvey and survey, accepted March 28, 2025.

A person or party who wishes to protest one or more plats of survey identified in this notice must file a written notice of protest with the Wyoming State Director by the date in the **DATES** section above and at the address in the **ADDRESSES** section above. Any notice of protest received after the scheduled date of official filing will be untimely and will not be considered. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director within 30-calendar days after the notice of protest is filed.

If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your

entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Copies of the preceding described plat and field notes are available to the public at a cost of \$4.20 per plat and \$0.15 per page of field notes. Requests can be made to blm_wy_survey_records@blm.gov or by telephone at 307–775–6222.

(Authority: 43 U.S.C. chapter 3.)

Jeremy D. Davis,

Acting Chief Cadastral Surveyor of Wyoming.

[FR Doc. 2025–18839 Filed 9–26–25; 8:45 am]

BILLING CODE 4331–26–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; #O2412–014–004–047181.1; OROR106392649]

Application for Withdrawal and Opportunity for Public Meeting, Whitehorse Ranch Project, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of withdrawal application.

SUMMARY: The United States Department of the Air Force (DAF), has filed an application with the Bureau of Land Management (BLM) requesting that the Secretary of the Interior withdraw 4,988 acres of public lands from settlement, sale, location, and entry under the general land laws, including the United States mining laws, mineral and geothermal leasing laws, for 20 years—subject to valid existing rights—and reserve the lands for use of the DAF for military purposes. The DAF has also requested that the Secretary transfer administrative jurisdiction over these lands to the Secretary of the Air Force.

DATES: Comments and requests for a public meeting must be received by December 29, 2025.

ADDRESSES: All comments and meeting requests should be sent to the BLM Oregon/Washington State Director, 1220 SW 3rd Ave., Portland, Oregon 97204. The application and case file are available for public examination by interested persons by appointment at the BLM Public Room, 1220 SW 3rd Ave., 11th Floor, Portland, Oregon 97208 during regular business hours 9:00 a.m. to 3:30 p.m., Monday through Friday except holidays. Please call 503–808–6001 to make an appointment.

FOR FURTHER INFORMATION CONTACT:

Luke Poff, Realty Specialist, BLM Oregon/Washington State Office by telephone: 503-808-6249; email: lpoff@blm.gov, or at the address noted above in the **ADDRESSES** section. Individuals in the United States who are deaf, blind, 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 DAF requests this withdrawal for the purpose of constructing, operating, and maintaining the Homeland Defense Over the Horizon Radar receiver site facilities. **Federal Register** publication of this notice temporarily segregates the lands from settlement, sale, location, or entry under the general land laws, including the United States mining laws, and from leasing under the mineral and geothermal leasing laws, for 2 years, subject to valid existing rights. This notice also advises the public of a 90-day opportunity to comment and to request a public meeting on the withdrawal application.

The following described lands are the subject of the DAF's withdrawal application: A parcel of land situated in T. 35 S., R. 37 E., secs. 35 and 36, and T. 36 S., R. 37 E., secs. 1, 2, 10 thru 16, and 21 thru 25, Willamette Meridian, Malheur County, Oregon, more particularly described as follows:

Beginning at the cor. of secs. 2, 3, 34, and 35, on the N. bdy. of T. 36 S., R. 37 E., the Point of Beginning;

thence along the line bet. secs. 2 and 35, N. 88°21'02" E., 2645.10 feet, to the ¼ sec. cor. of secs. 2 and 35, on the N. bdy. of T. 36 S., R. 37 E.;

thence along the N. and S. center line of sec. 35, T. 35 S., R. 37 E., N. 1°40'46" W., 1251.23 feet;

thence leaving said center line, S.

69°37'52" E., 4859.85 feet;

thence S. 20°23'07" W., 1810.97 feet;

thence S. 69°37'49" E., 4432.97 feet, to the line bet. secs. 1 and 6, on the E. bdy. of T. 36 S., R. 37 E.;

thence along the line bet. secs. 1 and 6, and the line bet. secs. 7 and 12, on the E. bdy. of T. 36 S., R. 37 E., S. 1°38'38" E., 2085.14 feet;

thence leaving said section line, S. 9°46'58" W., 1786.00 feet;

thence S. 30°09'28" W., 2256.31 feet;

thence S. 61°50'42" W., 644.30 feet, to the easterly boundary of a corridor for a road to be built;

thence along said corridor boundary, S. 3°38'33" E., 2885.44 feet;

thence leaving said corridor boundary, S. 48°32'42" E., 247.68 feet;

thence S. 3°29'21" E., 474.32 feet;

thence S. 11°31'39" W., 629.15 feet, to the southeasterly boundary of a corridor for a road to be built;

thence along said corridor boundary, S. 35°00'12" W., 3184.73 feet, to the easterly boundary of another corridor for a different road to be built;

thence along said corridor boundary the following twelve (12) courses and distances:

1. S. 19°59'48" E., 638.89 feet, to Whitehorse Ranch Road, more or less;
 2. S. 5°43'23" W., 493.82 feet;
 3. S. 11°15'55" E., 283.63 feet;
 4. S. 3°37'23" W., 277.03 feet;
 5. S. 38°21'53" W., 322.25 feet;
 6. S. 28°16'39" W., 195.78 feet;
 7. S. 2°44'31" W., 1310.65 feet;
 8. S. 17°36'03" E., 631.67 feet;
 9. S. 10°16'55" E., 608.49 feet;
 10. S. 12°03'06" E., 355.49 feet;
 11. S. 23°25'30" E., 2412.99 feet;
 12. S. 31°58'15" E., 792.25 feet;
- thence leaving said corridor boundary, N. 72°27'16" E., 222.41 feet;
- thence S. 17°32'44" E., 370.63 feet;
- thence S. 72°27'16" W., 48.58 feet;
- thence S. 17°32'44" E., 112.67 feet;
- thence S. 72°27'16" W., 287.21 feet;
- thence N. 17°32'44" W., 422.31 feet, to the westerly boundary of a corridor for a road to be built;

thence along said corridor boundary the following eighteen (18) courses and distances:

1. N. 31°58'15" W., 832.40 feet;
2. N. 23°25'30" W., 711.50 feet;
3. N. 26°46'11" W., 120.68 feet;
4. N. 25°25'10" W., 211.77 feet;
5. N. 23°23'38" W., 346.30 feet;
6. N. 23°53'57" W., 627.49 feet;
7. N. 20°45'44" W., 417.84 feet;
8. N. 12°03'06" W., 369.86 feet;
9. N. 10°13'54" W., 605.36 feet;
10. N. 17°40'51" W., 643.26 feet;
11. N. 2°44'31" E., 1361.40 feet;
12. N. 28°16'39" E., 235.14 feet;
13. N. 38°21'53" E., 294.23 feet;
14. N. 3°39'31" E., 219.02 feet;
15. N. 11°09'36" W., 290.52 feet;
16. N. 7°27'49" E., 198.79 feet;
17. N. 19°59'48" W., 276.93 feet, to Whitehorse Ranch Road, more or less;
18. N. 19°59'48" W., 590.06 feet, to the southwesterly boundary of another corridor for a different road to be built;

thence along said corridor boundary the following three (3) courses and distances:

1. N. 74°59'48" W., 1267.48 feet;
 2. N. 33°52'25" W., 1272.58 feet;
 3. N. 69°28'16" W., 514.92 feet;
- thence leaving said corridor boundary, S. 58°44'03" W., 234.53 feet;
- thence N. 69°36'52" W., 1746.62 feet;
- thence S. 20°23'08" W., 2189.40 feet;
- thence S. 69°36'23" E., 514.00 feet;
- thence S. 20°23'08" W., 1743.40 feet;
- thence S. 86°05'22" W., 1811.42 feet;
- thence N. 46°53'52" W., 538.28 feet;
- thence N. 70°20'18" W., 1101.79 feet;

thence N. 60°54'06" W., 674.46 feet;

thence N. 69°36'52" W., 3231.46 feet;

thence N. 44°51'34" W., 442.83 feet;

thence N. 69°39'36" W., 1831.86 feet;

thence N. 20°11'03" E., 4857.41 feet, to the line bet. secs. 9 and 16, T. 36 S., R. 37 E.;

thence along said section line, N. 88°21'21" E., 383.58 feet, to the cor. of secs. 9, 10, 15, and 16, T. 36 S., R. 37 E.;

thence along the line bet. secs. 9 and 10, N. 1°39'59" W., 5309.62 feet, to the cor. of secs. 3, 4, 9, and 10, T. 36 S., R. 37 E.;

thence along the line bet. secs. 3 and 10, N. 88°17'41" E., 5276.06 feet, to the cor. of secs. 2, 3, 10, and 11, T. 36 S., R. 37 E.;

thence along the line bet. secs. 2 and 3, N. 1°12'12" W., 5291.75 feet, to the cor. of secs. 2, 3, 34, and 35, on the N. bdy. of T. 36 S., R. 37 E., the Point of Beginning.

Containing 4,988 acres of land, more or less.

Basis of Bearing: GIS.

The use of a right-of-way, interagency agreement, or cooperative agreement would not adequately constrain non-discretionary uses which could impede DAF's construction, operating, and maintenance of the radar systems.

The DAF will satisfy water requirements by constructing two on-site groundwater wells, adjacent to each water supply building. A third well is required for backup.

The DAF identified, visited, and surveyed 16 potential sites in the region and found there are no suitable alternative sites based on the DAF's seven siting criteria areas (Mission, Schedule, Acquisition, Electromagnetic environment, Environmental impacts, Construction, and Supportability).

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the withdrawal application may present their views in writing to the BLM Oregon/Washington State Director at the address listed above in the **ADDRESSES** section.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives of officials of organizations or businesses, will be made available for public inspection in their entirety.

This withdrawal application will be processed in accordance with the

regulations set forth in 43 CFR part 2300.

(Authority: 43 U.S.C. 1714.)

Dustin Webster-Wharton,

Branch Chief—Land, Mineral, & Energy Resources.

[FR Doc. 2025–18832 Filed 9–26–25; 8:45 am]

BILLING CODE 4331–24–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N6564; NPS–WASO–NAGPRA–
NPS0041188; PPWOCRADNO–
PCU00RP14.R50000]

Notice of Inventory Completion: California Department of Transportation, Oakland, CA

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California Department of Transportation (Caltrans) has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between the associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the associated funerary objects in this notice may occur on or after October 29, 2025.

ADDRESSES: Send written requests for repatriation of the associated funerary objects in this notice to Lindsay Busse and Althea Asaro, PQS Principal Investigators—Prehistoric Archaeology, California Department of Transportation, District 4, 111 Grand Avenue, Oakland, CA 94612, email lindsay.busse@dot.ca.gov and Althea.Asaro@dot.ca.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Caltrans, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

The 1,830 associated funerary objects are catalog entries representing lithics, soil samples, clay, charcoal, faunal remains, shell and beads; of the 1,830 associated funerary object catalogs, 83 catalog numbers are missing and

Caltrans and Sonoma State University (SSU) and San Francisco State University (SFSU) continue to look for them. These collections are primarily the result of archaeological investigations along Highway 101 in Novato in Marin County for Caltrans improvement projects between 1966 and 2005 at archaeological site CA–MRN–192 (Acc. #47–0 & 2005–3). There were known/documented potentially hazardous substances in the SFSU facility where cultural items were previously housed, which may have contaminated the housing (bags/boxes). This is currently remediated with personal protective equipment (PPE), but through consultation, the housing may be replaced before the transfer of custody.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the associated funerary objects described in this notice.

Determinations

Caltrans has determined that:

- The 1,830 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between associated funerary objects described in this notice and the Federated Indians of Graton Rancheria, California.

Requests for Repatriation

Written requests for repatriation of the associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the associated funerary objects described in this notice to a requestor may occur on or after October 29, 2025. If competing requests for repatriation are received, Caltrans must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the associated funerary objects are considered a single request and not competing requests.

Caltrans is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: September 18, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025–18860 Filed 9–26–25; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–41030;
PPWOCRADIO, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before August 23, 2025, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by October 14, 2025.

ADDRESSES: Comments are encouraged to be submitted electronically to National_Register_Submissions@nps.gov with the subject line “Public Comment on >property or proposed district name, (County) State>.” If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 2013, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 2013, Washington, DC 20240, sherry_frear@nps.gov, 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before August 23, 2025. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other

personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

Key: State, County, Property Name, Multiple Name (if applicable), Address/Boundary, City, Vicinity, Reference Number.

ARIZONA

Cochise County

Warren Historic District, Generally bounded by Bisbee Road and Cole Avenue to the North, Adsit Street to the east and south, and Central Avenue to the west. Bisbee, SG100012280

CALIFORNIA

Los Angeles County

Los Angeles County Law Library, 301 W 1st Street, Los Angeles, SG100012283

San Francisco County

Huntington Hotel, 1075 California Street, San Francisco, SG100012288

Sonoma County

Railroad Square District (Boundary Decrease), Bounded by Third, Davis, Wilson, Fifth and Sixth Streets and the Santa Rosa Creek, Santa Rosa, BC100012291

IDAHO

Shoshone County

Nine Mile Cemetery, (Metal Mining in Idaho (1860–1977) MPS), 1001 Nine Mile Creek Road, Wallace vicinity, MP100012276

ILLINOIS

Iroquois County

Watseka Downtown Historic District, Roughly bound by First, Oak, Walnut, Fifth, and Union Pacific Railroad, Watseka, SG100012297

MASSACHUSETTS

Worcester County

Academy Street Educational Historic District, 62, 82, and 98 Academy Street; 0 Elm Street; 0 Wallace Way, Fitchburg, SG100012289

MISSISSIPPI

Jefferson County

Hystercine Rankin House, 341 Rankin Road, Lorman vicinity, SG100012287

MISSOURI

St. Louis County

The Van Raalte Residence, 440 Hunter's Hill Drive, Chesterfield, SG100012284

NEBRASKA

Dodge County

St. Charles Borromeo Catholic Church, 740 Locust St., North Bend, SG100012278

NEW JERSEY

Middlesex County

Perth Amboy Public Library, 196 Jefferson Street, Perth Amboy City, SG100012279

PENNSYLVANIA

Allegheny County

Pitcairn School #1, (Educational Resources of Pennsylvania MPS), 580–582 Sixth Street (intersection of Sixth Street and Highland Ave.), Pitcairn Borough, MP100012293

SOUTH CAROLINA

Anderson County

Pelzer Community Building, 30 Pelzer Park Street, Pelzer, SG100012300

Greenville County

Earle-Morgan Cabin at Clark's Mountain, 335 Clark's Mountain Road, Landrum vicinity, SG100012294

Lancaster County

Whitfield Hotel, 118 East Marion Street, Kershaw, SG100012299

Laurens County

Owings Historic District, Portions of N Old Laurens Rd., SC Hwy. 14 Quarry Rd., Friendship Church Rd., Bragg Rd., and Depot Rd., Owings, SG100012281

Williamsburg County

Kingstree Historic District (Boundary Increase), (Kingstree MRA), E Mill St., Hampton Ave., N Main St., S Main St., N Academy St., S Academy St., Kingstree, BC100012295

TEXAS

Bexar County

Bellinger, Charles V., House; and Greater Corinth Baptist Church and Community Center, 500–522 S New Braunfels Ave., San Antonio, SG100012298

VIRGINIA

Bedford County

Poplar Forest (Boundary Decrease and Boundary Increase), 1776 Poplar Forest Parkway, Lynchburg vicinity, BC100012286

An owner objection received for the following resource(s):

ARIZONA

Maricopa County

Tal'-Wi-Wi Ranch, 9801 N Litchfield Rd and 9816 N. Litchfield Rd., El Mirage vicinity, RS100011259

Additional documentation has been received for the following resource(s):

CALIFORNIA

Sonoma County

Railroad Square District (Additional Documentation), Bounded by Third, Davis,

Wilson, Fifth and Sixth Streets and the Santa Rosa Creek, Santa Rosa, AD79000561

OHIO

Monroe County

Knowlton Covered Bridge (Additional Documentation), N of Rinards Mills on SR 387–A, Rinards Mills vicinity, AD80003165

SOUTH CAROLINA

Williamsburg County

Kingstree Historic District (Additional Documentation), (Kingstree MRA), Main, Hampton and Academy Sts., Kingstree, AD82003906

VIRGINIA

Bedford County

Poplar Forest (Additional Documentation), S of jct. of Rtes. 661 and 460, Lynchburg vicinity, AD69000223

(Authority: Section 60.13 of 36 CFR part 60)

Sherry A. Frear,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

[FR Doc. 2025–18802 Filed 9–26–25; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N6569; NPS–WASO–NAGPRA–NPS0041193; PPWOCRADNO–PCU00RP14.R50000]

Notice of Intended Repatriation: Haffenreffer Museum of Anthropology, Brown University, Bristol, RI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Haffenreffer Museum of Anthropology, Brown University (HMA) intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after October 29, 2025.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Kellie Bowers, Brown University, Haffenreffer Museum of Anthropology, 300 Tower Street, Bristol, RI 02889, email kellie_bowers@brown.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The

determinations in this notice are the sole responsibility of the HMA, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of four cultural items have been requested for repatriation. The four unassociated funerary items are one lot of pyrite and other stones, one lot of pigment, one possible clay vessel, and one lot of lithics including adzes, blades, celts, flakes, gouges, hammerstones, hoes, knives, mortars, pendants, pestles, plummets, polishing stones, projectile points, scrapers, sinkers, smoothers, weights, and whetstones. These items were removed from multiple burials from at least nine locations in Maine. Many were excavated under the supervision of Warren K. Moorehead in the first half of the 20th century.

Determinations

The HMA has determined that:

- The four unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Houlton Band of Maliseet Indians; Mi'kmaq Nation (*previously* listed as Aroostook Band of Micmacs); Passamaquoddy Tribe; and the Penobscot Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that

the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after October 29, 2025. If competing requests for repatriation are received, the HMA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The HMA is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: September 18, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025-18862 Filed 9-26-25; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[N6567; NPS-WASO-NAGPRA-NPS0041191; PPWOCRADNO-PCU00RP14.R50000]

Notice of Intended Repatriation: Sonoma State University, Rohnert Park, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Sonoma State University intends to repatriate certain cultural items that meet the definition of unassociated funerary objects, sacred objects, and/or objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after October 29, 2025.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Elise-Alexandria Green, Sonoma State University, 1801 East Cotati Avenue, Rohnert Park, CA 94928, email greeneli@sonoma.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the

sole responsibility of the Sonoma State University, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 1,846 cultural items have been requested for repatriation. Of the cultural items being requested 1,746 lots are unassociated funerary objects and 100 lots are sacred objects.

A total of 25 lots of unassociated funerary objects were donated to Sonoma State University by Robert Rausch in 1978. The items were removed from CA-MRN-0045 near Tiburon, California in Marin County. The items include flaked stone tools, debitage, ground stone tools, historic material, and unmodified faunal bone. The cultural items have been at Sonoma State University since their donation.

A total of four lots of sacred objects were removed from the Lawson's Landing, Jackson's site #4 in Dillon Beach, California in Marin County. No additional information was located on why the items were removed from the site. The cultural items include unmodified faunal bone and have been at Sonoma State University since 1981.

A total of one lot of sacred objects was removed from CA-MRN-151, California in Marin County. No additional information was located on why the items were removed from the site. The lot of items are flaked stone and have been at Sonoma State University since 1991.

A total of 11 lots of sacred objects were removed from CA-MRN-80, near San Rafael, California in Marin County. The items were removed for their location during a test augering project for the Marin County Water District. The items include flaked stone, debitage, unmodified faunal bone, and unmodified shell. The cultural items have been at Sonoma State University since 1991.

A total of 806 lots of unassociated funerary objects were removed from CA-MRN-673, in Tomales, California in Marin County. The cultural items were removed from the site during a cultural resource survey of the area by Tom Origer & Associates for the Tomales Village Community Services District. The purpose of the investigation was to determine if the site fit the criteria for the National Register of Historic Places or the California Register of Historic Places. The cultural items include flaked stone tools, debitage, ground stone tools, historic material,

unmodified faunal bone, and unmodified shell. The cultural items have been at Sonoma State University since 2006.

A total of 515 lots of unassociated funerary objects were removed from CA-MRN-150 in Novato, California in Marin County. These cultural items were removed from the site during a PG&E project to remove an abandoned segment of pipeline that laid within the northern boundary of the site. Recovery of the cultural items were collected to evaluate the site's eligibility for both California Register of Historical Resources and National Register of Historical Places. The items include flaked stone tools, debitage, ground stone tools, historic material, unmodified faunal bone, and unmodified shell. The cultural items have been at Sonoma State University since 2013.

A total of one lot of sacred objects was removed from the Russian River Marin Water Project in Marin County California. No additional information was located on why the cultural items were removed from the site. The lot of cultural items are flaked stone and have been at Sonoma State University since 1973.

A total of two lots of sacred objects were removed from the Point Reyes Beach Site located in Marin County California. No additional information was located on why the items were removed from the site. The cultural items are flaked stone and have been at Sonoma State University since 1976.

A total of one lot of sacred objects was removed from CA-MRN-372, near Bolinas, California in Marin County. No additional information was located on why the cultural items were removed from the site. The lot of cultural items are flaked stone and have been at Sonoma State University since 1984.

A total of 400 lots of unassociated funerary objects were removed from CA-MRN-124, near Santa Venetia, California in Marin County. All documentation for this collection was not located during inventory verification, so no additional information was available on why the cultural items were removed from the site. The cultural items include modified faunal bone, modified shell, charcoal, clay, flaked stone lithics, debitage, unmodified faunal bone, ground stone tools, gravel, historic material, modified flaked stone tools, organic/seeds, petrified wood, projectile points, unmodified shell, and soil. The cultural items have been at Sonoma State University since 1970.

A total of three lots of sacred objects were removed from CA-MRN-532 and

CA-MRN-534H, near San Rafael, California in Marin County. No additional information was available on why the items were removed from the site. The cultural items are unmodified faunal bone and unmodified shell and have been at Sonoma State University since 1986.

A total of 77 lots of sacred objects were removed from CA-MRN-601, near Novato, California in Marin County. No additional information was available on why the items were removed from the site. The lots of items are flaked stone debitage, unmodified faunal bone, and historic material and have been at Sonoma State University since 1992.

In the case of missing cultural items, any additional items when located will also be repatriated from the collections discussed above. Based on records concerning the cultural items and the institution in which they are housed, there is no evidence of the items being treated with hazardous substances.

Determinations

The Sonoma State University has determined that:

- The 1,746 unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- The 100 lots of sacred objects described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.

- There is a connection between the cultural items described in this notice and the Federated Indians of Graton Rancheria, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice

under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after October 29, 2025. If competing requests for repatriation are received, the Sonoma State University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Sonoma State University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: September 18, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025-18861 Filed 9-26-25; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Coal Mine Dust Sampling Devices

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Mine Safety and Health Administration (MSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 29, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Michael Howell by telephone at 202–693–6782, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION:

A Continuous Personal Dust Monitors (CPDM) determines the concentration of respirable dust in coal mines. A CPDM must be designed and constructed for coal miners to wear and operate without impeding their ability to perform their work safely and effectively, and must be durable to perform reliably in normal working conditions of coal mines. Paperwork requirements imposed on applicants are related to the application process and CPDM testing procedures. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 3, 2025 (90 FR 29577).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

Agency: DOL–MSHA.

Title of Collection: Coal Mine Dust Sampling Devices.

OMB Control Number: 1219–0147.

Affected Public: Private Sector.

Number of Respondents: 1.

Number of Responses: 1.

Annual Burden Hours: 41 hours.

Total Estimated Annual Other Costs Burden: \$301,810.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2025–18779 Filed 9–26–25; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Emergency Mine Evacuation

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Mine Safety and Health Administration (MSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 29, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Michael Howell by telephone at 202–693–6782, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: In support of 30 CFR parts 48 and 75 to improve the emergency evacuation and rescue in underground coal mines, these regulations include requirements for immediate accident notification applicable to all mines. In addition, they contain reporting and record keeping requirements for new and expanded training, including evacuation drills; self-contained self-rescuer (SCSR) storage, training, and use; and the installation and maintenance of lifelines in underground coal mines. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 3, 2025 (90 FR 29582).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the

collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

Agency: DOL–MSHA.

Title of Collection: Emergency Mine Evacuation.

OMB Control Number: 1219–0141.

Affected Public: Private Sector.

Number of Respondents: 150.

Number of Responses: 979,804.

Annual Burden Hours: 422,930 hours.

Total Estimated Annual Other Costs Burden: \$37,352.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2025–18775 Filed 9–26–25; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0048]

NSF International: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for NSF International, as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on September 29, 2025.

FOR FURTHER INFORMATION CONTACT:

Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and

Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693-1911; email: robinson.kevin@dol.gov. OSHA's web page includes information about the NRTL Program (see <http://www.osha.gov/dts/otpca/nrtl/index.html>).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition for NSF International (NSF), as a NRTL. NSF's expansion covers the addition of four test standards to the NRTL scope of recognition.

OSHA's recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables

employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including NSF, which details the NRTL's scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpca/nrtl/index.html>.

NSF submitted an application to OSHA for expansion of the NRTL scope of recognition on April 11, 2023 (OSHA-2006-0048-0019), requesting the addition of four standards to the NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform an on-site review in response to this application. OSHA staff preliminarily determined that OSHA should grant the application for test standard expansion.

OSHA published a **Federal Register** notice announcing NSF's application, preliminarily determining that OSHA should grant the application and soliciting public comment on July 24, 2025 (90 FR 34900). The agency requested comments by August 8, 2025, however no comments were received in response to this notice. OSHA is now proceeding with this expansion of NSF's NRTL scope of recognition.

To obtain or review copies of all public documents pertaining to the NSF expansion application, go to www.regulations.gov or contact the Docket Office at (202) 693-2350 (TTY (877) 889-5627. Docket No. OSHA-2006-0048 contains all materials in the record containing NSF's recognition.

II. Final Decision and Order

OSHA staff examined NSF's expansion application and examined other pertinent information. Based on review of this evidence, OSHA finds that NSF meets the requirements of 29 CFR 1910.7 for expansion of recognition, subject to the specified limitations and conditions. OSHA, therefore, is proceeding with this final notice to grant expansion of NSF's scope of recognition. OSHA limits the expansion of NSF's recognition to testing and certification of products for demonstration of compliance to the test standards listed below in Table 1.

TABLE 1—APPROPRIATE TEST STANDARDS FOR INCLUSION IN NSF'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 60335-1	Safety of Household and Similar Electrical Appliances, Part 1: General Requirements.
UL 60335-2-24	Safety Requirements for Household and Similar Electrical Appliances, Part 2: Refrigerating Appliances, Ice-Cream Appliances, and Ice-Makers.
UL 60335-2-89	Household and Similar Electrical Appliances-Safety-Part 2-89: Particular Requirements for Commercial Refrigerating Appliances with an Incorporated or Remote Refrigerant Unit or Compressor.
UL 61010-2-030 ...	Safety Requirements for Electrical Equipment for Measurement, Control, and Laboratory Use—Part 2-030: Particular Requirements for Testing and Measuring Circuits.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, NSF also must abide by the following conditions of the recognition:

1. NSF must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. NSF must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. NSF must continue to meet the requirements for recognition, including all previously published conditions on NSF's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of NSF as a NRTL, subject to the limitations and conditions specified above.

III. Authority and Signature

Amanda Laihow, Acting Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210,

authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7-2027 (90 FR 27878; June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on September 23, 2025.

Amanda Laihow,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2025-18777 Filed 9-26-25; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0025]

UL LLC: Application for Expansion of Recognition and Proposed Modification to the NRTL Program’s List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of UL LLC, for expansion of the scope of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency’s preliminary finding to grant the application. Additionally, OSHA proposes to add one test standard to the NRTL Program’s List of Appropriate Test Standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before October 14, 2025.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office. All documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA

docket number (OSHA–2009–0025). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at <http://www.regulations.gov>. Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Extension of comment period: Submit requests for an extension of the comment period on or before October 14, 2025 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–1911 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that UL LLC, (UL) is applying to expand the current recognition as a NRTL. UL requests the addition of one test standard to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR

1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL’s scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL’s scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by NRTLs or applicant organizations for initial recognition, as well as for expansion or renewal of recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL’s scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including UL, which details that NRTL’s scope of recognition. These pages are available from the OSHA website at <https://www.osha.gov/dts/otpc/nrtl/index.html>.

II. General Background on the Application

UL submitted an application, dated July 11, 2024 (OSHA–2009–0025–0074), to expand recognition to include one additional test standard. OSHA staff performed a detailed analysis of the application packet and other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1, below, lists the test standard found in UL’s application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED TEST STANDARD FOR INCLUSION IN UL’S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 3300 *	Service, Communication, Information, Education and Entertainment Robots—SCIEE Robots.

* In this notice, OSHA also proposes to add this test standard to the NRTL Program’s List of Appropriate Test Standards.

III. Proposal To Add a New Test Standard to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL Program's List of Appropriate Test Standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the agency evaluates the document to: (1) verify it represents a product category for which OSHA requires certification by a NRTL; (2) verify the document represents a product and not a component; and (3) verify the document defines safety test

specifications (not installation or operational performance specifications). OSHA becomes aware of new test standards through various avenues. For example, OSHA may become aware of new test standards by: (1) monitoring notifications issued by certain standards developing organizations; (2) reviewing applications by NRTLs or applicants seeking recognition to include new test standards in their scopes of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, government agencies, or other parties. OSHA may determine to include a new test standard in the list,

for example, if the test standard is for a particular type of product that another test standard also covers or it covers a type of product that no standard previously covered.

In this notice, OSHA proposes to add one new test standard to the NRTL Program's List of Appropriate Test Standards. Table 2, below, lists the test standard that is new to the NRTL Program. OSHA preliminarily determines that this test standard is an appropriate test standard. OSHA seeks public comment on this preliminary determination.

TABLE 2—STANDARD OSHA PROPOSES TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 3300	Service, Communication, Information, Education and Entertainment Robots—SCIEE Robots.

IV. Preliminary Findings on the Application

UL submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file and related material preliminarily indicates that UL can meet the requirements prescribed by 29 CFR 1910.7 for expanding recognition to include the addition of the test standard listed above for NRTL testing and certification. This preliminary finding does not constitute an interim or temporary approval of UL's application.

OSHA also preliminarily determined that the test standard listed above is an appropriate test standard.

OSHA seeks public comment on these preliminary determinations.

V. Public Participation

OSHA welcomes public comment as to whether UL meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL and whether the test standard listed above is an appropriate test standard that should be included in the NRTL Program's List of Appropriate Test Standards. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S.

Department of Labor. These materials also are generally available online at <https://www.regulations.gov> under Docket No. OSHA–2009–0025 (for further information, see the “Docket” heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner and after addressing the issues raised by these comments, make a recommendation to the Assistant Secretary for Occupational Safety and Health on whether to grant UL's application for expansion of its scope of recognition and to add the test standard listed above to the NRTL Program's List of Appropriate Test Standards. The Assistant Secretary will make the final decision on granting the application and on adding the test standard listed above to the NRTL Program's List of Appropriate Test Standards. In making these decisions, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

VI. Authority and Signature

Amanda Laihow, Acting Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7–2025 (90 FR 27878, June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on September 24, 2025.

Amanda Laihow,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2025–18778 Filed 9–26–25; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Agency Information Collection Activities; Comment Request; Claim for Reimbursement of Benefit Payments and Claims Expense Under the War Hazards Compensation Act; Correction

AGENCY: Division of Federal Employees' Compensation, Office of Workers' Compensation Programs, US Department of Labor.

ACTION: Request for public comments; correction.

SUMMARY: The Department of Labor (DOL) is correcting a notice that appeared in the **Federal Register** on September 10, 2025, at 90 FR 43642. The information provided in the Background section contained an error. DOL is issuing this correction to provide the correct information.

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs, Office of Workers' Compensation Programs, OWCP at suggs.anjanette@dol.gov (email); (202) 354–9660 (phone).

SUPPLEMENTARY INFORMATION: In FR Doc 2025–17326 appearing at 90 FR 436462 in the **Federal Register** of September 10, 2025, on page 43642 in the 1st column,

the following corrections are made to the Current Actions section:

Under “OWCP/DFEC Forms” a form was omitted. The Notice of Injury or Disease and Claim for Benefits under the War Hazards Compensation Act (WH-1) should have also been listed as a form added to this collection and the burden totals are corrected as below.

Currently, OWCP utilizes the CA-278 form for insurance carriers and self-insured to request reimbursement. The form is used for submission of reimbursement requests. While the form is also used for initial claim intake, it was not designed for this purpose. There is currently no adequate form for beneficiaries to file initial claims under the WHCA.

Under section 1701, the WHCA states that compensation for injury or death resulting from a war-risk hazard may be claimed by person covered as specified in this section of the WHCA. Section 1701 provides the authority to administer benefits for persons covered under the WHCA. The CA-278 form exists that allows insurance carriers or self-insured to claim reimbursements of benefits paid due to an injury or death resulting from a covered War Hazard under the WHCA.

To this end, the Department of Labor is proposing a new form allowing beneficiaries to file a claim under the WHCA. This new form, WH-1, will simplify the process of filing an initial claim for benefits and gather the necessary information to expedite claim decisions and reimbursements. The regulations under the WHCA and the FECA that support the creation of the new WH-1 form are also the regulations used to implement the existing CA-278 form. Therefore, the revision to the existing OMB Control No. 1240-0006 will include the new WH-1 form.

OMB Control Number: 1240-0006.

Number of Respondents: 14.

Number of Responses: 2,528.

Annual Burden Hours: 1,264 hours.

Annual Respondent or Recordkeeper Cost: \$5,840.00.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at <https://www.reginfo.gov>.

Anjanette Suggs,
Certifying Officer.

[FR Doc. 2025-18776 Filed 9-26-25; 8:45 am]

BILLING CODE 4510-CF-P

NATIONAL CREDIT UNION ADMINISTRATION

[NCUA-2025-0543]

The NCUA Staff Draft 2026-2027 Budget

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The NCUA’s staff draft “detailed business-type budget” is being made available for public review as required by federal statute. The proposed resources will finance the agency’s annual operations and capital projects, both of which are necessary for the agency to accomplish its mission of protecting the system of cooperative credit and its member-owners through effective chartering, supervision, regulation, and insurance. Comment instructions are included in the supplementary information section. The schedule for a public hearing about the budget will be announced in a future notice.

DATES: Written comments may be submitted by October 24, 2025.

ADDRESSES: You may submit written comments by October 24, 2025, through the Federal eRulemaking Portal: <https://www.regulations.gov>. The docket number is NCUA-2025-0543. Follow the instructions for submitting comments.

Copies of the NCUA Staff Draft 2026-2027 Budget and associated materials are also available on the NCUA website at <https://www.ncua.gov/About/Pages/budget-strategic-planning/supplementary-materials.aspx>.

FOR FURTHER INFORMATION CONTACT: Melissa M. Lowden, Acting Chief Financial Officer, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428, or telephone: (703) 518-1182.

SUPPLEMENTARY INFORMATION: The following itemized list details the sections in this Notice made available for public review:

- I. Introduction
- II. The NCUA Budget in Brief
- III. Key Themes of the Proposed 2026-2027 Budget
- IV. Operating Budget
- V. Capital Budget
- VI. Share Insurance Fund Administrative Budget
- VII. Financing the NCUA’s Programs
- VIII. Appendix: Supplemental Budget Information

Section 212 of the Economic Growth, Regulatory Relief, and Consumer Protection Act amended 12 U.S.C. 1789(b)(1)(A) to require the NCUA

Board (Board) to “on an annual basis and prior to the submission of the detailed business-type budget make publicly available and publish in the **Federal Register** a draft of the detailed business-type budget.” Although 12 U.S.C. 1789(b)(1)(A) requires publication of a “business-type budget” only for the agency operations arising under the Federal Credit Union Act’s subchapter on insurance activities, in the interest of transparency the Board is providing the NCUA’s entire staff draft budget for 2026-2027 in this Notice.

The staff draft budget details the resources required to support NCUA’s mission. The staff draft budget includes personnel and dollar estimates for three major budget components: (1) the Operating Budget; (2) the Capital Budget; and (3) the Share Insurance Fund Administrative Budget. The resources proposed in the staff draft budget are to carry out the agency’s operations in 2026 and 2027. This document is a draft, staff-level budget proposal made available to the NCUA Board members and the public for their consideration and comment. The NCUA Board directed the NCUA Executive Director to develop the staff draft budget under delegated authority. The staff draft budget may change based on public comments, Board member decisions, and staff’s ongoing consideration of estimates and programs that impact the budget.

The NCUA Chief Financial Officer will present the staff draft budget at a budget hearing open to the public, the schedule for which will be announced in a future notice.

Written comments on the staff draft budget will be accepted by October 24, 2025, through the Federal eRulemaking Portal: <https://www.regulations.gov>. The docket number is NCUA-2024-0543. Commenters should follow the portal instructions for submitting comments.

All comments should provide specific, actionable recommendations about the staff draft budget rather than general remarks. The NCUA Board will review and consider any comments from the public prior to approving the NCUA 2026-2027 budget.

By the National Credit Union Administration Board on September 25, 2025.

Melane Conyers-Ausbrooks,
Secretary of the Board.

I. Introduction

About the National Credit Union Administration (NCUA)

Created by the U.S. Congress in 1970, the National Credit Union Administration is a federal agency that

insures deposits at federally insured credit unions, protects the members who own credit unions, charters and regulates federal credit unions, and promotes widespread financial education and consumer protection. The NCUA protects the safety and soundness of the credit union system by identifying, monitoring, and reducing risks to the National Credit Union Share Insurance Fund. Backed by the full faith and credit of the United States, the Share Insurance Fund provides up to \$250,000 of federal share insurance to more than 142.3 million account holders in all federal credit unions and the overwhelming majority of state-chartered credit unions. No credit union member has ever lost a penny of share deposits insured by the Share Insurance Fund.

As of June 30, 2025, the NCUA regulates and supervises 4,370 federally insured credit unions, which have approximately 144 million members and more than \$2.4 trillion in assets across all states and U.S. territories.¹

Statutory Authority

Pursuant to the Federal Credit Union Act, the NCUA Board determines the resources needed for carrying out the NCUA's responsibilities under the Act.² The Board is authorized to expend such funds and perform such other functions or acts as it deems necessary or appropriate, according to the rules, regulations, or policies it establishes.³

The Federal Credit Union Act authorizes two primary sources to fund the NCUA: (1) Requisitions from the Share Insurance Fund "for such administrative and other expenses incurred in carrying out the purposes of [Title II of the Act] as [the Board] may determine to be proper" and (2) "fees and assessments (including income earned on insurance deposits) levied on insured credit unions under [the Act]." 12 U.S.C. 1783(a); 12 U.S.C. 1766(j)(3).⁴

Upon determination of the budgeted annual expenses for the agency's

operations, the Board determines an operating fee schedule to assess federal credit unions. The Board considers federal credit unions' ability to pay such a fee, and the necessity of the expenses that the NCUA will incur, in carrying out its responsibilities in connection with federal credit unions.⁵ These fees are assessed on federal credit unions once a year. Pursuant to the law, the NCUA deposits fees collected in the agency's Operating Fund at the Treasury of the United States, and those fees are expended by the Board to defray the cost of carrying out the agency's operations, including the examination and supervision of federal credit unions.⁶ In December 2023, the Board approved a notice with changes to its methodology for determining the operating fees due from federal credit unions.⁷

Pursuant to its authority to use the Share Insurance Fund to carry out its insurance-related responsibilities, the Board approved an Overhead Transfer Rate (OTR) methodology and authorized the Office of the Chief Financial Officer to transfer resources from the Share Insurance Fund to the Operating Fund to account for insurance-related expenses.⁸ The statutory requirement to annually publish a draft budget in the **Federal Register** and hold a public hearing on the budget is found in 12 U.S.C. 1789(b).

The NCUA's Annual Budget Process

Each year, all the directors of each component of the NCUA develop an initial budget request identifying the resources necessary, including the supporting justifications, for their office to support the agency's mission, goals, and objectives. This effort also includes a field-level review of every federally insured credit union to estimate the workload to carry out credit union examinations and supervision in the forthcoming year, which is translated into the cost of the staff and associated expenses. In addition to this workload

analysis, each NCUA office estimates its fixed and recurring expenses, such as for employee travel, rental payments for leased property, operations and maintenance for owned facilities or equipment, supplies, telecommunications services, major capital investments, and other administrative and contracted services costs.

The NCUA stands out as the only Financial Institutions Reform, Recovery, and Enforcement Act agency that releases a detailed draft budget and solicits public comments on it. As required by statute, before adopting a budget, the NCUA presents a draft budget to the public on the agency's website and in the **Federal Register**, allowing credit unions and the public to provide feedback to the Board on the budget. The Board also holds a public hearing on the draft budget.

The NCUA Board reviews the comments from the public and evaluates other considerations, including any direction from the Administration, in arriving at a final budget. The Board then approves the final budget. Once the budget is approved, the operating fees to be paid by federal credit unions to finance the agency's programs and the OTR are set for the first year of the two-year budget.

II. The NCUA Budget in Brief

Proposed 2026 and 2027 Budgets⁹

The NCUA's 2026–2027 staff draft budget includes three separate budgets: the Operating Budget, the Capital Budget, and the Share Insurance Fund Administrative Expenses Budget. Combined, these three proposed 2026 budgets total \$313.8 million, which is \$105.7 million (25.2 percent) lower than the \$419.5 million 2026 funding level approved by the NCUA Board as part of the two-year 2025–2026 budget. The three proposed 2026 budgets combined are \$81.6 million (20.6 percent) lower than the \$395.4 million 2025 budget.

¹ Source: NCUA quarterly call report data, second quarter 2025.

² See 12 United States Code (U.S.C.) 1752a.

³ See 12 U.S.C. 1766(i)(2).

⁴ The NCUA is not funded through the annual Congressional appropriations process.

⁵ See 12 U.S.C. 1755(a)–(b).

⁶ See 12 U.S.C. 1755(d).

⁷ See <https://www.federalregister.gov/d/2023-28303>.

⁸ See 12 U.S.C. 1783(a).

⁹ Budget information presented in this document excludes funding for the CLF, which has its own budget reviewed and decided upon separately by the CLF Board.

2026–2027 NCUA BUDGET RESOURCES							
Budget	2025 Board Approved Budget	2026 Requested Budget	Change (2025–2026)	Percent Change (2025–2026)	2027 Requested Budget	Change (2026–2027)	Percent Change (2026– 2027)
Operating Budget	\$ 382,329,000	\$ 292,356,000	\$ -89,973,000	-23.5%	\$ 321,020,000	\$ 28,664,000	9.8%
Capital Budget	\$ 7,369,000	\$ 18,128,000	\$ 10,759,000	146.0%	\$ 18,480,000	\$ 352,000	1.9%
Share Insurance Fund Admin. Budget	\$ 5,672,000	\$ 3,311,000	\$ -2,361,000	-41.6%	\$ 5,161,000	\$ 1,850,000	55.9%
Total	\$ 395,370,000	\$ 313,795,000	\$ -81,575,000	-20.6%	\$ 344,661,000	\$ 30,866,000	9.8%
Positions*	1,255	967	-288	-22.9%	967	—	0.0%

* Totals exclude positions funded in the Central Liquidity Fund.

There are three main drivers that contribute to the reduction in proposed 2026 budget levels compared to the NCUA's approved 2025 budget:

1. A 23 percent reduction to NCUA staffing levels, which generates a corresponding reduction to employee compensation budgets.

2. A 34 percent reduction to contracted services budgets, reflecting the NCUA's efforts to lower its total spending pursuant to the Administration's directives.

3. A 13 percent reduction in budgets for employee travel.

These reductions are partially offset by an increase in the NCUA's Capital Budget for 2026, which includes \$10.0 million for implementation of the NCUA's reorganization plan and investment in systems and process improvements that align with government efficiency goals and other Administration priorities.

Proposed 2027 Budget: \$344.7 Million

The proposed 2027 combined total for the three budgets for the NCUA is \$344.7 million, which is \$30.9 million, or 9.8 percent, higher than the proposed 2026 total budget. However, the proposed 2027 combined total for the three budgets is \$50.7 million (12.8 percent) lower than the 2025 total budget.

For planning purposes, the draft budget projects 3 percent budgetary growth in all spending categories. A lower projected level of unspent past-year budget surpluses in 2027 compared to 2026, in addition to the one-time proceeds from the sale of the Austin, TX building, accounts for the remaining change in the proposed total budget for 2027. While the agency presents a two-year draft budget for planning purposes, the Board's practice has been to revisit each year's budget before that budget year begins.

III. Key Themes of the Proposed 2026–2027 Budget

NCUA Staffing and Organizational Changes

On February 26, 2025, the U.S. Office of Management and Budget (OMB) and the U.S. Office of Personnel Management (OPM) issued a memorandum titled Guidance on Agency RIF and Reorganization Plans Requested by Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative. Consistent with the President's order and this memorandum, the agency has been developing reorganization plans that focus on more productive, efficient agency operations. Throughout 2025, the NCUA focused on increasing efficiency, improving service delivery, and aligning resources to statutory and Administration priorities.

To facilitate a reorganization to achieve a smaller, more efficient agency structure, the NCUA Board voted on March 21, 2025, to approve a Voluntary Separation Programs (VSP) for agency staff. The VSP required participating staff to end their employment at the NCUA by no later than December 31, 2025. A total of 262 eligible staff elected to participate in the VSP. In addition, the hiring freeze and normal levels of employee attrition resulted in further reductions. As a result, the staff draft budget anticipates a total staffing level of 967 employees whose compensation will be funded by the operating budget in 2026, a reduction of 23 percent compared to the 2025 budget level.¹⁰ The 967 positions for 2026 includes funding to rehire up to 23 positions after the VSP departures.¹¹ What positions to fill will be determined after the budget and reorganization plans are approved.

¹⁰ Compensation for three additional staff will be funded by the CLF in 2026.

¹¹ Any additional attrition may allow for more than 23 re-hires.

Allocation of any of these 23 positions will reflect the Administration's direction and priorities, address the highest need areas, and be approved by the Chairman.

While other specific organizational changes will not be finalized until later in 2025, the draft 2026–2027 budget supports implementation of those revisions throughout 2026. The proposed capital budget for 2026 includes \$10.0 million for reorganization costs and investment in technology to increase productivity and effectiveness and implement Administration priorities, including improvements to the customer experience. As the NCUA finalizes its plans for a new organizational structure and revised business processes, the Chairman will approve allocation of this funding for projects and investments that best meet these needs.

Reductions to NCUA Non-Payroll Budgets

At the start of 2025, the NCUA's leadership conducted a comprehensive analysis of non-payroll budgets for travel, contracted services, software licenses, computer applications, and IT infrastructure to identify opportunities for cost savings. The draft 2026 budget formalizes such reductions, which are based on efforts currently underway to eliminate non-essential activities while simultaneously modifying operating processes to increase efficiency and effectiveness. The draft budget reflects a reduction of 25 percent in non-payroll budgets from 2025 to 2026 because of these efforts.

Credit Union Examination Schedules

In April 2025, the NCUA Board approved changes to examination timeframes to prudently extend the maximum examination timeframe for credit unions meeting certain criteria. These changes allow Regional Directors and the ONES Director to allocate examination and supervision resources

to where they are most needed. The Regional Directors and the ONES Director, supported by the Office of Examination and Insurance, will continue to use offsite analytics, quality controls, and sound judgment to employ the flexibility provided by the changes. The NCUA's Regions and ONES will continue to work with state supervisory authorities on scheduling and examining federally insured, state-chartered credit unions to optimize state and federal resources. The draft 2026 budget assumes that examination timeframes will continue on the schedule approved in 2025, resulting in increased cost efficiency for the examination program while ensuring effective supervision over credit unions.

IV. Operating Budget: \$292.4 Million

Overview

The proposed 2026 Operating Budget is \$292.4 million, or \$90.0 million lower than the 2025 Board-approved budget.

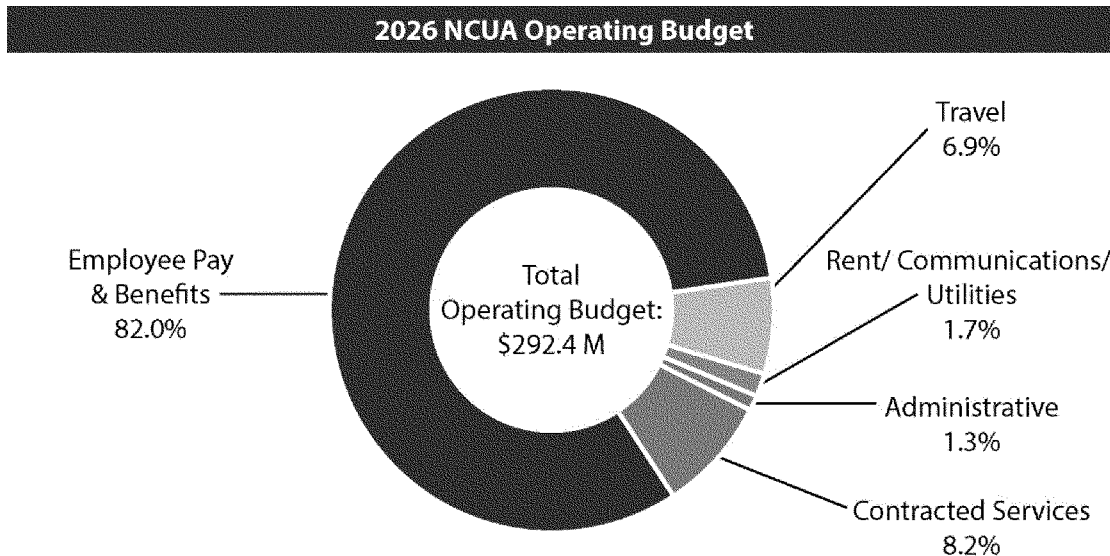
The NCUA Operating Budget provides the resources required for the agency to conduct activities prescribed by the Federal Credit Union Act. These mandates include: (1) chartering new federal credit unions; (2) approving field of membership applications of federal credit unions; (3) promulgating regulations and providing guidance; (4) performing regulatory compliance and safety and soundness examinations; (5) implementing and administering enforcement actions, such as prohibition orders, orders to cease and

desist, orders of conservatorship and orders of liquidation; and (6) administering the Share Insurance Fund. The NCUA also implements requirements of other statutes and Executive Orders including those related to Bank Secrecy Act compliance and consumer financial protection, and various requirements for federal agencies.

Operating Budget Categories

This section explains how these expenditures support the NCUA's operations and presents an overview of the Operating Budget. The following charts present the major categories of spending supported by the proposed 2026 Operating Budget.

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Note: Minor rounding differences may occur in totals.

2026 – 2027 NCUA OPERATING BUDGET SUMMARY							
Budget Cost Category	2025 Board Approved Budget	2026 Requested Budget	2025-2026 Change	Change Percent	2027 Requested Budget	2026-2027 Change	Change Percent
Employee compensation	\$ 311,782,000	\$ 239,648,000	\$ -72,134,000	-23.1%	\$ 246,838,000	\$ 7,190,000	3.0%
Salaries	\$ 217,502,000	\$ 165,494,000	\$ -52,008,000	-23.9%	\$ 170,459,000	\$ 4,965,000	3.0%
Benefits	\$ 94,280,000	\$ 74,154,000	\$ -20,126,000	-21.3%	\$ 76,379,000	\$ 2,225,000	3.0%
Travel	\$ 23,253,000	\$ 20,134,000	\$ -3,119,000	-13.4%	\$ 20,738,000	\$ 604,000	3.0%
Rent /Comm/Utilities	\$ 5,832,000	\$ 4,897,000	\$ -935,000	-16.0%	\$ 6,795,000	\$ 1,898,000	38.8%
Administrative	\$ 5,106,000	\$ 3,709,000	\$ -1,397,000	-27.4%	\$ 3,820,000	\$ 111,000	3.0%
Contracted Services	\$ 36,356,000	\$ 23,968,000	\$ -12,388,000	-34.1%	\$ 42,829,000	\$ 18,861,000	78.7%
Total	\$382,329,000	\$292,356,000	\$ -89,973,000	-23.5%	\$321,020,000	\$ 28,664,000	9.8%
Plus carryover	\$ 40,198,000	\$ 44,797,000			\$ 28,000,000		
Gross Budget	\$422,527,000	\$337,153,000	\$ -85,374,000	-20.2%	\$349,020,000	\$ 11,867,000	3.5%

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Pay and Benefits. Pay and benefits costs make up approximately 82 percent of the proposed 2026 NCUA Operating Budget. The proposed 2026 budget for pay and benefits decreases by \$72.1 million (23 percent) compared to 2025, for a total of \$239.6 million. The reduction in pay and benefits is driven by the elimination of 23 percent of the authorized staff positions in 2025, which is partially offset by other drivers that increase costs expected in 2026 for remaining staff positions, such as:

- Merit and locality pay increases for the NCUA's employees, which are paid according to the terms of the agency's Collective Bargaining Agreement (CBA) and its merit-based pay system.¹²

¹² The Federal Credit Union Act requires the NCUA to maintain pay comparability with the other banking agencies, stating, "In setting and adjusting

- Contributions for employee retirement to the Federal Employee Retirement System (FERS), which are set by OPM based on actuarial estimates and cannot be negotiated or changed by the NCUA.

- Contributions for employee health insurance, which are also set by OPM.
- Costs associated with other mandatory employer contributions such as Social Security, Medicare, transportation subsidies, unemployment insurance, and workers' compensation.

The proposed 2026 Operating Budget supports a total agency staffing level of

the total amount of compensation and benefits for employees of the Board, the Board shall seek to maintain comparability with other federal bank regulatory agencies." See 12 U.S.C. 1766(j)(2). Also, more than 85 percent of the NCUA workforce has earned a bachelor's degree or higher, compared to approximately 35 percent of the private-sector workforce.

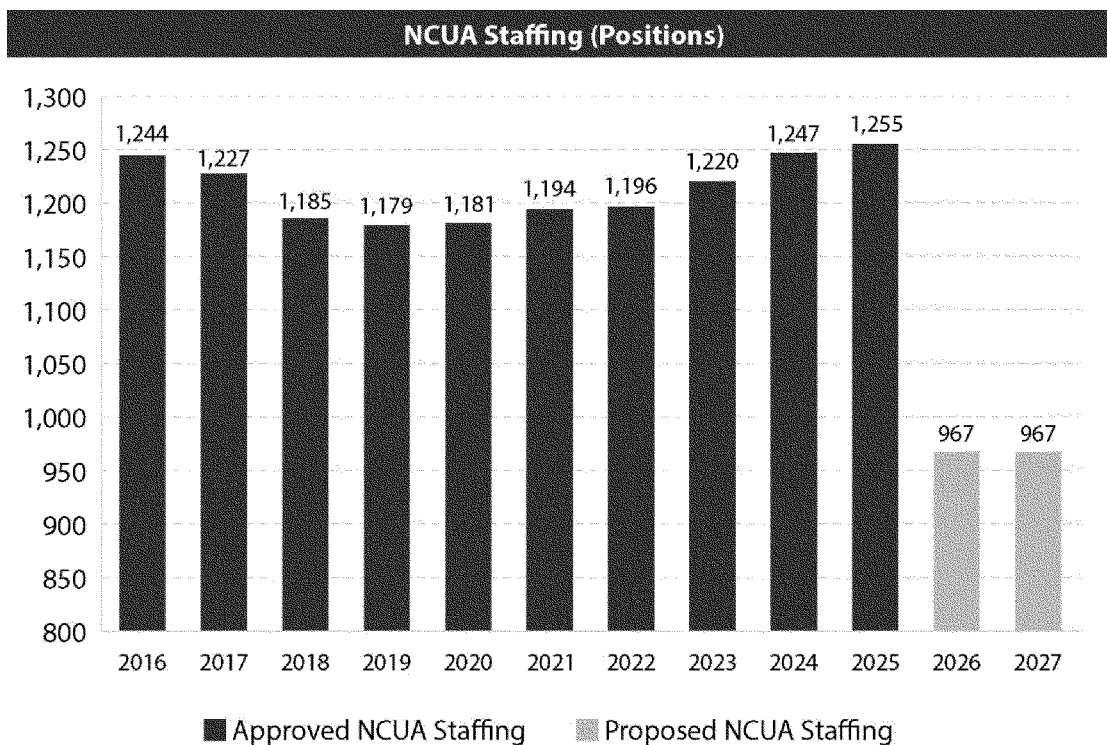
967 positions.¹³ This is a decrease of 288 positions (23 percent) compared to the agency's 2025 approved position level. The draft 2026 budget for the 967 proposed positions includes funding to rehire up to 23 positions after the VSP departures.¹⁴ What positions to fill will be determined after the budget and reorganization plans are approved. Allocation of any of these 23 positions will reflect the Administration's direction and priorities, address the highest need areas, and be approved by the Chairman.

The following chart illustrates the NCUA's staffing levels in recent years.

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¹³ Does not include three positions assigned to the CLF.

¹⁴ Any additional attrition may allow for more than 23 re-hires.



Note: NCUA staffing excludes positions funded by the CLF.

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The proposed 2027 budget for pay and benefits is estimated at \$246.8 million, a \$7.2 million increase from the proposed 2026 level.

Travel. The proposed travel budget decreases by \$3.1 million (13 percent) compared to 2025, for a total of \$20.1 million. Because the proposed 2026 staffing levels are lower than the 2025 budget, travel expenses are similarly lower. The travel cost category includes expenses for employees' airfare, lodging, meals, auto rentals, reimbursements for privately owned vehicle usage, and other travel-related expenses. These are necessary expenses for onsite work in credit unions and other assignments involving travel.

The proposed 2027 budget for travel is estimated at \$20.7 million, a 3 percent increase compared to the 2026 level. This budget level reflects an expectation for travel-related cost inflation in 2027.

Rent, Communications, and Utilities. The proposed budget for rent, communications, and utilities decreases by \$0.9 million in 2026 (16 percent) compared to 2025, for a budget of \$4.9 million. The 2026 decrease is largely driven by reductions in expected telecommunications spending and rental costs for group meetings. Additionally, the sale of the Southern Region office building in Austin, TX will result in lower utilities spending

because the NCUA's new office lease includes such services.

Funding within this budget category pays for facilities-related costs, telecommunications services, data storage, and information technology network support. Telecommunications charges include leased data lines and data service subscriptions, Voice over internet Protocol and mobile telephony, and other network charges. Facilities-related budgets pay for the cost of the office leases, utilities, rental of the disaster recovery and continuity of operations sites, meeting space rental for offsite events, and postage.

The proposed 2027 budget for the rent, communications, and utilities category is a \$6.8 million (38.8 percent) increase compared to 2026. The 2026 budget for rent, communications, and utilities includes a one-time \$1.7 million offset that results from the sale of Austin, TX office building. This offset is not available for the 2027 budget.

Administrative Expenses. The draft budget proposes a \$1.4 million decrease in administrative expenses for 2026 (27 percent) compared to 2025, for a budget of \$3.7 million. The 2026 decrease is driven mainly by lower planned spending on data and analytic services, reduced supply purchases, and lower planned recruitment costs. Recurring costs in the administrative expenses category include employee relocation

expenses, recruitment and advertising expenses, shipping, printing, subscriptions, examiner training and meeting supplies, office furniture, and employee supplies and materials. The NCUA pays relocation costs to employees who are competitively selected for a promotion or new job within the agency in a different geographic area than where they live.

The proposed 2027 budget for administrative expenses is \$3.8 million, an increase of \$0.1 million (3 percent) compared to the level proposed for 2026.

Contracted Services. The proposed budget for contracted services decreases by \$12.4 million in 2026 (34 percent) compared to 2025, for a net budget of \$24.0 million. The contracted services budget for 2026 assumes that an additional \$44.8 million from prior-year unspent budget balances will be used for this function next year, resulting in a total 2026 contracted services budget of \$68.8 million. Since 2021, the NCUA has used unspent budget amounts from previous years to reduce its budget levels in the following year.

The NCUA uses contracted services because acquiring specific expertise or services from contract providers is often the most viable and cost-effective way for the NCUA to accomplish its mission. Such services include critical mission support such as information technology

equipment and software development, accounting and auditing services, and specialized subject matter expertise that enable staff to focus on executing core mission requirements. The contracted services category supports the NCUA’s supervision framework, core NCUA business operation systems such as accounting and payroll processing, and various recurring costs, as described in the following seven major categories:

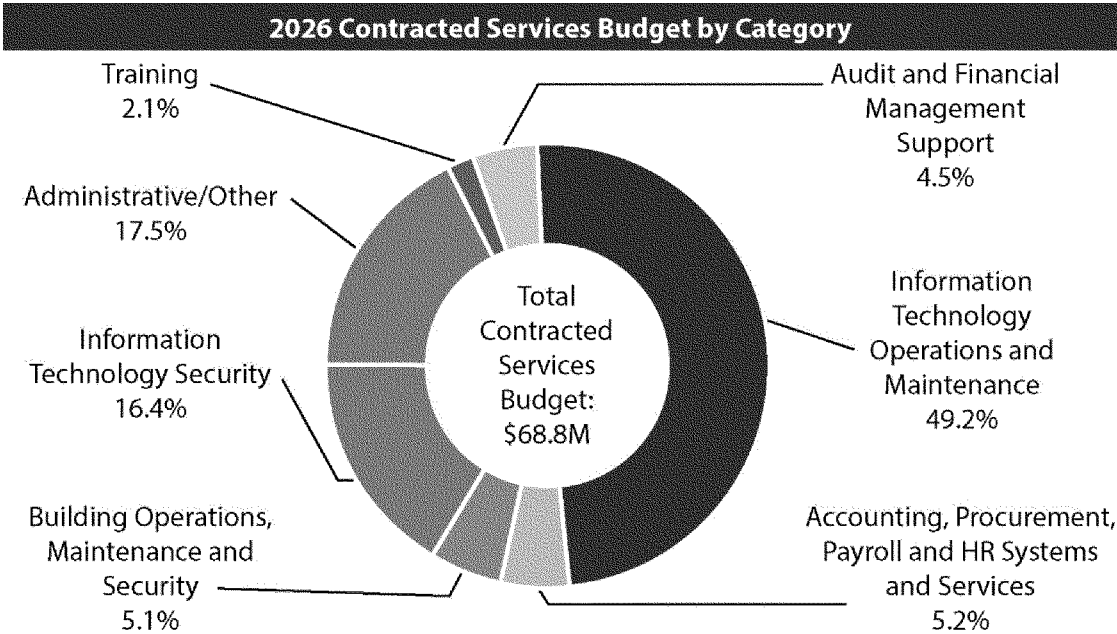
1. Information Technology Operations and Maintenance (49.2 percent of contracted services)
 - IT network support services and help desk support
 - Contractor program and web support and network and equipment maintenance services
 - Administration of software products such as Microsoft Office, SharePoint, and audio-visual services
2. Administrative Support and Other Services (17.5 percent of contracted services)

- Examination and supervision program support
 - Technical support for examination and cybersecurity training programs
 - Equipment maintenance services
 - Legal services and other expert consulting support
 - FFIEC reimbursements
3. IT Security (16.4 percent of contracted services)
 - Secure data storage and operations
 - Information security programs
 - Security system assessment services
4. Accounting, Procurement, Payroll, and Human Resources Systems (5.2 percent of contracted services)
 - Accounting and procurement systems and support
 - Human resources, payroll, and employee services
 - Equal Employment Opportunity programs, as required by law
5. Building Operations, Maintenance, and Security (5.1 percent of contracted services)
 - Headquarters facility operations

- and maintenance
 - Building security and continuity programs
 - Personnel security and administrative programs
6. Audit and Financial Management Support (4.5 percent of contracted services)
 - Annual audit support services
 - Material loss reviews
 - Investigation support services
 - Financial management support services
7. Training (2.1 percent of contracted services)
 - Technical and specialized training and professional development for staff

The following chart illustrates the breakout of the seven categories for the total proposed 2026 contracted services budget:

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Note: Minor rounding differences may occur in totals.

The proposed contracted services budget for 2027 is \$42.8 million, net, plus an additional \$28.0 million in expected unspent balances. After adjusting for unspent prior-year budgets

in both years, the 2027 budget level represents a net increase of approximately \$2.1 million, or 3.0 percent.

V. Capital Budget: \$18.1 Million

Overview

The proposed 2026 Capital Budget is \$18.1 million, or \$10.8 million higher than the 2025 Board-approved budget.

2026–2027 NCUA CAPITAL BUDGET							
	2025 Board Approved Budget	2026 Requested Budget	Change (2025-2026)	Percent Change (2025-2026)	2027 Requested Budget	Change (2026-2027)	Percent Change (2026-2027)
Information Technology Investments	\$ 6,889,000	\$ 18,028,000	\$ 11,139,000	161.7%	\$ 18,377,000	\$ 349,000	1.9%
Capital Building Improvements & Repairs	\$ 480,000	\$ 100,000	\$ (380,000)	-79.2%	\$ 103,000	\$ 3,000	-3.0%
Total	\$ 7,369,000	\$18,128,000	\$10,759,000	146.0%	\$ 18,480,000	\$ 352,000	1.9%

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The proposed Capital Budget for 2027 is \$18.5 million, an increase of approximately \$0.4 million (1.9 percent) compared to the 2026 level, to cover any inflationary increases.

Summary of 2026 Capital Projects

Each year the NCUA carries out a rigorous review of the agency's needs for improvement, repair, or replacement of IT, facilities, equipment, and other capital investments. The proposed 2026 Capital Budget supports continuing investments in the agency's highest priority needs as follows:

Priority Investments for Reorganization, Productivity, and Administration Priorities (\$10.0 Million)

The proposed 2026 budget includes \$10.0 million for capital projects that will support the NCUA's forthcoming reorganization and invest in technologies that increase productivity and effectiveness, and to implement Administration priorities, including improvements to the customer experience. As the NCUA finalizes its plans for a new organizational structure and revised business processes, the Chairman will approve allocation of this funding for projects and investments that best meet these needs.

Enterprise Computer Refresh (\$3.2 Million)

The agency's current computers are nearing their end of life. This capital investment will fund replacement computers that offer advanced security features to better combat evolving cyber threats, and improved productivity and mobility features. The funds support not only acquisition of the computers but also the costs of testing, configuration, and deployment.

Examination and Supervision Solution/MERIT Enhancements (\$2.9 Million)

Investments in the MERIT platform in 2026 will focus on security improvements and further streamlining navigation flow to deliver additional efficiencies for users of MERIT, including NCUA employees, state examiners, and credit unions. In

addition, capital funds will be used to re-platform loan and share data analytics applications to the NCUA's common analytics platform, resulting in future operations and maintenance efficiency.

OCFP Consumer Assistance Center—Customer Relationship Management System (\$1.0 Million)

This capital project will upgrade the customer relationship management system used by the Office of Consumer Financial Protection to track consumer inquiries and formal complaints against credit unions. The current version of the system is no longer supported by the vendor, and the upgrade will provide NCUA employees and customers with a more efficient, innovative, and user-friendly platform.

Information Technology Infrastructure, Platform, and Security Refresh (\$0.9 Million)

This capital project will improve system availability and stability by replacing outdated or end-of-life network and platform hardware to ensure business continuity and efficient operations. Proposed projects for 2026 include refreshing hardware and software as well as investment in backup storage at the NCUA's disaster recovery site.

Headquarters Building Minor Construction and Maintenance Projects (\$0.1 Million)

The proposed 2026 budget supports the NCUA's multi-year headquarters building improvement plan that identifies projects that can be completed incrementally, prioritizing the replacement of health and safety infrastructure. The ongoing multi-year approach recognizes the critical building management and maintenance needs while reducing the potential budgetary impact of such projects in a single budget year.

**VI. Share Insurance Fund
Administrative Expenses Budget: \$3.3 Million***Overview*

The proposed 2026 Share Insurance Fund Administrative Expenses Budget is \$3.3 million, which is \$2.4 million lower than the 2025 Board-approved budget. The reduction is occurring largely because the NCUA will use approximately \$1.7 million in proceeds from the sale of an agency-owned building in Austin, TX to pay for a portion of the activities funded by this budget. Given the increase in virtual training, the proposed 2026 budget also incorporates savings related to state credit union examiner travel reimbursements for NCUA-sponsored training.

The Share Insurance Fund Administrative Expenses Budget funds direct costs associated with authorized Share Insurance Fund activities, including the following for 2026:¹⁵

- \$2.5 million for operating and maintenance costs of the internal analytical capabilities to conduct supervisory stress testing analyses and to perform other quantitative risk assessments of large credit unions.
- \$1.1 million for state examiner travel to NCUA-sponsored training classes and \$0.2 million to ensure that state supervisory authorities can securely and efficiently access NCUA applications and the NCUA's MERIT system for state examination and supervision activities.
- \$0.8 million for financial reporting, including the Share Insurance Fund's annual financial audit and support to ensure effective internal controls for the fund.
- \$0.3 million for certain insurance-related activities and expenses of AMAC

¹⁵ Direct costs do not include any costs that are shared with the Operating Fund through the OTR, and with payments available upon requisition by the Board, without fiscal year limitation, for insurance under Section 1787 of the Federal Credit Union Act, and for providing assistance and making expenditures under Section 1788 of the Federal Credit Union Act in connection with the liquidation or threatened liquidation of insured credit unions as it may determine to be proper.

related to liquidations and conservatorships and for staff travel for consultation on complex or problem cases.

• \$65.0 thousand for corporate resolution program legacy asset waterfall models and valuation analysis support and data. The budget for corporate resolution program legacy

asset support decreases by 43.0 percent in 2026 when compared to the 2025 level given the significantly reduced size of the portfolio.

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2026-2027 SHARE INSURANCE FUND ADMINISTRATIVE EXPENSES BUDGET							
	2025 Board Approved Budget	2026 Requested Budget	Change (2025-2026)	Percent Change (2025-2026)	2027 Requested Budget	Change (2026-2027)	Percent Change (2026-2027)
SIF Direct Expenses							
Travel							
OHR: State Examiner Training	1,662,000	1,120,000	(542,000)	-32.6%	1,154,000	34,000	3.0%
AMAC: Staff travel for problem cases	15,000	15,000	-	0.0%	15,000	-	0.0%
Subtotal, Travel (SIF Direct Expenses)	1,677,000	1,135,000	(542,000)	-32.3%	1,169,000	34,000	3.0%
Administrative Expenses							
ONES: Analytic Tools for Large Credit Unions	160,000	32,000	(128,000)	-80.0%	33,000	1,000	3.1%
AMAC: Shipping and Miscellaneous Admin	48,000	48,000	-	0.0%	49,000	1,000	2.1%
Subtotal Administrative Expenses (SIF Direct Expenses)	208,000	80,000	(128,000)	-61.5%	82,000	2,000	2.5%
Contracted Services							
ONES: Analytic Tools for Large Credit Unions	2,300,000	2,510,000	210,000	9.1%	2,585,000	75,000	3.0%
OCFO: Financial Accounting, Audit Support, Bank Charges and Other Support	937,000	785,000	(152,000)	-16.2%	809,000	24,000	3.1%
OBI: SSA costs for MERIT	216,000	216,000	-	0.0%	222,000	6,000	2.8%
AMAC: Corp. Resolution Study (2022), legal, other contracts	220,000	220,000	-	0.0%	227,000	7,000	3.2%
Subtotal, Contracted Services (SIF Direct Expenses)	3,673,000	3,731,000	58,000	1.6%	3,843,000	112,000	3.0%
Total, SIF Direct Expenses	5,558,000	4,946,000	(612,000)	-11.0%	5,094,000	148,000	3.0%
Corporate Resolution Program							
Administrative Expenses							
E&I: Software and Data Subscriptions	64,000	32,000	(32,000)	-50.0%	33,000	1,000	3.1%
Contracted Services							
E&I: Valuation Services, Contract Support, Training	50,000	33,000	(17,000)	-34.0%	34,000	1,000	3.0%
Total, Corporate Resolution Program	114,000	65,000	(49,000)	-43.0%	67,000	2,000	3.1%
Subtotal SIF BUDGET	\$5,672,000	\$ 5,011,000	\$ (661,000)	-11.7%	\$5,161,000	\$ 150,000	3.0%
Proceeds from sale of Austin building	-	\$(1,700,000)	\$(1,700,000)	N/A	-	\$1,700,000	-100.0%
Total SIF BUDGET	\$5,672,000	\$ 3,311,000	\$(2,361,000)	-41.6%	\$5,161,000	\$1,850,000	55.9%

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The proposed 2027 budget is \$1.9 million higher than the proposed 2026 level largely because of the \$1.7 million in proceeds from the sale of the Austin, TX building that offsets the 2026 budget. When excluding this one-time revenue, the 2027 budget increases \$150,000, or 3 percent, compared to the 2026 level.

VII. Financing the NCUA's Programs

Overview

The NCUA incurs various expenses to satisfy its statutory requirements, including those involved in examining and supervising federally insured credit unions. The NCUA Board adopts an

Operating Budget, a Capital Budget, and a Share Insurance Fund Administrative Expenses Budget each year to fund most of the costs to operate the agency.¹⁶ When formulating the annual budget, the NCUA is mindful that its funding comes from credit unions and strives to operate in an efficient, effective, transparent, and fully accountable manner.

The Federal Credit Union Act authorizes two primary sources to fund the Operating Budget:

¹⁶ Some costs are directly charged to the Share Insurance Fund when appropriate to do so. For example, costs for training and equipment provided to State Supervisory Authorities (SSAs) are directly charged to the Share Insurance Fund.

(1) Requisitions from the Share Insurance Fund "for such administrative and other expenses incurred in carrying out the purposes of [Title II of the Act] as [the Board] may determine to be proper,"¹⁷ and

(2) "[F]ees and assessments (including income earned on insurance deposits) levied on insured credit unions under [the Act]."¹⁸ Among the fees levied under the Act are annual Operating Fees, which are required for federal credit unions under 12 United States

¹⁷ 12 U.S.C. 1783(a).

¹⁸ 12 U.S.C. 1766(j)(3). Other sources of income for the Operating Budget have included interest income, funds from publication sales, parking fee income, and rental income.

Code (U.S.C.) 1755 “and may be expended by the Board to defray the expenses incurred in carrying out the provisions of [the Act], including the examination and supervision of [federal credit unions].”

Taken together, these authorities effectively require the Board to determine which expenses are appropriately paid from each source while giving the Board broad discretion in allocating expenses.

In 1972, the U.S. Government Accountability Office recommended the NCUA adopt a method for allocating Operating Budget costs—that is, the portion of the NCUA’s budget funded by requisitions from the Share Insurance Fund and the portion covered by operating fees paid by federal credit unions.¹⁹ The NCUA has since used an allocation methodology known as the OTR to determine how much of the Operating Budget to fund with a requisition from the Share Insurance Fund.

The NCUA uses the OTR methodology to allocate agency expenses between these two primary funding sources. Specifically, the OTR is the formula the NCUA uses to allocate insurance-related expenses to the Share Insurance Fund under Title II of the Act. Almost all other operating expenses are funded through collecting annual operating fees paid by federal credit unions.²⁰

Two statutory provisions directly limit the Board’s discretion with respect to Share Insurance Fund requisitions for the NCUA’s Operating Budget and, hence, the OTR. First, expenses funded

from the Share Insurance Fund must carry out the purposes of Title II of the Act, which relates to share insurance.²¹ Second, the NCUA may not fund its entire Operating Budget through charges to the Share Insurance Fund.²²

The NCUA conducts a comprehensive workload analysis annually. This analysis estimates the amount of time necessary to conduct examinations and supervise federally insured credit unions to carry out the NCUA’s dual mission as insurer and regulator. This analysis starts with a field-level review of every federally insured credit union to estimate the number of workload hours needed for the year. These estimates are informed by the overall parameters of the NCUA’s examination program, including workload estimates that are refined by regional managers and submitted to the NCUA headquarters for the annual budget proposal. The OTR methodology accounts for the costs of the NCUA, not the costs of state regulators. Therefore, there are no calculations made for state examiner hours.

Overhead Transfer Rate

There have not been any major changes to the parameters of the examination program since the current OTR methodology went into effect.²³ The minor variations in the OTR since 2018 are the result of routine, small fluctuations in the variables that affect the OTR, including normal fluctuations in the workload budget from one calendar year to the next.

The NCUA Board approved the current methodology for calculating the

OTR at its November 2017 open meeting.²⁴ In 2023, the Board published in the **Federal Register** a request for comment regarding the OTR methodology but did not propose or adopt any changes to the current methodology.²⁵ The OTR is designed to cover the NCUA’s costs of examining and supervising the risk to the Share Insurance Fund posed by all federally insured credit unions, as well as the costs of administering the fund. The OTR represents the percentage of the agency’s operating budget paid for by a transfer from the Share Insurance Fund. Federally insured credit unions are not billed for and do not have to remit the OTR amount; instead, it is transferred directly to the Operating Fund from the Share Insurance Fund. This transfer, therefore, represents a cost to all federally insured credit unions.

Based on the Board-approved methodology and the proposed budget, the OTR for 2026 is estimated to be 61.8 percent, which is an increase of one basis point from 2025. Thus, 61.8 percent of the total 2026 Operating Budget is estimated to be paid out of the Share Insurance Fund. The remaining 38.2 percent of the Operating Budget is estimated to be paid for by operating fees collected from federal credit unions. The explicit and implicit distribution of total Operating Budget costs for federal credit unions and federally insured, state-chartered credit unions (FISCUs) is shown in the table below:

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2026 Estimated Distribution: Overhead Transfer Rate and Operating Fee		
Est. Share of the Operating Budget covered by:	Federal Credit Unions	Federally Insured, State-Chartered Credit Unions
Federal Credit Union Operating Fee	38.2%	0.0%
Overhead Transfer Rate x Percent of Insured Shares *	31.6%	30.2%
	(61.8% x 51.1%)	(61.8% x 48.9%)
Total	69.8%	30.2%

* Insured Shares are as of June 2025.

The following chart illustrates the share of the proposed 2026 Operating

Budget that would be paid by federal

credit unions (69.8%) and FISCUs (30.2%).

¹⁹ See <https://www.gao.gov/products/b-1640314-31>.

²⁰ Annual operating fees must “be determined according to a schedule, or schedules, or other method determined by the NCUA Board to be appropriate, which gives due consideration to the expenses of the [NCUA] in carrying out its responsibilities under the [Act] and to the ability of [federal credit unions] to pay the fee.” 12 U.S.C. 1755(b).

²¹ 12 U.S.C. 1783(a).

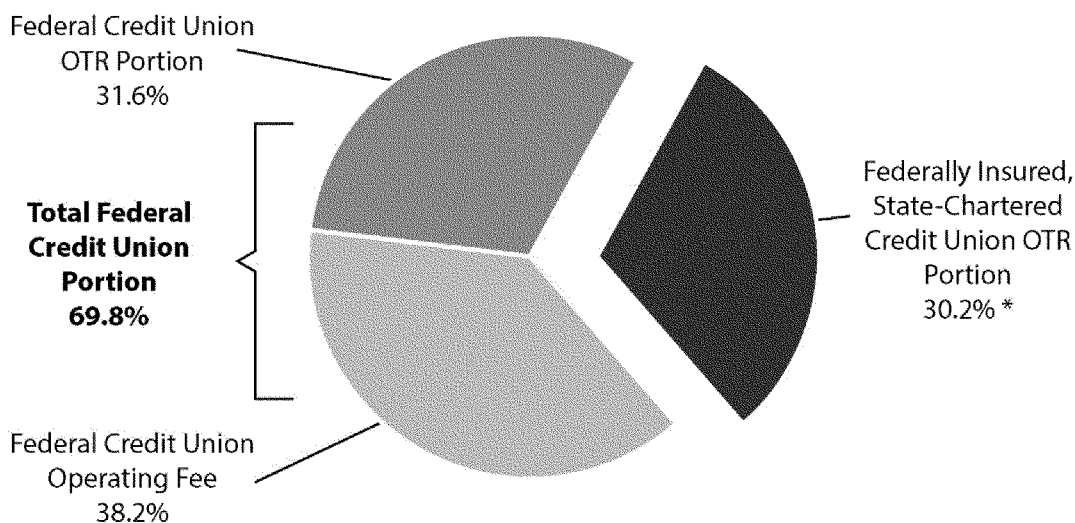
²² The Act in 12 U.S.C. 1755(a) states, “[i]n accordance with rules prescribed by the Board, each [federal credit union] shall pay to the [NCUA] an annual operating fee which may be composed of one or more charges identified as to the function or functions for which assessed.” See also 12 U.S.C. 1766(j)(3).

²³ On November 16, 2017, the NCUA Board adopted a new methodology for calculating the OTR starting with the 2018 OTR. 82 FR 55644, November 22, 2017.

²⁴ 82 FR 55644 (Nov. 22, 2017).

²⁵ See <https://www.federalregister.gov/documents/2023/12/20/2023-28000/request-for-comment-regarding-overhead-transfer-rate-methodology>.

2026 Distribution of Operating Budget Costs



*Note: Federally insured, state-chartered credit unions typically pay supervisory fees to their respective State Supervisory Authority.

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Operating Fee

The Board delegated authority to the Chief Financial Officer to administer the methodology approved by the Board for calculating the operating fee and to set the fee schedule as calculated per the approved methodology. In December 2023, the Board approved and published in the **Federal Register** the current operating fee methodology, which forms the basis for how the operating fee is calculated in this section.²⁶

Under the current methodology to determine the annual operating fee assessed on federal credit unions serving consumers, the NCUA first calculates the average of total assets reported in the preceding four calendar quarters available at the time of the calculation, net of any reported Paycheck Protection Program loans. Credit unions with assets less than approximately \$2.2 million are not

assessed an operating fee and their assets are therefore excluded from this calculation.²⁷

Based on the Board-approved operating fee methodology, which is summarized in the following tables, the share of the proposed 2026 budget funded by the operating fee is \$112.4 million. This equates to 0.00935 percent of the actual average of natural person federal credit union assets for the four calendar quarters ending on June 30, 2025. The calculated operating fee rate for 2026 decreases by 23.6 percent compared to the rate in 2025. This computation is shown in the table on the following page.

As part of the Board-approved operating fee methodology, the NCUA can adjust the share of the budget funded by the operating fee based on an analysis of the agency's future cash flow requirements compared to past years' collections that were not spent as planned. Any projected surplus cash from past years' fee collections not required to finance agency operations

can accordingly be used to lower the operating fee share of the proposed budget. Because such cash surpluses result from past years' operating fee collections, they do not offset the portion of the budget funded by the OTR. As the final 2026–2027 budget is prepared for consideration by the NCUA Board, the Chief Financial Officer will evaluate the agency's cash position and make a recommendation about any surplus cash that can be credited to the operating fee.

To set the assessment scale for 2026, total growth in natural person federal credit union assets is calculated as the change between the average of the four most current quarters (that is, the third and fourth quarters of 2024 and the first two quarters of 2025) and the previous four quarters (that is, the third and fourth quarters of 2023 and the first two quarters of 2024), which is calculated as 3.6 percent. The fee exemption threshold and the asset level dividing points for the fee tiers are likewise increased by this same growth rate to preserve the same relative relationship of the scale to the applicable asset base.

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²⁶ See <https://www.federalregister.gov/documents/2023/12/26/2023-28303/national-credit-union-administration-operating-fee-schedule-methodology>.

²⁷ The exemption threshold for 2026 is estimated at \$2,153,676, which accounts for 3.60% aggregate growth in credit union system assets.

PROJECTED FISCAL YEAR 2026 OPERATING FEE REQUIREMENTS

(\$ in millions)

		2026 Draft Budget
1	Proposed Operating Budget	\$ 292.356
2	Add Capital Investments	\$ 18.128
3	Miscellaneous Revenue	\$ (0.695)
4	Operating Budget to apply OTR	\$ 309.789
5	Overhead Transfer Rate 61.8%	\$ (191.450)
6	Interest Income	\$ (5.979)
7	Net (sum lines 4 - 6)	\$ 112.360
8	Operating Fund adjustment	\$ -
9	Budgeted Operating Fee/Capital Requirements (sum lines 7 - 8)	\$ 112.360
10	Corporate Federal Credit Union Operating Fees	\$ (0.325)
11	Natural Person FCU Operating Fees Required (sum lines 9 - 10)	\$ 112.035
12	Fees projected with Asset Growth of 3.60%	\$ (146.557)
13	Difference (lines 11 & 12)	\$ (34.521)
14	Average Rate Adjustment Indicated (line 13 divided by line 12)	-23.55%

Operating Fee Scale

To illustrate the rate for each asset tier for which operating fees are charged, the

tables below show the effect of the average 23.6 percent decrease in the operating fee for natural person federal

credit unions, using the \$2.2 million exemption threshold.

DRAFT – PROPOSED 2026 OPERATING FEE SCALE**2025 Natural Person Federal Credit Union Scale**

<u>Asset Level</u>			<u>Operating Fee Assessment</u>			
\$0	to	\$2,078,868	\$0.00			
\$2,078,868	to	\$2,447,661,764	\$0.00	+	0.00018871	X total assets over \$0.00
\$2,447,661,764	to	\$7,406,587,726	\$461,898	+	0.00005500	X total assets over \$2,447,661,764
\$7,406,587,726	and over		\$734,639	+	0.00001837	X total assets over \$7,406,587,726

2026 (Proposed) Natural Person Federal Credit Union Scale

Projected FCU asset growth rate	3.60%	Change in asset level dividing points
Operating fee rate change	-23.55%	Change in assessment rate percentages
<u>Asset Level</u>		<u>Operating Fee Assessment</u>
\$0	to \$2,153,676	\$0.00
\$2,153,676	to \$2,535,740,260	\$0.00 + 0.00014426 X total assets over \$0.00
\$2,535,740,260	to \$7,673,111,932	\$365,806 + 0.00004204 X total assets over \$2,535,740,260
\$7,673,111,932	and over	\$581,781 + 0.00001404 X total assets over \$7,673,111,932

2026 (Proposed) Corporate Federal Credit Union Scale

<u>Asset Level</u>			<u>Operating Fee Assessment</u>			
\$50,000,000	to	\$100,000,000	\$10,405	+	0.00019870	X total assets over \$50,000,000
\$100,000,000	and Over		\$20,340	+	0.00001230	X total assets over \$100,000,000

VIII. Appendix: Supplemental Budget Information

Office Budget Summary

2026–2027 NCUA OPERATING BUDGET										
Office	2025 Board Approved Budget	2026 Requested Budget	2025 - 2026 Change		2027 Requested Budget	2026 - 2027 Change		Authorized Positions		
								2025	2026	2027
Eastern Region	62,958,765	49,412,268	(13,546,497)	-21.5%	50,894,636	1,482,368	3.0%	260	204	204
Southern Region	53,953,753	41,293,178	(12,660,575)	-23.5%	42,531,973	1,238,795	3.0%	232	177	177
Western Region	60,491,036	47,411,276	(13,079,760)	-21.6%	48,833,614	1,422,338	3.0%	244	194	194
Office of National Examinations and Supervision	18,025,564	11,350,253	(6,675,311)	-37.0%	11,690,760	340,508	3.0%	57	34	34
Office of Consumer Financial Protection	9,232,837	6,657,351	(2,575,486)	-27.9%	6,857,071	199,721	3.0%	34	25	25
Subtotal, Examination and Supervision	204,661,955	156,124,326	(48,537,629)	-23.7%	160,808,055	4,683,730	3.0%	827	634	634
Office of the Board	4,096,693	4,064,465	(32,228)	-0.8%	4,186,398	121,934	3.0%	13	13	13
Office of the Executive Director	5,071,609	1,008,364	(4,063,245)	-80.1%	1,038,615	30,251	3.0%	11	2	2
Federal Financial Institutions Examination Council	2,250,000	2,452,000	202,000	9.0%	2,525,560	73,560	3.0%	-	-	-
Office of the Ombudsman	723,314	-	(723,314)	-100.0%	-	-	N/A	2	-	-
Office of Ethics Counsel	2,317,806	1,693,875	(623,931)	-26.9%	1,744,691	50,816	3.0%	7	5	5
Office of Business Innovation	6,211,966	3,165,708	(3,046,258)	-49.0%	3,260,679	94,971	3.0%	17	7	7
Office of Continuity and Security Management	6,114,000	5,297,381	(816,619)	-13.4%	5,456,303	158,921	3.0%	12	10	10
Office of Minority and Women Inclusion	4,513,851	814,074	(3,699,777)	-82.0%	838,496	24,422	3.0%	11	2	2
Office of the Chief Economist	3,221,643	1,894,635	(1,327,008)	-41.2%	1,951,474	56,839	3.0%	9	5	5
Office of the Chief Financial Officer	25,948,927	23,264,465	(2,684,462)	-10.3%	23,962,399	697,934	3.0%	55	48	48
Cross-cutting agency expenses	(37,621,576)	(34,981,660)	2,639,916	7.0%	(16,137,788)	18,843,872	53.9%	-	23	23
Office of the Chief Information Officer	64,181,667	62,254,267	(1,927,400)	-3.0%	64,121,895	1,867,628	3.0%	50	45	45
Credit Union Resources and Expansion	11,976,912	8,403,683	(3,573,229)	-29.8%	8,655,793	252,110	3.0%	41	32	32
Office of Examination & Insurance	18,513,050	17,412,163	(1,100,887)	-5.9%	17,934,528	522,365	3.0%	56	50	50
Office of General Counsel	15,748,038	12,364,812	(3,383,226)	-21.5%	12,735,756	370,944	3.0%	47	37	37
Office of Inspector General	4,460,090	3,128,308	(1,331,782)	-29.9%	3,222,157	93,849	3.0%	10	7	7
Office of Human Resources	24,812,451	16,503,251	(8,309,200)	-33.5%	16,998,349	495,098	3.0%	48	26	26
Office of External Affairs and Communication	7,540,644	1,355,387	(6,185,257)	-82.0%	1,396,049	40,662	3.0%	16	3	3
Asset Management and Assistance Center	7,585,960	6,136,496	(1,449,464)	-19.1%	6,320,591	184,095	3.0%	23	18	18
Subtotal, Other Offices	177,667,045	136,231,674	(41,435,371)	-23.3%	160,211,946	23,980,272	17.6%	428	333	333
Total, Operating Budget	\$ 382,329,000	\$ 292,356,000	\$ (89,973,000)	-23.5%	\$ 321,020,000	\$ 28,664,000	9.8%	1,255	967	967

Note: Minor rounding differences may occur in totals.

Office Budgets

OFFICE OF THE BOARD: 2026-2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	13.0	13.0	-	0.0%	13.0	-	0.0%
Employee Compensation	3,611,443	3,715,465	104,021	2.9%	3,826,928	111,464	3.0%
Salaries	2,533,241	2,608,283	75,042	3.0%	2,686,531	78,248	3.0%
Benefits	1,078,202	1,107,182	28,979	2.7%	1,140,397	33,215	3.0%
Travel	205,000	155,000	(50,000)	-24.4%	159,650	4,650	3.0%
Rent /Comm/Util	16,250	14,000	(2,250)	-13.8%	14,420	420	3.0%
Administrative	37,500	32,500	(5,000)	-13.3%	33,475	975	3.0%
Contracted Services	226,500	147,500	(79,000)	-34.9%	151,925	4,425	3.0%
Total	\$ 4,096,693	\$ 4,064,465	\$ (32,229)	-0.8%	\$ 4,186,398	\$ 121,934	3.0%

OFFICE OF THE EXECUTIVE DIRECTOR: 2026-2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	11.0	2.0	(9.0)	-81.8%	2.0	-	0.0%
Employee Compensation	3,867,859	760,239	(3,107,620)	-80.3%	783,046	22,807	3.0%
Salaries	2,755,532	506,084	(2,249,448)	-81.6%	521,267	15,183	3.0%
Benefits	1,112,327	254,155	(858,172)	-77.2%	261,779	7,625	3.0%
Travel	138,000	50,000	(88,000)	-63.8%	51,500	1,500	3.0%
Rent /Comm/Util	20,000	20,000	-	0.0%	20,600	600	3.0%
Administrative	25,250	5,250	(20,000)	-79.2%	5,408	158	3.0%
Contracted Services	3,270,500	2,624,875	(645,625)	-19.7%	2,703,621	78,746	3.0%
ED Core	1,020,500	172,875	(847,625)	-83.1%	178,061	5,186	3.0%
FFIEC	2,250,000	2,452,000	202,000	9.0%	2,525,560	73,560	3.0%
Total	\$ 7,321,609	\$ 3,460,364	\$ (3,861,245)	-52.7%	\$ 3,564,175	\$ 103,811	3.0%

OFFICE OF THE OMBUDSMAN: 2026-2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	2.0	0.0	(2.0)	-100.0%	0.0	-	0.0%
Employee Compensation	695,814	-	(695,814)	-100.0%	-	-	0.0%
Salaries	500,594	-	(500,594)	-100.0%	-	-	0.0%
Benefits	195,220	-	(195,220)	-100.0%	-	-	0.0%
Travel	9,500	-	(9,500)	-100.0%	-	-	0.0%
Rent /Comm/Util	2,000	-	(2,000)	-100.0%	-	-	0.0%
Administrative	9,000	-	(9,000)	-100.0%	-	-	0.0%
Contracted Services	7,000	-	(7,000)	-100.0%	-	-	0.0%
Total	\$ 723,314	\$ -	\$ (723,314)	-100.0%	\$ -	\$ -	0.0%

Note: For purposes of the Staff Draft Budget, one position and approximately \$275,000 are included in the Office of the Executive Director budget for Office of the Ombudsman functions in 2026 and 2027.

Note: Minor rounding differences may occur in totals.

OFFICE OF ETHICS COUNSEL: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025–2026 Change	Percent Change	2027 Proposed Budget	2026–2027 Change	Percent Change
Positions	7.0	5.0	(2.0)	-28.6%	5.0	-	0.0%
Employee Compensation	2,196,091	1,582,355	(613,736)	-27.9%	1,629,825	47,471	3.0%
Salaries	1,569,800	1,125,655	(444,145)	-28.3%	1,159,425	33,770	3.0%
Benefits	626,291	456,699	(169,592)	-27.1%	470,400	13,701	3.0%
Travel	25,000	18,000	(7,000)	-28.0%	18,540	540	3.0%
Rent /Comm/Util	-	-	-	0.0%	-	-	0.0%
Administrative	3,000	3,000	-	0.0%	3,090	90	3.0%
Contracted Services	93,715	90,520	(3,195)	-3.4%	93,236	2,716	3.0%
Total	\$ 2,317,806	\$ 1,693,875	\$ (623,931)	-26.9%	\$ 1,744,691	\$ 50,816	3.0%

OFFICE OF BUSINESS INNOVATION: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025–2026 Change	Percent Change	2027 Proposed Budget	2026–2027 Change	Percent Change
Positions	17.0	7.0	(10.0)	-58.8%	7.0	-	0.0%
Employee Compensation	4,884,293	2,102,454	(2,781,839)	-57.0%	2,165,528	63,074	3.0%
Salaries	3,477,112	1,486,875	(1,990,237)	-57.2%	1,531,481	44,606	3.0%
Benefits	1,407,182	615,579	(791,602)	-56.3%	634,047	18,467	3.0%
Travel	267,000	62,000	(205,000)	-76.8%	63,860	1,860	3.0%
Rent /Comm/Util	10,000	3,600	(6,400)	-64.0%	3,708	108	3.0%
Administrative	6,500	2,000	(4,500)	-69.2%	2,060	60	3.0%
Contracted Services	1,044,173	995,654	(48,519)	-4.6%	1,025,524	29,870	3.0%
Total	\$ 6,211,966	\$ 3,165,708	\$ (3,046,258)	-49.0%	\$ 3,260,679	\$ 94,971	3.0%

OFFICE OF CONTINUITY AND SECURITY MANAGEMENT: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025–2026 Change	Percent Change	2027 Proposed Budget	2026–2027 Change	Percent Change
Positions	12.0	10.0	(2.0)	-16.7%	10.0	-	0.0%
Employee Compensation	3,589,871	2,953,726	(636,144)	-17.7%	3,042,338	88,612	3.0%
Salaries	2,556,718	2,086,213	(470,504)	-18.4%	2,148,800	62,586	3.0%
Benefits	1,033,153	867,513	(165,640)	-16.0%	893,538	26,025	3.0%
Travel	35,000	20,000	(15,000)	-42.9%	20,600	600	3.0%
Rent /Comm/Util	110,000	123,000	13,000	11.8%	126,690	3,690	3.0%
Administrative	41,000	40,000	(1,000)	-2.4%	41,200	1,200	3.0%
Contracted Services	2,338,129	2,160,655	(177,474)	-7.6%	2,225,475	64,820	3.0%
Total	\$ 6,114,000	\$ 5,297,381	\$ (816,618)	-13.4%	\$ 5,456,303	\$ 158,921	3.0%

Note: Minor rounding differences may occur in totals.

OFFICE OF MINORITY AND WOMEN INCLUSION: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	11.0	2.0	(9.0)	-81.8%	2.0	-	0.0%
Employee Compensation	3,232,926	480,517	(2,752,409)	-85.1%	494,932	14,415	3.0%
Salaries	2,304,208	332,894	(1,971,314)	-85.6%	342,881	9,987	3.0%
Benefits	928,718	147,623	(781,096)	-84.1%	152,051	4,429	3.0%
Travel	63,925	32,300	(31,625)	-49.5%	33,269	969	3.0%
Rent /Comm/Util	5,000	1,000	(4,000)	-80.0%	1,030	30	3.0%
Administrative	198,500	12,425	(186,075)	-93.7%	12,798	373	3.0%
Contracted Services	1,013,500	287,832	(725,668)	-71.6%	296,467	8,635	3.0%
Total	\$ 4,513,851	\$ 814,074	\$ (3,699,777)	-82.0%	\$ 838,496	\$ 24,422	3.0%

OFFICE OF THE CHIEF ECONOMIST: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	9.0	5.0	(4.0)	-44.4%	5.0	-	0.0%
Employee Compensation	2,877,280	1,662,828	(1,214,453)	-42.2%	1,712,713	49,885	3.0%
Salaries	2,064,856	1,184,544	(880,312)	-42.6%	1,220,081	35,536	3.0%
Benefits	812,424	478,284	(334,140)	-41.1%	492,632	14,349	3.0%
Travel	31,000	15,000	(16,000)	-51.6%	15,450	450	3.0%
Rent /Comm/Util	4,200	4,200	-	0.0%	4,326	126	3.0%
Administrative	304,849	211,607	(93,242)	-30.6%	217,955	6,348	3.0%
Contracted Services	4,314	1,000	(3,314)	-76.8%	1,030	30	3.0%
Total	\$ 3,221,643	\$ 1,894,635	\$ (1,327,009)	-41.2%	\$ 1,951,474	\$ 56,839	3.0%

OFFICE OF CONSUMER FINANCIAL PROTECTION: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	34.0	25.0	(9.0)	-26.5%	25.0	-	0.0%
Employee Compensation	8,208,757	6,078,576	(2,130,181)	-26.0%	6,260,933	182,357	3.0%
Salaries	5,758,573	4,217,571	(1,541,002)	-26.8%	4,344,098	126,527	3.0%
Benefits	2,450,184	1,861,005	(589,179)	-24.0%	1,916,835	55,830	3.0%
Travel	781,300	483,540	(297,760)	-38.1%	498,046	14,506	3.0%
Rent /Comm/Util	33,600	14,000	(19,600)	-58.3%	14,420	420	3.0%
Administrative	14,180	11,235	(2,945)	-20.8%	11,572	337	3.0%
Contracted Services	195,000	70,000	(125,000)	-64.1%	72,100	2,100	3.0%
Total	\$ 9,232,837	\$ 6,657,351	\$ (2,575,486)	-27.9%	\$ 6,857,071	\$ 199,721	3.0%

Note: Minor rounding differences may occur in totals.

OFFICE OF THE CHIEF FINANCIAL OFFICER: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
OCFO Positions	55.0	48.0	(7.0)	-12.7%	48.0	-	0.0%
Crosscutting Positions	0.0	23.0	23.0	N/A	23.0	-	0.0%
Employee Compensation	17,386,577	22,992,443	5,605,866	32.2%	23,682,777	690,334	3.0%
Salaries	12,344,376	16,266,037	3,921,661	31.8%	16,754,198	488,161	3.0%
OCFO	10,554,545	9,075,929	(1,478,616)	-14.0%	9,348,207	272,278	3.0%
Crosscutting	1,789,831	7,190,108	5,400,277	301.7%	7,405,991	215,883	3.0%
Benefits	5,042,201	6,726,406	1,684,205	33.4%	6,928,579	202,173	3.0%
OCFO	4,403,128	3,887,863	(515,265)	-11.7%	4,004,499	116,636	3.0%
Crosscutting	639,073	2,838,543	2,199,470	344.2%	2,924,080	85,537	3.0%
Travel	(169,005)	39,455	208,460	123.3%	40,619	1,164	3.0%
OCFO	70,000	30,000	(40,000)	-57.1%	30,900	900	3.0%
Crosscutting	(239,005)	9,455	248,460	104.0%	9,719	264	2.8%
Rent /Comm/Util	287,225	784	(286,441)	-99.7%	1,751,898	1,751,114	223356.3%
OCFO	1,286,807	1,624,078	337,271	26.2%	1,672,800	48,722	3.0%
Crosscutting	(999,582)	(1,623,294)	(623,712)	-62.4%	79,097	1,702,391	104.9%
Administrative	2,138,336	2,048,641	(89,695)	-4.2%	2,109,830	61,189	3.0%
OCFO	788,500	655,000	(133,500)	-16.9%	674,650	19,650	3.0%
Crosscutting	1,349,836	1,393,641	43,805	3.2%	1,435,180	41,539	3.0%
Contracted Services	(31,315,782)	(36,798,518)	(5,482,736)	-17.5%	(19,760,513)	17,038,005	46.3%
OCFO	8,845,947	7,991,595	(854,352)	-9.7%	8,231,343	239,748	3.0%
Crosscutting	(40,161,729)	(44,790,113)	(4,628,384)	-11.5%	(27,991,856)	16,798,257	37.5%
Total	\$ (11,672,649)	\$ (11,717,195)	\$ (44,546)	-0.4%	\$ 7,824,611	\$ 19,541,806	166.8%
OCFO Total	25,948,927	23,264,465	(2,684,462)	-10.3%	23,962,399	697,934	3.0%
Crosscutting	(37,621,576)	(34,981,660)	2,639,916	7.0%	(16,137,788)	18,843,872	53.9%

OFFICE OF THE CHIEF INFORMATION OFFICER: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	50.0	45.0	(5.0)	-10.0%	45.0	-	0.0%
Employee Compensation	15,128,998	13,557,794	(1,571,204)	-10.4%	13,964,528	406,734	3.0%
Salaries	10,768,982	9,583,424	(1,185,558)	-11.0%	9,870,927	287,503	3.0%
Benefits	4,360,016	3,974,370	(385,645)	-8.8%	4,093,602	119,231	3.0%
Travel	70,000	70,000	-	0.0%	72,100	2,100	3.0%
Rent /Comm/Util	3,678,850	3,338,506	(340,344)	-9.3%	3,438,661	100,155	3.0%
Administrative	30,000	1,000	(29,000)	-96.7%	1,030	30	3.0%
Contracted Services	45,273,819	45,286,967	13,148	0.0%	46,645,576	1,358,609	3.0%
Total	\$ 64,181,667	\$ 62,254,267	\$ (1,927,398)	-3.0%	\$ 64,121,895	\$ 1,867,628	3.0%

Note: Minor rounding differences may occur in totals.

OFFICE OF NATIONAL EXAMINATIONS AND SUPERVISION: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	57.0	34.0	(23.0)	-40.4%	34.0	-	0.0%
Employee Compensation	16,278,951	10,044,233	(6,234,718)	-38.3%	10,345,560	301,327	3.0%
Salaries	11,552,032	7,092,004	(4,460,028)	-38.6%	7,304,764	212,760	3.0%
Benefits	4,726,918	2,952,229	(1,774,690)	-37.5%	3,040,796	88,567	3.0%
Travel	1,382,000	1,120,000	(262,000)	-19.0%	1,153,600	33,600	3.0%
Rent /Comm/Util	63,350	32,600	(30,750)	-48.5%	33,578	978	3.0%
Administrative	51,710	23,400	(28,310)	-54.7%	24,102	702	3.0%
Contracted Services	249,554	130,020	(119,534)	-47.9%	133,921	3,901	3.0%
Total	\$ 18,025,564	\$ 11,350,253	\$ (6,675,311)	-37.0%	\$ 11,690,760	\$ 340,508	3.0%

OFFICE OF CREDIT UNION RESOURCES AND EXPANSION: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	41.0	32.0	(9.0)	-22.0%	32.0	-	0.0%
Employee Compensation	10,519,412	8,036,946	(2,482,467)	-23.6%	8,278,054	241,108	3.0%
Salaries	7,383,612	5,592,405	(1,791,208)	-24.3%	5,760,177	167,772	3.0%
Benefits	3,135,800	2,444,541	(691,259)	-22.0%	2,517,877	73,336	3.0%
Travel	480,000	137,705	(342,295)	-71.3%	141,836	4,131	3.0%
Rent /Comm/Util	32,000	30,400	(1,600)	-5.0%	31,312	912	3.0%
Administrative	39,500	37,200	(2,300)	-5.8%	38,316	1,116	3.0%
Contracted Services	906,000	161,432	(744,568)	-82.2%	166,275	4,843	3.0%
Total	\$ 11,976,912	\$ 8,403,683	\$ (3,573,230)	-29.8%	\$ 8,655,793	\$ 252,110	3.0%

OFFICE OF EXAMINATION AND INSURANCE: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	56.0	50.0	(6.0)	-10.7%	50.0	-	0.0%
Employee Compensation	16,449,598	15,933,363	(516,234)	-3.1%	16,411,364	478,001	3.0%
Salaries	11,703,784	11,265,978	(437,805)	-3.7%	11,603,958	337,979	3.0%
Benefits	4,745,814	4,667,385	(78,429)	-1.7%	4,807,407	140,022	3.0%
Travel	854,000	425,000	(429,000)	-50.2%	437,750	12,750	3.0%
Rent /Comm/Util	35,000	24,000	(11,000)	-31.4%	24,720	720	3.0%
Administrative	286,665	46,500	(240,165)	-83.8%	47,895	1,395	3.0%
Contracted Services	887,787	983,300	95,513	10.8%	1,012,799	29,499	3.0%
Total	\$ 18,513,050	\$ 17,412,163	\$ (1,100,886)	-5.9%	\$ 17,934,528	\$ 522,365	3.0%

Note: Minor rounding differences may occur in totals.

OFFICE OF GENERAL COUNSEL: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	47.0	37.0	(10.0)	-21.3%	37.0	-	0.0%
Employee Compensation	14,646,038	11,624,204	(3,021,834)	-20.6%	11,972,930	348,726	3.0%
Salaries	10,468,672	8,253,786	(2,214,886)	-21.2%	8,501,399	247,614	3.0%
Benefits	4,177,366	3,370,419	(806,948)	-19.3%	3,471,531	101,113	3.0%
Travel	143,000	100,000	(43,000)	-30.1%	103,000	3,000	3.0%
Rent /Comm/Util	4,000	4,000	-	0.0%	4,120	120	3.0%
Administrative	5,000	5,000	-	0.0%	5,150	150	3.0%
Contracted Services	950,000	631,608	(318,392)	-33.5%	650,556	18,948	3.0%
Total	\$ 15,748,038	\$ 12,364,812	\$ (3,383,226)	-21.5%	\$ 12,735,756	\$ 370,944	3.0%

OFFICE OF HUMAN RESOURCES: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	48.0	26.0	(22.0)	-45.8%	26.0	-	0.0%
Employee Compensation	15,252,979	8,928,214	(6,324,764)	-41.5%	9,196,061	267,846	3.0%
Salaries	9,604,018	5,145,817	(4,458,202)	-46.4%	5,300,191	154,374	3.0%
Benefits	5,648,960	3,782,398	(1,866,562)	-33.0%	3,895,870	113,472	3.0%
Travel	2,863,500	2,240,000	(623,500)	-21.8%	2,307,200	67,200	3.0%
Rent /Comm/Util	469,000	385,000	(84,000)	-17.9%	396,550	11,550	3.0%
Administrative	975,693	497,940	(477,753)	-49.0%	512,878	14,938	3.0%
Contracted Services	5,251,279	4,452,097	(799,182)	-15.2%	4,585,660	133,563	3.0%
Total	\$ 24,812,451	\$ 16,503,251	\$ (8,309,199)	-33.5%	\$ 16,998,349	\$ 495,098	3.0%

OFFICE OF EXTERNAL AFFAIRS AND COMMUNICATION: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	16.0	3.0	(13.0)	-81.3%	3.0	-	0.0%
Employee Compensation	4,279,894	818,113	(3,461,781)	-80.9%	842,657	24,543	3.0%
Salaries	3,024,796	573,610	(2,451,186)	-81.0%	590,818	17,208	3.0%
Benefits	1,255,098	244,503	(1,010,595)	-80.5%	251,838	7,335	3.0%
Travel	50,000	20,000	(30,000)	-60.0%	20,600	600	3.0%
Rent /Comm/Util	30,500	-	(30,500)	-100.0%	-	-	0.0%
Administrative	212,750	58,274	(154,476)	-72.6%	60,022	1,748	3.0%
Contracted Services	2,967,500	459,000	(2,508,500)	-84.5%	472,770	13,770	3.0%
Total	\$ 7,540,644	\$ 1,355,387	\$ (6,185,257)	-82.0%	\$ 1,396,049	\$ 40,662	3.0%

Note: Minor rounding differences may occur in totals.

ASSET MANAGEMENT AND ASSISTANCE CENTER 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	23.0	18.0	(5.0)	-21.7%	18.0	-	0.0%
Employee Compensation	6,064,529	4,878,846	(1,185,683)	-19.6%	5,025,211	146,365	3.0%
Salaries	4,270,599	3,421,708	(848,890)	-19.9%	3,524,360	102,651	3.0%
Benefits	1,793,930	1,457,137	(336,793)	-18.8%	1,500,851	43,714	3.0%
Travel	125,280	200,000	74,720	59.6%	206,000	6,000	3.0%
Rent /Comm/Util	12,150	3,600	(8,550)	-70.4%	3,708	108	3.0%
Administrative	63,501	57,550	(5,951)	-9.4%	59,277	1,727	3.0%
Contracted Services	1,320,500	996,500	(324,000)	-24.5%	1,026,395	29,895	3.0%
Total	\$ 7,585,960	\$ 6,136,496	\$ (1,449,464)	-19.1%	\$ 6,320,591	\$ 184,095	3.0%

Note: Minor rounding differences may occur in totals.

EASTERN REGION: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	260.0	204.0	(56.0)	-21.5%	204.0	-	0.0%
Employee Compensation	58,070,255	45,147,088	(12,923,168)	-22.3%	46,501,500	1,354,413	3.0%
Salaries	40,340,433	31,128,174	(9,212,259)	-22.8%	32,062,020	933,845	3.0%
Benefits	17,729,822	14,018,913	(3,710,909)	-20.9%	14,439,481	420,567	3.0%
Travel	4,125,000	3,600,000	(525,000)	-12.7%	3,708,000	108,000	3.0%
Rent /Comm/Util	359,020	332,810	(26,210)	-7.3%	342,794	9,984	3.0%
Administrative	225,490	178,370	(47,120)	-20.9%	183,721	5,351	3.0%
Contracted Services	179,000	154,000	(25,000)	-14.0%	158,620	4,620	3.0%
Total	\$ 62,958,765	\$ 49,412,268	\$ (13,546,498)	-21.5%	\$ 50,894,636	\$ 1,482,368	3.0%

SOUTHERN REGION: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	232.0	177.0	(55.0)	-23.7%	177.0	-	0.0%
Employee Compensation	48,098,690	35,612,415	(12,486,275)	-26.0%	36,680,787	1,068,372	3.0%
Salaries	33,280,102	24,317,595	(8,962,507)	-26.9%	25,047,123	729,528	3.0%
Benefits	14,818,588	11,294,820	(3,523,768)	-23.8%	11,633,665	338,845	3.0%
Travel	5,148,000	5,148,000	-	0.0%	5,302,440	154,440	3.0%
Rent /Comm/Util	373,855	281,500	(92,355)	-24.7%	289,945	8,445	3.0%
Administrative	153,445	162,300	8,855	5.8%	167,169	4,869	3.0%
Contracted Services	179,763	88,963	(90,800)	-50.5%	91,632	2,669	3.0%
Total	\$ 53,953,753	\$ 41,293,178	\$ (12,660,575)	-23.5%	\$ 42,531,973	\$ 1,238,795	3.0%

WESTERN REGION: 2026–2027 BUDGET SUMMARY							
	2025 Board Approved Budget	2026 Proposed Budget	2025-2026 Change	Percent Change	2027 Proposed Budget	2026-2027 Change	Percent Change
Positions	244.0	194.0	(50.0)	-20.5%	194.0	-	0.0%
Employee Compensation	53,152,236	40,562,976	(12,589,260)	-23.7%	41,779,865	1,216,889	3.0%
Salaries	36,913,521	27,797,933	(9,115,588)	-24.7%	28,631,871	833,938	3.0%
Benefits	16,238,715	12,765,043	(3,473,672)	-21.4%	13,147,995	382,951	3.0%
Travel	6,600,000	6,176,000	(424,000)	-6.4%	6,361,280	185,280	3.0%
Rent /Comm/Util	286,000	284,000	(2,000)	-0.7%	292,520	8,520	3.0%
Administrative	252,800	233,300	(19,500)	-7.7%	240,299	6,999	3.0%
Contracted Services	200,000	155,000	(45,000)	-22.5%	159,650	4,650	3.0%
Total	\$ 60,491,036	\$ 47,411,276	\$ (13,079,759)	-21.6%	\$ 48,833,614	\$ 1,422,338	3.0%

Note: Minor rounding differences may occur in totals.

NATIONAL CREDIT UNION ADMINISTRATION: CAPITAL INVESTMENT PROJECTS		
Description	2025 Board Approved	2026 Requested
Information Technology Investments		
Examination and Supervision Solution/MERIT Enhancements	\$ 1,771,000	\$ 2,898,000
Cloud Migration & Modernization	\$ 1,300,000	\$ -
Network Access Control	\$ 1,050,000	\$ -
EO on Improving the Nation's Cybersecurity	\$ 850,000	\$ -
IT Infrastructure, Platform and Security Refresh	\$ 775,000	\$ 940,000
Performance Management System	\$ 750,000	\$ -
Enterprise Laptop Refresh	\$ 550,000	\$ 3,190,000
Onboarding/ Offboarding Solution and Personnel Security Case Management System	\$ 300,000	\$ -
MARS and CUSO Development and Reports	\$ 260,000	\$ -
Generative AI Licensing	\$ 25,000	\$ -
System Updates for Significant Regulatory Changes	\$ 300,000	\$ -
CURE Process Automation	\$ 1,000,000	\$ -
Off-Site Monitoring Project	\$ 250,000	\$ -
ONES Dedicated Computing Resources	\$ 48,000	\$ -
OCFP Consumer Assistance Center - Customer Relationship Management System	\$ -	\$ 1,000,000
Balances from completed prior-year projects	\$ (2,340,000)	\$ -
Priority Investments for Reorganization and Operating Efficiencies	\$ -	\$ 10,000,000
Total, Information Technology Investments	\$ 6,889,000	\$ 18,028,000
Capital building improvements and repairs		
Central Office maintenance and repair	\$ 480,000	\$ 100,000
Grand Total, Capital Projects	\$ 7,369,000	\$ 18,128,000

Capital Projects

[FR Doc. 2025-18856 Filed 9-26-25; 8:45 am]

BILLING CODE 7535-01-C

NUCLEAR REGULATORY COMMISSION

[NRC-2025-0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of September 29, October 6, 13, 20, 27, and November 3, 2025. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please contact the Reasonable Accommodations Resource by email at Reasonable_Accommodations.Resource@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301-415-1969, or by email at Betty.Thweatt@nrc.gov or Samantha.Miklaszewski@nrc.gov.

MATTERS TO BE CONSIDERED:

Week of September 29, 2025

There are no meetings scheduled for the week of September 29, 2025.

Week of October 6, 2025—Tentative

Tuesday, October 7, 2025

10:00 a.m. Meeting With the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting) (Contact: Jeffrey Lynch: 301-415-5041)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>. If attending in person, please contact the staff member listed above at least 24 hours in advance of the

meeting to ensure timely processing into the building.

Week of October 13, 2025—Tentative

There are no meetings scheduled for the week of October 13, 2025.

Week of October 20, 2025—Tentative

There are no meetings scheduled for the week of October 20, 2025.

Week of October 27, 2025—Tentative

There are no meetings scheduled for the week of October 27, 2025.

Week of November 3, 2025—Tentative

There are no meetings scheduled for the week of November 3, 2025.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Wesley Held at 301-287-3591 or via email at Wesley.Held@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: September 25, 2025.

For the Nuclear Regulatory Commission.

Wesley W. Held,
Policy Coordinator, Office of the Secretary.

[FR Doc. 2025-18815 Filed 9-25-25; 11:15 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–302 and 72–1035; CEQ ID AXX-429-00-000-1753260507; NRC-2025-0181]

Accelerated Decommissioning Partners Crystal River, Unit 3, LLC; Crystal River Nuclear Power Station, Unit 3; Environmental Assessment and Finding of No Significant Impact

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering a partial site release of property under License No. DPR-72, issued in December 1976 and held by Accelerated Decommissioning Partners Crystal River, Unit 3, LLC (ADP) for the operation of Crystal River Nuclear Power Station, Unit 3 (Crystal River Unit 3). If approved, the license amendment would release property from the NRC license and thus render it no longer under NRC jurisdiction. Based on staff's environmental review, the NRC staff is issuing this environmental assessment (EA) and finding of no significant impact (FONSI) associated with the proposed action.

DATES: The EA and FONSI are available in this document.

ADDRESSES: Please refer to Docket ID NRC-2025-0181 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-0181. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. 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. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Amy Minor, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 817-200-1454; email: Amy.Hestermminor@nrc.gov.

SUPPLEMENTARY INFORMATION:**I. Introduction**

The NRC received, by letter dated February 10, 2025, as supplemented by letter dated June 18, 2025, a request from ADP to approve a partial site release of approximately 250 hectares (ha) (618 acres (ac)) of land for unrestricted use, and to amend License No. DPR-72 to reduce the site acreage identified in the Crystal River Unit 3 Operating License accordingly. Therefore, in compliance with section 50.83 of title 10 of the *Code of Federal Regulations* (10 CFR), "Release of part of a power reactor facility or site for unrestricted use," the NRC performed an EA. Based on the results of the EA that follows, the NRC has determined not to prepare an environmental impact statement (EIS) for the partial site release and is issuing a FONSI regarding ADP's request for a partial site release for License No. DPR-72.

II. Environmental Assessment*Description of the Proposed Action*

The proposed action is the review of the release of approximately 250 ha (618 ac) of land for unrestricted use and to remove another 1,560 ha (3,854 ac) of property, classified as radiologically non-impacted, from the Crystal River Unit 3 Operating License as approved on January 2, 2020 (ADAMS Accession No. ML19339G509). If the proposed action is approved, an additional 250 ha (618 ac) would no longer be part of the licensed site and thus, no longer under NRC jurisdiction. The licensee plans to release the 250 ha (618 ac) as soon as approval is received from the NRC and indicates that the property will then be returned to Duke Energy, the original license holder.

Purpose and Need

The licensee has requested the release of 250 ha (618 ac) of land that is entirely

within the NRC-licensed area, or controlled area, and remove another 1,560 ha (3,854 ac) of property, from the Crystal River Unit 3 Operating License. The purpose and need for the proposed agency action is to release 250 ha (618 ac) of the licensed site for which the licensee has no further operational need and reduce the site acreage identified in the Crystal River Unit 3 Operating License accordingly.

Prior Environmental Reviews

The NRC staff evaluated the environmental impacts of the proposed action for the unrestricted release of approximately 250 ha (618 ac) of land and amending License No. DPR-72 to reflect the description of the property released and reduce the site acreage identified in the Crystal River Unit 3 Operating License. Maps of the parcels proposed to be released are included in the licensee's application dated February 10, 2025, as supplemented by letter dated June 18, 2025.

Several environmental reviews have been completed for Crystal River Unit 3, most recently in 2024. A final environmental statement for Crystal River Unit 3 was completed in 1973 as required for the issuance of a license to the Florida Power Corporation for the startup and operation of Crystal River Unit 3. Florida Power Corporation, doing business as Progress Energy Florida, Inc., submitted a license renewal request to NRC in November 2008. The NRC staff completed a May 2011 draft report for comment, NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 44, Regarding Crystal River Unit 3 Nuclear Generating Plant," that evaluated environmental impacts from a renewed operating license for an additional 20-year period.

On December 2, 2013, Duke Energy Florida (DEF) submitted a post-shutdown decommissioning activities report (PSDAR) to the NRC that includes a discussion providing the basis for concluding that the environmental impacts associated with decommissioning activities were bounded by appropriate, previously issued, EISs including aforementioned NUREG-1437 and NUREG-0586, "Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities: Supplement 1, Regarding the Decommissioning of Nuclear Power Reactors" (Decommissioning GEIS), and that no unique site-specific features or unique aspects of the planned decommissioning were identified. The scope of the Decommissioning GEIS is based on

decommissioning activities undertaken from the time a licensee certifies it has permanently ceased power operations until the operating license is terminated.

On January 22, 2019, DEF submitted a partial site release request to NRC and stated that the environmental impacts associated with the proposed release of the property were considered compared to the 1973 final environmental statement. DEF confirmed that their evaluation did not identify any significant new environmental impacts or any significant changes from the environmental impacts that NRC previously assessed, and therefore they concluded that previous NRC reviews bounded the potential environmental impacts of the partial site release.

DEF's January 2019 partial site release request to the NRC sought to reduce the licensed footprint by releasing 1,560 ha (3,854 ac) of non-impacted parcels. The NRC approved the release of the parcels in 2020 and stated that the environmental impacts associated with the proposed release of the property are bounded by previously issued EISs. NRC License No. DPR-72 changed ownership to ADP in 2019, and in 2019 ADP submitted a revised PSDAR to NRC that again concluded that the environmental impacts associated with decommissioning activities were bounded by appropriate, previously issued, EISs.

ADP submitted a revised license termination plan to the NRC on June 9, 2023. The NRC staff completed an EA in 2024 that evaluated the potential impacts of decommissioning and license termination for Crystal River Unit 3. During its review, the NRC staff concluded that the impacts for most resource areas at the Crystal River Unit 3 were still bounded by the Decommissioning GEIS. NRC's 2024 EA also evaluated the potential impacts of decommissioning and license termination for the Crystal River Unit 3 that cannot be determined generically in the Decommissioning GEIS. The NRC staff concluded that there are no significant environmental impacts from decommissioning and license termination and issued the EA and FONSI published on July 17, 2024.

Environmental Impacts of the Proposed Action

ADP's application states that the June 2023 revised license termination plan included a "Supplement to the Environmental Report" that provided updated information to the November 2008 environmental report submitted to the NRC as part of a 2008 license renewal application for Crystal River Unit 3. The licensee's evaluation of the

proposed site release does not identify any significant new environmental impacts or any significant changes from the environmental impacts previously assessed. ADP concludes that the environmental impacts associated with the proposed release of the subject property are bound by the NRC's previous reviews and no increases in effects are anticipated.

The NRC staff reviewed ADP's application for the proposed partial site release of 250 ha (618 ac) of land and amending the license to reflect the description of the property released. The licensee notes that approximately 248 ha (614 ac) proposed for unrestricted release are considered non-impacted by a historical site assessment as supplemented by surveys provided in the license application request (LAR). Two of the parcels proposed for unrestricted release (North Shipping Yard and Seal and Container Storage Area) were conservatively deemed as impacted areas in a past site assessment but are now identified as indistinguishable from background based on final status surveys provided in this LAR. The NRC has determined that the licensee has no physical security or emergency preparedness need to retain the remaining 250 ha (618 ac). In addition, the licensee has performed surveys adequate to demonstrate compliance with the radiological criteria for unrestricted use. The NRC staff concludes that the proposed action of amending the license does not include physical changes to the site and that the potential environmental impacts associated with this request remain bounded by the environmental impacts evaluated in the previous NRC environmental reviews, notably the NRC's 2024 EA, because the activities and geographic area that were evaluated in those previous NRC environmental reviews are consistent with the proposed partial site release. A Safety Evaluation Report is being prepared in parallel with this EA to assess the licensee's compliance with the radiological criteria for unrestricted use.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, The NRC staff considered denial of the proposed release of the approximate 250 ha (618 ac) of land (*i.e.*, the "no-action" alternative). Denial of the request would result in the 250 ha (618 ac) of land to remain as part of the licensed site and subject to NRC jurisdiction, even though the licensee has no operational need for the land. This alternative would not result in

additional environmental impacts. However the NRC staff have determined that the proposed action does not include physical changes to the site and there is no policy or regulatory reason here for the NRC to require this licensee to retain the 250 ha (618 ac) of land for which the licensee has no further operational need. As such, the NRC staff concludes that the proposed action is the preferred alternative and the no-action alternative is not further considered.

Conclusion

The NRC staff determined that the proposed action does not include physical changes to the site and is administrative in nature, and that the potential environmental impacts associated with this request remain bounded by the environmental impacts evaluated in the previous NRC environmental review, to include the 2024 EA, because the activities and geographic area that were evaluated in those previous NRC environmental reviews are consistent with the proposed partial site release. As such, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an EIS is not warranted.

Agencies and Persons Consulted

A public meeting to obtain comments on the release approval request was announced on the NRC public meeting website at <https://www.nrc.gov/pmns/mtg>. A notice of ADP's request and the public meeting, including a request for comment, was also published in the Citrus County Chronicle, Inverness, Florida, on July 9 and 16, 2025. The NRC staff published a notice of the receipt of ADP's request, including a request for comment, in the **Federal Register** on July 2, 2025. The NRC staff conducted the public meeting in Crystal River, Florida, on July 23, 2025. A summary of the public meeting, which includes copies of the presentations made and a copy of the transcript of the meeting, is available in ADAMS at Accession No. ML25218A083. No comments were made on the Federal Rulemaking website, or were received by mail or email, and no questions were asked at the meeting.

The NRC contacted the Florida State officials on August 19, 2025 (ADAMS Accession No. ML25261A016) concerning this request. There were no comments, concerns or objections from the State officials.

III. Finding of No Significant Impact

The NRC staff has prepared this EA as part of its review of the proposed action.

On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an EIS is not warranted. Accordingly,

the NRC has determined that a FONSI is appropriate. In accordance with 10 CFR 51.32(a)(4), this FONSI incorporates the EA set forth in this notice by reference.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document description	ADAMS accession No./ web link/ Federal Register citation
Partial Site Release Request, dated February 10, 2025	ML25041A177 (Package).
Partial Site Release Request, dated June 18, 2025	ML25170A017 (Package).
Final Environmental Statement Related to the Proposed Crystal River Unit 3, Florida Power Corporation, published May 1973.	ML091520178.
Crystal River License Termination Plan Environmental Assessment, published July 2024	ML24081A068.
Federal Register Notice, Accelerated Decommissioning Partners Crystal River Unit 3, LLC; Crystal River Nuclear Power Station, Unit 3; Environmental Assessment and Finding of No Significant Impact, published July 17, 2024.	89 FR 58196.
Federal Register Notice, Accelerated Decommissioning Partners Crystal River Unit 3, LLC; Crystal River Unit 3 Nuclear Generating Plant; Partial Site Release, published July 2, 2025.	90 FR 29051.
NUREG-1437, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 44, Regarding Crystal River Unit 3 Nuclear Generating Plant, published May 2011.	ML11139A153.
Letter—Post-shutdown Decommissioning Activities Report, dated December 2, 2013	ML13340A009.
NUREG-0586, Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities: Supplement 1, Regarding the Decommissioning of Nuclear Power Reactors, Volumes 1 and 2, date published November 2002.	ML023470304, ML023470323, ML023500187, ML023500211, ML023500223.
Letter—Partial Site Release Request, dated January 22, 2019	ML19022A076.
Letter—Revised Post-shutdown Decommissioning Activities Report, dated June 26, 2019	ML19177A080.
Letter—NRC Approval of Partial Site Release, dated January 2, 2020	ML19339G509.
Letter—Revised License Termination Plan, dated June 9, 2023	ML23160A296.
Crystal River Unit 3 License Renewal Application, published November 2008	ML090080731.
Submittal to Florida State officials	ML25261A016.

Dated: September 25, 2025.

For the Nuclear Regulatory Commission.

Robert Sun,

*Chief, Environmental Project Management,
Branch 2, Division of Rulemaking,
Environmental, and Financial Support, Office
of Nuclear Material Safety and Safeguards.*

[FR Doc. 2025-18817 Filed 9-26-25; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040-38417; CEQ ID EAXX-429-
00-000-1750645380; NRC-2025-0084]

DISA Technologies, Inc.; Environmental Assessment and Finding of No Significant Impact

AGENCY: Nuclear Regulatory
Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a multi-site service provider license to DISA Technologies, Inc. (DISA) for the operation of its high-pressure slurry ablation (HPSA) technology to remediate abandoned uranium mine (AUM) waste. DISA's request is to use the HPSA technology to perform remediation at certain AUM waste sites after additional site-specific safety and environmental information is

provided to and approved by the NRC. The NRC staff is issuing a generic environmental assessment (EA) and finding of no significant impact (FONSI) associated with the proposed licensing action.

DATES: The EA and FONSI referenced in this document are available on September 29, 2025.

ADDRESSES: Please refer to Docket ID NRC-2025-0084 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-0084. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact

the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The "Final Environmental Assessment for Proposed Issuance of Multi-Site License to DISA Technologies for Abandoned Uranium Mine Waste Remediation" is available in ADAMS under Accession No. ML25265A212.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Christine Pineda, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6789; email: christine.pineda@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC is making available to the public the "Environmental Assessment for Proposed Issuance of Multi-Site License to DISA Technologies for Abandoned Uranium Mine Waste

Remediation.” A notice of availability of the draft EA was published in the **Federal Register** on August 8, 2025 (90 FR 38514). The public comment period on the draft EA ended on September 8, 2025, and the comments received on the draft EA are addressed in appendix B of the final EA.

The NRC’s separate Safety Evaluation Report is available in ADAMS at Accession No. ML25226A192.

II. Introduction

The NRC is considering issuance of a multi-site, service provider license to DISA for operation of its HPSA process at AUM waste sites located primarily in fourteen western states, namely Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, and on the Navajo Nation. As required by section 51.21 of title 10 of the *Code of Federal Regulations* (10 CFR), “Criteria for identification of licensing and regulatory actions requiring environmental assessments,” the NRC has prepared an EA documenting its finding. The NRC concluded that the proposed action would have no significant impact if conditions and proposed operations at each site are consistent with the potential impacts and assumptions detailed in the generic EA. The NRC will review site-specific information submitted by DISA for each site and determine the extent to which further site-specific analysis may be needed.

A summary of the generic EA follows. Based on the results of the EA, the NRC has determined not to prepare an environmental impact statement for the license issuance and is issuing a FONSI.

III. Summary of the Generic Environmental Assessment

Description of the Proposed Action

DISA would use its HPSA technology in the form of mobile units to treat mine waste at AUM waste sites. Use of the HPSA process to separate uranium and thorium fines from mine waste rock and soils would result in licensable quantities and concentrations of source material. The NRC is proposing to issue a license to DISA under 10 CFR part 40, “Domestic Licensing of Source Material,” for the possession and processing of source material. If granted, the license would allow DISA to operate HPSA at AUM waste sites after the NRC has reviewed the site-specific characteristics in a pre-mobilization notification (PMN) that DISA would submit 90 days before mobilizing to a site. The NRC staff plans to complete its

safety and environmental review of each PMN within the 90-day pre-mobilization period and will issue a determination that will be placed on the publicly available docket, as to whether DISA may proceed with site remediation.

In addition, DISA would not be able to operate at a given site unless it has obtained all necessary permits and authorizations, as needed, from other Federal agencies and State, Tribal, and local governments. The length of time DISA would be present at each site depends on the amount of material to be processed and could range from about 9 months for small sites to almost 18 years for large sites.

HPSA uses mechanical and kinetic energy to separate mineral-rich patinas containing source material (uranium and/or thorium) and other metals from host sand grains. The HPSA remediation would generate two products: coarse material and fines concentrates. The coarse material would be a sand-like soil and would be reintegrated into the sites assuming the material meets NRC and all other applicable regulatory requirements. DISA would then seed the material with an appropriate grass seed mixture. The fines concentrates, which would contain uranium and/or thorium and other metals, would be transported to a licensed recipient such as a low-level radioactive waste disposal facility or a uranium recovery facility. After HPSA operations conclude, DISA would demobilize and leave the site, including deposited coarse material, in a condition that meets NRC requirements for unrestricted release. DISA would submit a demobilization notification (DMN) that provides DISA’s evaluation of how the site meets NRC requirements within 30 days after completing remediation at each site. If the NRC finds that the DMN is not acceptable, the licensee shall submit within 30 days after that determination a plan for resolving outstanding issues, including the timeframe for resolution.

The Need for the Proposed Action

The purpose of the proposed NRC action, issuance of the requested license, is to allow DISA to conduct HPSA activities safely in accordance with the conditions of the license and with applicable NRC requirements under 10 CFR part 20, “Standards for Protection Against Radiation,” and part 40, “Domestic Licensing of Source Material.” The proposed action is in response to DISA’s application dated March 28, 2025 (ADAMS Package Accession No. ML25087A094) as supplemented by letters dated June 16, 2025 (ADAMS Accession No. ML25167A328) and July 31, 2025

(ADAMS Package Accession No. ML25213A083).

Approximately 15,000 AUM waste sites have been documented that resulted from a uranium mining industry that began in the 1940s to produce uranium for weapons and later for nuclear fuel.

Environmental Impacts of the Proposed Action

The NRC staff developed a generic assessment of the potential environmental impacts of operating the HPSA remediation at AUM waste sites. The NRC staff assessed the potential impacts on land use; historic and cultural resources; visual and scenic resources; air quality; geology and soils; water resources; ecological resources; socioeconomics; noise; transportation; public and occupational health and safety; and waste management. The NRC staff determined that the proposed action would not have significant impacts on these resource areas if the assumptions described in the draft generic EA are met at a given site. Before mobilizing to a site, DISA would provide site-specific information to the NRC in a PMN, which the NRC staff would review to determine whether the generic EA’s assumptions apply for that site. If any site conditions, proposed operations, or potential impacts are not consistent with the impacts and assumptions in the EA, the NRC staff would assess whether further analysis is needed. In all cases, the NRC staff will evaluate the potential impacts of depositing the coarse material back onto the site after HPSA operations conclude, and the NRC or its designee would conduct site-specific consultations to fulfill its consultation responsibilities under Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed issuance of a license to DISA, the NRC considered the no-action alternative. Under the no-action alternative, the NRC would not issue the license and DISA would not be allowed to operate its HPSA units at AUM waste sites. A consequence of denying the license could be that DISA submits a revised application, or that AUM waste sites potentially suitable for HPSA would need to be remediated using other means. In the absence of HPSA operations, the NRC would not be involved in AUM waste site cleanup unless the remedial activity involves another NRC licensee or applicant.

The potential environmental impacts of the no-action alternative would include the direct impacts of continuing current site conditions (*i.e.*, no change to a site) as well as the potential impacts of using remediation alternatives instead of the proposed action. The potential impacts of continuing current site conditions include the continued unavailability of AUM waste site land for human use and the avoidance of the impacts assessed generically in the EA for the proposed HPSA operations. However, the NRC does not have authority over AUM waste site cleanup and did not assess further in the draft generic EA the potential impacts of other remedial actions beyond its jurisdiction and authority. The draft generic EA generally describes two main approaches U.S. Environmental Protection Agency (EPA) uses for remediating AUM sites: excavation and removal, and consolidation and capping. Under the no-action alternative, these and other approaches might be used instead of HPSA or in addition to it.

Agencies and Persons Consulted

The NRC published the draft generic EA to receive comments from individual members of the public, Federal and State agencies, American Indian Tribes, organizations, and other entities. During its review of a site-specific PMN, the NRC staff would consult as needed with the State, agencies of interested American Indian Tribes, other Federal agencies, and others as needed.

Comments on Draft EA

The NRC received comments on the draft EA from members of the public, the EPA, State governments, advocacy organizations, and DISA. Commenters expressed opposition to the proposed HPSA operations; provided suggestions for improving or clarifying specific discussions in the EA, especially regarding potential impacts on water resources; expressed concerns about and requested clarification regarding the regulatory framework for the DISA licensing action; expressed concerns about the lack of site-specific information; and expressed concerns about the bounding assumptions in the EA. The NRC staff's responses to the comments are provided in appendix B of the final EA.

IV. Finding of No Significant Impact

On the basis of the generic EA, the NRC concludes that the proposed licensing action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an

environmental impact statement for the proposed action.

As described in the generic EA, before DISA mobilizes to a site, the NRC staff would review DISA's PMN and the conditions at that site. The NRC staff would compare the site-specific information to the impacts and assumptions in the generic EA. If HPSA operations at a site would be consistent with the impacts and assumptions in the EA, the FONSI would apply for that site. If there are differences in site conditions, proposed operations, or potential impacts at a site, the NRC staff would determine whether these differences require further analysis. In all cases, the NRC will assess the site-specific impacts of depositing coarse material onto the site, and the NRC or its designee will conduct site-specific consultations under Section 106 of the National Historic Preservation Act and Section 7 of the Endangered Species Act. This site-specific analysis would result in a FONSI or, if necessary, a determination that an environmental impact statement should be prepared.

Dated: September 25, 2025.

For the Nuclear Regulatory Commission.

Robert Sun,

*Chief, Environmental Project Management,
Branch 2, Division of Rulemaking,
Environmental, and Financial Support, Office
of Nuclear Material Safety, and Safeguards.*

[FR Doc. 2025-18857 Filed 9-26-25; 8:45 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket No. CP2024-689]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 1, 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:

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- I. Introduction
- II. Public Proceeding(s)
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I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

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

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).

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)*: CP2024–689; *Filing Title*: USPS Request Concerning Amendment One to Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 337, with Materials Filed Under Seal; *Filing Acceptance Date*: September 23, 2025; *Filing Authority*: 39 CFR 3035.105 and 39 CFR 3041.505; *Public Representative*: Kenneth Moeller; *Comments Due*: October 1, 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. 2025–18773 Filed 9–26–25; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104029; File No. SR–MEMX–2025–30]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Eighth Amended and Restated Limited Liability Company Agreement of MEMX Holdings LLC

September 24, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on September 11, 2025, MEMX LLC (“MEMX” or the “Exchange”) filed with the Securities and Exchange

Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b–4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Eighth Amended and Restated Limited Liability Company Agreement (the “Holdco LLC Agreement”) of MEMX Holdings LLC (“Holdco” or the “Company”), as further described below. Holdco is the parent company of the Exchange and directly or indirectly owns all of the limited liability company membership interests in the Exchange. The text of the proposed rule change is provided in Exhibit 5 and is available on the Exchange's website at <https://info.memxtrading.com/regulation/rules-and-filings/>.

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 Holdco LLC Agreement⁵ to reflect

¹ 15 U.S.C. 78s(b)(3)(A).

² 17 CFR 240.19b–4.

³ References herein to the “Holdco LLC Agreement” refer to the Eighth Amended and Restated Limited Liability Company Agreement of MEMX Holdings LLC, as may be amended from time to time. All section references herein are to sections of the Holdco LLC Agreement unless indicated otherwise. Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Holdco LLC Agreement.

amendments that were previously approved by the Holdco Board in accordance with the Holdco LLC Agreement and Delaware law, including: (i) an amendment to the provisions relating to the pre-emptive right of certain limited liability company members of the Company (“Members”) with respect to issuances of Units⁶ or other equity interests in the Company or its subsidiaries (“Company Subsidiaries”); and (ii) amendments intended to update and/or clarify existing language in various provisions. Each of these amendments is discussed below.

Amendment To Pre-Emptive Right Provision

Section 9.1 of the Holdco LLC Agreement provides for a pre-emptive right of certain Members to purchase a pro rata portion of any New Securities⁷ that the Company or any Company Subsidiary may from time to time propose to issue or sell to any party within a specified timeframe. The Exchange notes that pre-emptive rights are commonly provided to equity owners of private companies, such as

⁶ The term “Units” means a unit representing a fractional part of the membership interests of the Members. See Section 1.1.

⁷ The term “New Securities” means any authorized but unissued Units and any Unit Equivalents convertible into Units, exchangeable or exercisable for Units, or providing a right to subscribe for, purchase or acquire Units, or, in each of the foregoing cases, if such New Securities are issued by a Company Subsidiary any equity interests or Equity Interest Equivalents in such Company Subsidiary; provided, that the term “New Securities” shall not include Units, Unit Equivalents, equity interests or Equity Interest Equivalents issued or sold by the Company or any Company Subsidiary in connection with: (i) a grant to any existing or prospective Directors, Officers or other service providers of the Company pursuant to any incentive plan of the Company or similar equity-based plans or other compensation agreement (including the Incentive Plan); (ii) the conversion or exchange of any validly issued securities of the Company or any Company Subsidiary into Units or other equity interests, or the exercise of any warrants or other rights to acquire Units or other equity interests; (iii) any acquisition by the Company or any Company Subsidiary of any equity interests, assets, properties or business of any Person; (iv) any merger, consolidation or other business combination involving the Company or any Company Subsidiary; (v) the commencement of any Public Offering; (vi) without prejudice to clause (iv) above, any issuance of Units, Unit Equivalents, equity interests or Equity Interest Equivalents in a transaction which results in a Change of Control of the Company or any Company Subsidiary, with respect to which the Board has waived the rights of the Members under Section 9.1 pursuant to a Supermajority Board Vote; (vii) conversion of Class C Units and/or Class D Units, as applicable, pursuant to Sections 3.10(d), 3.10(e) or 3.11, as applicable; or (viii) to the extent not covered by clauses (i) through (vii) above, Common Units issued in the manner set forth in clauses (A) through (H) of the definition of Exempted Securities. See Section 9.1(b).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

the Company, and are designed to protect equity owners against dilution resulting from new issuances by allowing an equity owner to purchase its pro rata portion of a new security issuance to maintain its proportional stake in the company.

The definition of New Securities in the Holdco LLC Agreement describes the types of securities that are included in that term and therefore are subject to the Members' pre-emptive right, and it also specifies certain types of securities that are excluded from that term and therefore are not subject to the Members' pre-emptive right. The Holdco Board has resolved, and the Exchange therefore proposes, to amend the definition of New Securities to specifically exclude Units or other equity interests issued or sold by the Company or any Company Subsidiary in connection with a warrants or other equity rights program administered by a Regulated Securities Exchange Subsidiary⁸ that is approved by the Holdco Board by Supermajority Board Vote and is effective pursuant to a rule filing that is filed with the Commission (any such program, an "Exchange Warrants Program"). The Exchange notes that Exchange Warrants Programs are generally designed for the purpose of incentivizing Exchange participation in exchange for the issuance of Units or other equity interests,⁹ and the Holdco Board has determined that the Members' pre-emptive right should not apply to issuances under such programs.

Thus, under the proposed rule change, issuances of Units or other equity interests under future Exchange Warrants Programs would not be subject to the Members' pre-emptive right, and the Exchange believes this proposed change would facilitate the administration of future Exchange Warrants Programs on the Exchange, as it would limit participation in the equity issuances under such programs to the participants in such programs,

consistent with the design of such programs. The Exchange notes that while this proposed change may have an impact on the proportional ownership of the Exchange or its parent company in connection with a future Exchange Warrants Program by disapplying the right of certain Members to participate in the equity issuance thereunder, any such Exchange Warrants Program must be effective pursuant to a rule filing that is filed with the Commission and any related equity issuance is subject to the ownership limitations of the Holdco LLC Agreement.¹⁰

Amendments To Update and/or Clarify Various Provisions

The Exchange is also proposing to make amendments to the Holdco LLC Agreement that are intended to update and/or clarify existing language in various provisions. The purpose of these amendments is to add clarity to the Holdco LLC Agreement by updating information that is outdated or otherwise clarifying the relevant provision consistent with its original intent. Each amendment was previously approved by the Holdco Board and is discussed below.

- The Exchange proposes to amend the definition of "MX2 LLC Agreement" in Section 1.1. Currently, Section 1.1 defines the term "MX2 LLC Agreement" as the First Amended and Restated Limited Liability Company Agreement of MX2 LLC, a Subsidiary of the Company, effective as of September 17, 2024, as may be amended or restated from time to time. The MX2 LLC Agreement was initially adopted by its Managing Member, Holdco, on September 17, 2024, and then it was subsequently amended and restated and adopted by the Board of Directors of MX2 LLC on April 28, 2025. The Exchange proposes to amend the definition of MX2 LLC Agreement to update the referenced effective date to April 28, 2025, which is the date that it was adopted by the Board of Directors of MX2 LLC.

- The Exchange proposes to amend Sections 3.2(a) and (b) to clarify the voting rights of the Class A–1 Units and Class A–2 Units. Section 3.2 provides for the authorization and voting rights of the Class A–1 Units, Class A–2 Units, Nonvoting Class A–1 Units, Nonvoting Class A–2 Units, Class C–1 Units, Class C–2 Units, Class D–1 Units, Class D–2

Units, Voting Common Units and Nonvoting Common Units. Sections 3.2(a) and (b) relate to the Class A–1 Units and Class A–2 Units, respectively. The Exchange proposes to amend Sections 3.2(a) and (b) to specify that, with respect to the Class A–1 Units and Class A–2 Units, each such Unit shall have one vote per Unit on all matters on which such Units are entitled to vote. The Exchange notes that each type of Unit described in Section 3.2, including Class A–1 Units and Class A–2 Units, was originally intended to have one vote per Unit on all matters on which such type of Unit is entitled to vote, and Sections 3.2(c)–(g) include language that specifies this voting construct with respect to the other types of Units described in that section. Therefore, this proposed change is intended to clarify the number of votes corresponding to each Class A–1 Unit and Class A–2 Unit consistent with the original intent of the relevant provisions. The Exchange notes that the proposed language in Sections 3.2(a) and (b) mirrors the language used in Sections 3.2(c)–(g) to describe this voting construct with respect to the other types of Units described in Section 3.2.

- The Exchange proposes to amend Section 3.2(c) to correct an inadvertent drafting error relating to the voting construct applicable to the Nonvoting Class A–1 Units. Specifically, Section 3.2(c) contains an erroneous reference to "Nonvoting Class A Unit" that was originally intended to be a reference to "Nonvoting Class A–1 Unit" as that is the type of Unit to which this provision relates. Therefore, the Exchange proposes to amend Section 3.2(c) to replace the erroneous reference to "Nonvoting Class A Unit" with an appropriate reference to "Nonvoting Class A–1 Unit" to clarify the provision consistent with its original intent.

- The Exchange proposes to amend Section 7.4(f) to update an outdated provision relating to a past tax election made by the Company. Currently, Section 7.4(f) provides that the Company shall make a specified tax election upon its filing of its 2020 U.S. federal income tax return. The Company did in fact make the specified tax election upon its filing of its 2020 U.S. federal income tax return, and as such, the Exchange proposes to update the language in Section 7.4(f) to reflect that this tax election was previously made by the Company.

- The Exchange proposes to amend Section 8.18(c)(i) to include "LLC" after the references to "MEMX" and "MX2" to reflect those entities' full legal names, which would clarify this provision consistent with its original intent.

⁸ The term "Regulated Securities Exchange Subsidiary" means any national securities exchange controlled, directly or indirectly, by the Company, including MEMX LLC and MX2 LLC. See Section 1.1.

⁹ The Exchange notes that it in 2024 adopted an Exchange Warrants Program (the "2024 Warrants Program") pursuant to which warrants representing the right to acquire equity in Holdco upon vesting are issued to participants on the Exchange's options platform ("MEMX Options") who also participate in the 2024 Warrants Program in exchange for such participants' achievement of certain trade volume thresholds on MEMX Options. The 2024 Warrants Program was designed to incentivize market participants on MEMX Options to direct greater trade volume to MEMX Options, thereby enhancing its market quality. See Securities Exchange Act Release No. 100247 (May 30, 2024), 89 FR 48203 (June 5, 2024) (SR–MEMX–2024–21).

¹⁰ See, e.g., Section 3.5(a)(ii) of the Holdco LLC Agreement, which states that "[n]o Exchange Member, either alone or together with its Related Persons, may own, directly or indirectly, of record or beneficially, Units constituting more than twenty percent (20%) of any class of Units."

- The Exchange proposes to amend Section 8.18(c)(vi)(A) to clarify a reference made to the Exchange Boards of MEMX LLC and MX2 LLC. Section 8.18(c)(vi) provides for certain actions in the event of a Combination of Exchange Director Nominating Members, and subparagraph (A) provides that following such Combination, the surviving Affiliated group of Exchange Director Nominating Members shall have the right to nominate one Exchange Director to an Exchange. The Exchange notes that the reference to “an Exchange” in this provision was originally intended to reference each applicable Exchange Board—namely, the Exchange Boards of MEMX LLC and/or MX2 LLC, as applicable. The Exchange proposes to amend Section 8.18(c)(vi)(A) to replace the reference to “an Exchange” with a reference to “each applicable Exchange Board” to clarify this provision consistent with its original intent.

- The Exchange proposes to amend Section 8.18(c)(vi)(D) to replace an erroneous reference to “Exchange Director Nomination Rotation” with an appropriate reference to each of the MEMX LLC Exchange Director Nomination Rotation and the MX2 LLC Exchange Director Nomination Rotation. The Exchange notes that the reference to “Exchange Director Nomination Rotation” in this provision was originally intended to refer to each applicable nomination rotation—namely, the MEMX LLC Exchange Director Nomination Rotation and the MX2 LLC Exchange Director Nomination Rotation—but the term “Exchange Director Nomination Rotation” is not a defined term in the Holdco LLC Agreement. Therefore, the proposed change to instead reference each of the MEMX LLC Exchange Director Nomination Rotation and the MX2 LLC Exchange Director Nomination Rotation is intended to clarify the provision consistent its original intent by referencing the appropriate defined terms.

- The Exchange proposes to amend Section 8.18(g)(iv) to replace four erroneous references to “Exchange” with appropriate references to “Exchange Board” as originally intended. The Exchange notes that the term “Exchange” is not defined in the Holdco LLC Agreement, so the proposed change is intended to clarify the provision consistent with its original intent by replacing references to an erroneous undefined term with the appropriate defined term.

- The Exchange proposes to amend Section 12.4(c) to remove a reference to a date that has passed and delete related

language that is now outdated and obsolete. Section 12.4(c) provides that until February 19, 2023, no approval of the Holdco Board is required for a specified level of variance in the Company’s Annual Budget, and that upon such date the Holdco Board shall determine by Supermajority Board Vote the level of variance in the Company’s Annual Budget that does not require approval of the Holdco Board after such date. The Exchange notes that such date has passed, and the Holdco Board has determined by Supermajority Board Vote that the same level of variance in the Company’s Annual Budget that applied before such date will continue to not require approval of the Holdco Board, consistent with the Company’s existing practice. Accordingly, the Exchange proposes to remove the outdated reference to February 19, 2023, and delete the final sentence of Section 12.4(c) regarding the Holdco Board’s action to be taken upon such date, as such date has passed and such action was previously taken.

The Exchange proposes to update Exhibit A to remove a reference to a date that has passed. Exhibit A, which is a Form of Adherence Agreement, contains a field for a date to be filled in when completing the form, and that date field currently references 2023. As 2023 has passed, the Exchange proposes to update Exhibit A by deleting the reference to 2023 and replacing it with a reference to “2___” for the year to be filled in upon any future completion of the form.

2. Statutory Basis

The Exchange believes that the proposed amendments to the Holdco LLC Agreement are consistent with Section 6(b) of the Act,¹¹ in general, and further the objectives of Section 6(b)(1) of the Act,¹² in particular, in that such amendments enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed amendments are consistent with Section 6(b)(5) of the Act,¹³ which requires the rules of an exchange to be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

general, to protect investors and the public interest.

The Exchange believes that the proposed amendment to exclude from the definition of New Securities, and, in turn, the Members’ pre-emptive right, Units or other equity interests issued or sold by the Company or any Company Subsidiary in connection with an Exchange Warrants Program is consistent with the Act because, as described above, such change would facilitate the administration of future Exchange Warrants Programs on the Exchange, which are generally designed to incentivize Exchange participation and thereby enhance the Exchange’s market quality. As such, this proposed change would remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange notes that there was sufficient representation on the Holdco Board of Members impacted by this proposed change and that the approval of this proposed change by the Holdco Board was effectuated in accordance with Delaware law. Furthermore, while this proposed change may have an impact on the proportional ownership of the Exchange or its parent company in connection with a future Exchange Warrants Program, the Exchange notes that the proposed change requires that any such Exchange Warrants Program be effective pursuant to a rule filing that is filed with the Commission, so there would be Commission review of any potential ownership changes resulting from any such Exchange Warrants Program, which would also remain subject to the ownership limitations of the Holdco LLC Agreement. In this regard, the Exchange believes the proposed change is consistent with the Act, as it enables the Exchange and its parent company to be organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange and does not impair the ability of the SEC to enforce the Exchange Act and the rules and regulations promulgated thereunder with respect to the Exchange.

The Exchange believes the proposed amendments to update and clarify various provisions in the Holdco LLC Agreement are consistent with the Act, as such amendments would update and clarify the Holdco LLC Agreement in a manner consistent with actions previously taken by the Holdco Board in accordance with the Holdco LLC Agreement, thereby increasing transparency and helping to avoid any potential confusion resulting from

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(1).

¹³ 15 U.S.C. 78f(b)(5).

retaining outdated, obsolete, or unclear provisions. The Exchange believes that updating the Holdco LLC Agreement in this manner would ensure clarity with respect to the corporate documents of the Exchange's parent company, thereby enabling the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, promoting just and equitable principles of trade, removing impediments to and perfect the mechanism of a free and open market, and protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal is not intended to address competitive issues nor the operation of the Exchange. Rather, as described above, this proposal is concerned solely with the equity rights of Members of Holdco and the administration of Holdco's corporate documents. As such, the Exchange does not believe that this proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder¹⁵ in that it effects a change 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.

The Exchange believes that the proposed amendments to the Holdco LLC Agreement described above would

not significantly affect the protection of investors and the public interest. In addition, the Exchange does not believe that this proposal imposes any significant burden on competition because the proposed amendments to the Holdco LLC Agreement do not address competitive issues but rather are concerned solely with the equity rights of Members of Holdco and the administration of Holdco's corporate documents, as discussed above.

Furthermore, Rule 19b-4(f)(6)(iii)¹⁶ requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, 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 contained in Rule 19b-4(f)(6)(iii) so that the Exchange may amend the Holdco LLC Agreement as soon as possible. The Exchange states that waiver of the operative delay is consistent with the protection of investors and the public interest because it would allow the Holdco LLC Agreement to reflect updated and clarified provisions that were previously approved by the Holdco Board in accordance with the Holdco LLC Agreement and Delaware law, each as discussed above, in a timely manner, thereby creating more transparent, consistent, and clear standards for the administration and governance of the parent company of the Exchange. The Exchange also states that the proposed changes to the Holdco LLC Agreement do not materially alter the existing governance framework of the Exchange

or its parent company. The Commission believes the proposed rule change presents no novel legal or regulatory issues, and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.¹⁷

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MEMX-2025-30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-MEMX-2025-30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MEMX-2025-30 and should be submitted on or before October 20, 2025.

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025-18794 Filed 9-26-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0758]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Rule 30e-3 (17 CFR 270.30e-3) Under the Investment Company Act of 1940, "Internet Availability of Reports to Shareholders"

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("SEC" or "Commission") is soliciting comments on the proposed collection of information.

Under Section 30 of the Investment Company Act of 1940, as amended (the "Investment Company Act"), a registered investment company is required to transmit to its shareholders, at least semi-annually, reports containing financial statements and other financial information as the Commission may prescribe by rules and regulations. Rule 30e-3 under the Investment Company Act provides certain funds with an optional method to satisfy shareholder report transmission requirements by making such reports and certain other materials publicly accessible on a website, as long as they satisfy certain other conditions of the rule regarding (1) availability of the report and other materials; (2) notice to investors of the website availability of the report; and (3) delivery of paper copies of materials upon request.

Certain of the provisions of rule 30e-3 contain "collection of information" requirements within the meaning on the Paperwork Reduction Act. The collection of information is required pursuant to 17 CFR 270.30e-3. Reliance on the rule is voluntary. Responses to the disclosure requirements are not kept confidential.

We estimate that annually there are approximately 703 funds affected by rule 30e-3. We estimate that the total

annual burden of complying with the information collection requirements in rule 30e-3 is approximately 1,406 burden hours. We estimate that there is an annual cost burden of approximately \$5,129,008. These burden hour and cost estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the SEC, including whether the information will have practical utility; (b) the accuracy of the SEC's estimate of the burden imposed by the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated, electronic collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to PaperworkReductionAct@sec.gov by November 28, 2025. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: September 24, 2025.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025-18782 Filed 9-26-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104040; File No. SR-PEARL-2025-45]

Self-Regulatory Organizations; MIAx PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Lower the Options Regulatory Fee (ORF)

September 24, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 23, 2025, MIAx PEARL, LLC ("MIAx Pearl" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule applicable to the options trading platform of MIAx Pearl (the "Fee Schedule") regarding the Options Regulatory Fee ("ORF").

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/pearl-options/rule-filings> and at MIAx Pearl's principal office.

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 Fee Schedule to: (i) temporarily decrease the ORF from \$0.0018 per

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

contract to \$0.0014 per contract between September 1, 2025 and December 31, 2025;³ and (ii) increase the ORF from \$0.0014 per contract to \$0.0016 per contract, effective January 1, 2026.

Background

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Members' ⁴ customer options business, including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs.

Collection of ORF

The Exchange assesses the per-contract ORF to each Member for all options transactions cleared or ultimately cleared by the Member, which are cleared by the Options Clearing Corporation ("OCC") in the "customer" range,⁵ regardless of the exchange on which the transaction occurs. The ORF is collected by OCC on behalf of the Exchange from either: (1) a Member that was the ultimate clearing firm for the transaction; or (2) a non-Member that was the ultimate clearing firm where a Member was the executing clearing firm for the transaction. The Exchange uses reports from OCC to determine the identity of the executing clearing firm and ultimate clearing firm.

As a practical matter, when a transaction that is subject to the ORF is not executed on the Exchange, the Exchange lacks the information necessary to identify the order-entering member for that transaction. There are a multitude of order-entering market participants throughout the industry, and such participants can make changes to the market centers to which they connect, including dropping their

connection to one market center and establishing themselves as participants on another. For these reasons, it is not possible for the Exchange to identify, and thus assess fees such as ORF, on order-entering participants on away markets on a given trading day. Clearing members, however, are distinguished from order-entering participants because they remain identified to the Exchange on information the Exchange receives from OCC regardless of the identity of the order-entering participant, their location, and the market center on which they execute transactions.

ORF Revenue and Monitoring of ORF

The Exchange monitors the amount of revenue collected from the ORF to ensure that it, in combination with other regulatory fees and fines, does not exceed regulatory costs. In determining whether an expense is considered a regulatory cost, the Exchange reviews all costs and makes determinations if there is a nexus between the expense and a regulatory function. The Exchange notes that fines collected by the Exchange in connection with a disciplinary matter offset ORF.

The Exchange believes that its broad regulatory responsibilities with respect to a Member's activities supports applying the ORF to transactions cleared but not executed by a Member. The Exchange's regulatory responsibilities are the same regardless of whether a Member enters a transaction or clears a transaction executed on its behalf. The Exchange regularly reviews all such activities, including performing surveillance for position limit violations, manipulation, front-running, contrary exercise advice violations and insider trading. These activities span across multiple exchanges.

Revenue generated from ORF, when combined with all of the Exchange's other regulatory fees and fines, is designed to recover a material portion of the regulatory costs to the Exchange of the supervision and regulation of Members' customer options business including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. Regulatory costs include direct regulatory expenses and certain indirect expenses in support of the regulatory function. The direct expenses include in-house and third party service provider costs to support the day-to-day regulatory work such as surveillances, investigations and examinations.

The ORF revenue is based on options transactions volume, the amount of ORF

collected is variable. For example, if options transactions reported to OCC in a given month increase, the ORF collected from Members will likely increase as well. Similarly, if options transactions reported to OCC in a given month decrease, the ORF collected from Members will likely decrease as well. Accordingly, the Exchange monitors the amount of ORF collected to ensure that it does not exceed a material portion of regulatory costs. If the Exchange determines the amount of ORF collected exceeds or may exceed a material portion of regulatory costs, the Exchange will, as appropriate, adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the "Commission").

Proposal

Based on the Exchange's recent review of regulatory costs, ORF revenue, and options transaction volume, the Exchange proposes to temporarily decrease the ORF from \$0.0018 per contract to \$0.0014 per contract, between September 1, 2025 and December 31, 2025. This proposed decrease will help ensure that the amount collected from the ORF, in combination with other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. On July 31, 2025, the Exchange notified Members of the proposed temporary decrease to the ORF via a Regulatory Circular to afford market participants sufficient opportunity to configure their systems to account properly for the modified ORF.⁶

The proposed change to the ORF is based on the Exchange's analysis of recent options volumes and its regulatory costs. The Exchange believes that, if the ORF is not temporarily reduced for the remainder of 2025, the ORF revenue to the Exchange year over year could exceed a material portion of the Exchange's 2025 regulatory costs.

Over the past few years, the options industry has experienced high options trading volumes and volatility and the persisting increased options volumes have impacted the Exchange's ORF collection. The table below reflects industry data from OCC and illustrates that both total average daily volume and customer average daily volume in 2025 increased over the already elevated levels in 2023 and 2024.⁷

⁶ See https://www.miaxglobal.com/sites/default/files/circular-files/MIAX_Pearl_Options_RC_2025_49.pdf.

⁷ The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/Market-Data/Market-Data->

³ The Exchange initially filed the proposed fee changes on August 28, 2025 (SR-PEARL-2025-41). On September 12, 2025, the Exchange withdrew that filing and submitted SR-PEARL-2025-44. On September 23, the Exchange withdrew that filing and submitted this proposal.

⁴ The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an "Electronic Exchange Member" or "Market Maker." Members are deemed "members" under the Exchange Act. See the Definitions section of the Fee Schedule and Exchange Rule 100.

⁵ Exchange participants must record the appropriate account origin code on all orders at the time of entry in order. The Exchange represents that it has surveillances in place to verify that Members mark orders with the correct account origin code.

	2023	2024	2025 YTD
Customer ADV	35,327,417	39,365,049	46,831,086
Total ADV	40,368,590	44,360,426	53,043,204

In addition, as shown in the table below, during 2025, options trading

volumes have remained elevated and volatility has persisted.⁸

	Jan. 2025	Feb. 2025	Mar. 2025	Apr. 2025	May 2025	June 2025	July 2025
Customer ADV	46,758,284	48,508,333	46,281,134	47,786,196	46,234,519	45,453,082	47,244,127
Total ADV	53,134,932	54,563,396	53,182,376	55,339,630	51,351,579	50,576,203	51,516,242

Because of the sustained impact of the trading volumes that have persisted through July 2025, along with the difficulty of predicting whether and when volumes may return to historical levels, the Exchange proposes to temporarily decrease the ORF from September 1 through December 31, 2025, to help ensure that ORF collection will not exceed the Exchange's 2025 regulatory costs. The Exchange cannot predict whether options volumes will remain at these levels going forward and projections for future regulatory costs are estimated. Particularly, based on the Exchange's estimated projections for its regulatory costs, the revenue generated by ORF using the temporarily reduced rate, would result in projected revenue that is insufficient to cover a material portion of its regulatory costs. Further, when combined with the Exchange's projected other non-ORF regulatory fees and fines, the revenue generated by ORF using the temporarily reduced rate is projected to result in a combined revenue that is less than the Exchange's estimated regulatory costs for the year. Because the projected revenue is projected to insufficiently cover a material portion of its regulatory costs, the Exchange proposes to increase the ORF starting January 1, 2026 from \$0.0014 per contract to \$0.0016 per contract. The Exchange will notify Members of the proposed change via a Regulatory Circular at least 30 calendar days prior to the effective date of the change.

Potential ORF Reform

The Exchange appreciates the evolving changes in the markets and regulatory environment and, in connection with industry and other feedback, has been evaluating the current methodologies and practices for

the assessment and collection of ORF. The Exchange recognizes that an alternative model is being pursued among industry participants but that a consensus has not yet been reached. The Exchange is committed to switching to a new, modified model as soon as a consistent framework has been established with the Commission, adopted by all the options exchanges, and necessary regulatory filings submitted.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁰ in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act¹¹ in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Proposal Is Reasonable

The Exchange believes the proposed fee changes are reasonable because customer transactions will be subject to a lower ORF fee than the current rate. Moreover, the proposed temporary reduction to \$0.0014 per contract is reasonable because it would help ensure that collections from the ORF do not exceed a material portion of the Exchange's projected regulatory costs for 2025. As noted above, the ORF is

designed to recover a material portion, but not all, of the Exchange's regulatory costs.

Although there can be no assurance that the Exchange's final costs for 2025 will not differ materially from its expectations and prior practice, nor can the Exchange predict with certainty whether options volume will remain at current or similar levels going forward, the Exchange believes that the amount collected based on the current ORF rate, when combined with regulatory fees and fines, may result in collections in excess of the projected regulatory costs for the year. Particularly, as noted above, the options market has continued to experience elevated volumes and volatility in 2025, thereby resulting in higher ORF collections than projected. The Exchange therefore believes that the proposed temporary decrease to the ORF is reasonable because it would help ensure that ORF collection does not exceed the projected regulatory costs for 2025. Particularly, the Exchange believes that this temporary reduction in the ORF, taken together with the Exchange's other regulatory fees and fines, would allow the Exchange to continue covering a material portion of the projected regulatory costs, while lessening the potential for generating excess funds that may otherwise occur using the current rate.

The Exchange also believes that the increase of the ORF to \$0.0016 per contract on January 1, 2026 is reasonable because it would permit the Exchange to collect an ORF that is designed to recover a material portion, but not all, of the Exchange's projected regulatory costs.

The Exchange's proposal to increase the ORF rate on January 1, 2026 is based on the Exchange's estimated projections

Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics. The volume discussed in this filing is based on a compilation of OCC data for monthly volume of equity-based options and

monthly volume of ETF-based options, in contract sides.

⁸ See *id.*

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78f(b)(5).

for its regulatory costs, which are currently projected to increase in 2026, balanced with the increase in options volumes that has persisted into 2025 and that may continue into 2026. When taking into account the recent options volume, outlined above, coupled with the anticipated regulatory fees and anticipated reductions in other regulatory fees, the Exchange believes it's reasonable to increase the ORF. Particularly, the proposed change is reasonable as it would offset the anticipated increased regulatory costs. Moreover, the proposed increase is still lower than the Exchange is assessing currently and has assessed previously.

The Proposal Is an Equitable Allocation of Fees

The Exchange also believes the proposed fee change is equitable and not unfairly discriminatory in that it is charged to all Members on all their transactions that clear in the customer range at the OCC.¹² The Exchange believes the ORF ensures fairness by assessing higher fees to those members that require more Exchange regulatory services based on the amount of customer options business they conduct. Regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. For example, there are costs associated with main office and branch office examinations (e.g., staff expenses), as well as investigations into customer complaints and the terminations of registered persons. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (e.g., member proprietary transactions) of its regulatory program. Moreover, the Exchange notes that it has broad regulatory responsibilities with respect to activities of its Members, irrespective of where their transactions take place. Many of the Exchange's surveillance programs for customer trading activity

may require the Exchange to look at activity across all markets, such as reviews related to position limit violations and manipulation. Indeed, the Exchange cannot effectively review for such conduct without looking at and evaluating activity regardless of where it transpires. In addition to its own surveillance programs, the Exchange also works with other SROs and exchanges on intermarket surveillance related issues. Through its participation in the Intermarket Surveillance Group ("ISG")¹³ the Exchange shares information and coordinates inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. Accordingly, there is a strong nexus between the ORF and the Exchange's regulatory activities with respect to customer trading activity of its Members.

The Exchange also believes that increasing the ORF rate on January 1, 2026, is equitable because the ORF would continue to apply equally to all Members on options transactions in the "customer" range, at a rate designed to recover a material portion, but not all, of the Exchange's projected regulatory costs, based on current projections that such costs will increase in 2026.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. The Exchange believes that the proposed temporary decrease to the ORF rate would not place certain market participants at an unfair disadvantage because it would apply to all Members subject to the ORF and would allow the Exchange to continue to monitor the amount collected from the ORF to help ensure that ORF collection, in combination with other regulatory fees and fines, does not exceed regulatory costs. The Exchange also has provided all such Members with advance notice of the planned change to the ORF.¹⁴ Further, the Exchange believes that increasing the ORF on January 1, 2026, is not unfairly discriminatory because the Exchange would continue assessing the ORF equally to all Members based on their transactions that clear in the "customer" range at the OCC.

¹² If the OCC clearing member is an Exchange Member, ORF is assessed and collected on all cleared customer contracts (after adjustment for CMTA); and (2) if the OCC clearing member is not an Exchange Member, ORF is collected only on the cleared customer contracts executed at the Exchange, taking into account any CMTA instructions which may result in collecting the ORF from a non-Member. "CMTA" or Clearing Member Trade Assignment is a form of "give-up" whereby the position will be assigned to a specific clearing firm at OCC.

¹³ ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by cooperatively sharing regulatory information pursuant to a written agreement between the parties. The goal of the ISG's information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

¹⁴ See *supra* note 6.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange believes the proposed change would not impose an undue burden on intramarket competition because the ORF is charged to all Members on all their transactions that clear in the "customer" range at the OCC; thus, the amount of ORF imposed is based on the amount of customer volume transacted. The Exchange believes that the proposed temporary decrease of the ORF would not place certain market participants at an unfair disadvantage because all options transactions must clear via a clearing firm. Such clearing firms can then choose to pass through all, a portion, or none of the cost of the ORF to its customers, i.e., the entering firms. The ORF is collected from Member clearing firms by the OCC on behalf of the Exchange and is assessed on all options transactions cleared at the OCC in the "customer" range.

The Exchange also believes that increasing ORF on January 1, 2026 would not impose an undue burden on competition because it would permit the Exchange to resume assessing an ORF that is designed to recover a material portion, but not all, of the Exchange's projected regulatory costs, based on current projections that such costs will increase in 2026.

Intermarket Competition

The proposed fee change is not designed to address any competitive issues. Rather, the proposed change is designed to help the Exchange adequately fund its regulatory activities while seeking to ensure that total collections from regulatory fees do not exceed total regulatory costs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁵ and paragraph (f) of Rule

¹⁵ 15 U.S.C. 78s(b)(3)(A).

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–PEARL–2025–45 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–PEARL–2025–45. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–PEARL–2025–45 and should be submitted on or before October 20, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–18792 Filed 9–26–25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104034; File No. SR–Phlx–2025–49]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 4

September 24, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on September 18, 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 various transaction fees in Options 7, Section 4, 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).³

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed

any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx proposes to amend pricing within Options 7, Section 4 to: (1) remove the current BD-Customer Facilitation waiver and replace it with a Broker-Dealer Transaction Cap; (2) amend the Floor Broker Incentive Program; and (3) amend the strategy caps for Floor Originated Strategy Executions. Each change will be described below.

BD-Customer Facilitation Waiver

Today, the Exchange waives the Broker-Dealer⁴ Floor Options Transaction Charge⁵ (including Cabinet Options Transaction Charges)⁶ for members executing facilitation orders pursuant to Options 8, Section 30⁷ when such members would otherwise incur this charge for trading in their own proprietary account contra to a Customer⁸ (“BD-Customer Facilitation”), if the member's BD-Customer Facilitation average daily

⁴ The term “Broker-Dealer” applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. See Options 7, Section 1(c).

⁵ The Exchange assesses a Broker-Dealer Floor Options Transaction Charge of \$0.25 per contract in Penny and Non-Penny Symbols.

⁶ Cabinet Options Transaction may only be executed as a floor transaction; they are not executed electronically. A floor transaction is a transaction that is effected in open outcry on the Exchange's Trading Floor. See Options 7, Section 1(c). The Exchange assesses Customers no Cabinet Options Transaction Charge. The Exchange assesses Non-Customers a \$0.10 per contract Cabinet Options Transaction Charge. The term “Non-Customer” applies to transactions for the accounts of Lead Market Makers, Market Makers, Firms, Professionals, Broker-Dealers and JBOs. See Options 7, Section 1(c).

⁷ Options 8, Section 30, Crossing, Facilitation and Solicited Orders, describes the manner in which orders may be crossed in open outcry on the Exchange's trading floor. Facilitation orders are among the types of orders described in Options 8, Section 30.

⁸ The term “Customer” applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation (“OCC”) which is not for the account of a broker or dealer or for the account of a “Professional” (as that term is defined in Options 1, Section 1(b)(45)). See Options 7, Section 1(c).

¹⁶ 17 CFR 240.19b–4(f).

¹⁷ 17 CFR 200.30–3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ SR–Phlx–2025–41 was filed on September 2, 2025. On September 10, 2025, the Exchange withdrew SR–Phlx–2025–41 and filed SR–Phlx–2025–45. On September 18, 2025, SR–Phlx–2025–45 was withdrawn and this proposal was filed.

volume (including both FLEX⁹ and non-FLEX transactions) exceeds 10,000 contracts per day in a given month.¹⁰ The Exchange proposes to no longer offer this waiver.

In lieu of this waiver, the Exchange proposes a Broker-Dealer Transaction Cap whereby each Broker-Dealer Floor Options Transaction Charge will be capped at \$15,000 per transaction (including FLEX and Cabinet Options Transaction Charges). The Exchange believes that this proposed new cap will incentivize Broker-Dealers to submit larger-sized orders for execution to Phlx. Other market participants will be able to interact with those larger-sized orders.

The Exchange also proposes to amend language in the existing text for Firm Facilitation to modify the rule text to refer to one waiver only.

Floor Broker Incentive Program

The Exchange proposes to amend its Floor Transaction (Open Outcry) Floor Broker Incentive Program at Options 7, Section 4. This incentive program for Floor Brokers¹¹ is designed to attract order flow to Phlx's trading floor for execution in open outcry. Currently, the Exchange pays Floor Brokers certain rebates for transaction they execute on Phlx's trading floor in open outcry. Today, Floor Brokers are paid rebates for transactions executed on the trading floor in open outcry. The below transactions are not considered qualifying volume for purposes of the rebates: (1) dividend, merger, short stock interest, reversal and conversion, jelly roll, and box spread strategy executions as defined in this Options 7, Section 4; (2) Firm Floor Options Transactions for

members executing facilitation orders pursuant to Options 8, Section 30 when such members are trading in their own proprietary account (including Cabinet Options Transaction Charges); and (3) Customer-to-Customer transactions.

Today, rebates are paid on qualifying volume at each threshold level based on the below schedule. Floor Qualified Contingent Cross ("QCC") Orders, as defined in Options 8, Section 30(e), are considered qualifying volume but are not paid rebates based on the below schedule, rather Floor QCC Order are paid the QCC Rebates noted in Options 7, Section 4.

Today, the Exchange pays Floor Transaction (Open Outcry) Floor Broker Incentive Program rebates on qualifying volume based on four tiers.

	Qualifying contracts	Per contract rebate (customer on one side)	Per contract rebate (non-customer on both sides)
Tier 1	0–500,000	\$0.02	\$0.08
Tier 2	500,001–5,000,000	0.05	0.12
Tier 3	5,000,001–10,000,000	0.07	0.16
Tier 4	Greater than 10,000,000	0.08	0.20

First, the Exchange proposes to amend the Floor Transaction (Open Outcry) Floor Broker Incentive Program with respect to qualifying volume. The Exchange proposes to amend the current rule text in Options 7, Section 4, to also include electronic QCC Orders as qualifying volume. As amended, the rule text would state,

Rebates will be paid on qualifying volume at each threshold level based on the below schedule. Floor QCC Orders, as defined in Options 8, Section 30(e), and electronic QCC Orders, as defined in Options 3, Section 12, will be considered qualifying volume but would not be paid rebates based on the below schedule, rather Floor QCC Orders and

electronic QCC Orders would be paid the QCC Rebates noted in Options 7, Section 4 above.

While electronic QCC Orders would count toward qualifying volume, electronic QCC Orders, similar to Floor QCC Orders, would not be paid rebates based on the rebate schedule, rather electronic QCC Order would continue to be paid the QCC Rebates noted in Options 7, Section 4. This proposed change would allow Phlx members and member organizations to count electronic QCC Orders toward their qualifying volume to achieve the Qualifying Contracts necessary to be paid a rebate.

The Exchange also proposes to amend the current rebate schedule at Tier 2 with respect to qualifying contracts between 500,001–5,000,000. Today, the Exchange pays a \$0.12 per contract rebate when Non-Customers¹² are on both sides of the transaction. The Exchange proposes to increase that rebate from \$0.12 to \$0.16 per contract. The other rebates are not being amended.

The Exchange believes that the Floor Transaction (Open Outcry) Floor Broker Incentive Program will attract greater order flow to Phlx's trading floor as a result of the proposed changes.

⁹ FLEX transactions may only be executed as a floor transaction pursuant to Options 8, Section 34; they are not executed electronically.

¹⁰ Transactions in broad-based index options symbols listed within Options 7, Section 5.A. are excluded from waiver.

¹¹ The term "Floor Broker" means an individual who is registered with the Exchange for the purpose, while on the Options Floor, of accepting and handling options orders. See Phlx Options 7, Section 1(c).

¹² The term "Non-Customer" applies to transactions for the accounts of Lead Market Makers, Market Makers, Firms, Professionals, Broker-Dealers and JBOs. See Options 7, Section 1(c).

Strategy Caps for Floor Originated Strategy Executions

Today, the Exchange permits the following of strategy executions: (1) dividend strategy,¹³ merger strategy,¹⁴ short stock interest strategy,¹⁵ reversal and conversion strategies,¹⁶ jelly roll strategy,¹⁷ and a box spread strategy.¹⁸ To qualify for a strategy cap,¹⁹ the buy and sell side of a transaction must originate either from the Exchange Trading Floor or as a Floor Qualified Contingent Cross Order.²⁰ Currently, the Exchange offers certain daily and month caps of \$0.00, therefore no transaction charges are assessed on any permissible strategy execution defined in Options 7, Section 4 that meet the qualifications. For a dividend strategy, a Lead Market

Maker,²¹ Market Maker,²² Professional,²³ Firm²⁴ and Broker-Dealer that executed on the same trading day in the same class of options when such members are trading: (1) in their own proprietary accounts; or (2) on an agency basis, they are subject to no cap.²⁵ For a merger, short stock interest and box spread strategy, a Lead Market Maker, Market Maker, Professional, Firm and Broker-Dealer that executed on the same trading day for all classes of options in the aggregate when such members are trading (1) in their own proprietary accounts; or (2) on an agency basis, they are subject to no cap.²⁶ Finally, for reversal and conversion and jelly roll strategies, a Lead Market Maker, Market Maker, Professional, Firm and Broker-Dealer

that executed on the same trading day for all classes of options in the aggregate when such members are trading (1) in their own proprietary accounts; or (2) on an agency basis, they are subject to no cap.²⁷ The Exchange notes that Customers are not subject to the strategy cap because Customers are not assessed Options Transaction Charges within Options 7, Section 4.

At this time, the Exchange proposes to no longer apply a Strategy Cap to strategy executions and instead pay certain rebates. The Exchange proposes to re-title “Strategy Caps” within Options 7, Section 4 as “Strategy Fees and Rebates” and also amend the rule text beneath the title. The Exchange also proposes to amend the paragraph under the table and in Options 7, Section 6, B to change references to the “Strategy Cap” to “Strategy pricing.” Further, the Exchange proposes to add the following, “The below fees/rebates are in lieu of the Options Transactions Charges in Options 7, Section 4 for Penny and Non-Penny Symbols.”

The Exchange is proposing to amend the Strategy Cap table to re-title “Daily/Monthly Cap” to “Fee/Rebate Per Contract” and pay a \$0.01 rebate per contract on any strategy execution that meet the qualifications noted in the table. Therefore, for a dividend strategy, a Lead Market Maker, Market Maker, Professional, Firm and Broker-Dealer that executed on the same trading day in the same class of options when such members are trading: (1) in their own proprietary accounts; or (2) on an agency basis, will be paid a \$0.01 rebate per contract. For a merger, short stock interest and box spread strategy, a Lead Market Maker, Market Maker, Professional, Firm and Broker-Dealer that executed on the same trading day for all classes of options in the aggregate when such members are trading (1) in their own proprietary accounts; or (2) on an agency basis, they will be paid a \$0.01 rebate per contract. Finally, for reversal and conversion and jelly roll strategies, a Lead Market Maker, Market Maker, Professional, Firm and Broker-Dealer that executed on the same trading day for all classes of options in the aggregate when such members are trading (1) in their own proprietary accounts; or (2) on an agency basis, will be paid a \$0.01 rebate per contract. Finally, Customers would continue to pay no fees on strategy transactions with this proposal. The Exchange proposes the following be added to the end of the paragraph under the newly titled “Strategy Fees and Rebates” section, “Customers will not be assessed a fee

¹³ A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend. See Options 7, Section 4.

¹⁴ A merger strategy is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, executed the first business day prior to the date on which shareholders of record are required to elect their respective form of consideration, *i.e.*, cash or stock. See Options 7, Section 4.

¹⁵ A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class. See Options 7, Section 4.

¹⁶ Reversal and conversion strategies are transactions that employ calls and puts of the same strike price and the underlying stock. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration. See Options 7, Section 4.

¹⁷ A jelly roll strategy is defined as transactions created by entering into two separate positions simultaneously. One position involves buying a put and selling a call with the same strike price and expiration. The second position involves selling a put and buying a call, with the same strike price, but with a different expiration from the first position. See Options 7, Section 4.

¹⁸ A box spread strategy is a strategy that synthesizes long and short stock positions to create a profit. Specifically, a long call and short put at one strike is combined with a short call and long put at a different strike to create synthetic long and synthetic short stock positions, respectively. See Options 7, Section 4.

¹⁹ Of note, NDX, NDXP, and XND Options Transactions are excluded from strategy cap pricing.

²⁰ See Phlx’s Pricing Schedule at Options 7, Section 4. A Floor Qualified Contingent Cross Order is comprised of an originating order to buy or sell at least 1,000 contracts that is identified as being part of a qualified contingent trade coupled with a contra-side order or orders totaling an equal number of contracts. The term “qualified contingent trade” shall have the same meaning set forth in Options 3, Section 12(a)(3). See Options 8, Section 30(e).

²¹ 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).

²² 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 good standing that satisfies the RSQTO readiness requirements in Options 2, Section 1(a). See Options 7, Section 1(c).

²³ The term “Professional” applies to transactions for the accounts of Professionals, as defined in Options 1, Section 1(b)(45) means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Options 7, Section 1(c).

²⁴ The term “Firm” applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation. See Options 7, Section 1(c).

²⁵ If transacted on an agency basis, the daily cap will apply per beneficial account.

²⁶ See *id.* For example, if a Lead Market Maker executed reversal and conversion strategies only in AAPL options, and otherwise met the qualifications for a reversal and conversion cap, the proposed \$700 daily cap would apply. If the Lead Market Maker executed reversal and conversion strategies in AAPL and SPY options, and otherwise met the qualifications for a reversal and conversion cap, the proposed \$1,000 daily cap would apply.

²⁷ See *id.*

nor receive a rebate for strategy transactions” to make clear that Customers would continue to not be assessed a fee.” Finally, the Exchange proposes to remove the sentence that states, “If transacted on an agency basis, the daily cap will apply per beneficial account” from the table for the various strategies as the Exchange will no longer offer a cap.

The Exchange believes that its proposal will incentivize Lead Market Makers, Market Makers, Professionals, Firms and Broker-Dealers to transact a greater number of strategies on Phlx.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²⁸ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,²⁹ 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.”³⁰

Likewise, in *NetCoalition v. Securities and Exchange Commission*³¹ (“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.³² As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”³³

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’”³⁴ 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.

BD-Customer Facilitation Waiver

The Exchange’s proposal to remove the BD-Customer Facilitation waiver and instead offer a Broker-Dealer Transaction Cap is reasonable. The Exchange seeks to incentivize Broker-Dealers to direct additional orders to the Exchange. The current waiver seeks to accomplish this by requiring Customer Facilitation average daily volume of 10,000 contracts per day in a given month to receive the waiver for facilitation orders, while the new cap applies to each order submitted by a Broker-Dealer to limit cost. The current waiver sought to incentivize crossing orders to be sent to the Exchange while the proposed new cap incentivizes Broker-Dealers to send larger sized orders to benefit from the incentive. The Exchange believes that its current proposal has the potential to bring additional orders to the Exchange with which other market participants may interact, particularly given the potential for the orders being sized larger.

The Exchange’s proposal to remove the BD-Customer Facilitation waiver and instead offer a Broker-Dealer Transaction Cap is equitable and not unfairly discriminatory. Today, Customers are not assessed Options Transaction Charges. Lead Market Makers and Market Makers are offered a Monthly Market Maker Cap of \$500,000³⁵ to offset their Options

Transaction Charges. Finally, Firms are subject to a \$250,000 “Monthly Firm Fee Cap”³⁶ to offset their Options Transaction Charges. The Exchange believes that it is equitable and not unfairly discriminatory to likewise provide Broker-Dealers an incentive to offset their Options Transaction Charges for large orders.

Floor Broker Incentive Program

The Exchange’s proposal to amend its Floor Transaction (Open Outcry) Floor Broker Incentive Program to permit electronic QCC Orders, as defined in Options 3, Section 12, to be considered qualifying volume for purposes of the program and not pay rebates for transactions executed on electronic QCC Orders is reasonable because the addition of electronic QCC Orders as qualifying volumes may incentives additional electronic QCC Orders in an effort to earn higher rebates.

The Exchange’s proposal to amend its Floor Transaction (Open Outcry) Floor Broker Incentive Program to permit electronic QCC Orders, as defined in Options 3, Section 12, to be considered qualifying volume for purposes of the program and not pay rebates for transactions executed on electronic QCC Orders is equitable and not unfairly discriminatory as all Phlx Floor Broker electronic QCC Order flow entered on

is Common Ownership between the member organizations. All dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategy executions (as defined in this Options 7, Section 4) will be excluded from the Monthly Market Maker Cap. Lead Market Makers or Market Makers that (i) are on the contra-side of an electronically-delivered and executed Customer order, excluding responses to a PIXL auction; and (ii) have reached the Monthly Market Maker Cap will be assessed fees as follows: \$0.05 per contract Fee for Adding Liquidity in Penny Symbols, \$0.18 per contract Fee for Removing Liquidity in Penny Symbols, \$0.18 per contract in Non-Penny Symbols, and \$0.18 per contract in a non-Complex electronic auction, including the Quote Exhaust auction and, for purposes of this fee, the opening process. A Complex electronic auction includes, but is not limited to, the Complex Order Live Auction (“COLA”). Transactions which execute against an order for which the Exchange broadcast an order exposure alert in an electronic auction will be subject to this fee. See Options 7, Section 4.

³⁶ Firms are subject to a \$250,000 “Monthly Firm Fee Cap”. Firm Floor Option Transaction Charges and QCC Transaction Fees in the aggregate for one billing month that exceed the Monthly Firm Fee Cap per member or member organization, when such members or member organizations are trading in their own proprietary account, will be subject to a reduced transaction fee of \$0.02 per capped contract unless there is no fee or the fee is waived. All dividend, merger, short stock interest, reversal and conversion, jelly roll, and box spread strategy executions (as defined in this Options 7, Section 4) are excluded from the Monthly Firm Fee Cap. Transactions in broad-based index options symbols listed within Options 7, Section 5.A. are excluded from the Monthly Firm Fee Cap. QCC Transaction Fees are included in the calculation of the Monthly Firm Fee Cap. See Options 7, Section 4.

³⁴ *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)).

³⁵ 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)). The trading activity of separate Lead Market Maker and Market Maker member organizations will be aggregated in calculating the Monthly Market Maker Cap if there

²⁸ 15 U.S.C. 78f(b).

²⁹ 15 U.S.C. 78f(b)(4) and (5).

³⁰ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

³¹ *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

³² See *NetCoalition*, at 534–535.

³³ *Id.* at 537.

Phlx will be counted as qualifying volume for the Floor Transaction (Open Outcry) Floor Broker Incentive Program and those electronic QCC Order will uniformly be paid rebates based on the schedule in Options 7, Section 4 for rebates.

The Exchange's proposal to increase Tier 2 of the rebate schedule with respect to qualifying contracts between 500,001–5,000,000, when Non-Customers are on both sides of the transaction, from \$0.12 to \$0.16 per contract rebate is reasonable because the higher rebate may attract additional order flow to Phlx's open outcry in an effort to earn the higher rebate. Other Phlx floor members may interact with the orders exposed in open outcry on the Exchange's trading floor.

The Exchange's proposal to increase Tier 2 of the rebate schedule with respect to qualifying contracts between 500,001–5,000,000, when Non-Customers are on both sides of the transaction, from \$0.12 to \$0.16 per contract rebate is equitable and not unfairly discriminatory because the Exchange will uniformly pay qualifying Floor Brokers the increased rebate to all qualifying members. Further, the Exchange believes its proposed increased floor transaction rebates for a Non-Customer on both sides is equitable and not unfairly discriminatory when compared to the rebate for a Customer on one side with the same number of qualifying contracts because Customers are not assessed a Floor Options Transaction Charge for Penny and Non-Penny Symbols. In contrast, the Exchange notes that Non-Customers, except Professionals, are assessed Floor Options Transaction Charges in Penny and Non-Penny Symbols. The Exchange proposes to pay higher rebates where there is a Non-Customer on both sides of a trade because a Floor Broker attracting Customer order flow can more easily attract Customer orders which are not assessed a floor transaction fee as compared to attracting a Non-Customer order which would pay a transaction fee to execute on Phlx's trading floor.

The Exchange believes that it is reasonable to pay rebates on qualifying volume for transactions executed on the trading floor, because it is necessary from a competitive standpoint to offer this rebate to the executing Floor Broker to attract order flow to the trading floor. The rebate is meant to assist Floor Brokers to recruit business on an agency basis. The Floor Broker may use all or part of the rebate to offset its fees. The Exchange expects that the rebate offered to executing Floor Brokers will allow them to price their services at a level that will enable them to attract order

flow from market participants who would otherwise enter these orders electronically from off the floor. To the extent that Floor Brokers are able to attract these qualifying volume, other floor participants may interact with this order flow in open outcry. The Exchange believes that it is equitable and not unfairly discriminatory to pay rebates on qualifying volume for transactions executed on the trading floor, because Floor Brokers would be uniformly paid the rebates based on qualifying volume and the parties to the transaction.

Strategy Caps for Floor Originated Strategy Executions

The Exchange's proposal to amend the Strategy Cap pricing to pay a \$0.01 per contract rebate on qualifying strategy executions is reasonable because the Exchange desires to attract qualifying strategy transactions to Phlx and this rebate will incentivize Lead Market Makers, Market Makers, Professionals, Firms and Broker-Dealers to transact a greater number of strategies on Phlx. Customers pay no Options Transaction Charges on strategy executions today and would continue to pay no fees.

The Exchange's proposal to pay a \$0.01 per contract rebate on qualifying strategy executions is equitable and not unfairly discriminatory because the Exchange would uniformly pay the rebate to all qualifying Non-Customers. Customers continue to not be assessed an Options Transaction Charge for strategy executions.

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

BD-Customer Facilitation Waiver

The Exchange's proposal to remove the BD-Customer Facilitation waiver and instead offer a Broker-Dealer Transaction Cap does not impose an undue burden on competition. Today, Customers are not assessed Options Transaction Charges. Lead Market Makers and Market Makers are offered a Monthly Market Maker Cap of \$500,000³⁷ to offset their Options Transaction Charges. Finally, Firms are subject to a \$250,000 "Monthly Firm Fee Cap"³⁸ to offset their Options Transaction Charges. For the aforementioned reasons, the Exchange

³⁷ 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)). The trading activity of separate Lead Market Maker and Market Maker member organizations will be aggregated in calculating the Monthly Market Maker Cap if there is Common Ownership between the member organizations. All dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategy executions (as defined in this Options 7, Section 4) will be excluded from the Monthly Market Maker Cap. Lead Market Makers or Market Makers that (i) are on the contra-side of an electronically-delivered and executed Customer order, excluding responses to a PIXL auction; and (ii) have reached the Monthly Market Maker Cap will be assessed fees as follows: \$0.05 per contract Fee for Adding Liquidity in Penny Symbols, \$0.18 per contract Fee for Removing Liquidity in Penny Symbols, \$0.18 per contract in Non-Penny Symbols, and \$0.18 per contract in a non-Complex electronic auction, including the Quote Exhaust auction and, for purposes of this fee, the opening process. A Complex electronic auction includes, but is not limited to, the Complex Order Live Auction ("COLA"). Transactions which execute against an order for which the Exchange broadcast an order exposure alert in an electronic auction will be subject to this fee. See Options 7, Section 4.

³⁸ Firms are subject to a \$250,000 "Monthly Firm Fee Cap". Firm Floor Option Transaction Charges and QCC Transaction Fees in the aggregate for one billing month that exceed the Monthly Firm Fee Cap per member or member organization, when such members or member organizations are trading in their own proprietary account, will be subject to a reduced transaction fee of \$0.02 per capped contract unless there is no fee or the fee is waived. All dividend, merger, short stock interest, reversal and conversion, jelly roll, and box spread strategy executions (as defined in this Options 7, Section 4) are excluded from the Monthly Firm Fee Cap. Transactions in broad-based index options symbols listed within Options 7, Section 5.A. are excluded from the Monthly Firm Fee Cap. QCC Transaction Fees are included in the calculation of the Monthly Firm Fee Cap. See Options 7, Section 4.

believes that providing Broker-Dealers an incentive to offset their Options Transaction Charges does not impose an undue burden on competition.

Floor Broker Incentive Program

The Exchange's proposal to amend its Floor Transaction (Open Outcry) Floor Broker Incentive Program to permit electronic QCC Orders, as defined in Options 3, Section 12, to be considered qualifying volume for purposes of the program and not pay rebates for transactions executed on electronic QCC Orders does not impose an undue burden on competition as all Phlx Floor Broker electronic QCC Order flow entered on Phlx will be counted as qualifying volume for the Floor Transaction (Open Outcry) Floor Broker Incentive Program and those electronic QCC Order will uniformly be paid rebates based on the schedule in Options 7, Section 4 for rebates.

The Exchange's proposal to increase Tier 2 of the rebate schedule with respect to qualifying contracts between 500,001–5,000,000, when Non-Customers are on both sides of the transaction, from \$0.12 to \$0.16 per contract rebate does not impose an undue burden on competition because the Exchange will uniformly pay qualifying Floor Brokers the increased rebate to all qualifying members. Further, the Exchange believes its proposed increased floor transaction rebates for a Non-Customer on both sides does not impose an undue burden on competition when compared to the rebate for a Customer on one side with the same number of qualifying contracts, because Customers are not assessed a Floor Options Transaction Charge for Penny and Non-Penny Symbols. In contrast, the Exchange notes that Non-Customers, except Professionals, are assessed Floor Options Transaction Charges in Penny and Non-Penny Symbols. The Exchange proposes to pay higher rebates where there is a Non-Customer on both sides of a trade because a Floor Broker attracting Customer order flow can more easily attract Customer orders which are not assessed a floor transaction fee as compared to attracting a Non-Customer order which would pay a transaction fee to execute on Phlx's trading floor.

The Exchange believes that it does not impose an undue burden on competition to pay rebates on qualifying volume for transactions executed on the trading floor, because Floor Brokers would be uniformly paid the rebates based on qualifying volume and the parties to the transaction.

Strategy Caps for Floor Originated Strategy Executions

The Exchange's proposal to pay a \$0.01 per contract rebate on qualifying strategy executions is equitable and not unfairly discriminatory because the Exchange would uniformly pay the rebate to all qualifying Non-Customers. Customers continue to not be assessed an Options Transaction Charge for strategy executions.

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.³⁹

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-2025-49 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-2025-49. 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

³⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-Phlx-2025-49 and should be submitted on or before October 20, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-18798 Filed 9-26-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104039; File No. SR-DTC-2025-014]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Decommission the Initial Public Offering Tracking System

September 24, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 19, 2025, The Depository Trust Company ("DTC") 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 clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(4) 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 proposed rule change would (i) amend the DTC Settlement Guide,

⁴⁰ 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)(4).

Underwriting Guide, and the OA,⁵ to decommission the Initial Public Offering Tracking System (“IPO Tracking System”),⁶ an optional service used to track IPO share movement during the post-offering stabilization period, and, consequently, (ii) remove from the Guide to the DTC Fee Schedule⁷ (“Fee Guide”) the related fee (“IPO Tracked Issue”) associated with the IPO Tracking System.

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would (i) amend the DTC Settlement Guide, Underwriting Guide, and the OA, to decommission the IPO Tracking System, an optional service used to track IPO share movement during the post-offering stabilization period, and, consequently, (ii) remove from the Fee Guide the IPO Tracked Issue associated with the IPO Tracking System.

Background

DTC continually evaluates the efficiency and effectiveness of the services it provides. As part of these evaluations, and in furtherance of ongoing modernization efforts, DTC seeks to streamline and simplify services and processes, including through the decommissioning of underutilized services. DTC proposes to decommission the IPO Tracking System due to (i) changes in the market structure and the availability of external

tracking systems, and (ii) the operational complexity required to maintain the service, especially given its limited usage.

The IPO Tracking System was established by DTC to support lead underwriters and syndicate managers in monitoring the book-entry movement of IPO shares during the post-offering stabilization period. The service was designed to enhance transparency by generating daily reports identifying Participant level deliveries and allocations of new issue securities for a limited tracking window following an offering. The IPO Tracking System requires the lead underwriter to initiate tracking eligibility by submitting instructions through DTC’s underwriting portal (“UW SOURCE”) two business days prior to the scheduled closing date. Once activated, the IPO Tracking System provides automated reports, including data files made available to lead underwriters during the post-offering stabilization period.

Over time, usage of the IPO Tracking System has declined significantly due to changes in market structure, the availability of external tracking systems, and reduced reliance by underwriters on DTC’s IPO Tracking System data. In turn, the operational effort required to maintain the IPO Tracking System has become disproportionate to the limited number of offerings utilizing the service. As such, DTC has decided to decommission the IPO Tracking System.

Proposed Changes

To effectuate the decommissioning of the IPO Tracking System, DTC proposes to make the below described rule changes.

Settlement Guide

The proposed changes would remove from the Settlement Guide all provisions relating to the IPO Tracking System, including deleting (i) the term “IPO” under the “memo segregation” definition in the “Important Terms” table, (ii) entry number nine under “Account Options,” and subsequent renumbering, (iii) the entire text of the section titled “Initial Public Offering (IPO) Tracking System,” which describes the goals of the IPO Tracking System and contact information,⁸ (iv) a reference to the IPO Tracking System in the section titled “Recycle Processing” relating to the preliminary processing of delivery transactions prior to the updating of DTC accounts,⁹ (v) Pend Hold references to IPO deliveries and

the removal of pend queue logic for IPO positions; and (vi) the note under “How PTA Processing Works” stating that IPO transactions are not subject to PTA procedures.

Underwriting Guide

Similarly, DTC proposes to amend the Underwriting Guide to remove all references in the “IPO Tracking System”¹⁰ section of the Underwriting Guide, which includes “About the Product,” “How the Product Works,” “Associated Participant Terminal System (PTS) Functions,” and the “IPO Tracking Contact Number.” These subsections collectively describe the IPO Tracking System, including setup procedures, control account activity, and report generation during the stabilization period. In addition, DTC proposes to remove defined terms related to IPOs in the “Overview” section of the Underwriting Guide, including the definitions of “initial public offering (IPO)” and “flipping.”

Fee Guide

DTC proposes to eliminate the IPO Tracked Issue fee of \$5,000 from the “Other Underwriting Services” section of the Fee Guide.¹¹ This fee currently applies on a per-issue basis to IPO Tracking activity and will no longer be applicable as of the effective Decommission Date, as defined below in the Implementation section.

OA

DTC proposes to update the OA to remove the eligibility requirements for IPO Tracking currently set forth in Exhibit B (Underwriting Standard Time Frames).¹² Specifically, DTC would eliminate the row labeled “For IPO Tracked issues” including the “Time Frame” requirement that the lead underwriter indicate inclusion in the IPO Tracking System via UW SOURCE, no later than 3:00 p.m. ET, two business days prior to the Closing Date.

Implementation

The final IPO issue eligible for tracking via the IPO Tracking System will be for tracking instructions submitted to DTC on or before October 2, 2025, after which DTC will update its rules, as described above, to remove references to the IPO Tracking System. Tracking for issues requested on or before October 2, 2025 will be tracked according to the period selected by the Participant (*i.e.*, 30, 60, or 90 days), after which the IPO Tracking System will be

⁵ Each term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of DTC (“Rules”), the Settlement Service Guide (“Settlement Guide”), the Underwriting Service Guide (“Underwriting Guide”), and the Operational Arrangements (Necessary for Securities to Become and Remain Eligible for DTC Services) (“OA”), available at www.dtcc.com/legal/rules-and-procedures.

⁶ Securities Exchange Act Release No. 57768 (May 2, 2008), 73 FR 26181 (May 8, 2008) (SR-DTC–2007–10).

⁷ www.dtcc.com/-/media/Files/Downloads/legal/fee-guides/DTC-Fee-Schedule.pdf.

⁸ See Settlement Guide, *supra* note 5 at 38.

⁹ *Id.* at 51.

¹⁰ See Underwriting Guide, *supra* note 5 at 9–10.

¹¹ See Fee Guide, *supra* note 7 at 28.

¹² See OA, *supra* note 5 at 88.

fully decommissioned, but no later than December 31, 2025, (“Decommission Date”).

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires that the rules of the clearing agency be designed, *inter alia*, to promote the prompt and accurate clearance and settlement of securities transactions.¹³ DTC believes that the proposed rule change is consistent with the Section 17A(b)(3)(F) of the Act, as cited above.

As described above, the proposed rule change would (i) amend the Settlement Guide, Underwriting Guide and the OA to decommission the IPO Tracking system, an optional, underused service used to track IPO share movement during the post-offering stabilization period and, consequently, (ii) remove from Fee Guide the related fee for IPO Tracked Issue. Eliminating the IPO Tracking System will streamline DTC’s service offerings by retiring an underutilized service allowing DTC to allocate operational resources more efficiently and ensure DTC’s service offerings remain aligned with the current market usage and Participant needs. By allocating resources more efficiently and keeping aligned to Participant needs, DTC will be better positioned and able to focus on its core mission—clearance and settlement. Therefore, DTC believes that the proposed rule change would help promote the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F) of the Act, cited above.

Rule 17ad–22(e)(21)¹⁴ promulgated under the Act requires, *inter alia*, that DTC, a covered clearing agency, establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, be efficient and effective in meeting the requirements of its Participants and the markets it serves. As described above, the proposed rule change would support DTC’s efforts to improve operational efficiency by decommissioning a service that is underutilized and no longer aligned with Participant demand. In this regard, DTC believes that the proposed rule change would enable DTC to streamline its services, reduce operational complexity, and more effectively allocate resources towards core clearance and settlement functions that deliver greater utility to Participants. Accordingly, DTC believes

that the proposed rule change would help promote efficiency and effectiveness in a manner consistent with Rule 17ad–22(e)(21).

(B) Clearing Agency’s Statement on Burden on Competition

DTC does not believe that the proposed rule change would have any impact or impose any burden on competition because, as described above, the proposed rule change simply decommissions an optional service that has experienced limited subscription and declining usage over time. DTC has performed direct outreach to Participants that do use the IPO Tracking System and announced its plans to decommission the service through Important Notice. There were no objections or concerns raised by Participants. Moreover, the IPO Tracking System is not essential to DTC’s core clearance and settlement functions, its retirement would not impair any Participant’s access to any other DTC services, and such tracking is available via external tracking systems. Therefore, DTC believes that the decommissioning of the IPO Tracking System would not favor or disadvantage any Participant.

(C) Clearing Agency’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting written comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission’s instructions on *How to Submit Comments*, available at www.sec.gov/regulatory-actions/how-to-submit-comments. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission’s Division of Trading and Markets at tradingandmarkets@sec.gov or 202–551–5777.

DTC reserves the right to not respond to any comments 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)¹⁵ of the Act and paragraph (f) of Rule 19b–4 thereunder.¹⁶ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–DTC–2025–014 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–DTC–2025–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of DTC and on DTCC’s website (www.dtcc.com/legal/sec-rule-filings). 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–DTC–2025–014 and

¹³ 15 U.S.C. 78q–1(b)(3)(F).

¹⁴ 17 CFR 240.17ad–22(e)(21).

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b–4(f).

should be submitted on or before October 20, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–18790 Filed 9–26–25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104031; File No. SR–Phlx–2025–48]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Pricing for New Functionality

September 24, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on September 17, 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 establish fees for new functionality in connection with a technology migration.³

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on November 1, 2025.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish pricing related to new functionality that was adopted by the Exchange in connection with a technology migration. Specifically, the Exchange proposes to establish pricing related to its new: (1) electronic FLEX Options functionality;⁴ (2) Facilitation Mechanism;⁵ (3) Solicited Order Mechanism;⁶ and (4) Block Order Mechanism.⁷ Additionally, the Exchange proposes to define several terms in Options 7, Section 1, other conforming changes in Options 7, and a technical amendment. Each change is described below.

Electronic FLEX Options

FLEX Options are customized options contracts that allow investors to tailor contract terms for exchange-listed equity and index options. Today, the Exchange offers FLEX Options on its trading floor as described at Options 8,

⁴ See Securities Exchange Act Release No. 103759 (August 21, 2025), 90 FR 41636 (August 26, 2025) (SR–Phlx–2025–38) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Electronic FLEX Options Rules). This rule change is immediately effective but not yet implemented.

⁵ The Facilitation Mechanism would permit a Phlx member to execute a transaction wherein the member seeks to facilitate a block-size order it represents as agent (“agency order”), and/or a transaction wherein the member solicited interest to execute against a block-size order it represents as agent (“Facilitation Order”) as described in Options 3, Section 11(b) and (c). This mechanism allows members the flexibility to represent a transaction where the member is facilitating only a portion of the order and has solicited interest from other parties for the other portion of the order. See Securities Exchange Act Release No. 103667 (August 8, 2025), 90 FR 39042 (August 13, 2025) (SR–Phlx–2025–35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend PIXL and Adopt New Auctions) (“Auction Filing”). This rule change is immediately effective but not yet implemented.

⁶ The SOM is a process by which a member can attempt to execute orders of 500 or more contracts it represents as agent (the “Agency Order”) against contra orders that it solicited pursuant to Options, Section 11(d) and (e). Each order entered into the SOM shall be designated as all-or-none. See Auction Filing.

⁷ The Block Order Mechanism provides a means for handling “block-sized orders” (i.e., orders for fifty (50) contracts or more) pursuant to Options 3, Section 11(a). See Auction Filing.

Section 34 which transactions are subject to the pricing described in Options 7, Section 6 B.

At this time, the Exchange proposes to establish pricing for electronic FLEX Options. By way of background, FLEX Options will be designed to meet the needs of market participants for greater flexibility in selecting the terms of options within the parameters of the Exchange’s rules.⁸ FLEX Options will not be preestablished for trading and will not be listed individually for trading on the Exchange. Rather, market participants will select FLEX Option terms and will be limited by the parameters detailed in Options 3A, Section 3(c) in their selection of those terms. As a result, FLEX Options would allow investors to specify more specific, individualized investment objectives than may be available to them in the standardized options market.

FLEX Options may be submitted through an electronic FLEX Auction, FLEX Price Improvement XL (“FLEX PIXL”), or a FLEX Solicited Order Mechanism (“FLEX SOM”).⁹ An electronic FLEX Auction is a one-sided mechanism through which an Exchange member organization may electronically submit for execution an order (which may be a simple or complex order) pursuant to the eligibility requirements in Options 3A, Section 11(b)(1). The FLEX PIXL is a paired auction mechanism pursuant to Options 3A, Section 12 through which an Exchange member may electronically submit for execution an order (which may be a simple or complex order) it represents as agent (“Agency Order”) against principal interest or a solicited order(s) (except, if the Agency Order is a simple order, for an order for the account of any FLEX Market Maker with an appointment in the applicable FLEX Option class on the Exchange) (an “Initiating Order”), provided it submits the Agency Order for electronic execution into a FLEX PIXL Auction pursuant to Options 3A, Section 12. The FLEX SOM is a paired auction mechanism pursuant to Options 3A, Section 13 through which an Exchange member (the “Initiating Member”) may electronically submit for execution an order (which may be a simple or complex order) it represents as agent (“Agency Order”) against a solicited order (“Solicited Order”) if it submits the Agency Order for electronic execution into a FLEX SOM Auction pursuant to Options 3A, Section 13.

The Exchange proposes to establish the following per contract pricing for

⁸ See *supra* note 3.

⁹ See *id.*

¹⁷ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ SR–Phlx–2025–44 was filed on September 5, 2025. On September 17, 2025, SR–Phlx–2025–44 was withdrawn and this rule change was filed.

simple and complex order transactions in Options 7, Section 6.B:

Market participant	Fee for FLEX auctions	Fee for FLEX PIXL and SOM	Fee for responses to FLEX PIXL and SOM orders
Market Maker/Lead Market Maker	\$0.10	\$0.07	\$0.50
Broker-Dealer	0.10	0.07	0.50
Firm	0.10	0.07	0.50
Professional	0.10	0.07	0.50
Customer	0.00	0.00	0.50

The Exchange also proposes at new note 1 of Options 7, Section 6.B that for all executions in FLEX NDX and FLEX XND orders, the applicable index options fees in Options 7, Section 5.A will apply.¹⁰ As such, for FLEX NDX orders, the Exchange will assess Customers¹¹ a \$0.25 per contract fee and Non-Customers¹² a \$0.75 per contract fee for both electronic simple and complex orders pursuant to Options 7, Section 5.A. Additionally, a surcharge of \$0.25 per contract would be assessed to Non-Customers for FLEX NDX orders pursuant to note 1 of Options 7, Section 5, A. A surcharge of \$1.50 per contract will be assessed to electronic simple Non-Customer orders that remove liquidity pursuant to note 3 of Options 7, Section 5.A. A surcharge of \$0.50 per contract will be assessed to all Non-Customer complex executions in NDX pursuant to note 5 of Options 7, Section 5.A. A surcharge of \$0.25 per contract will be assessed to all Customer complex executions in NDX pursuant to note 6 of Options 7, Section 5.A. Finally, a surcharge of \$0.25 per contract will be assessed to all market participants for simple and complex executions in NDX with a premium price of \$25.00 or greater pursuant to note 7 of Options 7, Section 5.A. For FLEX XND orders, the Exchange will not assess Customers a fee and will assess Non-Customers a \$0.10 per contract fee or both electronic simple and complex orders. A surcharge for XND of \$0.10 per contract will be

assessed to Non-Customers pursuant to note 2 of Options 7, Section 5.A.¹³

Flex Auction Fees

An Exchange member may electronically submit a FLEX order into an electronic FLEX Auction pursuant to Options 3A, Section 11(b). For the FLEX Auction, the Exchange proposes assessing simple and complex orders a \$0.10 per contract for Market Makers,¹⁴ and Lead Market Makers,¹⁵ Broker-Dealers,¹⁶ Firms,¹⁷ and Professionals.¹⁸

¹³ The XND Incentive Program in Options 7, Section 5, B would not apply to FLEX XND Options orders, only the pricing in Options 7, Section 5, A.

¹⁴ 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 good standing that satisfies the RSQTO readiness requirements in Options 2, Section 1(a). See Options 7, Section 1(c).

¹⁵ 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).

¹⁶ The term "Broker-Dealer" applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. See Options 7, Section 1(c).

¹⁷ The term "Firm" applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation. See Options 7, Section 1(c).

¹⁸ The term "Professional" applies to transactions for the accounts of Professionals, as defined in Options 1, Section 1(b)(45) means any person or

The Exchange proposes assessing no fees for Customers. Fees apply to the originating and contra order.

FLEX PIXL and SOM Fees

An Exchange member may electronically submit a FLEX order into a FLEX PIXL and FLEX SOM pursuant to Options 3A, Section 12 and Options 3A, Section 13, respectively.

For the FLEX PIXL and FLEX SOM, the Exchange proposes assessing simple and complex orders a \$0.07 per contract for Market Makers, and Lead Market Makers, Broker-Dealers, Firms, and Professionals. The Exchange proposes assessing no fees to Customers. Pursuant to proposed note 2 of Options 7, Section 6.B, the fees will apply to the originating and contra order.

Fees for FLEX PIXL and SOM Responses

Any member other than an Initiating Member may submit responses to a FLEX PIXL and FLEX SOM pursuant to Options 3A, Section 12(c)(5) and Options 3A, Section 13(c)(5), respectively. For responses to a FLEX PIXL and FLEX SOM, the Exchange proposes assessing simple and complex orders a \$0.50 per contract for Market Makers, and Lead Market Makers, Broker-Dealers, Firms, Professionals, and Customers. Fees apply to the originating and contra order.

For all executions in electronic FLEX NDX and electronic FLEX XND orders, the applicable index options fees in Options 7, Section 5, A will apply in a FLEX PIXL and FLEX SOM.

The Exchange believes that its proposed electronic FLEX pricing will attract electronic FLEX Orders to the Exchange.

Other Changes

With the addition of pricing for FLEX electronic transaction fees, the Exchange proposes to amend the pricing in Options 7, Section 6, B to retitle the

entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Options 7, Section 1(c).

¹⁰ "NDX" means A.M. or P.M. settled options on the full value of the Nasdaq 100® Index. "XND" are options on the Nasdaq 100 Micro Index, representing 1/100th of the value of Nasdaq 100 Index.

¹¹ The term "Customer" applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation ("OCC") which is not for the account of a broker or dealer or for the account of a "Professional" (as that term is defined in Options 1, Section 1(b)(45)). See Options 7, Section 1(c).

¹² The term "Non-Customer" applies to transactions for the accounts of Lead Market Makers, Market Makers, Firms, Professionals, Broker-Dealers and JBOs. See Options 7, Section 1(c).

section from “FLEX Transaction Fees” to “FLEX Floor Transaction Fees and FLEX Electronic Transaction Fees” to distinguish FLEX floor and electronic FLEX pricing. Further, the Exchange proposes the insertion of a subtitle in this section of “FLEX Floor Transaction Fees.” Also, the Exchange proposes to amend “FLEX Multiply Listed Options” to instead state “FLEX Floor Multiply Listed Options.” Finally, the Exchange proposes to add “Floor” or “floor” to the current text of the second bullet after the chart in Options 7, Section 6, B to distinguish FLEX floor and electronic. The existing text would be amended to state,

The Floor FLEX transaction fees for a Firm will be waived for members executing floor

facilitation orders pursuant to Options 8, Section 30 when such members are trading in their own proprietary account. In addition, FLEX transaction fees for a Broker-Dealer will be waived for members executing floor facilitation orders pursuant to Options 8, Section 30 when such members would otherwise incur this charge for trading in their own proprietary account contra to a Customer (“BD-Customer Facilitation”), if the member’s BD-Customer Facilitation average daily volume (including both Floor FLEX and non-Floor FLEX transactions) exceeds 10,000 contracts per day in a given month.

Crossing Orders

The Exchange proposes to create a new Options 7, Section 6.F titled “Crossing Orders.” The Exchange

proposes to define a “Crossing Order” in Options 7, Section 1(c) as an order executed in the Exchange’s Facilitation Mechanism pursuant to Options 3, Section 11(b) or (c) or Solicited Order Mechanism pursuant to Options 3, Section 11(d) or (e). For purposes of this Pricing Schedule, orders executed in the Block Order Mechanism pursuant to Options 3, Section 11(a) are also considered Crossing Orders. The Exchange proposes to state in new Options 7, Section 6.F that, “The below transaction fees apply to Crossing Orders.

SIMPLE ORDER FEES AND REBATES			
Market participant	Fee for crossing orders	Fee for responses to crossing orders	Facilitation and solicitation break-up rebate
Penny Symbols			
Market Maker/Lead Market Maker	\$0.17	\$0.50	N/A
Broker-Dealer	0.17	0.50	(0.20)
Firm	0.17	0.50	(0.20)
Professional	0.17	0.50	(0.20)
Customer	0.00	0.50	(0.20)
Non-Penny Symbols			
Market Maker/Lead Market Maker	\$0.17	\$1.10	N/A
Broker-Dealer	0.17	1.10	(0.20)
Firm	0.17	1.10	(0.20)
Professional	0.17	1.10	(0.20)
Customer	0.00	1.10	(0.20)

The Exchange proposes to adopt Penny Symbol and Non-Penny Symbol Fees for Crossing Orders of \$0.17 per contract for Non-Customers. No Penny Symbol or Non-Penny Symbol Fee for Crossing Orders would be assessed to a Customer. These fees would apply to the originating and contra order.¹⁹ The Exchange proposes to define the term “Responses to Crossing Order” at Options 7, Section 1(c) to mean any contra-side interest submitted after the commencement of an auction in the Exchange’s Facilitation Mechanism, Solicited Order Mechanism, or Block Order Mechanism. The Exchange proposes to assess all market participants a \$0.50 per contract Fee for

¹⁹ See proposed note 3 of Options 7, Section 6.F.

Response to Crossing Orders in Penny Symbols. The Exchange proposes to assess all market participants a \$1.10 per contract Fee for Response to Crossing Orders in Non-Penny Symbols. The Exchange proposes to pay a Penny Symbol and Non-Penny Symbol Facilitation and Solicitation Break-up Rebate²⁰ of \$0.20 per contract to all market participants except Market Makers and Lead Market Makers. These rebates will be paid on contracts submitted to the Facilitation and Solicited Order Mechanisms that do not trade with their contra order, except when those contracts trade against pre-existing orders and quotes on the Exchange’s order books. The applicable

²⁰ Block Orders are not paired orders.

Fee for Responses to Crossing Orders is applied to any contracts for which a rebate is provided.²¹ Additionally, the applicable Fee for Responses to Crossing Orders is applied to any contracts for which a rebate is provided.

The Exchange believes that these proposed fees will attract simple Crossing Orders to the Exchange with a potential for price improving orders.

Next, the Exchange proposes to add a title of “Complex Order Fees and Rebates” to Options 7, Section 6.F, and adopt Crossing Order Penny Symbol and Non-Penny Symbols pricing as follows:

²¹ See proposed note 4 of Options 7, Section 6.F.

Market participant	Fee for crossing orders	Fee for responses to crossing orders for penny symbols	Fee for responses to crossing orders for non-penny symbols	Facilitation and solicitation break-up rebate for penny symbols	Facilitation and solicitation break-up rebate for non-penny symbols
Market Maker/Lead Market Maker	\$0.17	\$0.50	\$1.10	N/A	N/A
Broker-Dealer	0.17	0.50	1.10	(0.20)	(0.20)
Firm	0.17	0.50	1.10	(0.20)	(0.20)
Professional	0.17	0.50	1.10	(0.20)	(0.20)
Customer	0.00	0.50	1.10	(0.20)	(0.20)

The Exchange proposes to adopt Penny Symbol and Non-Penny Symbol Complex Order Fees for Crossing Orders of \$0.17 per contract for Non-Customers. No Penny Symbol or Non-Penny Symbol Complex Order Fees for Crossing Orders would be assessed to a Customer. These fees would apply to the originating and contra order²² and fees would be charged for all legs.²³ Complex Order Fees for Responses to Crossing Orders for Penny Symbols would be \$0.50 per contract for all market participants. Complex Order Fees for Responses to Crossing Orders for Non-Penny Symbols would be \$1.10 per contract for all market participants. Rebates would be paid per contract per leg for contracts submitted to Facilitation and Solicitation Mechanisms that do not trade with their contra order, except when those contracts trade against pre-existing orders and quotes on the Exchange's order books. Additionally, the applicable Fees for Responses to Crossing Orders is applied to any contracts for which a rebate is provided.²⁴ The Exchange proposes to pay a Complex Order Penny Symbol and Non-Penny Symbol Facilitation and Solicitation Break-up Rebate²⁵ of \$0.20 per contract to all market participants except Market Makers and Lead Market Makers. Today, any solicited contra orders entered by Members into the Facilitation Mechanism to trade against Agency Orders may not be for the account of a Market Maker that is assigned to the options class.²⁶ Further, any solicited contra orders entered by Members to trade against Agency Orders may not be for the account of a Market Maker that is assigned to the options class.²⁷

The Exchange believes that its proposed pricing for Crossing Orders

will attract orders to Phlx's new auction mechanisms.

Other Pricing Changes

The Exchange proposes to amend a technical error in Options 7, Section 1, General Provisions by capitalizing the word "exchange." The Exchange also proposes to add three new defined terms in Options 7, Section 1. First, the Exchange proposes to define a "Complex Order" and a "Simple Order" to clarify the Exchange's Pricing Schedule with respect to these terms. A "Complex Order" would be defined as an order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, as provided in Options 3, Section 14, as well as Stock-Option Orders.²⁸ A "Simple Order" would be defined as an order that consists of only a single option series and is not submitted with a stock leg. Second, the Exchange proposes to define an existing term, "order exposure alert." The Exchange proposes to state in Options 7, Section 1(c) that an "order exposure alert" is an order that is broadcast to market participants as described in Options 5, Section 4(a), Order Routing. Order exposure alert only applies to Simple Orders. The Exchange believes these new definitions will add context to the Exchange's current Pricing Schedule.

The Exchange proposes a change to Options 7, Section 3 to the bullet that currently states, "A non-Complex electronic auction includes the Quote Exhaust²⁹ auction and, for purposes of

these fees, the opening process. A Complex electronic auction includes, but is not limited to, the Complex Order Live Auction ("COLA"). The Exchange recently removed the COLA auction from its rules.³⁰ In light of that recent rule change the Exchange proposes to revise the current language of that bullet to state, "a non-Complex electronic auction would be the opening process. A Complex electronic auction includes, but is not limited to, an Exposure Complex Auction pursuant to Supplementary Material .01 to Options 3, Section 14." This new text will align to new Options 3, Section 14 functionality.³¹ The same change is proposed to the same language in Options 7, Section 4.

Further, with respect to an Exposure Complex Auction pursuant to Supplementary Material .01 to Options 3, Section 14, the Exchange proposes to note in Options 7, Section 3, Part B that "During an Exposure Complex Auction pursuant to Supplementary Material .01 to Options 3, Section 14, the originating side of the auction order will be assessed the applicable Fee for Adding Liquidity or rebate, and the contra side will be assessed the applicable Fee for Removing Liquidity or rebate." Also, the Exchange proposes to note with respect to the Marketing Fee, that additionally, no Marketing Fees will be assessed on the contra side order that executed against the originating order in a Exposure Complex Auction pursuant to Supplementary Material .01 to Options 3, Section 14. An Exposure Auction is automatically initiated when a member submits an eligible complex order that is marked for price improvement.³² Because Exposure Complex Auctions are initiated by Complex Orders entered on the Complex Order book, they are assessed the pricing applicable to all other Complex Orders executed on the complex order book. Specifically, the

rule change as they are both part of the same technology migration.

³⁰ See *supra* note 27.

³¹ See *id.*

³² See Phlx Supplementary Material .01 to Options 3, Section 14.

²² See proposed note 5 of Options 7, Section 6.F.

²³ See proposed note 6 of Options 7, Section 6.F.

²⁴ See proposed note 7 of Options 7, Section 6.F.

²⁵ Block Orders are not paired orders.

²⁶ See Supplementary Material .01 to Options 3, Section 11.

²⁷ See Supplementary Material .03 to Options 3, Section 11.

²⁸ The Exchange recently amend Options 3, Section 14 related to Complex Orders to define the term Stock-Options Orders and remove the COLA functionality. See Securities Exchange Act Release No. 102862 (April 15, 2025), 90 FR 16731 (April 21, 2025) (SR-Phlx-2025-17) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Phlx's Complex Order Functionality). This rule change is immediately effective but not yet implemented.

²⁹ The Exchange removed the Quote Exhaust functionality. See Securities Exchange Act Release No. 101989 (December 30, 2024), 89 FR 106888 (December 30, 2024) (SR-Phlx-2024-71). SR-Phlx-2024-71 is effective but not yet operative. SR-Phlx-2024-71 would be operative at the same time as this

Exchange proposes to treat the originating side of Exposure Complex Auction orders as adding liquidity and the contra side as taking liquidity for the purpose of determining applicable fees and rebates in Options 7, Section 3. Because the Exchange assesses the Marketing Fee when the contra-party to the execution is a Customer and where the Market Maker is adding liquidity, the Exchange proposes to not assess the Marketing Fee against the contra-side of the Exposure Complex Auction that removes liquidity in Penny Symbols. Today, Marketing Fees are not assessed on transactions which execute against an order for which the Exchange broadcasts an order exposure alert in Penny Symbols.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³³ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,³⁴ 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.”³⁵

Likewise, in *NetCoalition v. Securities and Exchange Commission*³⁶ (“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.³⁷ As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market

data . . . to be made available to investors and at what cost.”³⁸

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’”³⁹

Indeed, clear substitutes to the Exchange exist in the market for options transaction services. The Exchange is only one of eighteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to attract additional order flow to the Exchange and increase its market share relative to its competitors.

Electronic FLEX Options

The Exchange believes that the proposed electronic FLEX Options pricing is reasonable because the fees remain competitive with fees of other options exchanges and will attract electronic FLEX order flow to Phlx. The Exchange’s proposed fees for the FLEX Auction, FLEX PIXL, and FLEX SOM are comparable with those of ISE’s electronic FLEX Auction, FLEX PIXL and FLEX SOM.⁴⁰ For the FLEX Auction, the Exchange proposes assessing \$0.10 per contract for Non-Customers. The Exchange proposes assessing no fees for Customers for the FLEX Auction. For the FLEX PIXL and FLEX SOM, the Exchange proposes assessing \$0.07 per contract for Non-Customers. The Exchange proposes assessing no fees for Customers for the FLEX PIXL and FLEX SOM and the fees apply to the originating and contra order. For responses to the FLEX PIXL and FLEX SOM, the Exchange proposes assessing \$0.50 per contract to all market participants. These fees are reasonable because they are competitive with market dynamics and consider the

price improvement opportunities of the order mechanisms. In particular, the Exchange believes that it is reasonable to assess a slightly lower fee of \$0.07 per contract for Non-Customers in FLEX PIXL and FLEX SOM compared to the \$0.10 per contract fee for Non-Customers in electronic FLEX Auctions because the Exchange seeks to incentivize more activity in FLEX PIXL and FLEX SOM for potential price improvement.

Further, the Exchange believes that the fees are an equitable allocation and are not unfairly discriminatory. The fees for the FLEX Auction, FLEX PIXL and FLEX SOM, and the responses to the FLEX PIXL and FLEX SOM will apply in a like manner to all similarly situated members except for Customers, who will be assessed no fees in the FLEX Auction and FLEX PIXL and FLEX SOM. The Exchange believes that it is equitable and not unfairly discriminatory to assess more favorable pricing for Customers as this order flow enhances liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants who may interact with this order flow. The Exchange believes that the differential between the proposed Fees for FLEX PIXL and SOM of \$0.07 per contract for Non-Customers and \$0.00 for Customers in both Penny and Non-Penny Symbols for simple and complex orders as compared to the proposed Fees for Responses to FLEX PIXL and SOM Orders of \$0.50 per contract for all participants for Penny and Non-Penny Symbols for simple and complex orders is equitable and not unfairly discriminatory. The lower proposed Fees for FLEX PIXL and SOM should encourage members to initiate these auctions in Penny and Non-Penny Symbols in simple and complex orders. Members responding to these auctions would be assessed the same or higher proposed Fees for Responses to FLEX PIXL and SOM Orders as compared to the fees to remove liquidity from the order book for simple and complex orders.⁴¹ While the proposed Fees for

⁴¹ The Exchange assesses an Options Transaction Charge of \$0.48 per contract to Professionals, Broker-Dealers, and Firms, an Options Transaction Charge of \$0.22 per contract to Lead Market Makers and Market Makers, and no fees to Customers, in Penny Symbols, to remove liquidity from the simple and complex order books. The Exchange assesses an Options Transaction Charge of \$0.75 per contract to Professionals, Broker-Dealers and Firms, an Options Transaction Charge of \$0.25 per contract to Lead Market Makers and Market Makers, and no fees to Customers, in Non-Penny Symbols, to remove liquidity from the simple and complex order books. See Options 7, Section 4. The

³³ 15 U.S.C. 78f(b).

³⁴ 15 U.S.C. 78f(b)(4) and (5).

³⁵ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

³⁶ *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

³⁷ See *NetCoalition*, at 534–535.

³⁸ *Id.* at 537.

³⁹ *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)).

⁴⁰ See Nasdaq ISE, LLC’s Pricing Schedule at Options 7, Section 6, D.

Responses to FLEX PIXL and SOM Orders are the same or higher, the Exchange believes that these fees for simple and complex orders in Penny and Non-Penny Symbols remain competitive with ISE⁴² and will continue to encourage members to initiate FLEX PIXL and SOM auctions in Penny and Non-Penny Symbols in the simple and complex order books. The liquidity the Exchange is able to attract in these auctions provides other members an opportunity to engage with these auction orders and participate in the trade by breaking-up the auction order or being allocated in the auction. Members would not be able to respond to the auctions if such auctions never commence.

As it relates to the FLEX NDX and FLEX XND pricing described above, the Exchange believes that its proposal is reasonable because it will assess the same fees for FLEX NDX and FLEX XND orders as it does today for non-FLEX NDX and non-FLEX XND orders. Similar to non-FLEX NDX and non-FLEX XND, the Exchange seeks to recoup the operational costs for listing proprietary products.⁴³ Also, pricing by symbol is a common practice on many U.S. options exchanges as a means to incentivize order flow to be sent to an exchange for execution in particular products. Other options exchanges price by symbol.⁴⁴ Further, the Exchange notes that with its products, market participants are offered an opportunity to either transact non-standard NDX or non-standard XND or separately execute PowerShares QQQ Trust ("QQQ") options.⁴⁵ Offering products such as QQQ provides market participants with a variety of choices in selecting the product they desire to utilize to transact

the Nasdaq 100® Index.⁴⁶ When exchanges are able to recoup costs associated with offering proprietary products, it incentivizes growth and competition for the innovation of additional products.

The Exchange believes that the proposed FLEX NDX and FLEX XND fees are equitable and not unfairly discriminatory because Non-Customers will be assessed the same level of pricing across the board whereas Customers will be assessed lower fees or no fees. The Exchange believes it is equitable and not unfairly discriminatory to assess lower fees for Customers because Customer order flow enhances liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants who may interact with this order flow.

Crossing Orders

The Exchange's proposed pricing for Simple and Complex Crossing Orders is reasonable in several respects. The Exchange's proposed Fees for Crossing Orders of \$0.17 per contract for Non-Customers are competitive and will attract orders to these new mechanisms on Phlx. ISE has comparable pricing for the same auctions.⁴⁷ The Exchange's proposed Fees for Responses to Crossing Orders of \$0.50 per contract for all market participants is reasonable as the Exchange believes that these fees are competitive and will attract orders to these new mechanisms on Phlx. ISE has comparable pricing for the same auctions.⁴⁸ Further, the Exchange proposes to incentivize other market participants to interact with Simple and Complex Order Facilitation and Solicited Orders by paying a Break-up Rebate to all market participants except Market Makers and Lead Market Makers of \$0.20 per contract. The Exchange believes that these Break-up rebates will encourage use of the Facilitation and Solicitation Mechanisms thereby creating order interaction for these auctions. Specifically, the Exchange believes that the proposed rebates will encourage increased originating simple and complex Market Maker/Lead Market Maker, Broker-Dealer, Firm and

Customer order flow to the Facilitation and Solicitation Mechanisms, thereby potentially increasing the initiation of and volume executed through such auctions. Additional auction order flow provides market participants with additional trading opportunities at potentially improved prices. The Exchange further believes that the proposed Facilitation and Solicitation Break-up rebates are set at reasonable rates because they are aligned with pricing on ISE, which has the same auctions.⁴⁹

The Exchange's proposed pricing for Simple and Complex Fees for Crossing Orders is equitable and not unfairly discriminatory. The Exchange believes that it is equitable and not unfairly discriminatory to assess Customers no Fees for Crossing Orders, thereby offering Customers more favorable pricing, because Customer order flow enhances liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants who may interact with this order flow. Assessing uniform Simple and Complex Order Fees for Crossing Orders to Non-Customers is equitable and not unfairly discriminatory. The Exchange's proposal to assess all market participants uniform Simple and Complex Order Fees for Responding to Crossing Orders in Penny Symbols of \$0.50 per contract and in Non-Penny Symbols of \$1.10 per contract is equitable and not unfairly discriminatory. The Exchange believes that the differential between the proposed Fees for Crossing Order (the fees that apply to the originating and contra-side orders) of \$0.17 per contract for Non-Customers and \$0.00 for Customers in both Penny and Non-Penny Symbols for simple orders as compared to the proposed Fees for Responses to Crossing Orders of \$0.50 per contract for all participants in Penny Symbols and \$1.10 per contract for Non-Penny Symbols for simple orders is equitable and not unfairly discriminatory. Additionally, the Exchange believes that the differential between the proposed Fees for Crossing Orders (the fees that apply to the originating and contra-side orders) of \$0.17 per contract for Non-Customers and \$0.00 for Customers in both Penny and Non-Penny Symbols for complex orders as compared to the proposed Fees for Responses to Crossing Orders of \$0.50 per contract for all participants in Penny Symbols and \$1.10 per contract

Exchange assesses Non-Customers a \$0.48 per contract Fee for Removing Liquidity and assesses Customers a \$0.41 per contract Fee for Removing Liquidity in SPY in the simple order book in Penny and Non-Penny Symbols. The Exchange assesses Professionals, Broker-Dealers and Firms and a Fee for Removing Liquidity of \$0.50 per contract, Lead Market Makers and Market Makers a Fee for Removing Liquidity of \$0.43 per contract, and no fees to Customers to remove SPY liquidity from the complex order book in Penny and Non-Penny Symbols. See Options 7, Section 3.

⁴² See ISE's Pricing Schedule at Options 7, Sections 3 and 4.

⁴³ For example, in analyzing an obvious error, the Exchange would have additional data points available in establishing a theoretical price for a multiply listed option as compared to a proprietary product, which requires additional analysis and administrative time to comply with Exchange rules to resolve an obvious error.

⁴⁴ See pricing for Russell 2000 Index ("RUT") on Chicago Board Options Exchange, Incorporated's ("CBOE") Fees Schedule and on CBOE C2 Exchange, Inc.'s ("C2") Fees Schedule.

⁴⁵ QQQ is an exchange-traded fund based on the Nasdaq 100® Index.

⁴⁶ QQQ options overlie the same index as NDX, namely the Nasdaq 100® Index. This relationship between QQQ options and NDX options is similar to the relationship between RUT and the iShares Russell 2000 Index ("IWM"), which is the ETF on RUT.

⁴⁷ See ISE's Pricing Schedule at Options 7, Sections 3 and 4. Of note, ISE's Professional Fees for Crossing Orders related to the Solicited Order Mechanism are \$0.00 per contract.

⁴⁸ See ISE's Pricing Schedule at Options 7, Sections 3 and 4.

⁴⁹ See ISE's Pricing Schedule at Options 7, Sections 3 and 4.

for all participants in Non-Penny Symbols for complex orders is equitable and not unfairly discriminatory. The lower Fees for Crossing Orders should encourage members to initiate Facilitation Mechanisms, Complex Facilitation Mechanisms, Solicitation Mechanisms, Complex Solicitation Mechanisms and Block Orders in Penny and Non-Penny Symbols in simple and complex orders. Members responding to these auctions would be assessed the same or higher proposed Fees for Responses to Crossing Orders as compared to the fees to remove liquidity from the order book for simple and complex orders.⁵⁰ While the Fees for Responses to Crossing Orders are the same or higher, the Exchange believes these fees for simple and complex orders in Penny and Non-Penny Symbols remain competitive with ISE⁵¹ and will continue to encourage members to initiate Facilitation Mechanisms, Complex Facilitation Mechanisms, Solicitation Mechanisms, Complex Solicitation Mechanisms and Block Orders in Penny and Non-Penny Symbols in the simple and complex order books. The liquidity the Exchange is able to attract in these auctions provides other members an opportunity to engage with auction orders and participate in the trade by breaking-up the auction order or being allocated in the auction. Members would not be able to respond to the auctions if such auctions never commence. Finally, the Exchange proposed Break-up rebates of \$0.20 per contract for all market participants, except Market Makers and Lead Markets, in Simple and Complex Order Facilitation and Solicitation auctions in Penny and Non-Penny Symbols is equitable and not unfairly discriminatory because the proposed rebates will apply equally to all non-Market Maker originating orders submitted to the Facilitation and Solicited Order Mechanisms that do not trade with their contra orders (except when those originating contracts trade against pre-existing orders and quotes on the Exchange's order books). While Market Makers will not receive the Facilitation and Solicitation Break-up rebates, the Exchange believes that the application of the rebate is equitable and not unfairly discriminatory because Market Makers have certain limitations by rule. Any solicited contra orders entered by Members into the Facilitation Mechanism to trade against Agency Orders may not be for the account of a Market Maker that is

assigned to the options class.⁵² Further, any solicited contra orders entered by Members to trade against Agency Orders may not be for the account of a Market Maker that is assigned to the options class.⁵³

Other Pricing Changes

The Exchange's proposal to amend a technical error in Options 7, Section 1, General Provisions by capitalizing the word "exchange" is non-substantive. The Exchange's proposal to add three new defined terms in Options 7, Section 1 for "Complex Order," "Simple Order," and "order exposure alert" is reasonable, equitable and not unfairly discriminatory because it will add more context to the current Pricing Schedule but it will not amend how the current pricing is assessed or paid.

The Exchange's proposal to amend Options 7, Sections 3 and 4 to change the rule text to remove functionality that no longer exists⁵⁴ and add language around functionality that was recently adopted and would apply as a non-Complex electronic auction and Complex electronic auction⁵⁵ is reasonable, equitable and not unfairly discriminatory because it will align with recent changes to the Rulebook and provide context around the new pricing that the Exchange is adopting with the current proposal.

Finally, for purposes of Options 7, Section 3, Part B, treating the originating side of the Exposure Complex Orders as the maker and the contra side as the taker is reasonable, equitable and not unfairly discriminatory because in this scenario the Market Maker is removing liquidity from the order book and the Exchange would handle all orders in the same manner. Also, not applying the Marketing Fee to the contra side order of an Exposure Complex Order that executed against the originating order is reasonable, equitable and not unfairly discriminatory because the Exchange assesses the Marketing Fee when the contra-party to the execution is a Customer and where the Market Maker is adding liquidity. The Exchange would not assess the Marketing Fee uniformly in this manner. Today, Marketing Fees are not assessed on transactions that execute against an order for which the Exchange broadcasts an order exposure alert in Penny Symbols.

⁵² See Supplementary Material .01 to Options 3, Section 11.

⁵³ See Supplementary Material .03 to Options 3, Section 11.

⁵⁴ See *supra* notes 27 and 28.

⁵⁵ See *supra* note 27.

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

Electronic FLEX Options

Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. The Exchange will apply the same fees to all similarly situated members except for Customers in the FLEX Auction and FLEX PIXL and FLEX SOM considering that Customers are historically assessed the lowest fees compared to other market participants. Customer order flow enhances liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants who may interact with this order flow. The Exchange believes that the differential between the proposed Fees for FLEX PIXL and SOM of \$0.07 per contract for Non-Customers and \$0.00 for Customers in both Penny and Non-Penny Symbols for simple and complex auctions as compared to the proposed Fees for Responses to FLEX PIXL and SOM Orders of \$0.50 per contract for Penny and Non-Penny Symbols for simple and complex orders does not impose an undue burden on competition. The

⁵⁰ See *supra* note 41.

⁵¹ See ISE's Pricing Schedule at Options 7, Sections 3 and 4.

lower Fees for FLEX PIXL and SOM described above should encourage members to initiate these auctions in Penny and Non-Penny Symbols in simple and complex orders. Members responding to these auctions would be assessed the same or higher proposed Fees for Responses to FLEX PIXL and SOM Orders as compared to the fees to remove liquidity from the order book for simple and complex orders.⁵⁶ While the Fees for Responses to FLEX PIXL and SOM Orders are the same or higher, the Exchange believes that these fees for simple and complex orders in Penny and Non-Penny Symbols remain competitive with ISE⁵⁷ and will continue to encourage members to initiate FLEX PIXL and SOM auctions in Penny and Non-Penny Symbols in the simple and complex order books. The liquidity the Exchange is able to attract in the form of these auctions provides other members an opportunity to engage with auction orders and participate in the trade by breaking-up the auction order or being allocated in the auction. Members would not be able to respond to the auctions if such auctions never commence. Nasdaq does not believe that the proposed fee changes place an unnecessary burden on competition.

Crossing Orders

The Exchange's proposed pricing for Simple and Complex Fees for Crossing Orders does not impose an undue burden on competition. Customers will be assessed no Fees for Crossing Orders, thereby offering Customers more favorable pricing, because Customer order flow enhances liquidity on the Exchange to the benefit of all market participants by providing more trading opportunities, which in turn attracts Market Makers and other market participants who may interact with this order flow. Assessing uniform Simple and Complex Order Fees for Crossing Orders to Non-Customers does not impose an undue burden on competition. The Exchange's proposal to assess all market participants uniform Simple and Complex Order Fees for Responding to Crossing Orders in Penny Symbols of \$0.50 per contract and in Non-Penny Symbols of \$1.10 per contract does not impose an undue burden on competition.

The Exchange believes that the differential between the proposed Fees for Crossing Order (the fees that apply to the originating and contra-side orders) of \$0.17 per contract for Non-Customers and \$0.00 for Customers in

both Penny and Non-Penny Symbols for simple orders as compared to the proposed Fees for Responses to Crossing Orders of \$0.50 per contract for all participants in Penny Symbols and \$1.10 per contract for all participants in Non-Penny Symbols for simple orders does not impose an undue burden on competition. Additionally, the Exchange believes that the differential between the proposed Fees for Crossing Order (the fees that apply to the originating and contra-side orders) of \$0.17 per contract for Non-Customers and \$0.00 for Customers in both Penny and Non-Penny Symbols for complex orders as compared to the proposed Fees for Responses to Crossing Orders of \$0.50 per contract for all participants in Penny Symbols and \$1.10 per contract for all participants in Non-Penny Symbols for complex orders does not impose an undue burden on competition. The lower Fees for Crossing Orders described above should encourage members to initiate Facilitation Mechanisms, Complex Facilitation Mechanisms, Solicitation Mechanisms, Complex Solicitation Mechanisms and Block Orders in Penny and Non-Penny Symbols in simple and complex orders. Members responding to these auctions would be assessed the same or higher proposed Fees for Responses to Crossing Orders as compared to the fees to remove liquidity from the order book for simple and complex orders.⁵⁸ While the Fees for Responses to Crossing Orders are the same or higher, the Exchange believes these fees for simple and complex orders in Penny and Non-Penny Symbols remain competitive with ISE⁵⁹ and will continue to encourage members to initiate Facilitation Mechanisms, Complex Facilitation Mechanisms, Solicitation Mechanisms, Complex Solicitation Mechanisms and Block Orders in Penny and Non-Penny Symbols in the simple and complex order books. The liquidity the Exchange is able to attract in these auctions provides other members an opportunity to engage with auction orders and participate in the trade by breaking-up the auction order or being allocated in the auction. Members would not be able to respond to the auctions if such auctions never commence. Finally, the Exchange proposed Break-up rebates of \$0.20 per contract for all market participants, except Market Makers and Lead Markets, in Simple and Complex Order Facilitation and Solicitation auctions in Penny and Non-Penny Symbols does

not impose an undue burden on competition because the proposed rebates will apply equally to all non-Market Maker originating orders submitted to the Facilitation and Solicited Order Mechanisms that do not trade with their contra orders (except when those originating contracts trade against pre-existing orders and quotes on the Exchange's order books). While Market Makers will not receive the Facilitation and Solicitation Break-up rebates, the Exchange believes that the application of the rebates does not impose an undue burden on competition because Market Makers have certain limitations by rule. Any solicited contra orders entered by Members into the Facilitation Mechanism to trade against Agency Orders may not be for the account of a Market Maker that is assigned to the options class.⁶⁰ Further, any solicited contra orders entered by Members to trade against Agency Orders may not be for the account of a Market Maker that is assigned to the options class.⁶¹

Other Pricing Changes

The Exchange's proposal to add three new defined terms in Options 7, Section 1 for "Complex Order," "Simple Order," and "order exposure alert" does not impose an undue burden on competition, rather it will add more context to the current Pricing Schedule but it will not amend how the current pricing is assessed or paid. The Exchange's proposal to amend Options 7, Sections 3 and 4 to change the rule text to remove functionality that no longer exists⁶² and add language around functionality that was recently adopted and would apply as a non-Complex electronic auction and Complex electronic auction⁶³ does not impose an undue burden on competition, rather it will align with recent changes to the Rulebook and provide context around the new pricing that the Exchange is adopting with the current proposal.

For purposes of Options 7, Section 3, Part B, treating the originating side of the Exposure Complex Orders as the maker and the contra side as the taker does not impose an undue burden on competition because the Exchange would handle all orders in the same manner. Also, not applying the Marketing Fee to the contra side order of an Exposure Complex Order that executed against the originating order does not impose an undue burden on

⁶⁰ See Supplementary Material .01 to Options 3, Section 11.

⁶¹ See Supplementary Material .03 to Options 3, Section 11.

⁶² See *supra* notes 27 and 28.

⁶³ See *supra* note 27.

⁵⁶ See *supra* note 41.

⁵⁷ See ISE's Pricing Schedule at Options 7, Sections 3 and 4.

⁵⁸ See *supra* note 41.

⁵⁹ See ISE's Pricing Schedule at Options 7, Sections 3 and 4.

competition because the Exchange would not assess the Marketing Fee uniformly in this manner.

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.⁶⁴

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-2025-48 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-2025-48. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should

submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR-Phlx-2025-48 and should be submitted on or before October 20, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶⁵

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025-18789 Filed 9-26-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104037; File No. SR-CboeBZX-2025-130]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.23 To Introduce an Option for an Exchange-Traded Product ("ETP") Eligible To Participate in an Initial Public Offering ("IPO") Auction To Elect to Commence Trading in the BZX Early Trading Session

September 24, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 22, 2025, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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

Cboe BZX Exchange, Inc. ("BZX" or the "Exchange") is filing with the Securities and Exchange Commission ("Commission" or "SEC") a proposal to

amend Rule 11.23 to introduce an option for an exchange-traded product ("ETP") eligible to participate in an initial public offering ("IPO") auction to elect to commence trading in the BZX Early Trading Session.⁵ The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.23 to provide an option for an ETP IPO Security⁶ to commence trading in the BZX Early Trading Session. The Exchange also proposes to amend Rule 11.23(a) in order to introduce the defined term "ETP IPO Security." Additionally, the Exchange proposes to make conforming changes to Rule 11.23(d)(2)(E) by creating subsections 11.23(d)(2)(E)(i) and (ii) to improve clarity in the Exchange's rulebook. The proposal is substantively identical to the Nasdaq Stock Market LLC ("Nasdaq") functionality that allows ETP IPO Securities the option to commence trading at 4:00 a.m. Eastern Time ("ET")⁷ or in the IPO Auction (which generally occurs 9:30 a.m. ET) on the first day of trading, as discussed further below.⁸

⁵ See Rule 1.5(ff).

⁶ See proposed Rule 11.23(a)(24), as discussed below.

⁷ Hereinafter, all times referenced are in Eastern Time.

⁸ See Securities Exchange Act No. 103085 (May 20, 2025) 90 FR 22424 (May 27, 2025) (SR-Nasdaq-2025-011) (Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment

⁶⁵ 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)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁶⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

The Exchange proposes to introduce the defined term “ETP IPO Security” as Rule 11.23(a)(24), which means a Derivative Security⁹ that is eligible to participate in an IPO Auction¹⁰ pursuant to Rule 11.23(d).

The Exchange also proposes to amend Rule 11.23(d)(2)(E) to delineate the IPO Auction from the Halt Auction with no substantive change. Specifically, the Exchange proposes to bifurcate Rule 11.23(d)(2)(E) by creating subsections (i) and (ii), which clarifies the separate determination of each of the IPO Auction price and the Halt Auction price, respectively. Rule 11.23(d)(2)(E)(i) provides that “[f]or IPO Auctions, orders will be executed at the price level within the Collar Price Range that maximizes the number of shares executed in the auction. In the event of a volume based tie at multiple price levels, the price level that results in the minimum total imbalance will be used. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the price level closest to the issuing price will be used for IPO Auctions. The IPO Auction price will be the BZX Official IPO Opening Price unless otherwise provided under this Rule 11.23.” The proposed new language under Rule 11.23(d)(2)(E)(i) is identical to existing language under Rule 11.23(d)(2)(E). Rule 11.23(d)(2)(E)(ii) provides that “[f]or Halt Auctions following a Regulatory Halt, orders will be executed at the price level within the Halt Auction Collars that maximizes the number of shares executed in the auction. In the event of a volume based tie at multiple price levels, the price level that results in the minimum total imbalance will be used. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the price level closest to the Final Last Sale Eligible Trade will be used for Halt Auctions.” The Exchange is only proposing to delete text from proposed Rule 11.23(d)(2)(E)(ii) that is not applicable to Halt Auctions under existing Rule 11.23(d)(2)(E).

The Exchange also proposes to adopt new Rule 11.23(a)(2)(E)(i)(a) to provide that ETP IPO Securities may commence trading in the Early Trading Session as an alternative to the IPO Auction.

Specifically, proposed Rule 11.23(a)(2)(E)(i)(a) states that “[a]n ETP IPO Security may elect to commence trading in the Early Trading Session described in Rule 11.1(a). If an ETP IPO Security elects to commence trading during the Early Trading Session, the BZX Official IPO Opening Price¹¹ for such ETP IPO Security shall be determined pursuant to Rule 11.23(b)(2)(B).”

Today, ETP IPO Securities commence trading at the start of Regular Trading Hours¹² (9:30 a.m.) pursuant to the IPO Auction process set forth under Exchange Rule 11.23(d). The amendments proposed herein introduce an option for an ETP IPO Security to commence trading during the Early Trading Session. As proposed, an ETP IPO Security would begin trading pursuant to the current IPO Auction process provided under existing Rule 11.23(d)(2)(E) unless otherwise specified by the issuer of an ETP IPO Security. If the ETP IPO Security elects to commence trading during the Early Trading Session, the ETP IPO Security would simply open for trading at 4:00 a.m. ET in the Early Trading Session¹³ in the same manner that an ETP transferred from another securities exchange begins trading on BZX.¹⁴ An ETP IPO Security that elects to commence trading during the Early Trading Session would participate in the standard Opening Auction process under Exchange Rule 11.23(b)(2)(B) rather than the IPO Auction process. As a result, the BZX Official IPO Opening Price would also be determined pursuant to the Opening Auction under Exchange Rule 11.23(b)(2)(B) rather than the IPO Auction.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁶ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation

and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁷ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule changes will remove impediments to and perfect the mechanism of a free and open market and national market system and will benefit investors by providing market participants with additional opportunities to source and access liquidity for their orders in new issue ETPs on the Exchange. The proposed option to permit issuers to begin trading an ETP IPO Security during the Early Trading Session is a response to feedback from ETP issuers that such an option is desirable, as it would provide for earlier trading opportunities in highly anticipated new issue ETPs. Further, the Exchange believes that the issuer is best situated to make the decision whether to commence trading in its ETP IPO Security during the Early Trading Session or pursuant to the IPO Auction. The proposed amendments will have no impact on the operation of trading in the Early Trading Session and would simply allow for an ETP IPO Security to begin trading on the Exchange at 4 a.m. in the same manner that that an ETP transferred from another securities exchange begins trading on BZX. The Exchange believes that amending its rules to extend trading hours for ETP IPO Securities will benefit investors in that they will now be able to trade ETP IPO Securities earlier in the day, providing additional access to liquidity in securities that an ETP issuer deems appropriate for trading in the Early Trading Session. The Exchange also believes that offering the IPO Auction as a default for ETP IPO Securities with the option to participate in the Early Trading Session will allow issuers an alternative option if such issuer is concerned about unexpected volatility in ETP pricing during the Early Trading Session.¹⁸

The Exchange believes that proposed rule changes raise no novel issues as the proposed rules are consistent with early trading for ETPs already in place under

No. 1, To Introduce Functionality To Initiate a Trading Halt for Exchange-Traded Products on Launch Day) (the “Nasdaq Approval Order”).

⁹ See Rule 1.5(dd). The term “Derivative Security” means a security that meets the definition of “new derivative securities product” in Rule 19b-4(e) under the Exchange Act.

¹⁰ See Rule 11.22(1)(B). “IPO Auction” means the initial pricing procedures described in Rule 11.23(d).

¹¹ See Rule 11.23(a)(4).

¹² See Rule 1.5(w). The term “Regular Trading Hours” means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

¹³ See Exchange Rule 1.5(ff).

¹⁴ See full details of the Exchange’s auction process specifications at *Choe_US_Equities Auction_Process.pdf*; see also Rule 11.23(d)(2)(E).

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ *Id.*

¹⁸ See the Nasdaq Approval Order at 24430.

the rules of another equities exchange,¹⁹ as previously approved by the Commission.²⁰

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the Exchange does not believe that the proposed rule change will impose any burden on intra-market competition that is not necessary or appropriate in furtherance of purposes of the Act because all ETP IPO Securities may commence trading in the BZX Early Trading Session if requested by the issuer. The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition but instead may promote competition because the proposed early trading hours for ETP IPO Securities are identical to those on Nasdaq.²¹ Market participants on other exchanges are welcome to trade at BZX if they determine that this proposed rule change has made BZX more attractive or favorable.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act²² and Rule 19b-4(f)(6)²³ thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the

Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act²⁴ and Rule 19b-4(f)(6)²⁵ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)²⁶ normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii)²⁷ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange states that waiver of the operative delay will allow it to quickly offer the option for an ETP IPO Security to commence trading during the Early Trading Session, thereby providing an additional source of liquidity for ETP IPO Securities during this time. The Exchange also states that the proposed change will not negatively impact investors or the public interest because the proposal will not alter the operation of the Exchange's Early Trading Session, and the ETP IPO Security would simply open for trading at 4:00 a.m. ET²⁸ in the same manner that an ETP transferred from another securities exchange begins trading on BZX. For these reasons, and because the proposed rule change does not raise any new or novel regulatory issues, the Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.²⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the

public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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-CboeBZX-2025-130 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeBZX-2025-130. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR-CboeBZX-2025-130 and should be submitted on or before October 20, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-18795 Filed 9-26-25; 8:45 am]

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³⁰ 17 CFR 200.30-3(a)(12), (59).

¹⁹ See Nasdaq Rule 4120(b)(4).

²⁰ *Supra* note 7.

²¹ See Securities Exchange Act No. 103085 (May 20, 2025) 90 FR 22424 (May 27, 2025) (SR-Nasdaq-2025-011) (Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Introduce Functionality To Initiate a Trading Halt for Exchange-Traded Products on Launch Day).

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f)(6).

²⁴ 15 U.S.C. 78s(b)(3)(A).

²⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²⁶ *Id.*

²⁷ 17 CFR 240.19b-4(f)(6)(iii).

²⁸ See Exchange Rule 1.5(ff).

²⁹ 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 U.S.C. 78c(f).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104036; File No. SR–NASDAQ–2025–075]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Introduce a New Supplemental Credit for Displayed Quotes/Orders Under Equity 7, Section 118(a)(1)

September 24, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² notice is hereby given that on September 16, 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, 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 introduce a new supplemental credit for displayed quotes/orders under Equity 7, Section 118(a)(1) (Fees for Execution and Routing of Orders). The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange’s schedule of credits, at Equity 7, Section 118(a)(1).³ The Exchange currently provides a supplemental credit to members for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders). The Exchange is proposing to add a supplemental credit of \$0.0001 per share executed to Tapes A, B and C. The credit will be available to a member that, through one or more of its Nasdaq Market Center MPIDs, (i) increases its volume of liquidity added in all securities by at least 20% as a percentage of Consolidated Volume⁴ relative to the member’s liquidity during the month of July 2025 and (ii) has volume from Limit On Close orders⁵ entered between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET that represent more than 0.10% of Consolidated Volume during the month.⁶ Unless otherwise extended, this tier will expire no later than January 2026. The credit will be in addition to other credits otherwise available to members for adding displayed liquidity to the Exchange (other than Supplemental Orders or Designated Retail Orders). The Exchange hopes that by proposing the new credit it will incentivize members to increase their liquidity providing activity on the Exchange, which will improve overall market quality. More specifically, an increase in the volume of late LOC orders will increase liquidity and market quality in the Nasdaq Closing Cross.⁷

³ The Exchange initially filed this fee proposal as SR–NASDAQ–2025–072 on September 5, 2025. On September 8, 2025, the Exchange withdrew that filing and submitted SR–NASDAQ–073. On September 15, the Exchange withdrew that filing and submitted this filing. All references throughout this filing to certain rule sections shall pertain to Nasdaq Equity 7.

⁴ Pursuant to Equity 7, Section 118(a), “Consolidated Volume” shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot.

⁵ “Limit On Close Order” shall have the definition set forth in Rule 4702(b)(12)(A).

⁶ Limit On Close Orders entered between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET are also known as “late LOC orders.” For the September 2025 billing cycle, the credit will be applicable from September 5, 2025, through September 30, 2025.

⁷ The “Nasdaq Closing Cross” is defined as the process for determining the price at which orders

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁹ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange’s proposed change to its schedule of credits is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers.’ . . .”¹⁰

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹¹

Numerous indicia demonstrate the competitive nature of this market. For

shall be executed at the close and for executing those orders and shall include the LULD Closing Cross and the Hybrid Closing Cross.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4) and (5).

¹⁰ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

¹¹ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. As such, the proposal represents a reasonable attempt by the Exchange to increase its liquidity and market share relative to its competitors.

The Exchange believes that it is reasonable to establish a new \$0.0001 per share executed transaction credit, at Equity 7, Section 118(a)(1), for a member that, through one or more of its Nasdaq Market Center MPIDs, (i) increases its volume of liquidity added in all securities by at least 20% as a percentage of Consolidated Volume relative to the member's liquidity during the month of July 2025 and (ii) has volume from Limit on Close Orders entered between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET that represent more than 0.10% of Consolidated Volume during the month. Unless otherwise extended, this credit will expire no later than January 2026. The new credit will encourage additional activity on the Exchange, specifically, increased liquidity from late LOC orders, which will improve the market quality overall, and more specifically in the Nasdaq Closing Cross, to the benefit of all market participants. The Exchange believes that if the new credit is effective, then liquidity adding activity on the Exchange will increase and market quality will improve for the benefit of all participants. The Exchange notes that those market participants that are dissatisfied with the proposal are free to shift their order flow to competing venues that offer more generous pricing or less stringent qualifying criteria. Establishing a 6-month sunset for the comparative baseline ensures that the baseline being used for the tier does not become outdated. The Exchange will extend the July 2025 baseline if the baseline remains current.

It is also reasonable, equitable, and not unfairly discriminatory for the Exchange to establish a new supplemental credit because the proposal will encourage members to increase the extent to which they add

liquidity to the Exchange. To the extent that the Exchange succeeds in increasing the levels of liquidity and activity on the Exchange, then the Exchange will experience improvements in its market quality, which stands to benefit all market participants. The Exchange notes that the proposed credit is voluntary. The Exchange further believes that the credit is not unfairly discriminatory because it will be applied uniformly to all members that meet the specified criteria.

Those participants that are dissatisfied with the amendment to the Exchange's schedule of credits are free to shift their order flow to competing venues that provide more generous incentives or less stringent qualifying criteria.

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.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participant at a competitive disadvantage. The Exchange intends for its proposals to incentivize liquidity adding activity. The Exchange notes that its members are free to trade on other venues to the extent they believe that the proposal is not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Inter-Market Competition

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which adding a supplemental credit in this market

may impose any burden on competition is extremely limited.

In this instance, the introduction of a new credit Section 118(a)(1) is intended to incentivize liquidity adding activity on the Exchange and does not impose a burden on competition. By offering a new credit to market participants that meet certain criteria the Exchange is enhancing its appeal as a trading venue and encouraging increased participation in its order execution and routing processes while maintaining a competitive pricing structure. As discussed above, the proposed credit does not disadvantage any specific group or market participants. Instead, it provides equitable incentives that are available to all members that meet the applicable criteria.

In sum, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.¹²

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:

¹² 15 U.S.C. 78s(b)(3)(A)(ii).

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-2025-075 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-2025-075. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2025-075 and should be submitted on or before October 20, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-18793 Filed 9-26-25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104030; File No. SR-MX2-2025-03]

Self-Regulatory Organizations; MX2 LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Eighth Amended and Restated Limited Liability Company Agreement of MEMX Holdings LLC

September 24, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 11, 2025, MX2 LLC ("MX2")

or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Eighth Amended and Restated Limited Liability Company Agreement (the "Holdco LLC Agreement") of MEMX Holdings LLC ("Holdco" or the "Company"), as further described below. Holdco is the parent company of the Exchange and directly or indirectly owns all of the limited liability company membership interests in the Exchange. The text of the proposed rule change is provided in Exhibit 5 and is available on the Exchange's website at <https://info.memxtrading.com/regulation/rules-and-filings/>.

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 Holdco LLC Agreement⁵ to reflect

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4.

⁵ References herein to the "Holdco LLC Agreement" refer to the Eighth Amended and Restated Limited Liability Company Agreement of MEMX Holdings LLC, as may be amended from time to time. All section references herein are to sections of the Holdco LLC Agreement unless indicated otherwise. Capitalized terms used but not

amendments that were previously approved by the Holdco Board in accordance with the Holdco LLC Agreement and Delaware law, including: (i) an amendment to the provisions relating to the pre-emptive right of certain limited liability company members of the Company ("Members") with respect to issuances of Units⁶ or other equity interests in the Company or its subsidiaries ("Company Subsidiaries"); and (ii) amendments intended to update and/or clarify existing language in various provisions. Each of these amendments is discussed below.

Amendment to Pre-Emptive Right Provision

Section 9.1 of the Holdco LLC Agreement provides for a pre-emptive right of certain Members to purchase a pro rata portion of any New Securities⁷ that the Company or any Company Subsidiary may from time to time propose to issue or sell to any party within a specified timeframe. The Exchange notes that pre-emptive rights

defined herein shall have the meanings ascribed to such terms in the Holdco LLC Agreement.

⁶ The term "Units" means a unit representing a fractional part of the membership interests of the Members. See Section 1.1.

⁷ The term "New Securities" means any authorized but unissued Units and any Unit Equivalents convertible into Units, exchangeable or exercisable for Units, or providing a right to subscribe for, purchase or acquire Units, or, in each of the foregoing cases, if such New Securities are issued by a Company Subsidiary any equity interests or Equity Interest Equivalents in such Company Subsidiary; provided, that the term "New Securities" shall not include Units, Unit Equivalents, equity interests or Equity Interest Equivalents issued or sold by the Company or any Company Subsidiary in connection with: (i) a grant to any existing or prospective Directors, Officers or other service providers of the Company pursuant to any incentive plan of the Company or similar equity-based plans or other compensation agreement (including the Incentive Plan); (ii) the conversion or exchange of any validly issued securities of the Company or any Company Subsidiary into Units or other equity interests, or the exercise of any warrants or other rights to acquire Units or other equity interests; (iii) any acquisition by the Company or any Company Subsidiary of any equity interests, assets, properties or business of any Person; (iv) any merger, consolidation or other business combination involving the Company or any Company Subsidiary; (v) the commencement of any Public Offering; (vi) without prejudice to clause (iv) above, any issuance of Units, Unit Equivalents, equity interests or Equity Interest Equivalents in a transaction which results in a Change of Control of the Company or any Company Subsidiary, with respect to which the Board has waived the rights of the Members under Section 9.1 pursuant to a Supermajority Board Vote; (vii) conversion of Class C Units and/or Class D Units, as applicable, pursuant to Sections 3.10(d), 3.10(e) or 3.11, as applicable; or (viii) to the extent not covered by clauses (i) through (vii) above, Common Units issued in the manner set forth in clauses (A) through (H) of the definition of Exempted Securities. See Section 9.1(b).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

are commonly provided to equity owners of private companies, such as the Company, and are designed to protect equity owners against dilution resulting from new issuances by allowing an equity owner to purchase its pro rata portion of a new security issuance to maintain its proportional stake in the company.

The definition of New Securities in the Holdco LLC Agreement describes the types of securities that are included in that term and therefore are subject to the Members' pre-emptive right, and it also specifies certain types of securities that are excluded from that term and therefore are not subject to the Members' pre-emptive right. The Holdco Board has resolved, and the Exchange therefore proposes, to amend the definition of New Securities to specifically exclude Units or other equity interests issued or sold by the Company or any Company Subsidiary in connection with a warrants or other equity rights program administered by a Regulated Securities Exchange Subsidiary⁸ that is approved by the Holdco Board by Supermajority Board Vote and is effective pursuant to a rule filing that is filed with the Commission (any such program, an "Exchange Warrants Program"). The Exchange notes that Exchange Warrants Programs are generally designed for the purpose of incentivizing Exchange participation in exchange for the issuance of Units or other equity interests,⁹ and the Holdco Board has determined that the Members' pre-emptive right should not apply to issuances under such programs.

Thus, under the proposed rule change, issuances of Units or other equity interests under future Exchange Warrants Programs would not be subject to the Members' pre-emptive right, and the Exchange believes this proposed change would facilitate the administration of future Exchange Warrants Programs on the Exchange, as it would limit participation in the

equity issuances under such programs to the participants in such programs, consistent with the design of such programs. The Exchange notes that while this proposed change may have an impact on the proportional ownership of the Exchange or its parent company in connection with a future Exchange Warrants Program by disapplying the right of certain Members to participate in the equity issuance thereunder, any such Exchange Warrants Program must be effective pursuant to a rule filing that is filed with the Commission and any related equity issuance is subject to the ownership limitations of the Holdco LLC Agreement.¹⁰

Amendments To Update and/or Clarify Various Provisions

The Exchange is also proposing to make amendments to the Holdco LLC Agreement that are intended to update and/or clarify existing language in various provisions. The purpose of these amendments is to add clarity to the Holdco LLC Agreement by updating information that is outdated or otherwise clarifying the relevant provision consistent with its original intent. Each amendment was previously approved by the Holdco Board and is discussed below.

- The Exchange proposes to amend the definition of "MX2 LLC Agreement" in Section 1.1. Currently, Section 1.1 defines the term "MX2 LLC Agreement" as the First Amended and Restated Limited Liability Company Agreement of MX2 LLC, a Subsidiary of the Company, effective as of September 17, 2024, as may be amended or restated from time to time. The MX2 LLC Agreement was initially adopted by its Managing Member, Holdco, on September 17, 2024, and then it was subsequently amended and restated and adopted by the Board of Directors of MX2 LLC on April 28, 2025. The Exchange proposes to amend the definition of MX2 LLC Agreement to update the referenced effective date to April 28, 2025, which is the date that it was adopted by the Board of Directors of MX2 LLC.

- The Exchange proposes to amend Sections 3.2(a) and (b) to clarify the voting rights of the Class A–1 Units and Class A–2 Units. Section 3.2 provides for the authorization and voting rights of the Class A–1 Units, Class A–2 Units, Nonvoting Class A–1 Units, Nonvoting

Class A–2 Units, Class C–1 Units, Class C–2 Units, Class D–1 Units, Class D–2 Units, Voting Common Units and Nonvoting Common Units. Sections 3.2(a) and (b) relate to the Class A–1 Units and Class A–2 Units, respectively. The Exchange proposes to amend Sections 3.2(a) and (b) to specify that, with respect to the Class A–1 Units and Class A–2 Units, each such Unit shall have one vote per Unit on all matters on which such Units are entitled to vote. The Exchange notes that each type of Unit described in Section 3.2, including Class A–1 Units and Class A–2 Units, was originally intended to have one vote per Unit on all matters on which such type of Unit is entitled to vote, and Sections 3.2(c)–(g) include language that specifies this voting construct with respect to the other types of Units described in that section. Therefore, this proposed change is intended to clarify the number of votes corresponding to each Class A–1 Unit and Class A–2 Unit consistent with the original intent of the relevant provisions. The Exchange notes that the proposed language in Sections 3.2(a) and (b) mirrors the language used in Sections 3.2(c)–(g) to describe this voting construct with respect to the other types of Units described in Section 3.2.

- The Exchange proposes to amend Section 3.2(c) to correct an inadvertent drafting error relating to the voting construct applicable to the Nonvoting Class A–1 Units. Specifically, Section 3.2(c) contains an erroneous reference to "Nonvoting Class A Unit" that was originally intended to be a reference to "Nonvoting Class A–1 Unit" as that is the type of Unit to which this provision relates. Therefore, the Exchange proposes to amend Section 3.2(c) to replace the erroneous reference to "Nonvoting Class A Unit" with an appropriate reference to "Nonvoting Class A–1 Unit" to clarify the provision consistent with its original intent.

- The Exchange proposes to amend Section 7.4(f) to update an outdated provision relating to a past tax election made by the Company. Currently, Section 7.4(f) provides that the Company shall make a specified tax election upon its filing of its 2020 U.S. federal income tax return. The Company did in fact make the specified tax election upon its filing of its 2020 U.S. federal income tax return, and as such, the Exchange proposes to update the language in Section 7.4(f) to reflect that this tax election was previously made by the Company.

- The Exchange proposes to amend Section 8.18(c)(i) to include "LLC" after the references to "MEMX" and "MX2" to reflect those entities' full legal names,

⁸ The term "Regulated Securities Exchange Subsidiary" means any national securities exchange controlled, directly or indirectly, by the Company, including MEMX LLC and MX2 LLC. See Section 1.1.

⁹ The Exchange notes that its affiliate, MEMX LLC, in 2024 adopted an Exchange Warrants Program (the "2024 Warrants Program") pursuant to which warrants representing the right to acquire equity in Holdco upon vesting are issued to participants on MEMX LLC's options platform ("MEMX Options") who also participate in the 2024 Warrants Program in exchange for such participants' achievement of certain trade volume thresholds on MEMX Options. The 2024 Warrants Program was designed to incentivize market participants on MEMX Options to direct greater trade volume to MEMX Options, thereby enhancing its market quality. See Securities Exchange Act Release No. 100247 (May 30, 2024), 89 FR 48203 (June 5, 2024) (SR-MEMX-2024-21).

¹⁰ See, e.g., Section 3.5(a)(ii) of the Holdco LLC Agreement, which states that "[n]o Exchange Member, either alone or together with its Related Persons, may own, directly or indirectly, of record or beneficially, Units constituting more than twenty percent (20%) of any class of Units."

which would clarify this provision consistent with its original intent.

- The Exchange proposes to amend Section 8.18(c)(vi)(A) to clarify a reference made to the Exchange Boards of MEMX LLC and MX2 LLC. Section 8.18(c)(vi) provides for certain actions in the event of a Combination of Exchange Director Nominating Members, and subparagraph (A) provides that following such Combination, the surviving Affiliated group of Exchange Director Nominating Members shall have the right to nominate one Exchange Director to an Exchange. The Exchange notes that the reference to “an Exchange” in this provision was originally intended to reference each applicable Exchange Board—namely, the Exchange Boards of MEMX LLC and/or MX2 LLC, as applicable. The Exchange proposes to amend Section 8.18(c)(vi)(A) to replace the reference to “an Exchange” with a reference to “each applicable Exchange Board” to clarify this provision consistent with its original intent.

- The Exchange proposes to amend Section 8.18(c)(vi)(D) to replace an erroneous reference to “Exchange Director Nomination Rotation” with an appropriate reference to each of the MEMX LLC Exchange Director Nomination Rotation and the MX2 LLC Exchange Director Nomination Rotation. The Exchange notes that the reference to “Exchange Director Nomination Rotation” in this provision was originally intended to refer to each applicable nomination rotation—namely, the MEMX LLC Exchange Director Nomination Rotation and the MX2 LLC Exchange Director Nomination Rotation—but the term “Exchange Director Nomination Rotation” is not a defined term in the Holdco LLC Agreement. Therefore, the proposed change to instead reference each of the MEMX LLC Exchange Director Nomination Rotation and the MX2 LLC Exchange Director Nomination Rotation is intended to clarify the provision consistent with its original intent by referencing the appropriate defined terms.

- The Exchange proposes to amend Section 8.18(g)(iv) to replace four erroneous references to “Exchange” with appropriate references to “Exchange Board” as originally intended. The Exchange notes that the term “Exchange” is not defined in the Holdco LLC Agreement, so the proposed change is intended to clarify the provision consistent with its original intent by replacing references to an erroneous undefined term with the appropriate defined term.

- The Exchange proposes to amend Section 12.4(c) to remove a reference to a date that has passed and delete related language that is now outdated and obsolete. Section 12.4(c) provides that until February 19, 2023, no approval of the Holdco Board is required for a specified level of variance in the Company’s Annual Budget, and that upon such date the Holdco Board shall determine by Supermajority Board Vote the level of variance in the Company’s Annual Budget that does not require approval of the Holdco Board after such date. The Exchange notes that such date has passed, and the Holdco Board has determined by Supermajority Board Vote that the same level of variance in the Company’s Annual Budget that applied before such date will continue to not require approval of the Holdco Board, consistent with the Company’s existing practice. Accordingly, the Exchange proposes to remove the outdated reference to February 19, 2023, and delete the final sentence of Section 12.4(c) regarding the Holdco Board’s action to be taken upon such date, as such date has passed and such action was previously taken.

The Exchange proposes to update Exhibit A to remove a reference to a date that has passed. Exhibit A, which is a Form of Adherence Agreement, contains a field for a date to be filled in when completing the form, and that date field currently references 2023. As 2023 has passed, the Exchange proposes to update Exhibit A by deleting the reference to 2023 and replacing it with a reference to “2__” for the year to be filled in upon any future completion of the form.

2. Statutory Basis

The Exchange believes that the proposed amendments to the Holdco LLC Agreement are consistent with Section 6(b) of the Act,¹¹ in general, and further the objectives of Section 6(b)(1) of the Act,¹² in particular, in that such amendments enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed amendments are consistent with Section 6(b)(5) of the Act,¹³ which requires the rules of an exchange to be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market

and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed amendment to exclude from the definition of New Securities, and, in turn, the Members’ pre-emptive right, Units or other equity interests issued or sold by the Company or any Company Subsidiary in connection with an Exchange Warrants Program is consistent with the Act because, as described above, such change would facilitate the administration of future Exchange Warrants Programs on the Exchange, which are generally designed to incentivize Exchange participation and thereby enhance the Exchange’s market quality. As such, this proposed change would remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange notes that there was sufficient representation on the Holdco Board of Members impacted by this proposed change and that the approval of this proposed change by the Holdco Board was effectuated in accordance with Delaware law. Furthermore, while this proposed change may have an impact on the proportional ownership of the Exchange or its parent company in connection with a future Exchange Warrants Program, the Exchange notes that the proposed change requires that any such Exchange Warrants Program be effective pursuant to a rule filing that is filed with the Commission, so there would be Commission review of any potential ownership changes resulting from any such Exchange Warrants Program, which would also remain subject to the ownership limitations of the Holdco LLC Agreement. In this regard, the Exchange believes the proposed change is consistent with the Act, as it enables the Exchange and its parent company to be organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange and does not impair the ability of the SEC to enforce the Exchange Act and the rules and regulations promulgated thereunder with respect to the Exchange.

The Exchange believes the proposed amendments to update and clarify various provisions in the Holdco LLC Agreement are consistent with the Act, as such amendments would update and clarify the Holdco LLC Agreement in a manner consistent with actions previously taken by the Holdco Board in accordance with the Holdco LLC Agreement, thereby increasing transparency and helping to avoid any

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(1).

¹³ 15 U.S.C. 78f(b)(5).

potential confusion resulting from retaining outdated, obsolete, or unclear provisions. The Exchange believes that updating the Holdco LLC Agreement in this manner would ensure clarity with respect to the corporate documents of the Exchange's parent company, thereby enabling the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, promoting just and equitable principles of trade, removing impediments to and perfect the mechanism of a free and open market, and protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal is not intended to address competitive issues nor the operation of the Exchange. Rather, as described above, this proposal is concerned solely with the equity rights of Members of Holdco and the administration of Holdco's corporate documents. As such, the Exchange does not believe that this proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder¹⁵ in that it effects a change 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.

The Exchange believes that the proposed amendments to the Holdco

LLC Agreement described above would not significantly affect the protection of investors and the public interest. In addition, the Exchange does not believe that this proposal imposes any significant burden on competition because the proposed amendments to the Holdco LLC Agreement do not address competitive issues but rather are concerned solely with the equity rights of Members of Holdco and the administration of Holdco's corporate documents, as discussed above.

Furthermore, Rule 19b-4(f)(6)(iii)¹⁶ requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change under that subsection at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b-4(f)(6)(iii), however, 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 contained in Rule 19b-4(f)(6)(iii) so that the Exchange may amend the Holdco LLC Agreement as soon as possible. The Exchange states that waiver of the operative delay is consistent with the protection of investors and the public interest because it would allow the Holdco LLC Agreement to reflect updated and clarified provisions that were previously approved by the Holdco Board in accordance with the Holdco LLC Agreement and Delaware law, each as discussed above, in a timely manner, thereby creating more transparent, consistent, and clear standards for the administration and governance of the parent company of the Exchange. The Exchange also states that the proposed changes to the Holdco LLC Agreement do not materially alter the existing

governance framework of the Exchange or its parent company. The Commission believes the proposed rule change presents no novel legal or regulatory issues, and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.¹⁷

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-MX2-2025-03 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-MX2-2025-03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MX2-2025-03 and should be submitted on or before October 20, 2025.

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–18796 Filed 9–26–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0073]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Form S–3—Registration Statement

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form S–3 (17 CFR 239.13) is a short form registration statement used by domestic issuers to register a public offering of their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). The information collected is intended to ensure the adequacy of information available to investors in connection with securities offerings. We estimate that Form S–3 takes approximately 458.87 hours per response and is filed once per year by approximately 1,467 issuers, for a total of approximately 1,467 responses annually. We estimate that 25% of the 458.87 hours per response is carried internally by the issuer for annual reporting burden of 168,291 hours ((25% × 458.87 hours per response) × 1,467 responses). We estimate that 75% of the 458.87 hours per response is carried externally by outside professionals retained by the issuer at an estimated rate of \$600 per hour for a total annual cost burden of \$302,923,031 ((75% × 458.87 hours per response) × \$600 per hour × 1,467 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency’s estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to PaperworkReductionAct@sec.gov by November 28, 2025. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: September 24, 2025.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–18784 Filed 9–26–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104033; File No. SR–NASDAQ–2025–078]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Hashdex Nasdaq Crypto Index US ETF

September 24, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on September 22, 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Hashdex Nasdaq Crypto Index US ETF (the “Trust”), shares (“Shares”) of which have been approved by the Commission to list and trade on the Exchange pursuant to Nasdaq Rule 5711(d), to permit the Trust to come under the generic listing standards of that rule. The Exchange requests that the Commission waive the five business day prior notice period under Rule 19b–4(f)(6)(iii).³

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

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 Commission approved the listing and trading of the Shares of the Trust under Nasdaq Rule 5711(d)⁴ on December 19, 2024.⁵ The Exchange now

³ 17 CFR 240.19b–4(f)(6)(iii).

⁴ The Commission approved Nasdaq Rule 5711(d) in Securities Exchange Act Release No. 66648 (March 23, 2012), 77 FR 19428 (March 30, 2012) (SR–NASDAQ–2012–013). The Commission subsequently approved amendments to Rule 5711(d) to adopt generic listing standards for Commodity-Based Trust Shares. *See* Securities Exchange Act Release No. 103995 (September 17, 2025) (SR–NASDAQ–2025–056; SR–CboeBZX–2025–104; SR–NYSEARCA–2025–54) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to Adopt Generic Listing Standards for Commodity-Based Trust Shares) (“Generic Listing Standards”).

⁵ *See* Securities Exchange Act Release No. 101998 (December 19, 2024), 89 FR 106707 (December 30, 2024) (SR–NASDAQ–2024–028; SR–CboeBZX–2024–091). *See also* Securities Exchange Act Release Nos. 101218 (Sept. 30, 2024), 89 FR 80970 (Oct. 4, 2024) (SR–NASDAQ–2024–028) (the “Notice”); and 102309 (January 29, 2025), 90 FR 8961 (February 4, 2025) (SR–NASDAQ–2025–006).

Continued

¹⁸ 17 CFR 200.30–3(a)(12).

proposes to permit the Trust to operate in reliance on the Generic Listing Standards instead of the terms of the Hashdex Original Filing. The Trust will meet the requirements of the Generic Listing Standards under Rule 5711(d) and will be required to comply with the continued listing standards on an ongoing basis, as required by the rule. Any requirements for listing as specified in the Hashdex Original Filing that differ from the requirements of the Generic Listing Standards will no longer be applicable to such security.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that its proposal to permit the Trust to operate in reliance on the Generic Listing Standards instead of the terms of the Hashdex Original Filing is consistent with the Act. In particular, the Shares would be listed and traded on the Exchange pursuant to the Generic Listing Standards in Rule 5711(d), which the Commission found are reasonably designed to prevent fraudulent and manipulative acts and practices and protects investors and the public interest.⁸ The Trust will meet the requirements of the Generic Listing Standards under Rule 5711(d) and will be required to comply with the continued listing standards on an ongoing basis, as required by the rule.

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. As discussed above, the Trust is converting its listing under the terms of the Hashdex Original Filing to the Generic Listing Standards. The Trust will meet the requirements of the Generic Listing Standards under

Rule 5711(d) and will be required to comply with the continued listing standards on an ongoing basis, as required by the rule. Accordingly, the Exchange does not believe its proposal would impose any undue burden 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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6)¹⁰ thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6)¹² thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁴ the Commission may designate a shorter time if such action is consistent with protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rule change without delay and does not introduce any novel regulatory issues. Accordingly, the Commission

designates the proposed rule change to be operative upon filing.¹⁵

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2025-078 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-2025-078. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2025-078 and should be submitted on or before October 20, 2025.

¹⁵ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

SR-NASDAQ-2025-006 updated certain representations made in the Notice relating to the service providers and the basket size of the Hashdex Nasdaq Crypto Index US ETF. The Notice, as amended by SR-NASDAQ-2025-006, will hereinafter be referred to as the "Hashdex Original Filing."

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ See *supra* note 4.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange requested waiver of the five-day prefiling requirement for this proposal for the reasons stated in its filing, which the Commission hereby grants.

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-18791 Filed 9-26-25; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0279]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Rule 17a-4

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("SEC" or "Commission") is soliciting comments on the proposed collection of information. Rule 17a-4 requires exchange members, brokers, and dealers ("broker-dealers") to preserve for prescribed periods of time certain records required to be made by Rule 17a-3. In addition, Rule 17a-4 requires the preservation of records required to be made by other Commission rules and other kinds of records which firms make or receive in the ordinary course of business. These include, but are not limited to, bank statements, cancelled checks, bills receivable and payable, originals of communications, and descriptions of various transactions. Rule 17a-4 also permits broker-dealers to employ, under certain conditions, electronic storage media to maintain records required to be maintained under Rules 17a-3 and 17a-4.

There are approximately 3,298 active, registered broker-dealers. The staff estimates that the average amount of time necessary to preserve the books and records as required by Rule 17a-4 is 254 hours per broker-dealer per year. Additionally, the Commission estimates that paragraph (b)(11) of Rule 17a-4 imposes an annual burden of 3 hours per year to maintain the requisite records. The Commission estimates that there are approximately 200 internal broker-dealer systems, resulting in an annual recordkeeping burden of 600 hours.

The Commission also estimates that there are approximately 2,424 broker-

dealers with retail customers resulting in an annual ongoing burden of approximately 3,934,152 to comply with Rule 17a-4(e)(5). Moreover the Commission estimates that these broker-dealers will incur 242 hours in annual burden to comply with Rule 17a-4(e)(10).

Therefore, the Commission estimates that compliance with Rule 17a-4 requires 4,772,698 hours each year ((3,298 broker-dealers × 254 hours) + (200 broker-dealers × 3 hours) + 3,934,152 hours + 242 hours)). These burdens are recordkeeping burdens. The total burden hour decrease of 4,527,481 hours is due to a decrease in the number of respondents from 3,508 to 3,298, as well as the removal of the initial burden association with the recordkeeping requirements for broker-dealers with retail customers.

In addition, the Commission estimates that the telephonic recording retention provision of paragraph (b)(4) of Rule 17a-4 imposes an initial burden on broker-dealer SBSDs and broker-dealer MSBSPs of 13 hours per firm in the first year and an ongoing burden of 6 hours per year (including the first year). The Commission estimates that there will be three new broker-dealer SBSDs that register with the Commission in the next three years and that there are currently eight broker-dealer SBSDs registered with the Commission resulting in an estimated industry-wide initial burden of 39 hours¹ in the first year and an ongoing burden of 48 hours per year (including the first year).² Over a three year period, the total industry burden is estimated to be 186 hours,³ or 62 hours per year when annualized.⁴

The Commission estimates that the provisions of paragraphs (b)(1), and (b)(8)(v)-(viii) relating to security-based swap activities and paragraphs (b)(8)(xvi) and (b)(14) of Rule 17a-4 impose an initial burden of 65 hours per firm in the first year and an ongoing burden of 30 hours per year (including the first year). The Commission estimates that there will be three new respondents in the next three years, resulting in an estimated industry-wide initial burden of 195 hours⁵ in the first year and an ongoing burden of 240 hours per year (including the first year).⁶ Over a three year period, the

¹ 13 hours × 3 broker-dealer SBSDs = 39 hours.

² 6 hours × 8 broker-dealer SBSDs and broker-dealer MSBSPs = 48 hours.

³ (39 hours in first year [initial] + 48 hours in first year [ongoing]) + 48 hours in second year + 48 hours in third year = 186 hours.

⁴ 186 hours/3 years = 62 hours per year or 7.75 hours per respondent per year.

⁵ 65 hours × 3 respondents = 195 hours.

⁶ 30 hours × 8 respondents = 240 hours.

total industry burden is estimated to be 9150 hours,⁷ or 305 hours per year when annualized.

The Commission estimates that the provisions of paragraph (b)(1) applicable to broker-dealer SBSDs and broker-dealer MSBSPs and paragraphs (b)(15) and (b)(16) of Rule 17a-4 impose an initial burden of 65 hours per firm in the first year and an ongoing burden of 30 hours per year (including the first year). The Commission estimates that there will be three new respondents over the next three years, resulting in an estimated initial industry-wide initial burden of 185 hours⁸ in the first year and an ongoing burden of 180 hours per year (including the first year).⁹ Over a three year period, the total industry burden is estimated to be 725 hours,¹⁰ or 242 hours per year when annualized.¹¹

The Commission estimates that provisions of paragraph (b)(1) of Rule 17a-4 that apply only to broker-dealer SBSDs imposes an initial burden of 13 hours per firm in the first year and an ongoing burden of 6 hours per year (including the first year). The Commission estimates that there will be three new broker-dealer SBSDs registered in the next three years, resulting in an estimated industry-wide initial burden of 39 hours¹² in the first year and an ongoing burden of 48 hours per year (including the first year).¹³ Over a three year period, the total industry burden is estimated to be 418 hours,¹⁴ or 62 hours per year when annualized.¹⁵

In 2019, the Commission amended Rule 17a-4(b)(1), (e)(11), and (e)(12) to account for the security-based swap risk mitigation activities of broker-dealers, including Broker-Dealer SBSDs and Broker-Dealer MSBSPs (collectively, "SBS Entities"), by, among other things, requiring the preserving of any required records regarding portfolio reconciliation (Rule 15Fi-3(a) and (b)), bilateral offsets (Rule 15Fi-4(a)(1)), bilateral or multilateral portfolio

⁷ (195 hours in first year + 240 hours in first year) + 240 hours in second year + 240 hours in third year = 915 hours.

⁸ 65 hours × 3 broker-dealer SBSDs and broker-dealer MSBSPs = 185 hours.

⁹ 30 hours × 8 broker-dealer SBSDs and broker-dealer MSBSPs = 180 hours.

¹⁰ (185 hours in first year + 180 hours in first year) + 180 hours in second year + 180 hours in third year = 725 hours.

¹¹ 725 hours/3 years = 241.67 hours per year or 30.21 hours per respondent per year.

¹² 13 hours × 3 broker-dealer SBSDs = 39 hours.

¹³ 6 hours × 8 broker-dealer SBSDs = 48 hours.

¹⁴ (39 hours in first year + 48 hours in first year) + 48 hours in second year + 48 hours in third year = 186 hours.

¹⁵ 186 hours/3 years = 62 hours per year or 7.75 hours per respondent per year.

¹⁶ 17 CFR 200.30-3(a)(12) and (59).

compression (Rule 15Fi-4(b) and (c)), valuation disputes (Rule 15Fi-3(c)), and written trading relationship documentation (Rule 15Fi-5). Rule 17-4 does not require the firm to create these records or perform the underlying task required by the Rule. Rather, the burden to create these records and perform the underlying task is accounted for in Rule 15Fi-3-15Fi-5.¹⁶ Accordingly, the burdens imposed by the requirements in 17a-4 are to ensure these records related to risk mitigation are preserved for the requisite time period and produced when requested. The Commission estimates that these recordkeeping requirements impose an initial burden of 60 hours per firm for updating the applicable policies and systems required to account for capturing the additional records made pursuant to Rule 15Fi-3 through 15Fi-5, and an ongoing annual burden of 75 hours per firm for maintaining such records as well as to make additional updates to the applicable recordkeeping policies and systems to account for the new rules. The Commission estimates that there three new SBS Entity respondents in the next three years, for a total average initial annual burden for all respondents of 180 hours¹⁷ and a total ongoing average annual burden of 225 hours,¹⁸ for a total *annual burden of 285 hours*.¹⁹

In 2022, the Commission amendments to Rule 17a-4(f) that added an audit-trail alternative to the current broker-dealer recordkeeping requirement.²⁰ The Commission also amended both of these paragraphs to require the broker-dealer to have a backup set of records or the redundant equivalency when records are preserved on an electronic recordkeeping system.²¹ The amendments to Rule 17a-4(f) also replaced the third-party access and undertakings requirements with a requirement that either a designated executive officer or a third party have the access and provide the necessary undertakings.²² The amendments to

Rule 17a-4(f) eliminated a requirement that the broker-dealer notify its DEA before employing an electronic recordkeeping system.²³ The amendments to Rule 17a-4(j) also required a broker-dealer to furnish a record and its audit trail (if applicable) preserved on an electronic recordkeeping system pursuant to Rules 17a-4(f), respectively, in a reasonably usable electronic format, if requested by a representative of the Commission.²⁴ The amendments to Rule 17a-4(i) provided an alternative undertaking for certain third-party electronic recordkeeping service providers, in particular cloud service providers.²⁵

The Commission estimates that 100 firms will register as broker-dealers over the next three years. The Commission estimates that replacing the third-party access and undertakings requirements with a requirement that either a designated executive officer or a third party have the access and provide the necessary undertakings will result in a one-time burden for those firms of 100 hours,²⁶ or *33.33 hours when annualized*. In addition, the Commission estimates that the alternative electronic recordkeeper undertaking will result in a one-time initial burden of 1 hour per the estimated 5 affected broker-dealers, for a total of 5 hours,²⁷ or *1.67 hours when annualized*. Finally, the Commission estimates that the need for the one cloud service providers to review and execute the Alternative Undertaking will result in a one-time initial burden of 100 hours per provider, for a total of 100 hours,²⁸ or *33.33 hours when annualized*.

The Commission believes that requirements resulting from Rule 17a-4 are performed by individuals in a broker-dealer's compliance department. A Compliance Clerk earns an average of \$78 per hour,²⁹ resulting in a total internal cost of compliance of

approximately [\$699] million [(9,983,015 hours × \$78)].

Based on conversations with members of the securities industry and the Commission's experience in the area, the staff estimates that the average broker-dealer spends approximately \$5,000 each year to store documents required to be retained under Rule 17a-4. Costs include the cost of physical space, computer hardware and software, etc., which vary widely depending on the size of the broker-dealer and the type of storage media employed. The Commission estimates that the annual reporting and recordkeeping cost burden is \$16,490,000. This cost is calculated by the number of active, registered broker-dealers multiplied by the reporting and recordkeeping cost for each respondent (3,298 registered broker-dealers × \$5,000).

The Commission estimates that each applicable firm incurs an ongoing annual cost of approximately \$2,000 per firm for server, equipment, and systems development costs associated with the telephonic recording retention requirement, which applicable to broker-dealer SBSDs and broker-dealer MSBSPs. The Commission estimates that there are 8 respondents, resulting in an estimated industry-wide ongoing annual cost of \$16,000 for compliance with the telephonic recording retention provision of Rule 17a-4(b)(4).

The Commission estimates that provisions of paragraphs (b)(1), (b)(8)(v)-(viii) relating to security-based swap activities and paragraphs (b)(8)(xvi) and (b)(14) of Rule 17a-4 impose an ongoing annual cost of approximately \$600 per firm. The Commission estimates that there are 33 respondents, resulting in an estimated industry-wide ongoing annual cost of \$19,800.

The Commission estimates that the provisions of paragraph (b)(1) applicable to broker-dealer SBSDs and broker-dealer MSBSPs and paragraphs (b)(15) and (b)(16) of Rule 17a-4 impose ongoing annual cost of approximately \$600 per firm. The Commission estimates that there are 8 respondents, resulting in an estimated industry-wide ongoing annual cost of \$4,800.

The Commission estimates that the provisions of paragraph (b)(1) of Rule 17a-4 that apply only to broker-dealer SBSDs imposes an additional ongoing annual cost of approximately \$120 per firm to broker-dealer SBSDs. The Commission estimates that there are 8 broker-dealer SBSDs, resulting in an estimated industry-wide ongoing annual cost of \$960.

An agency may not conduct or sponsor, and a person is not required to

¹⁶ See *Risk Mitigation Adopting Release*, 85 FR at 6389.

¹⁷ One-time initial reporting burden for 3 SBS Entities (60 hour × 3 SBS Entities) = 180 hours.

¹⁸ 75 hour × 3 SBS Entities = 225 hours.

¹⁹ (180 hours in first year + 225 hours in first year) + 225 hours in second year + 225 hours in third year/3 = 285 hours.

²⁰ See section II.D. of the *Electronic Recordkeeping Requirements for Broker-Dealers, Security-Based Swap Dealers, and Major Security-Based Swap Participants*, Exchange Act Release No. 34-96034 (Oct. 12, 2022), 87 FR 66412 (Nov. 3, 2022) ("2022 Electronic Recordkeeping Adopting Release") (discussing this amendment).

²¹ See section II.E. of the 2022 *Electronic Recordkeeping Adopting Release* (discussing this amendment).

²² *Id.*

²³ See section II.C. of the 2022 *Electronic Recordkeeping Adopting Release* (discussing this amendment).

²⁴ See section II.H. of the 2022 *Electronic Recordkeeping Adopting Release* (discussing this amendment).

²⁵ See section II.G. of the 2022 *Electronic Recordkeeping Adopting Release* (discussing this amendment).

²⁶ One-time initial reporting burden for 100 broker-dealers (1 hour × 100 broker-dealers) = 100 hours.

²⁷ One-time initial recordkeeping burden for 5 broker-dealers (1 hour × 5 broker-dealers) = 5 hours.

²⁸ One-time initial reporting burden for five cloud service providers: (100 hours × one cloud service provider) = 100 hours.

²⁹ This figure is based on SIFMA's *Office Salaries in the Securities Industry 2013*, modified by Commission staff to account for inflation and an 1,800-hour work-year multiplied by 2.93 to account for bonuses, firm size, employee benefits, and overhead.

respond to, a collection of information unless it displays a currently valid OMB Control Number.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the SEC, including whether the information will have practical utility; (b) the accuracy of the SEC's estimate of the burden imposed by the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated, electronic collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to PaperworkReductionAct@sec.gov by November 28, 2025. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: September 25, 2025.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025-18877 Filed 9-26-25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104035; File No. SR-MIAX-2025-44]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Lower the Options Regulatory Fee (ORF)

September 24, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 12, 2025, Miami International Securities Exchange, LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") a 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 is filing a proposal to amend the MIAX Options Exchange Fee Schedule (the "Fee Schedule") regarding the Options Regulatory Fee ("ORF").

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings> and at MIAX's principal office.

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 Fee Schedule to: (i) temporarily decrease the ORF from \$0.0019 per contract to \$0.0015 per contract between September 1, 2025 and December 31, 2025;³ and (ii) increase the ORF from \$0.0015 per contract to \$0.0017 per contract, effective January 1, 2026.

Background

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Members'⁴ customer options business, including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's

other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs.

Collection of ORF

The Exchange assesses the per-contract ORF to each Member for all options transactions cleared or ultimately cleared by the Member, which are cleared by the Options Clearing Corporation ("OCC") in the "customer" range,⁵ regardless of the exchange on which the transaction occurs. The ORF is collected by OCC on behalf of the Exchange from either: (1) a Member that was the ultimate clearing firm for the transaction; or (2) a non-Member that was the ultimate clearing firm where a Member was the executing clearing firm for the transaction. The Exchange uses reports from OCC to determine the identity of the executing clearing firm and ultimate clearing firm.

As a practical matter, when a transaction that is subject to the ORF is not executed on the Exchange, the Exchange lacks the information necessary to identify the order-entering member for that transaction. There are a multitude of order-entering market participants throughout the industry, and such participants can make changes to the market centers to which they connect, including dropping their connection to one market center and establishing themselves as participants on another. For these reasons, it is not possible for the Exchange to identify, and thus assess fees such as ORF, on order-entering participants on away markets on a given trading day. Clearing members, however, are distinguished from order-entering participants because they remain identified to the Exchange on information the Exchange receives from OCC regardless of the identity of the order-entering participant, their location, and the market center on which they execute transactions.

ORF Revenue and Monitoring of ORF

The Exchange monitors the amount of revenue collected from the ORF to ensure that it, in combination with other regulatory fees and fines, does not exceed regulatory costs. In determining whether an expense is considered a regulatory cost, the Exchange reviews all costs and makes determinations if there is a nexus between the expense and a regulatory function. The Exchange notes that fines collected by the Exchange in connection with a disciplinary matter offset ORF.

⁵ Exchange participants must record the appropriate account origin code on all orders at the time of entry in order. The Exchange represents that it has surveillances in place to verify that Members mark orders with the correct account origin code.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange initially filed the proposed fee changes on August 28, 2025 (SR-MIAX-2025-40). On September 12, 2025, the Exchange withdrew that filing and submitted this proposal.

⁴ The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

The Exchange believes that its broad regulatory responsibilities with respect to a Member's activities supports applying the ORF to transactions cleared but not executed by a Member. The Exchange's regulatory responsibilities are the same regardless of whether a Member enters a transaction or clears a transaction executed on its behalf. The Exchange regularly reviews all such activities, including performing surveillance for position limit violations, manipulation, front-running, contrary exercise advice violations and insider trading. These activities span across multiple exchanges.

Revenue generated from ORF, when combined with all of the Exchange's other regulatory fees and fines, is designed to cover a material portion of the regulatory costs to the Exchange of the supervision and regulation of Members' customer options business including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. Regulatory costs include direct regulatory expenses and certain indirect expenses in support of the regulatory function. The direct expenses include in-house and third

party service provider costs to support the day-to-day regulatory work such as surveillances, investigations and examinations.

The ORF revenue is based on options transactions volume, thus the amount of ORF collected is variable. For example, if options transactions reported to OCC in a given month increase, the ORF collected from Members will likely increase as well. Similarly, if options transactions reported to OCC in a given month decrease, the ORF collected from Members will likely decrease as well. Accordingly, the Exchange monitors the amount of ORF collected to ensure that it does not exceed a material portion of regulatory costs. If the Exchange determines the amount of ORF collected exceeds or may exceed a material portion of regulatory costs, the Exchange will, as appropriate, adjust the ORF by submitting a fee change filing to the Securities and Exchange Commission (the "Commission").

Proposal

Based on the Exchange's recent review of regulatory costs, ORF revenue, and options transaction volume, the Exchange proposes to temporarily decrease the ORF from \$0.0019 per contract to \$0.0015 per contract, between September 1, 2025 and

December 31, 2025. This proposed decrease will help ensure that the amount collected from the ORF, in combination with other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. On July 31, 2025, the Exchange notified Members of the proposed temporary decrease to the ORF via a Regulatory Circular to afford market participants sufficient opportunity to configure their systems to account properly for the modified ORF.⁶

The proposed change to the ORF is based on the Exchange's analysis of recent options volumes and its regulatory costs. The Exchange believes that, if the ORF is not temporarily reduced for the remainder of 2025, the ORF revenue to the Exchange could exceed a material portion of the Exchange's 2025 regulatory costs.

Over the past few years, the options industry has experienced high options trading volumes and volatility and the persisting increased options volumes have impacted the Exchange's ORF collection. The table below reflects industry data from OCC and illustrates that both total average daily volume and customer average daily volume in 2025 increased over the already elevated levels in 2023 and 2024.⁷

	2023	2024	2025 YTD
Customer ADV	35,327,417	39,365,049	46,831,086
Total ADV	40,368,590	44,360,426	53,043,204

In addition, as shown in the table below, during 2025, options trading

volumes have remained elevated and volatility has persisted.⁸

	Jan. 2025	Feb. 2025	Mar. 2025	Apr. 2025	May 2025	June 2025	July 2025
Customer ADV	46,758,284	48,508,333	46,281,134	47,786,196	46,234,519	45,453,082	47,244,127
Total ADV	53,134,932	54,563,396	53,182,376	55,339,630	51,351,579	50,576,203	51,516,242

Because of the sustained impact of the trading volumes that have persisted through July 2025, along with the difficulty of predicting whether and when volumes may return to historical levels, the Exchange proposes to temporarily decrease the ORF from September 1 through December 31, 2025, to help ensure that ORF collection will not exceed the Exchange's 2025 regulatory costs.

The Exchange cannot predict whether options volumes will remain at these levels going forward and projections for

future regulatory costs are estimated. Particularly, based on the Exchange's estimated projections for its regulatory costs, the revenue generated by ORF using the temporarily reduced rate, would result in projected revenue that is insufficient to cover a material portion of its regulatory costs. Further, when combined with the Exchange's projected other non-ORF regulatory fees and fines, the revenue generated by ORF using the temporarily reduced rate is projected to result in a combined revenue that is less than the Exchange's

estimated regulatory costs for the year. Because the projected revenue is projected to insufficiently cover a material portion of its regulatory costs, the Exchange proposes to increase the ORF starting January 1, 2026 from \$0.0015 per contract to \$0.0017 per contract. The Exchange will notify Members of the proposed change via a Regulatory Circular at least 30 calendar days prior to the effective date of the change.

⁶ See https://www.miaxglobal.com/sites/default/files/circular-files/MIAX_Options_RC_2025_49.pdf.

⁷ The OCC publishes options and futures volume in a variety of formats, including daily and monthly

volume by exchange, available here: <https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics>. The volume discussed in this filing is based on a compilation of OCC data

for monthly volume of equity-based options and monthly volume of ETF-based options, in contract sides.

⁸ See *id.*

Potential ORF Reform

The Exchange appreciates the evolving changes in the markets and regulatory environment and, in connection with industry and other feedback, has been evaluating the current methodologies and practices for the assessment and collection of ORF. The Exchange recognizes that an alternative model is being pursued among industry participants but that a consensus has not yet been reached. The Exchange is committed to switching to a new, modified model as soon as a consistent framework has been established with the Commission, adopted by all the options exchanges, and necessary regulatory filings submitted.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁰ in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act¹¹ in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Proposal Is Reasonable

The Exchange believes the proposed fee changes are reasonable because customer transactions will be subject to a lower ORF fee than the current rate. Moreover, the proposed temporary reduction to \$0.0015 per contract is reasonable because it would help ensure that collections from the ORF do not exceed a material portion of the Exchange's projected regulatory costs for 2025. As noted above, the ORF is designed to recover a material portion, but not all, of the Exchange's regulatory costs.

Although there can be no assurance that the Exchange's final costs for 2025 will not differ materially from its expectations and prior practice, nor can the Exchange predict with certainty whether options volume will remain at current or similar levels going forward,

the Exchange believes that the amount collected based on the current ORF rate, when combined with regulatory fees and fines, may result in collections in excess of the projected regulatory costs for the year. Particularly, as noted above, the options market has continued to experience elevated volumes and volatility in 2025, thereby resulting in higher ORF collections than projected. The Exchange therefore believes that the proposed temporary decrease to the ORF is reasonable because it would help ensure that ORF collection does not exceed the projected regulatory costs for 2025. Particularly, the Exchange believes that this temporary reduction in the ORF, taken together with the Exchange's other regulatory fees and fines, would allow the Exchange to continue covering a material portion of the projected regulatory costs, while lessening the potential for generating excess funds that may otherwise occur using the current rate.

The Exchange also believes that the increase of the ORF to \$0.0017 per contract on January 1, 2026 is reasonable because it would permit the Exchange to collect an ORF that is designed to recover a material portion, but not all, of the Exchange's projected regulatory costs.

The Exchange's proposal to increase the ORF rate on January 1, 2026 is based on the Exchange's estimated projections for its regulatory costs, which are currently projected to increase in 2026, balanced with the increase in options volumes that has persisted into 2025 and that may continue into 2026. When taking into account the recent options volume, outlined above, coupled with the anticipated regulatory fees and anticipated reductions in other regulatory fees, the Exchange believes it's reasonable to increase the ORF. Particularly, the proposed change is reasonable as it would offset the anticipated increased regulatory costs. Moreover, the proposed increase is still lower than the Exchange is assessing currently and has assessed previously.

The Proposal Is an Equitable Allocation of Fees

The Exchange also believes the proposed fee change is equitable and not unfairly discriminatory in that it is charged to all Members on all their transactions that clear in the customer range at the OCC.¹² The Exchange

believes the ORF ensures fairness by assessing higher fees to those members that require more Exchange regulatory services based on the amount of customer options business they conduct. Regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-customer trading activity, which tends to be more automated and less labor-intensive. For example, there are costs associated with main office and branch office examinations (e.g., staff expenses), as well as investigations into customer complaints and the terminations of registered persons. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (e.g., member proprietary transactions) of its regulatory program. Moreover, the Exchange notes that it has broad regulatory responsibilities with respect to activities of its Members, irrespective of where their transactions take place. Many of the Exchange's surveillance programs for customer trading activity may require the Exchange to look at activity across all markets, such as reviews related to position limit violations and manipulation. Indeed, the Exchange cannot effectively review for such conduct without looking at and evaluating activity regardless of where it transpires. In addition to its own surveillance programs, the Exchange also works with other SROs and exchanges on intermarket surveillance related issues. Through its participation in the Intermarket Surveillance Group ("ISG")¹³ the Exchange shares information and coordinates inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. Accordingly, there is a strong nexus between the ORF and the Exchange's regulatory activities with respect to customer trading activity of its Members.

The Exchange also believes that increasing the ORF rate on January 1,

instructions which may result in collecting the ORF from a non-Member. "CMTA" or Clearing Member Trade Assignment is a form of "give-up" whereby the position will be assigned to a specific clearing firm at OCC.

¹³ ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by cooperatively sharing regulatory information pursuant to a written agreement between the parties. The goal of the ISG's information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78f(b)(5).

¹² If the OCC clearing member is an Exchange Member, ORF is assessed and collected on all cleared customer contracts (after adjustment for CMTA); and (2) if the OCC clearing member is not an Exchange Member, ORF is collected only on the cleared customer contracts executed at the Exchange, taking into account any CMTA

2026, is equitable because the ORF would continue to apply equally to all Members on options transactions in the “customer” range, at a rate designed to recover a material portion, but not all, of the Exchange’s projected regulatory costs, based on current projections that such costs will increase in 2026.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. The Exchange believes that the proposed temporary decrease to the ORF rate would not place certain market participants at an unfair disadvantage because it would apply to all Members subject to the ORF and would allow the Exchange to continue to monitor the amount collected from the ORF to help ensure that ORF collection, in combination with other regulatory fees and fines, does not exceed regulatory costs. The Exchange also has provided all such Members with advance notice of the planned change to the ORF.¹⁴ Further, the Exchange believes that increasing the ORF on January 1, 2026, is not unfairly discriminatory because the Exchange would continue assessing the ORF equally to all Members based on their transactions that clear in the “customer” range at the OCC.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange believes the proposed change would not impose an undue burden on intramarket competition because the ORF is charged to all Members on all their transactions that clear in the “customer” range at the OCC; thus, the amount of ORF imposed is based on the amount of customer volume transacted. The Exchange believes that the proposed temporary decrease of the ORF would not place certain market participants at an unfair disadvantage because all options transactions must clear via a clearing firm. Such clearing firms can then choose to pass through all, a portion, or none of the cost of the ORF to its customers, *i.e.*, the entering firms. The ORF is collected from Member clearing firms by the OCC on behalf of the Exchange and is assessed on all options transactions cleared at the OCC in the “customer” range.

The Exchange also believes that increasing ORF on January 1, 2026 would not impose an undue burden on competition because it would permit the Exchange to assess an ORF that is designed to recover a material portion, but not all, of the Exchange’s projected regulatory costs, based on current projections that such costs will increase in 2026.

Intermarket Competition

The proposed fee change is not designed to address any competitive issues. Rather, the proposed change is designed to help the Exchange adequately fund its regulatory activities while seeking to ensure that total collections from regulatory fees do not exceed total regulatory costs.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MIAX-2025-44 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-MIAX-2025-44. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MIAX-2025-44 and should be submitted on or before October 20, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025-18799 Filed 9-26-25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104038; File No. SR-PHLX-2025-50]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing of Proposed Rule Change to List and Trade Nasdaq Bitcoin Index Options

September 24, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 23, 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.

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁴ See *supra* note 6.

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade Nasdaq Bitcoin Index Options, a new index that reflects the price of Bitcoin.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to introduce a new index options product, Nasdaq Bitcoin Index Options. This index would enable retail and institutional investors to obtain a precise price for Bitcoin.

Nasdaq Bitcoin Index Options, as proposed, shall have a ticker symbol "XBTX" and will be based on the underlying index, CME CF Bitcoin Real Time Index ("BRTI")³ divided by a factor of one hundred (100). The Exchange shall utilize a separate methodology to calculate the final settlement price. The final settlement price shall be the "BRRNY—NOS "Nasdaq Options Settlement" which is

³ The BRTI is a real time price benchmark and is regulated by the UK Financial Conduct Authority, a regulator of financial services firms, under EU BMR. The European Regulation on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds is the EU BMR. Today, the BRRNY—U.S. Dollar trading pair is the benchmark index for the following exchange-listed ETF products comprising \$58 billion of assets as of July 18, 2024: iShares Bitcoin Trust (IBIT), Grayscale Bitcoin Trust (GBTC), Fidelity Wise Origin Bitcoin Fund (FBTC), ARK 21Shares Bitcoin ETF (ARKB), Bitwise Bitcoin ETF Trust (BUTB), VanEck Bitcoin Trust (HODL), Coinshares Valkyrie Bitcoin Fund (BRRR), Invesco Galaxy Bitcoin ETF (BTCO), Franklin Bitcoin ETF (EZBC). (See <https://etfdb.com/index/cme-cf-benchmarks-Bitcoin-reference-rate-new-york-variant>).

calculated on the expiration date by observing transactions during a one-hour window from 15.00 to 16.00 New York Time, separated into twelve partitions of five minutes, each with a resulting a volume-weighted median ("VWM"), which index value is expressed as the arithmetic mean of the twelve (12) VWMs, resulting in the CME CF Cryptocurrency Reference Rate—New York Variant ("BRRNY")⁴ which is then divided by a factor of one hundred (100). The purpose of utilizing the BRRNY divided by a factor of one hundred (100), known as the BRRNY—NOS, as the final settlement price is to provide a replicable, manipulation-resistant and representative Bitcoin benchmark that synchronizes with the traditional U.S. options market close timeframe.

Options on this new index will be cash-settled, with a European-style exercise.

Background

The BRTI⁵ is a once a second benchmark index price for Bitcoin that aggregates order data from Bitcoin-USD markets operated by major cryptocurrency exchanges that conform to the CME CF Constituent Exchange Criteria.⁶ The BRTI is calculated every second of every day, using the Relevant Order Books⁷ of all Constituent Exchanges,⁸ thereby aggregating the

⁴ Today, CME CF Bitcoin Futures contracts are settled using the BRRNY.

⁵ In 2016, CME Group and Crypto Facilities Ltd. launched the BRTI index. See <https://www.cmegroup.com/education/courses/introduction-to-Bitcoin/introduction-to-Bitcoin-reference-rate.html>.

⁶ "Constituent Exchange" is defined at proposed Options 4D, Section 2(a)(5) to mean the cryptocurrency trading venues approved by the CME CF Cryptocurrency Pricing Products Oversight Committee to serve as pricing source for the calculation of the BRTI and BRRNY.

⁷ CF Benchmark's Methodology Guide defines "Relevant Order Books" as the universe of the currently unmatched limit orders to buy or sell a unit of the cryptocurrency base asset versus the quote asset on a Constituent Exchange in the Relevant Pair, aggregated by price, that is reported through its Automatic Programming Interface ("API") to the CF Benchmarks. The Relevant Pair for the Nasdaq Bitcoin Index Options shall mean Bitcoin versus the U.S. Dollar. To assure that the BRTI and the BRRNY reflects global cryptocurrency trading activity in a representative and unbiased manner, a geographically diverse set of spot trading venues is included within the current framework.

⁸ Constituent Exchanges are cryptocurrency trading venues approved by the CME CF Cryptocurrency Pricing Products Oversight Committee to serve as pricing source for the calculation of a BRTI and the BRRNY, collectively known as the CME CF Cryptocurrency Pricing Products. The Exchange defines "CME CF Cryptocurrency Pricing Products Oversight Committee" or "Oversight Committee" at proposed Options 4D, Section 2(a)(4) to mean the committee established jointly by Crypto Facilities Ltd. or "CF" and Chicago Mercantile Exchange Inc. or "CME" to

notional value of Bitcoin across major Bitcoin spot platforms.

The BRTI is designed based on the IOSCO Principles for Financial Benchmarks.⁹ The administrator of the CF Benchmarks Index is CF Benchmarks Ltd.

A trading venue is eligible as a Constituent Exchange in any of the CME CF Cryptocurrency Pricing Products¹⁰ if it offers a market that facilitates the spot trading of the relevant cryptocurrency base asset (Bitcoin) against the corresponding quote asset (U.S. Dollars), and makes trade data and order data available through an API with sufficient reliability, detail and timeliness. Furthermore, it must meet certain criteria established by the CME CF Cryptocurrency Pricing Products Oversight Committee.¹¹ Should the average daily contribution of a Constituent Exchange fall below 3% for any CME CF Cryptocurrency Pricing Product, then the continued inclusion of the venue as a Constituent Exchange to the Relevant Pair shall be assessed by the CME CF Oversight Committee.

When calculated, the Relevant Order Book of each Constituent Exchange is added to a joint list of order books,¹²

protect the integrity of the methodology and calculation process of the BRTI and the BRRNY and to address potential conflicts of interest. The role of the Oversight Committee is to provide an oversight function to review and provide challenge on all aspects of the methodology and calculation process and provide effective oversight of CF as the administrator of the BRTI and BRRNY.

⁹ See <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD589.pdf>.

¹⁰ CME CF Cryptocurrency Pricing Products includes the BRTI and the BRRNY.

¹¹ CF Benchmark's guidelines require that the venue's Relevant Pair spot trading volume for an index must meet the minimum thresholds for it to be admitted as a Constituent Exchange. The average daily volume the venue would have contributed during the observation window for the Reference Rate of the Relevant Pair must exceed 3% for two consecutive calendar quarters. The venue must have policies to ensure fair and transparent market conditions at all times and has processes in place to identify and impede illegal, unfair or manipulative trading practices. The venue must not impose undue barriers to entry or restrictions on market participants, and utilizing the venue does not expose market participants to undue credit risk, operational risk, legal risk or other risks. The venue must comply with applicable law and regulation, including, but not limited to capital markets regulations, money transmission regulations, client money custody regulations, know-your-client ("KYC") regulations and anti-money laundering regulations. Finally, the venue must cooperate with inquiries and investigations of regulators and CF Benchmarks upon request and must execute data sharing agreements with CME Group Once admitted a constituent exchange must demonstrate that it continues to meet the aforementioned criteria.

¹² An order book is a list of buy and sell orders with associated limit prices and sizes that have not yet been matched due to lack of supply or demand to trade at that price. The BRTI is calculated from order book data, as opposed to, for instance, trade

Continued

which are aggregated into one consolidated order book. If the size at the bid or ask order price level exceeds the order size cap that is set by CF Benchmarks, it enters the consolidated order book with a size equal to the order size cap.¹³ The cumulative bid price-

volume curve, ask price-volume curve, mid-price volume curve¹⁴ and mid spread-volume curve are calculated from the consolidated order book at a granularity equal to the spacing parameter.

Using the above notation, the ask price-volume curve is defined as *askPV*, the bid price-volume curve as *bidPV*, the mid-price volume curve as *midPV*, and the mid spread-volume curve as *midSV*, in each case as of the effective time *T*, as:

$askPV_T(v) = ap_{T,j+1}$ where $\sum_{i=1}^j \Delta as_{T,i} < v$ and $\sum_{i=1}^{j+1} \Delta as_{T,i} \geq v$	Eq. 1a
$bidPV_T(v) = bp_{T,j+1}$ where $\sum_{i=1}^j \Delta bs_{T,i} < v$ and $\sum_{i=1}^{j+1} \Delta bs_{T,i} \geq v$	Eq. 1b
$askPV_T(v) = askPV_T\left(s\left[\frac{v}{s}\right]\right)$	Eq. 1c
$bidPV_T(v) = bidPV_T\left(s\left[\frac{v}{s}\right]\right)$	Eq. 1d
$midPV_T(v) = \frac{askPV_T(v) + bidPV_T(v)}{2}$	Eq. 1e
$midSV_T(v) = \frac{askPV_T(v)}{midPV_T(v)} - 1$	Eq. 1f

At a high level, the mid-price volume curve represents the average of the marginal price at which a certain amount of Bitcoins can be sold and at which that same amount can be bought. By averaging across the mid-price

volume curve, the BRTI represents a blend of such (hypothetical) transactions at various transaction sizes.¹⁵

The utilized depth is calculated as the maximum cumulative volume for which the mid spread-volume curve does not

exceed a certain percentage deviation from the mid-price.¹⁶ If this volume is less than the spacing parameter, the utilized depth is set to the spacing parameter. The utilized depth, *v*, is calculated as:

$v_T = \max(v, \text{where } midSV_T(v_i) \leq D \text{ and } midSV_T(v_{i+1}) > D, s)$	Eq. 2
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At a high level, the BRTI is calculated from the section of the mid-price volume curve for which ask limit orders at a certain depth diverge by no more than 0.5% from the mid-price at that depth. It therefore reflects a significant portion of the top of the consolidated order book (as opposed to, for instance, the best bid and ask prices only) but discards limit orders that are less likely to be matched. This makes it a

meaningful representation of true Bitcoin liquidity and robust to local changes in order books. Note that utilized depth will always include crossed orders for any of the consolidated order books of the Constituent Exchanges, along with limit orders on the order books of Constituent Exchanges up to 0.5% away of the mid-price volume curve. If zero size resides in both these sections, utilized depth is

set to one. The BRTI is then effectively equal to the mid-price of the consolidated order book.¹⁷

The mid-price volume curve is weighted by the normalized probability density of the exponential distribution up to the utilized depth. The BRTI is then given by the sum of the weighted mid-price volume curve obtained in the previous step.¹⁸ The BRTI as of the effective time *T*, *CCRTI*, is then given by:

$CCRTI_T = \sum_{v \in [s, 2s, \dots, v_T]} \Delta midPV_T(v) \frac{1}{NF} \lambda e^{-\lambda v}$	Eq. 3
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data. Order book data is composed of unmatched limit orders to buy or sell Bitcoin. It informs about the price at which a trader can buy or sell Bitcoins now or in the future and is therefore forward-looking by nature. Further, absent retrieval constraints, order book data is always up to date. This is in contrast to trade data, which is produced in stochastic intervals only and informs about the price at which Bitcoin has traded in the past. See

<https://www.cmegroup.com/trading/files/Bitcoin-real-time-index-methodology-version-2.pdf>.

¹³ The order cap size is intended to prevent any excess size of a bid or ask order to be discarded.

¹⁴ See <https://docs.cfbenchmarks.com/CME%20CF%20Real%20Time%20Indices%20Methodology.pdf>.

¹⁵ See <https://www.cmegroup.com/trading/files/Bitcoin-real-time-index-methodology-version-2.pdf>.

¹⁶ See <https://docs.cfbenchmarks.com/CME%20CF%20Real%20Time%20Indices%20Methodology.pdf>.

¹⁷ See <https://www.cmegroup.com/trading/files/Bitcoin-real-time-index-methodology-version-2.pdf>.

¹⁸ See the qualitative description of the calculation methodology at <https://docs.cfbenchmarks.com/CME%20CF%20Real%20Time%20Indices%20Methodology.pdf>.

The order size cap is calculated from the uncapped consolidated order book.

Using the above notation, the dynamic order size cap is derived as follows:

$ac_T^{\square} = (ap_{T,i} \leq 1.05ap_{T,1}), (|A_T|, 50)$	Eq. 4a
$bc_T^{\square} = (bp_{T,i} \geq 0.95bp_{T,1}), (|B_T|, 50)$	Eq. 4b
$S_T = [bs_{T,1}, bs_{T,2}, \dots, bs_{T,ac_T^{\square}}] \cup [as_{T,1}, as_{T,2}, \dots, as_{T,ac_T^{\square}}] S_T$ $= [s_{T,1}, s_{T,2}, \dots, s_{T,n_T}]$ where $s_{T,1} \leq s_{T,2} \leq \dots \leq s_{T,n_T}$	Eq. 4c
$k = \lfloor 0.01n_T \rfloor$	Eq. 4d
$\underline{s} = \frac{1}{n_T - 2k} \sum_{i=k+1}^{n_T-k} s_{T,i}$	Eq. 4e
$s'_{T,i} = s_{T,k+1}$ if $i \leq k$ $s'_{T,i} = s_{T,n-k}$ if $i > n - k$ $s'_{T,i} = s_{T,i}$ otherwise	Eq. 4f
$\underline{s}' = \frac{1}{n_T} \sum_{i=1}^{n_T} s'_{T,i}$	Eq. 4g
$\sigma = \sqrt{\frac{1}{n_T - 1} \sum_{i=1}^{n_T} (s'_{T,i} - \underline{s}')^2}$	Eq. 4h

The order size cap as of the effective time T, C , is then given by:

$C_T = \underline{s} + 5\sigma$	Eq. 5
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If the Retrieval Time of the Relevant Order Book of a Constituent Exchange is at least 30 seconds older than the Calculation Time, the Constituent Exchange is disregarded in the calculation of the BRTI for that Calculation Time. If the Retrieval Times of the Relevant Order Books of all Constituent Exchanges are at least 30 seconds older each than the Calculation Time, the BRTI calculation failure occurs for that Calculation Time. All Relevant Order Books are subject to an automated screening for erroneous data.¹⁹

At a high level, the mid-price volume curve is weighted such that prices near

the current market prices (at the mid-point) are weighted higher than prices that are far away from where trading is occurring (at the bid or offer).

Overview of the Bitcoin Industry

Bitcoin is a digital asset that is created and transmitted through the operations of the peer-to-peer Bitcoin network, a decentralized network of computers that operates on cryptographic protocols (the “Bitcoin network”). No single entity owns or operates the Bitcoin network, the infrastructure of which is collectively maintained by its user base. The Bitcoin network allows people to exchange tokens of value, called Bitcoin, which are recorded on a public transaction ledger known as the Bitcoin blockchain (the “Bitcoin blockchain”). Bitcoin can be used to pay for goods and services, or it can be converted to fiat currencies, such as the U.S. dollar, at rates determined on Bitcoin platforms that enable trading in Bitcoin or in individual end-user-to-end-user transactions under a barter system.

The Bitcoin network is commonly understood to be decentralized and does not require governmental authorities or financial institution intermediaries to create, transmit or determine the value of Bitcoin. Rather, Bitcoin is created and allocated by the Bitcoin network protocol through a “mining” process. The value of Bitcoin is determined by the supply of and demand for Bitcoin-on-Bitcoin platforms or in private end-user-to-end-user transactions.

New Bitcoins are created and rewarded to the miners of a block in the Bitcoin blockchain for verifying transactions. The Bitcoin blockchain is a shared database that includes all blocks that have been solved by miners and it is updated to include new blocks as they are solved. Each Bitcoin transaction is broadcast to the Bitcoin network and, when included in a block, recorded in the Bitcoin blockchain. As each new block records outstanding Bitcoin transactions, and outstanding transactions are settled and validated through such recording, the Bitcoin blockchain represents a complete,

¹⁹ If the format of a Relevant Order Book: deviates from the expected format such that it cannot be parsed; contains no bid orders or no ask orders; crosses; or contains any entries with a non-numeric or non-positive limit price or size, it is flagged as erroneous. Relevant Order Books flagged as erroneous for a given calculation time are disregarded in the calculation of the BRTI for that calculation time. See <https://docs.cfbenchmarks.com/CME%20CF%20Real%20Time%20Indices%20Methodology.pdf>.

transparent and unbroken history of all transactions of the Bitcoin network.

History of Bitcoin

The Bitcoin network was initially contemplated in a whitepaper that also described Bitcoin and the operating software to govern the Bitcoin network. The whitepaper was purportedly authored by Satoshi Nakamoto. However, no individual with that name has been reliably identified as Bitcoin's creator, and the general consensus is that the name is likely a pseudonym for the actual inventor or inventors. The first Bitcoins were created in 2009 after Nakamoto released the Bitcoin network source code (the software and protocol that created and launched the Bitcoin network). The Bitcoin network has been under active development since that time by a loose group of software developers who have come to be known as core developers.

Overview of Bitcoin Network Operations

In order to own, transfer or use Bitcoin directly on the Bitcoin network (as opposed to through an intermediary, such as an exchange), a person generally must have internet access to connect to the Bitcoin network. Bitcoin transactions may be made directly between end-users without the need for a third-party intermediary. To prevent the possibility of double-spending Bitcoin, a user must notify the Bitcoin network of the transaction by broadcasting the transaction data to its network peers. The Bitcoin network provides confirmation against double-spending by memorializing every transaction in the Bitcoin blockchain, which is publicly accessible and transparent. This memorialization and verification against double-spending is accomplished through the Bitcoin network mining process, which adds "blocks" of data, including recent transaction information, to the Bitcoin blockchain.

Overview of Bitcoin Transfers

Prior to engaging in Bitcoin transactions directly on the Bitcoin network, a user generally must first install on its computer or mobile device a Bitcoin network software program that will allow the user to generate a private and public key pair associated with a Bitcoin address commonly referred to as a "wallet." The Bitcoin network software program and the Bitcoin address also enable the user to connect to the Bitcoin network and transfer Bitcoin to, and receive Bitcoin from, other users.

Each Bitcoin network address, or wallet, is associated with a unique "public key" and "private key" pair. To receive Bitcoin, the Bitcoin recipient must provide its public key to the party initiating the transfer. This activity is analogous to a recipient for a transaction in U.S. dollars providing a routing address in wire instructions to the payor so that cash may be wired to the recipient's account. The payor approves the transfer to the address provided by the recipient by "signing" a transaction that consists of the recipient's public key with the private key of the address from where the payor is transferring the Bitcoin. The recipient, however, does not make public or provide to the sender its related private key.

Neither the recipient nor the sender reveals their private keys in a transaction because the private key authorizes transfer of the funds in that address to other users. Therefore, if a user loses his or her private key, the user may permanently lose access to the Bitcoin contained in the associated address. Likewise, Bitcoin is irretrievably lost if the private key associated with them is deleted and no backup has been made. When sending Bitcoin, a user's Bitcoin network software program must validate the transaction with the associated private key. The resulting digitally validated transaction is sent by the user's Bitcoin network software program to the Bitcoin network to allow transaction confirmation.

Some Bitcoin transactions are conducted "off-blockchain" and are therefore not recorded in the Bitcoin blockchain. Some "off-blockchain transactions" involve the transfer of control over, or ownership of, a specific digital wallet holding Bitcoin or the reallocation of ownership of certain Bitcoin in a digital wallet containing assets owned by multiple persons, such as a digital wallet maintained by a digital assets platform. In contrast to on-blockchain transactions, which are publicly recorded on the Bitcoin blockchain, information and data regarding off-blockchain transactions are generally not publicly available. Therefore, off-blockchain transactions are not truly Bitcoin transactions in that they do not involve the transfer of transaction data on the Bitcoin network and do not reflect a movement of Bitcoin between addresses recorded in the Bitcoin blockchain. For these reasons, off-blockchain transactions are subject to risks as any such transfer of Bitcoin ownership is not protected by the protocol behind the Bitcoin network or recorded in, and validated through, the blockchain mechanism.

Summary of a Bitcoin Transaction

In a Bitcoin transaction directly on the Bitcoin network between two parties (as opposed to through an intermediary, such as a custodian), the following circumstances must initially be in place: (i) the party seeking to send Bitcoin must have a Bitcoin network public key, and the Bitcoin network must recognize that public key as having sufficient Bitcoin for the transaction; (ii) the receiving party must have a Bitcoin network public key; and (iii) the spending party must have internet access with which to send its spending transaction.

The receiving party must provide the spending party with its public key and allow the Bitcoin blockchain to record the sending of Bitcoin to that public key. After the provision of a recipient's Bitcoin network public key, the spending party must enter the address into its Bitcoin network software program along with the number of Bitcoin to be sent. The number of Bitcoin to be sent will typically be agreed upon between the two parties based on a set number of Bitcoin or an agreed upon conversion of the value of fiat currency to Bitcoin. Since every computation on the Bitcoin network requires the payment of Bitcoin, including verification and memorialization of Bitcoin transfers, there is a transaction fee involved with the transfer, which is based on computation complexity and not on the value of the transfer and is paid by the payor with a fractional number of Bitcoin.

After the entry of the Bitcoin network address, the number of Bitcoin to be sent and the transaction fees, if any, to be paid, will be transmitted by the spending party. The transmission of the spending transaction results in the creation of a data packet by the spending party's Bitcoin network software program, which is transmitted onto the decentralized Bitcoin network, resulting in the distribution of the information among the software programs of users across the Bitcoin network for eventual inclusion in the Bitcoin blockchain.

As discussed in greater detail below, Bitcoin network miners record transactions when they solve for and add blocks of information to the Bitcoin blockchain. When a miner solves for a block, it creates that block, which includes data relating to (i) the solution to the block, (ii) a reference to the prior block in the Bitcoin blockchain to which the new block is being added and (iii) transactions that have occurred but have not yet been added to the Bitcoin

blockchain. The miner becomes aware of outstanding, unrecorded transactions through the data packet transmission and distribution discussed above.

Upon the addition of a block included in the Bitcoin blockchain, the Bitcoin network software program of both the spending party and the receiving party will show confirmation of the transaction on the Bitcoin blockchain and reflect an adjustment to the Bitcoin balance in each party's Bitcoin network public key, completing the Bitcoin transaction. Once a transaction is confirmed on the Bitcoin blockchain, it is irreversible.

Creation of a New Bitcoin

New Bitcoins are created through the mining process. The process by which Bitcoin is "mined" results in new blocks being added to the Bitcoin blockchain and new Bitcoin tokens being issued to the miners. Computers on the Bitcoin network engage in a set of prescribed complex mathematical calculations in order to add a block to the Bitcoin blockchain and thereby confirm Bitcoin transactions included in that block's data. The Bitcoin network is designed in such a way that the reward for adding new blocks to the Bitcoin blockchain decreases over time. In the future, once new Bitcoin tokens are no longer awarded for adding a new block, miners will only have transaction fees to incentivize them, and as a result, it is expected that miners will need to be better compensated with higher transaction fees to ensure that there is adequate incentive for them to continue mining.

Limits on Bitcoin Supply

Under the source code that governs the Bitcoin network, the supply of new Bitcoin is mathematically controlled so that the number of Bitcoin grows at a limited rate pursuant to a pre-set schedule. The number of Bitcoin awarded for solving a new block is automatically halved after every 210,000 blocks are added to the Bitcoin blockchain, approximately every 4 years. The fixed reward for solving a new Bitcoin block is currently 3.125 BTC per block. This amount is the result of the most recent Bitcoin halving event, which occurred in April 2024. The next Bitcoin halving is anticipated in 2028

when Bitcoin will halve to 1.5625. This deliberately controlled rate of Bitcoin creation means that the number of Bitcoin in existence will increase at a controlled rate until the number of Bitcoin in existence reaches the pre-determined 21 million Bitcoin. However, the 21 million supply cap could be changed in a hard fork. A hard fork could change the source code to the Bitcoin network, including the 21 million Bitcoin supply cap.

Final Settlement

The term "final settlement value" as defined at proposed Options 4D, Section 2(a)(9) shall be calculated as described at Options 4D, Section 8. The Nasdaq Bitcoin Index Options final settlement value is the BRRNY on the expiration date (usually a Friday). BRRNY will be divided by a factor of one hundred (100) and published as BRRNY—NOS (Nasdaq Options Settlement). The BRRNY is calculated daily based on the Relevant Transactions²⁰ and is calculated on the expiration date for purposes of final settlement. Relevant Transactions include those that trade Bitcoin versus U.S. Dollars on a Constituent Exchange from 15:00 to 16:00 New York Time. The final settlement value is calculated and reported by the reporting authority. The final settlement value is determined by the aggregated last reported sale price of each Constituent Exchange. Specifically, the final settlement value is calculated by combining all Relevant Transactions from each Constituent Exchange on a joint list and recording the trade price and size for each transaction. That list is partitioned into a number of equally-sized time intervals, of 5 minutes. For each partition separately, the volume-weighted median trade price is calculated from the trade prices and sizes of all Relevant Transactions across all Constituent Exchanges. The BRRNY is the equally weighted average of the volume-weighted medians of all partitions. In the event that the Nasdaq Bitcoin Index is not open for trading on the expiration date, the value of the Nasdaq Bitcoin Index shall be the last

reported sale price prior to the expiration date.

The BRRNY is methodologically identical to the regulated CME CF Bitcoin Reference Rate (BRR), the most widely used benchmark price for Bitcoin, that settles the Bitcoin-USD derivatives complex listed by CME Group, and which serves as the NAV for exchange listed investment products from WisdomTree Europe, Evolve ETFs (CAN) and QR Asset Management (BRZ). The only difference between the BRRNY and the BRR is that the BRRNY references the price of Bitcoin at the closing time of U.S. markets, 16:00 New York Time, rather than the price at 16:00 London Time, referenced by the BRR.

The purpose of the BRRNY is to provide a replicable, manipulation-resistant and representative Bitcoin benchmark that synchronizes with the traditional U.S. market close. The BRRNY is a regulated Benchmark under the UK Benchmarks Regulation (BMR) regime. The BRRNY calculation methodology aggregates transactions of Bitcoins in U.S. dollars that are only conducted on the most liquid markets for which data is publicly available and operated by exchanges that meet the CME CF Constituent Exchange Criteria.²¹

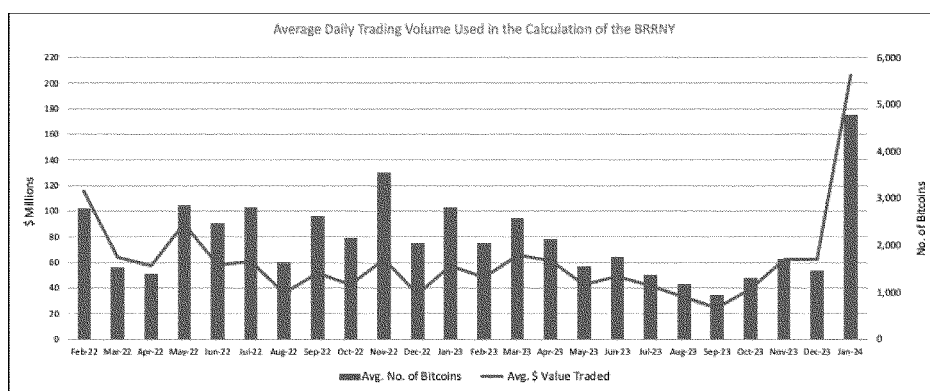
The BRRNY is a valid and robust benchmark that is calculated from input data of sufficient volume so that it is representative of the market it seeks to measure. Additionally, the BRRNY has volume sufficiency which permits it to be replicated by institutional market participants and product providers that need to warehouse price risk. The table below summarizes the total number of transactions and average number of transactions per day observed each month for the BRRNY.²² Between February 28, 2022, and January 31, 2024 (weekdays only), on average 2,116.73 Bitcoins, or \$59M were traded during each daily observation window between 15:00 and 16:00 New York Time.²³

²¹ See *infra* note 25.

²² The data represents both trade count and Bitcoin volume during the observation window.

²³ BRRNY was launched on February 28, 2022. LMAX Digital was added as a Constituent Exchange from May 2022.

²⁰ Specifically, the BRRNY is calculated based on the Relevant Transactions of all of its constituent Bitcoin platforms, which are currently Bitstamp, Coinbase, iBit, Kraken, Gemini, and LMAX and which may change from time to time.



This trading activity exhibits volatility that is not substantially different from that shown in traditional asset markets. The volume observed and the reliability of that volume are clearly evident to be sufficient for the calculation of a robust and reliable benchmark.

Phlx believes that Nasdaq Bitcoin Index Options will be utilized for a wide range of activities such as asset valuation, settlement of financial risk, risk management, NAV calculation, unit creation and unit redemption. To that end, the index design is fair and transparent. CF Benchmarks exclusively sources input data from Constituent Exchanges that meet published criteria as set out in its CME CF Constituent Exchange Criteria and CF Benchmarks conducts a thorough review of any exchange under consideration for inclusion as a Constituent Exchange.²⁴ The BRRNY methodology takes an observation period and divides it into equal partitions of time. The volume-weighted median of all transactions

within each partition is then calculated. The benchmark index value is determined from the arithmetic mean of the volume-weighted medians, equally weighted. As a result, individual trades of large size have limited effect on the index level as they only influence the level of the volume-weighted median for that specific partition. Further, a cluster of trades in a short period of time will also only influence the volume-weighted median of the partition or partitions they were conducted in, thereby limiting impact. Use of volume-weighted medians as opposed to volume-weighted means ensures that transactions conducted at outlying prices do not have an undue effect on the value of a specific partition because trades of large size or clusters of trades over a short period of time will not have an undue influence on the index level. CF Benchmarks applies equal weight to transactions observed from Constituent Exchanges. With no pre-set weights, the BRRNY is not readily subject to manipulation. Using the arithmetic mean of partitions of equal weight further denudes the effect of trades of large size at prices that deviate from the prevailing price having undue influence on the benchmark level.²⁵

The BRRNY methodology incorporates a procedure for potentially

erroneous data. In the event of an instance of index calculation in which a Constituent Exchange's volume-weighted median transaction price exhibits an absolute percentage deviation from the volume-weighted median price of other Constituent Exchange transactions greater than the Potentially Erroneous Data Parameter²⁶ (10%), then transactions from that Constituent Exchange are deemed potentially erroneous and excluded from the index calculation. All instances of data excluded from a calculation trigger an alert that is investigated. By way of example, between February 28, 2022, and January 31, 2024, the Potentially Erroneous Data Parameter of the methodology for the CME CF Bitcoin Reference Rate—New York Variant has never been triggered. Analysis of the highest volume-weighted median per exchange during the observation period produced the results in the table below. The results illustrate that during the observation period, no Constituent Exchange's input data needed to be excluded due to exhibiting potential manipulation and indeed no individual cryptocurrency exchange exhibits a deviation percentage above 2.41% during this period.

²⁴ The CME CF Constituent Exchange Criteria is available at: <https://docs.cfbenchmarks.com/CME%20CF%20Constituent%20Exchanges%20Criteria.pdf>. The arrangements of all Constituent Exchanges are reviewed annually to ensure that they continue to meet all criteria specified within the "Constituent Exchange Criteria." This due diligence is documented, and the information is distributed to CF Benchmarks' regulators to consider. The deliberations of regulators are conducted during regular meetings, minutes of such meetings are publicly available, being published by CF Benchmarks.

²⁵ See also <https://www.cfbenchmarks.com/blog/suitability-analysis-of-the-cme-cf-bitcoin-reference-rate-new-york-variant-as-a-basis-for-regulated-financial-products-february-2024-update>.

²⁶ The Potentially Erroneous Data Parameter is an automated screening established by CF Benchmarks to remove potentially erroneous data.

Max in Month	Max volume weighted median deviation per exchange (%)					
	Bitstamp	Coinbase	Gemini	itBit	Kraken	LMAX Digital
Feb-2022	0.04%	0.00%	0.10%	0.06%	0.12%	N/A
Mar-2022	0.47%	0.20%	0.21%	0.45%	0.36%	N/A
Apr-2022	0.31%	0.17%	0.28%	0.32%	0.38%	N/A
May-2022	0.70%	0.45%	0.43%	0.34%	0.55%	0.26%
Jun-2022	0.45%	0.28%	0.33%	0.37%	0.49%	0.43%
Jul-2022	0.36%	0.18%	0.62%	0.93%	0.76%	0.47%
Aug-2022	0.34%	0.25%	0.20%	0.46%	0.37%	0.21%
Sep-2022	0.49%	0.16%	0.23%	0.46%	0.33%	0.16%
Oct-2022	0.21%	0.10%	0.13%	0.15%	0.18%	0.28%
Nov-2022	1.66%	0.59%	0.54%	1.14%	1.38%	0.93%
Dec-2022	0.15%	0.07%	0.57%	0.08%	0.28%	0.09%
Jan-2023	0.21%	0.13%	0.34%	0.17%	0.23%	0.11%
Feb-2023	0.28%	0.14%	0.60%	0.46%	0.77%	0.22%
Mar-2023	0.39%	0.28%	2.41%	0.24%	0.26%	0.22%
Apr-2023	0.25%	0.49%	0.65%	0.28%	0.28%	0.56%
May-2023	0.23%	0.21%	0.29%	0.33%	0.19%	0.29%
Jun-2023	0.39%	0.13%	0.43%	0.30%	0.24%	0.18%
Jul-2023	0.18%	0.11%	0.35%	0.50%	0.20%	0.16%
Aug-2023	0.35%	0.08%	0.60%	0.61%	0.20%	0.14%
Sep-2023	0.66%	0.15%	0.10%	0.18%	0.27%	0.17%
Oct-2023	0.45%	0.12%	0.41%	0.15%	0.39%	0.16%
Nov-2023	0.16%	0.12%	0.21%	0.25%	0.26%	0.40%
Dec-2023	0.33%	0.09%	0.17%	0.16%	0.46%	0.10%
Jan-2024	0.37%	0.28%	0.43%	0.43%	0.36%	0.35%

CF Benchmarks has implemented a benchmark surveillance program for the investigation of alerts. Instances of suspected benchmark manipulation are escalated through appropriate regulatory channels in accordance with CF Benchmarks' obligations under the UK

Benchmarks Regulation (UK BMR). As a regulated Benchmark Administrator, CF Benchmarks is subject to supervision by the UK FCA.²⁷

In terms of this correlation of prices among Constituent Exchanges as shown in the table above, an analysis was

undertaken of the pair-wise correlation of prices from Constituent Exchanges on a per-minute basis (the price difference between transactions for each minute at each exchange) during the observation period. The results are shown in the table below.

Pairwise Correlation of Constituent Exchanges to BRRNY			
Constituent Pair Platform	Mean Correlation %	Median Correlation %	Standard Deviation
Bitstamp-Coinbase	98.41%	98.98%	1.72%
Bitstamp-Gemini	96.38%	98.23%	5.78%
Bitstamp-itBit	97.62%	98.66%	2.97%
Bitstamp-Kraken	96.72%	98.20%	4.29%
Bitstamp-LMAX Digital*	96.70%	98.03%	4.36%
Coinbase-Gemini	96.25%	98.19%	5.97%
Coinbase-itBit	97.33%	98.55%	3.55%
Coinbase-Kraken	96.43%	98.13%	4.78%
Coinbase-LMAX Digital*	96.65%	98.07%	4.63%
Gemini-itBit	96.44%	98.30%	5.97%
Gemini-Kraken	95.67%	97.83%	6.13%
Gemini-LMAX Digital*	95.16%	97.49%	6.55%
itBit-Kraken	97.51%	98.65%	3.48%
itBit-LMAX Digital*	96.70%	98.17%	4.53%
Kraken-LMAX Digital*	95.85%	97.66%	5.45%

²⁷ Furthermore, CF Benchmarks' control procedures with respect to compliance with the UK BMR have been audited by 'Big Four' accountancy

firm Deloitte. The Independent Assurance Report on Control Procedures Noted by CF Benchmarks Regarding Compliance with the UK Benchmarks

Regulation as of September 12, 2022 is available at: https://docs.cfbenchmarks.com/Deloitte_CFBenchmarksSOC1AuditReport.pdf.

With respect to replicability, a simple replication simulation was thereby conducted of BRRNY to demonstrate the extent of slippage²⁸ that implementation of the BRR would probably encounter. The methodology was as follows for weekdays only.

- Trades are executed on *n* (6) Constituent Exchanges, during a 3,600-second window.
- One trade is executed every second and the price achieved is assumed to be the last execution price observed in that second. Its

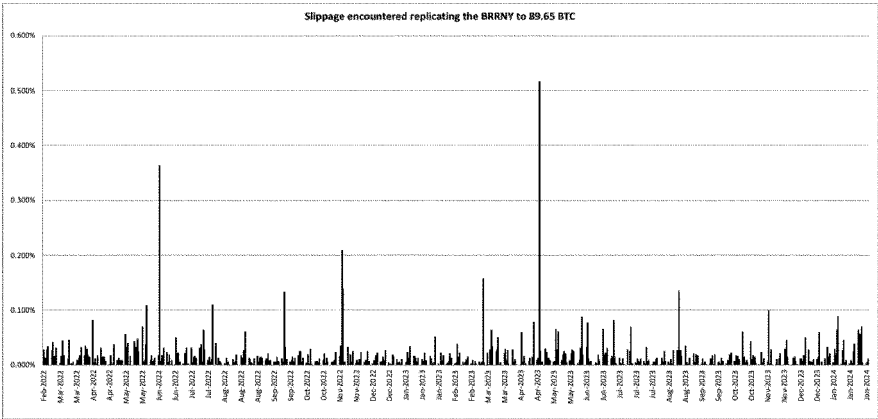
associated volume is assumed to be the volume executed during that second.

- If no trade is completed in any single-second period, then the price achieved is assumed to be the price achieved in the previous second, but the associated volume from the previous second is not added to the volume executed in the latest second.

The results of this simulation are displayed below.

Slippage %	
MAX	0.51639%
MIN	0.00006%
MEDIAN	0.01063%
MEAN	0.01895%
STD. DEV.	0.03493%

Summary data for the above simulation is provided below.



As evidenced above, the BRRNY can be replicated with a high degree of confidence and usually with slippage of no more than 1 basis point (0.01%). On only 6.76% of days would slippage have been greater than 5 basis points (0.05%). Indeed, even on the most volatile day, slippage was approximately one half of one percent, 51.6 basis points (0.516%). Furthermore, in the 24-month period under observation slippage would have been in double-digit basis points only 10 times.

As evidenced by the foregoing data, the BRTI is representative of the

underlying market, resistant to manipulation, and replicable by market participants.

Regulatory Framework

The proposed product is a cash-settled index option that permits holders to receive U.S. dollars representing the difference between the current Bitcoin spot markets as represented by the BRRNY and the exercise price of the option. Like the Spot Bitcoin ETPs,²⁹ the Nasdaq Bitcoin Index Options do not hold physical Bitcoin.

Since January 2024, shares of Spot Bitcoin ETPs based on Bitcoin have been listed and traded on national securities exchanges.³⁰ Phlx’s proposal to list and trade Nasdaq Bitcoin Index Options would allow market participants that hold shares of Spot Bitcoin ETPs to hedge or modify their exposure on a national securities exchange, within a single regulatory regime,³¹ thereby fostering innovation and competition in the rapidly evolving market for digital asset derivatives.

²⁸ Slippage refers to the difference between the expected price of a trade and the actual price at which the trade is executed. In the context of errant (incorrect or unintended) trading prices, slippage represents the deviation from your intended execution price, which can result in unexpected costs or, occasionally, unexpected gains.

²⁹ See Securities Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (File Nos. SR–NYSEArca–2021–90; SR–NYSEArca–

2023–44; SR–NYSEArca–2023–58; SR–NASDAQ–2023–016; SR–NASDAQ–2023–019; SR–CboeBZX–2023–028; SR–CboeBZX–2023–038; SR–CboeBZX–2023–040; SR–CboeBZX–2023–042; SR–CboeBZX–2023–044; and SR–CboeBZX–2023–072) (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) (“Spot Bitcoin ETPs Approval Order”).

³⁰ See Spot Bitcoin ETPs Approval Order.

³¹ Specifically, the proposed index options would allow investors in Spot Bitcoin ETPs to carry the proposed index options in the same account subject to the same margin regime that applies to the asset through which they take long exposure to Bitcoin. See letter from Phlx dated March 17, 2025, page 3, footnote 13, available at <https://www.sec.gov/comments/sr-phlx-2025-08/srphlx202508-581995-1674542.pdf>.

Section 2(a)(1)(A) of the Commodity Exchange Act (the “CEA”)³² provides the Commodity Futures Trading Commission (the “CFTC”) with exclusive jurisdiction over, among other things, options on commodities traded on a designated contract market, swap execution facility, or other board of trade, exchange, or market. Section 4(c)(1) of the CEA³³ authorizes the CFTC, after notice and opportunity for hearing, to exempt any agreement, contract, or transaction from the requirements of any provision of the CEA, subject to certain determinations by the CFTC.³⁴ Section 717 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”)³⁵ amended the Exchange Act and the CEA to establish a framework designed to address the trading of novel derivative products. Among other things, the Dodd-Frank Act added Section 3B to the Exchange Act.³⁶ Section 3B(a)³⁷ provides that any agreement, contract, or transaction, or class thereof, that is exempted by the CFTC pursuant to Section 4(c)(1) of the CEA³⁸ with the condition that the SEC exercise concurrent jurisdiction over such agreement, contract, or transaction (or class thereof) shall be deemed a security for purposes of the securities laws. Further, Section 3B(b)³⁹ states:

With respect to any agreement, contract, or transaction (or class thereof) that is exempted by the Commodity Futures Trading Commission pursuant to section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) with the condition that the Commission exercise concurrent jurisdiction over such agreement, contract, or transaction (or class

thereof), references in the securities laws to the ‘purchase’ or ‘sale’ of a security shall be deemed to include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under such agreement, contract, or transaction, as the context may require.

The Exchange believes that the index options are a novel derivative product that should be permitted to trade on a national securities exchange pursuant to the Section 717 of the Dodd-Frank Act. The Exchange believes that the provisions of the Dodd-Frank Act covering novel derivative products provides the SEC and the CFTC with extensive freedom to craft solutions to allow products such as Phlx’s index options to come to market.⁴⁰ To list and trade the proposed Nasdaq Bitcoin Index Options, the Exchange will seek exemptive relief from the CFTC pursuant to Section 4(c)(1) of the CEA⁴¹ from any applicable requirements of the CEA and the CFTC’s rules and regulations, including the requirements applicable to a Designated Contract Market under Section 5 of the CEA⁴² and Part 38⁴³ of the CFTC’s regulations. Further, the Exchange will seek exemptive relief to allow the proposed Nasdaq Bitcoin Index Options to clear through The Options Clearing Corporation (“OCC”) in its capacity as a clearing agency registered with the SEC pursuant to Section 17A of the Act.⁴⁴ The Exchange acknowledges that it will not be permitted to list and trade the proposed Nasdaq Bitcoin Index Options unless and until the CFTC grants all necessary exemptive relief pursuant to Section 4(c)(1) of the CEA⁴⁵ from the requirements of the CEA and the rules and regulations thereunder,

with the condition that the SEC exercise concurrent jurisdiction with the CFTC over the proposed Nasdaq Bitcoin Index Options, as provided under Section 3B of the Exchange Act.⁴⁶ In addition, the Exchange acknowledges that it will not be permitted to list and trade the proposed Nasdaq Bitcoin Index options until the CFTC issues exemptive relief to allow OCC to clear the proposed options in its capacity as a clearing agency registered with the SEC pursuant to Section 17A of the Exchange Act.⁴⁷ Finally, the Exchange acknowledges that it will not be permitted to list and trade the proposed Nasdaq Bitcoin Index Options until the OCC receives approval to update The Characteristics and Risks of Standardized Options (the “Options Disclosure Document” or “ODD”) to reflect the risks attendant to trading Nasdaq Bitcoin Index Options.

Pursuant to Section 717(b) of Dodd-Frank, the proposed Nasdaq Bitcoin Index Options would be deemed a security permitted to trade on Phlx, a self-regulatory organization regulated by the SEC.

As proposed, Phlx’s index option would transact on an SEC-regulated exchange, therefore, the SEC’s jurisdiction would not be superseded or limited with respect to prosecuting fraud and manipulation relating to the proposed index options which would be transacted on Phlx. If the proposed Nasdaq Bitcoin Index Options were exempted pursuant to Section 4(c)(1) of the CEA, the CFTC would retain enforcement jurisdiction relating to the sale of the commodity, which jurisdiction would be concurrent with the SEC’s enforcement jurisdiction.

Phlx will not list the Nasdaq Bitcoin Index Options until such time as it obtains an exemption from the CFTC pursuant to Section 4(c)(1) of the CEA⁴⁸ with the condition that the Commission exercise concurrent jurisdiction over such agreement, contract, or transaction (or class thereof) and that it shall be deemed a security for purposes of the securities laws. Further, Phlx shall not list the Nasdaq Bitcoin Index Options until all conditions noted in the approval of the application pursuant to

³² See 7 U.S.C. 4.

³³ See 7 U.S.C. 6(c)(1)).

³⁴ Under Section 4(c)(2) of the CEA, the CFTC may not grant an exemption under Section 4(c)(1) unless the CFTC determines that: (i) the requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought; (ii) the exemption would be consistent with the public interest and the purposes of the CEA; (iii) the agreement, contract, or transaction at issue will be entered into solely between appropriate persons (as set forth in Section 4(c)(3) of the CEA); and (iv) the agreement, contract, or transaction at issue will not have a material adverse effect on the ability of the CFTC or exchange to discharge its regulatory or self-regulatory duties under the CEA. The Exchange notes that, in enacting section 4(c) of the CEA, Congress stated that its goal “is to give the Commission a means of providing certainty and stability to existing and emerging markets so that financial innovation and market development can proceed in an effective and competitive manner.” See House Conf. Report No. 102–978, 1992 U.S.C.C.A.N. 3179, 3213.

³⁵ See Dodd-Frank Wall Street Reform and Consumer Protection Act, § 717, 12 U.S.C. 5481.

³⁶ See 15 U.S.C. 78c–2.

³⁷ See *id.*

³⁸ See 7 U.S.C. 6(c)(1)).

³⁹ See 15 U.S.C. 78c–2.

⁴⁰ Of note, the CFTC and SEC entered into an MOU in March 2008 to address novel derivatives products that “may reflect elements of both securities and commodity futures or options, and may impact the regulatory mission of each agency.” See CFTC & SEC, Memorandum of Understanding between the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission Regarding Coordination in Areas of Common Regulatory Interest (2008). In that timeframe, the CFTC granted an exemption pursuant to CEA section 4(c) to permit options on the ETF shares to be traded on national securities exchanges as options on securities and futures on such ETF shares to be traded on exchanges as security futures. See, e.g., SPDR Exemption Order, 73 FR 31,981; CFTC Order Exempting the Trading and Clearing of Certain Products Related to SPDR Gold Trust Shares, 73 FR 21,917 (proposed Apr. 28, 2008) (permitting options on SPDR Gold Trust Shares to be listed by securities exchanges and cleared by Options Clearing Corporation as options on securities).

⁴¹ See 7 U.S.C. 6(c)(1).

⁴² See 7 U.S.C. 7.

⁴³ See 17 CFR part 38.

⁴⁴ See 15 U.S.C. 78q–1.

⁴⁵ See 7 U.S.C. 6(c)(1).

⁴⁶ See 15 U.S.C. 78c–2.

⁴⁷ See 15 U.S.C. 78q–1.

⁴⁸ Phlx will make an application for an exemption with the CFTC pursuant to Section 4(c)(1) of the CEA requesting an exemption from the regulatory requirements under the CEA applicable to a Designated Contract Market pursuant to Section 5 of the CEA (7 U.S.C. 7) and Part 38 (17 CFR part 38) of the CFTC’s regulations to list and trade Nasdaq Bitcoin Index Options. Further, the Exchange would seek exemptive relief so that the Nasdaq Bitcoin Index Options would clear through OCC in its capacity as a clearing agency registered with the SEC pursuant to Section 17A of the Act.

Section 4(c)(1) of the CEA have been satisfied. Finally, the Exchange would not list the Nasdaq Bitcoin Index Options until such time as OCC has received approval to update the ODD to reflect the risks attendant to trading Nasdaq Bitcoin Index Options.

Amendments to Exchange Rules

The proposal is designed to ensure that Nasdaq Bitcoin Index Options are listed and traded under the same terms that apply to other index options that are currently traded on the Exchange. The Exchange proposes to create a new Options 4D, titled “Nasdaq Bitcoin Index Options,” with rules that would apply specifically to the listing and trading of Nasdaq Bitcoin Index Options.

Applicability

The proposed Options 4D Rules would be applicable to Nasdaq Bitcoin Index Options. All Options Rules shall apply to Nasdaq Bitcoin Index Options, in addition to the Options 4D Rules, however where the Options 4D Rules disagree with another Options Rule not within Options 4D, a conflict shall be resolved in favor of the Options 4D Rule as it applies to Nasdaq Bitcoin Index Options.⁴⁹

Definitions

The Exchange proposes to define certain terms for the trading of Nasdaq Bitcoin Index Options in proposed Options 4D, Section 2, titled “Definitions.” The Exchange proposes to define “aggregate exercise price,” “CME CF Bitcoin Real Time Index (“BRTI”),” “CME CF Cryptocurrency Reference Rate—New York Variant (“BRRNY”),” “CME CF Cryptocurrency Pricing Products Oversight Committee,” “Constituent Exchange,” “current index value,” “exercise price,” “European-style index option,” “final settlement value,” “index multiplier,” “Nasdaq Bitcoin Index,” “P.M.-settled Index Options,” “reporting authority,” and “underlying.” The proposed definitions are as follows:

- The term “aggregate exercise price” shall mean the exercise price of the option contract times the index multiplier.
- The term “CME CF Bitcoin Real Time Index (“BRTI”)” shall mean a once a second benchmark index price for Bitcoin that aggregates order data from Bitcoin-USD markets operated by Constituent Exchanges.
- The term “CME CF Cryptocurrency Reference Rate—New York Variant (“BRRNY”)” shall mean the once a day benchmark index price for Bitcoin that aggregates trade data from Constituent Exchanges.

- The term “CME CF Cryptocurrency Pricing Products Oversight Committee” or “Oversight Committee” shall mean the committee established jointly by Crypto Facilities Ltd. or “CF” and Chicago Mercantile Exchange Inc. or “CME” to protect the integrity of the methodology and calculation process of the BRTI and the BRRNY and to address potential conflicts of interest. The role of the Oversight Committee is to provide an oversight function to review and provide challenge on all aspects of the methodology and calculation process and provide effective oversight of CF as the administrator of the BRTI and BRRNY.

- The term “Constituent Exchange” shall mean the cryptocurrency trading venues approved by the CME CF Cryptocurrency Pricing Products Oversight Committee to serve as pricing source for the calculation of the BRTI and BRRNY.

- The term “current index value” shall mean the aggregated last reported sale price of each Constituent Exchange comprising the BRTI divided by a factor of one hundred (100).

- The term “exercise price” shall mean the specific price at which the current index value may be purchased in the case of a call or sold in the case of a put upon the exercise of the option.

- The term “European-style index option” shall mean an option on an industry or market index that can be exercised only on the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the last business day prior to the day it expires.

- The term “final settlement value” shall be calculated as described at Options 4D, Section 8.

- The term “index multiplier” shall mean the amount by which the current index value is to be multiplied to arrive at the value required to be delivered to the holder of a call or by the holder of a put upon valid exercise of the contract. The index multiplier shall be \$100.

- The term “Nasdaq Bitcoin Index” for purposes of the Options 4D rules shall mean the BRTI divided by a factor of one hundred. The settlement value will be based on the BRRNY divided by a factor of one hundred.

- The term “P.M.-settled Index Options” shall mean an index options where the last day of trading shall be the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the last business day before its expiration date.

- The term “reporting authority” shall mean the institution or reporting service designated by the Exchange as the official source for (1) calculating the level of the index and (2) reporting such level. The “reporting authority” for the BRTI, BRRNY, and the BRRNY—NOS “Nasdaq Options Settlement” is CF Benchmarks.

- The term “underlying” shall mean the Nasdaq Bitcoin Index.

Trading Sessions

Proposed Options 4D, Section 3, titled “Trading Sessions,” notes that Nasdaq Bitcoin Index Options may be effected on the Exchange between the hours of

9:30 a.m. (Eastern time) and 4:15 p.m. (Eastern time), except that on the last trading day, transactions in expiring in Nasdaq Bitcoin Index Options may be effected on the Exchange between the hours of 9:30 a.m. (Eastern time) and 4:00 p.m. (Eastern time). As is the case for all index options, General 3, Rule 1030 governs the days the Exchange will be open for business.⁵⁰ These hours are consistent with trading hours for index options listed on Phlx.

Designation of an Index

Unlike other index options, Nasdaq Bitcoin Index Options need not meet the requirements of Options 4, Section 3 or Options 4A, Section 3.⁵¹ The Exchange designates Nasdaq Bitcoin Index as a narrow based index.

Minimum Increments

As proposed, Nasdaq Bitcoin Index Options would have a minimum increment of \$0.01 for all series.⁵² Nasdaq Bitcoin Index Options would be quoted and traded in U.S. dollars.⁵³

Position and Exercise Limits

The Exchange proposes to state at proposed Options 4D, Section 6(a) that the Nasdaq Bitcoin Index Options shall be subject to a position limit of 24,000 contracts. Today, options on the Cboe Exchange, Inc. (“Cboe”) Bitcoin U.S. ETF Index (“CBTX”) and the Mini-Cboe Bitcoin U.S. ETF Index (“MBTX”) have position limits of 24,000 contracts. Today, CBTX is trading 2,660.00 as of September 23, 2025. CBTX notional is \$266,000 (index price * \$100) as of September 23, 2025. The Nasdaq Bitcoin Index has a notional value of \$112,444.28 as of September 23, 2025. Therefore, the proposed 24,000 position and exercise limits for Nasdaq Bitcoin Index Options are appropriate because the limits represent less than half of the notional value of CBTX.

With respect to aggregation, the Exchange proposes at Options 4D, Section 6(c) that Nasdaq Bitcoin Index Options contracts shall not be aggregated with any other options contracts. Positions in Short Term Option Series, Monthly Options Series, and Quarterly Options Series shall be aggregated with positions in options contracts in Nasdaq Bitcoin Index and

⁵⁰ See proposed Options 4D, Section 3(a).

⁵¹ See proposed Options 4D, Section 4.

⁵² See proposed Supplementary Material .06 to Options 3, Section 3 and proposed Options 4D, Section 5.

⁵³ Phlx proposed Options 4D, Section 7(a)(1) titled “Meaning of Premium Bids and Offers,” provides that bids and offers shall be expressed in terms of dollars and cents per unit of the underlying index, which is the BRTI divided by a factor of one hundred (100).

⁴⁹ See proposed Options 4D, Section 1.

shall be subject to the overall position limit.

The Exchange proposes reporting requirements at proposed Options 4D, Section 6(d) which provide that each member or member organization that maintains a position on the same side of the market in excess of 100,000 contracts for its own account or for the account of a customer in excess of 100,000 contracts for its own account or for the account of a customer in Nasdaq Bitcoin Index Options, would be required to file a report with the Exchange that includes, but is not limited to, data related to the option positions, whether such positions are hedged and if applicable, a description of the hedge and information concerning collateral used to carry the positions. Market Makers would be exempt from this reporting requirement. These reporting requirements are applicable to all other index options.⁵⁴

Finally, as noted in proposed Options 4D, Section 6(e), exercise limits for Nasdaq Bitcoin Index Options shall be equivalent to the position limits described in Options 4D, Section 6.

Terms of Index Options Contracts

Pursuant to proposed Options 4D, Section 7(a)(1), bids and offers shall be expressed in terms of dollars and cents per unit of the underlying index which is the Nasdaq Bitcoin Index.

Pursuant to proposed Options 4D, Section 7(a)(2), the Exchange shall determine fixed-point intervals of exercise prices for call and put options.

As proposed in Options 4D, Section 7(a)(3), strike price intervals of no less than \$2.50 are generally permitted for Nasdaq Bitcoin Index Options if the strike price is less than \$200. This is consistent with how other index options trade on Phlx. Further, the Exchange may also determine to list strike prices at \$1 or greater, subject to certain conditions. The Exchange may list series at \$1 or greater strike price intervals for Nasdaq Bitcoin Index Options and will list at least two strike prices above and two strike prices below the current value of the Nasdaq Bitcoin Index Options at about the time a series is opened for trading on the Exchange. The Exchange shall list strike prices for Nasdaq Bitcoin Index Options that are within 5 points from the closing value of the Nasdaq Bitcoin Index on the preceding day.⁵⁵ This is consistent with how other index options trade on Phlx.

Additional series of the same class of Nasdaq Bitcoin Index Options may be opened for trading on the Exchange

when deemed necessary to maintain an orderly market, to meet customer demand or when the Nasdaq Bitcoin Index moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices shall be within thirty percent (30%) above or below the closing value of Nasdaq Bitcoin Index Options. The Exchange may also open additional strike prices that are more than 30% above or below the current Nasdaq Bitcoin Index value divided by a factor of one hundred (100) provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market-Makers trading for their own account shall not be considered when determining customer interest under this provision. In addition to the initial listed series, the Exchange may list up to sixty (60) additional series per expiration month for each series in Nasdaq Bitcoin Index Options.⁵⁶ This is consistent with how other index options trade on Phlx.

The Exchange shall not list LEAPS on Nasdaq Bitcoin Index Options at intervals less than \$5.⁵⁷ This is consistent with how other index options trade on Phlx.

With respect to delisting, Nasdaq Bitcoin Index Options added pursuant Options 4D, Section 7(a)(3)(A) and (B) will be reviewed by the Exchange on a monthly basis. The Exchange will review series that are outside a range of five (5) strikes above and five (5) strikes below the current value of the Nasdaq Bitcoin Index divided by a factor of one hundred (100) and delist series with no open interest in both the put and the call series having a: (i) strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.⁵⁸ This is consistent with how other index options trade on Phlx.

Notwithstanding this delisting policy, customer requests to add strikes and/or maintain strikes in Nasdaq Bitcoin Index Options series eligible for delisting shall be granted.⁵⁹ If the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for delisting, and shall work with such

other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed Nasdaq Bitcoin Index Options.⁶⁰ This is consistent with how other index options trade on Phlx.

Notwithstanding any other provision regarding strike prices in Options 4D, Section 6, non-Short Term Options that are on Nasdaq Bitcoin Index Options that have been selected to participate in the Short Term Option Series Program (referred to as a "Related non-Short Term Option series") shall be opened during the month prior to expiration of such Related non-Short Term Option series in the same manner as permitted in Supplementary .01 of Options 4D, Section 7 and in the same strike price intervals that are permitted in Supplementary .01 of Options 4D, Section 7.⁶¹ This is consistent with how other index options trade on Phlx.

The Exchange proposes to state that Nasdaq Bitcoin Index Options contracts may expire at three (3) month intervals, in consecutive weeks or in consecutive months. The Exchange may list: (i) up to six (6) standard monthly expirations at any one time in a class of Nasdaq Bitcoin Index Options, but will not list Nasdaq Bitcoin Index Options that expire more than twelve (12) months out.⁶² This is consistent with how other index options trade on Phlx.

Nasdaq Bitcoin Index Options would be European-style index options⁶³ and P.M.-settled.⁶⁴

The Exchange believes that market participants, and in particular, retail investors, prefer P.M.-settled index options. P.M.-settlement is preferred by retail investors as it allows market participants to hedge their exposure for the full week. A.M.-settled options by contrast are based on opening prices on the day of expiration and therefore stop trading on the day prior, leaving residual risk on the day of expiration. P.M.-settlement is needed to garner retail investor support for this product.

After a particular class of Nasdaq Bitcoin Index Options has been approved for listing and trading on the Exchange, the Exchange shall from time to time open for trading series of options therein. Within each approved class of Nasdaq Bitcoin Index Options, the Exchange shall open for trading a minimum of one expiration month and series and may also open for trading series of options having not less than twelve and up to 60 months to

⁶⁰ See proposed Options 4D, Section 7(a)(3)(D)(ii).

⁶¹ See proposed Options 4D, Section 7(a)(3)(E).

⁶² See proposed Options 4D, Section 7(a)(4).

⁶³ See proposed Options 4D, Section 7(a)(5).

⁶⁴ See proposed Options 4D, Section 7(a)(6).

⁵⁴ See Phlx Options 4A, Section 6(c).

⁵⁵ See proposed Options 4D, Section 7(a)(3)(A).

⁵⁶ See proposed Options 4D, Section 7(a)(3)(B).

⁵⁷ See proposed Options 4D, Section 7(a)(3)(C).

⁵⁸ See proposed Options 4D, Section 7(a)(3)(D).

⁵⁹ See proposed Options 4D, Section 7(a)(3)(D)(i).

expiration (“Long-Term Index Options Series”).⁶⁵

Prior to the opening of trading in any series of Nasdaq Bitcoin Index Options, the Exchange shall fix the expiration month and exercise price of option contracts included in each such series.⁶⁶

Additional series of Nasdaq Bitcoin Index Options of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the Nasdaq Bitcoin Index moves more than five strike prices from the initial exercise price or prices. The opening of a new series of options shall not affect the series of options of the same class previously opened. New series of Nasdaq Bitcoin Index Options may be added until the beginning of the month, in which the options contract will expire. Due to unusual market conditions, the Exchange, in its discretion, may add a new series of Nasdaq Bitcoin Index Options until the fourth business day prior to the business day of expiration, or, in the case of Nasdaq Bitcoin Index Options contract expiring on a day that is not a business day, up to the fifth business day prior to expiration.⁶⁷ This is consistent with how other index options trade on Phlx.

The Exchange would also list Long-Term Option Series or “LEAPs.” Similar to index options at Options 4A, Section 12(b)(2), the Exchange proposes that it may list LEAPs on Nasdaq Bitcoin Index Options that expire from twelve (12) to sixty (60) months from the date of issuance. There may be up to ten (10) expiration months, none further out than sixty (60) months. Strike price intervals and continuity Rules shall not apply to such options series until the time to expiration is less than twelve (12) months. Bid/ask differentials for LEAPs are specified within Options 2, Section 4(b)(4)(i)(A).⁶⁸ Also similar to index options at Options 4A, Section 12(b)(1), when new Nasdaq Bitcoin Index Options LEAPs are listed, such series would be opened for trading either when there is buying or selling interest, or forty (40) minutes prior to the close, whichever occurs first. No quotations would be posted for such options series until they are opened for

trading.⁶⁹ This is consistent with how other index options trade on Phlx.

Similar to index options at Options 4A, Section 12(d), the reported level of the Nasdaq Bitcoin Index that is calculated by the reporting authority, CF Benchmarks, for purposes of determining the current index value at the expiration will be disseminated as the Nasdaq Bitcoin Index Options.⁷⁰

The Exchange proposes to note in Supplementary .01 to Options 4D, Section 7 that the Short Term Options Series Program listing rules at Options 4A, Section 12(b)(4) shall be applicable to Nasdaq Bitcoin Index Options. The Monthly Options Series Program at Options 4A, Section 12(b)(5) shall be applicable to Nasdaq Bitcoin Index Options. Finally, the Quarterly Options Series Program at Options 4A, Section 12(b)(3) shall be applicable to Nasdaq Bitcoin Index Options.

The Exchange proposes to describe the final settlement value of Nasdaq Bitcoin Index Options in proposed Options 4D, Section 8. Nasdaq Bitcoin Index Options would be settled in U.S. dollars on the business day following expiration. Cash settlement would be equal to the difference between the final settlement value and the strike price of the contract multiplied by an index multiplier of \$100.⁷¹

The Nasdaq Bitcoin Index Options final settlement value would be the BRRNY on the expiration date (usually a Friday). BRRNY is calculated based on the Relevant Transactions. BRRNY will be divided by a factor of one hundred (100) and published as BRRNY—NOS (Nasdaq Options Settlement). BRRNY is calculated daily based on the Relevant Transactions and is calculated on the expiration date for purposes of final settlement. Relevant Transactions include those that trade Bitcoin versus U.S. Dollars on a Constituent Exchange that occur from 15:00 to 16:00 New York Time that is calculated and reported by the reporting authority. The final settlement value is determined by the aggregated last reported sale price of each Constituent Exchange. Specifically, the final settlement is calculated by combining all Relevant Transactions from each Constituent Exchange on a joint list and recording the trade price and size for each transaction. That list is partitioned into a number of equally-sized time intervals, of 5 minutes. For

each partition separately, the volume-weighted median trade price is calculated from the trade prices and sizes of all Relevant Transactions across all Constituent Exchanges. The BRRNY is the equally weighted average of the volume-weighted medians of all partitions. In the event that the underlying BRTI is not open for trading on the expiration date, the value of the Nasdaq Bitcoin Index shall be the last reported sale price prior to the expiration date.⁷²

Settlement is calculated by combining all Relevant Transactions on a joint list and recording the trade price and size for each transaction. That list is partitioned into a number of equally-sized time intervals, of 5 minutes. For each partition⁷³ separately, the volume-weighted median⁷⁴ trade price is calculated from the trade prices and sizes of all Relevant Transactions, *i.e.* across all Constituent Exchanges.⁷⁵ A volume-weighted median differs from a standard median in that a weighting factor, in this case trade size, is factored into the calculation.⁷⁶ For each partition k the volume-weighted median trade prices WM across all Relevant Transactions is calculated as:

⁷² See proposed Options 4D, Section 8(b).

⁷³ CME CF Cryptocurrency Reference Rates are calculated as the equally-weighted average of the intermediate calculation steps for the k partitions. A single large trade or cluster of trades occurring in any one partition will therefore only have a limited effect on CME CF Cryptocurrency Reference Rates. See <https://www.cfbenchmarks.com/data/indices/BRRNY>.

⁷⁴ Spot prices have historically varied considerably across trading venues, in particular during times of high volatility. The use of medians to calculate the weighted median trade price for each partition (as opposed to averages) greatly reduces CME CF Cryptocurrency Reference Rates' susceptibility to price extremes on one or more Constituent Exchanges. See <https://www.cfbenchmarks.com/data/indices/BRRNY>. Trading is driven to some extent by automated algorithms that may execute a high number of small trades. The use of volume-weighted medians to calculate the weighted median trade price for each partition (as opposed to simple medians) assures that CME CF Cryptocurrency Reference Rates appropriately reflect large trades and that whether an order is executed in parts or in full has no effect on calculation results.

⁷⁵ Partitions are equally-weighted (as opposed to volume-weighted) to facilitate replication of CME CF Cryptocurrency Reference Rates through trading on Constituent Exchanges. Assuming k partitions, a trader aiming to transact Y units of the relevant cryptocurrency at the CME CF Cryptocurrency Reference Rates can do so with little tracking error by transacting Y/K units of the cryptocurrency during each partition. See <https://www.cfbenchmarks.com/data/indices/BRRNY>.

⁷⁶ See proposed Options 4D, Section 8(b).

⁶⁵ See proposed Options 4D, Section 7(b).

⁶⁶ See proposed Options 4D, Section 7(b).

⁶⁷ See proposed Options 4D, Section 7(b)(1).

⁶⁸ See proposed Options 4D, Section 7(b)(2)(a).

⁶⁹ See proposed Options 4D, Section 7(b)(2)(a)(i).

⁷⁰ See proposed Options 4D, Section 7(c).

⁷¹ See proposed Options 4D, Section 8(a).

$$WM_k = p_{k,j} \text{ where } j \text{ satisfies } \sum_{i=1}^{j-1} s_{k,i} < \frac{1}{2} \sum_{i=1}^{I_k} s_{k,i} \text{ and } \sum_{i=j+1}^{I_k} s_{k,i} \leq \frac{1}{2} \sum_{i=1}^{I_k} s_{k,i}$$

$$\text{If } s_{k,1} \geq \frac{1}{2} \sum_{i=1}^{I_k} s_{k,i} \text{ then } WM_k = p_{k,1}$$

$$\text{If } \sum_{i=j+1}^{I_k} s_{k,i} = \frac{1}{2} \sum_{i=1}^{I_k} s_{k,i}, \text{ then } WM_k = \frac{p_{k,j} + p_{k,j+1}}{2}$$

Eq. 1

The BRRNY is then given by the equally weighted average of the volume-

weighted medians of all partitions.⁷⁷ The CME CF Cryptocurrency Reference

Rate as of the effective time T_{CCRR} , is then given by:

$$CCRR_T = \frac{1}{K} \sum_{k=1}^K WM_k$$

Eq. 2

Delayed data and missing data are subject to certain rules. Any Relevant Transaction for a given Calculation Day that is not available from a Constituent Exchange's API by the Retrieval Time is disregarded in the calculation of the CME CF Cryptocurrency Reference Rate for that Calculation Day. If no Relevant Transaction occurs on a Constituent Exchange on a given Calculation Day or one or more Relevant Transactions occur but for any reason cannot be retrieved by the Calculation Agent, the Constituent Exchange is disregarded in the calculation of the CME CF Cryptocurrency Reference Rate for that Calculation Day. If, for any of the K partitions of the TWAP Period in the above Eq. 2, no Relevant Transaction occurs on any Constituent Exchange or one or more Relevant Transactions occur but for any reason cannot be retrieved by the Calculation Agent, the partition remains empty and will be disregarded in the calculation of the CME CF Cryptocurrency Reference Rate for that Calculation Day. The denominator in Eq. 2 above will then be decremented by the number of empty partitions. If one or more Relevant Transactions occur but for any reason no Relevant Transaction can be retrieved from any Constituent Exchange API by the Calculation Agent, a CME CF Cryptocurrency Reference Rate calculation failure occurs for that Calculation Day. All Relevant Transactions retrieved by CF Benchmarks for a given calculation day are subject to an automated screening for erroneous data.⁷⁸

Similar to other index options,⁷⁹ neither the Exchange, nor any agent of the Exchange would have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating the current settlement value or the final settlement value resulting from an act, condition, or cause beyond the reasonable control of the Exchange including but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; any error, omission, or delay in the reports of transactions in one or more underlying transactions in the BRRNY or any error, omission or delay in the reports of the current settlement value or the closing settlement value by the Exchange.⁸⁰ The Exchange shall post the final settlement value BRRNY—NOS (Nasdaq Options Settlement) on its website or disseminate it through one or more major market data vendors.⁸¹

Today, Phlx limits its liability at Options 4A, Section 19. The Exchange proposes to expand this limitation of the Exchange's liability in connection with its administration of Phlx proprietary indices that currently exists for other indexes⁸² to the Nasdaq Bitcoin Index Options. The Exchange currently lists and trades options on a number of proprietary indices, and new indices continue to be developed from time to time. There is a great deal of work involved in the daily calculation and dissemination of these indices. While much of such work is automated,

manual input is still required. Thus, the potential for human error exists which exposes the Exchange to a risk of liability. Potential human errors include inputting a symbol or index value incorrectly. The Exchange's proposal promotes equitable principles of trade, and protects investors and the public interest, by defining the scope of the Exchange's liability, thereby putting investors on notice that the Exchange is not liable for negligent conduct in connection with its administration of the Nasdaq Bitcoin Index Options.

The Exchange proposes to adopt "Disclaimers" at proposed Options 4D, Section 9. As noted herein, CF Benchmarks shall be the reporting authority for Nasdaq Bitcoin Index Options.⁸³ Other options markets provide similar disclaimers for the reporting authority.⁸⁴ Each index has a designated Reporting Authority, which is the institution or reporting service designated by the Exchange as the official source for routinely calculating the level of each respective index. The Exchange believes that a disclaimer for a Reporting Authority promotes just and equitable principles of trade by encouraging the Reporting Authority for each index to develop and maintain indexes that may qualify for options trading on the Exchange, thereby providing investors with new investment opportunities.

The Exchange proposes to provide at proposed Options 4D, Section 9(a) that the disclaimers in paragraph (b) of Options 4D, Section 9 shall apply to the reporting authority, CF Benchmarks, as

⁷⁷ See *id.*

⁷⁸ See <https://docs.cfbenchmarks.com/CME%20CF%20Reference%20Rates%20Methodology.pdf>.

⁷⁹ See Options 4A, Sections 20 and 21.

⁸⁰ See proposed Options 4D, Section 8(c).

⁸¹ See proposed Options 4D, Section 8(d).

⁸² Phlx Options 4A, Section 19 has similar language concerning liability that applies to multiple proprietary products that are listed today

by Phlx, See list of Phlx Sector Indexes at <https://www.nasdaq.com/solutions/phlx-sector-based-index-options>.

⁸³ See proposed Options 4D, Section 2(a)(13).

⁸⁴ See Nasdaq ISE, LLC Options 4A, Section 14.

identified in Options 4D, Section 2(a)(13).

Further, proposed Options 4D, Section (b) provides that neither CF Benchmarks nor any of its affiliates make any warranty, express or implied, as to the results to be obtained by any person or entity from the use of an index it publishes, any opening, intra-day or closing value thereof, or any data included therein or relating thereto, in connection with the trading of any options contract based thereon or for any other purpose. CF Benchmarks shall obtain information for inclusion in, or for use in the calculation of, such index from sources it believes to be reliable, but CF Benchmarks does not guarantee the accuracy or completeness of such index, any opening, intra-day or closing value thereof, or any data included therein or related thereto. CF Benchmarks hereby disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to such index, any opening, intra-day, or closing value thereof, any data included therein or relating thereto, or any options contract based thereon. CF Benchmarks shall have no liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the person's use of such index, any opening, intra-day or closing value thereof, any data included therein or relating thereto, or any options contract based thereon, or arising out of any errors or delays in calculating or disseminating such index.

Margin

The Exchange proposes to apply margin requirements for the purchase and sale of Nasdaq Bitcoin Index Options that are identical to those applied for its narrow-based index options. Therefore, purchases of puts or calls with 9 months or less until expiration must be paid for in full. Writers of uncovered puts or calls must deposit/maintain 100% of the option proceeds plus 20% of the underlying index value less out-of-the-money amount, if any, to a minimum of option proceeds plus 10% of underlying index value for calls; 10% of the put exercise price for puts.

Regulatory Rules

The trading of Nasdaq Bitcoin Index Options would be subject to the same rules that presently govern the trading of index options on Phlx, including sales practice rules and trading rules. Options 10, Section 6, "Opening of

Accounts," is designed to protect public customer trading and shall apply to trading in Nasdaq Bitcoin Index Options. Specifically, Options 10, Section 6(a) prohibits members and member organizations from accepting a customer order to purchase or write an option, including Nasdaq Bitcoin Index Options, unless such customer's account has been approved in writing by an Options Principal. Additionally, Phlx Options 10, Section 8, "Suitability of Recommendations," is designed to ensure that options, including Nasdaq Bitcoin Index Options, are only sold to customers capable of evaluating and bearing the risks associated with trading in this instrument. Further, Phlx Options 10, Section 9, "Discretionary Accounts," permits members and member organizations to exercise discretionary power with respect to trading options, including Nasdaq Bitcoin Index Options, in a customer's account only if the customer has given prior written authorization and the account has been accepted in writing by a Registered Options Principal. Phlx Options 10, Section 9 also requires a record to be made of every option transaction for an account in respect to which a member or member organization or a partner, officer or employee of a member organization is vested with any discretionary authority, such record to include the name of the customer, the designation, number of contracts and premium of the option contracts, the date and time when such transaction took place and clearly reflecting the fact that discretionary authority was exercised. Finally, Phlx Options 10, Section 7, "Supervision of Accounts," Phlx Options 10, Section 10, "Confirmations to Customers," and Phlx Options 10, Section 13, "Delivery of Options Disclosure Documents and Prospectus," will also apply to trading in Nasdaq Bitcoin Index Options.

The trading of Nasdaq Bitcoin Index Options will be subject to the trading halt procedures applicable to other index options traded on the Exchange.⁸⁵

The Exchange believes that all Phlx and OCC members will be able to accommodate trading, clearance and settlement of Nasdaq Bitcoin Index Options because these index options will trade similar to all other index options.

Surveillance

In 2024, the Commission approved various rule changes to list and trade Spot Bitcoin ETPs.⁸⁶ The Commission

noted in the Spot Bitcoin ETPs Approval Order that, "... one way an exchange that lists Bitcoin-based ETF can meet the obligation under Exchange Act Section 6(b)(5) that its rules be designed to prevent fraudulent and manipulative acts and practices is by demonstrating that the exchange has a comprehensive surveillance-sharing agreement with a regulated market of significant size related to the underlying or reference Bitcoin assets. Such an agreement would assist in detecting and deterring fraud and manipulation related to that underlying asset." 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.⁸⁷ 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].⁸⁸

As described in the Spot Bitcoin ETPs Approval Order, there is currently a regulated U.S. market with respect to spot Bitcoin, the CME Bitcoin futures ("Bitcoin Futures") market.⁸⁹ In its Spot

⁸⁷ See Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 at 37580 (August 1, 2018) (the "Winklevoss Order"). 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." See Winklevoss Order, 83 FR at 37582.

⁸⁸ See Spot Bitcoin ETPs Approval Order 89 FR 3010 and 3011.

⁸⁹ CME began offering trading in Bitcoin Futures in 2017. Each contract represents five Bitcoin and is based on the CME CF Bitcoin Reference Rate. The

⁸⁵ Phlx Options 4A, Section 18(c), Trading Rotations, Halts or Reopenings.

⁸⁶ See *supra* note 29.

Bitcoin ETPs Approval Order, the Commission found there was a high price correlation between the underlying and the futures market.⁹⁰ The proposed Nasdaq Bitcoin Index Options and the various Spot Bitcoin ETPs reference the same underlying market for spot Bitcoin that trade on spot Bitcoin trading platforms.

Specifically, the Exchange has a comprehensive surveillance-sharing agreement with the CME via its common membership in ISG, which facilitates the sharing of information that is available to the CME through its surveillance of its markets, including its surveillance of the Bitcoin Futures market. Similar to the Spot Bitcoin ETPs previously approved by the SEC, Phlx's ability to obtain information regarding trading in the Bitcoin Futures market from other markets that are members of the ISG (specifically the CME) would assist Phlx in detecting and deterring misconduct.

Further, the exchanges that list Spot Bitcoin ETPs comprehensively surveil market conditions and price movements on a real time and ongoing basis in order to detect and prevent price distortions, including price distortions caused by manipulative efforts. Thus, the CME's surveillance as well as Phlx's surveillance and other equity markets that list Spot Bitcoin ETPs can reasonably be relied upon to capture the effects on the Bitcoin Futures market and Spot Bitcoin ETPs, as applicable, that are caused by a person attempting to manipulate the futures ETP or Spot Bitcoin ETPs by manipulating the price of Bitcoin futures contracts or Spot Bitcoin ETPs, whether that attempt is made by directly trading on the Bitcoin Futures market or Spot Bitcoin ETPs, or indirectly by trading outside of the Bitcoin Futures market or Spot Bitcoin ETPs.

The Exchange would have an adequate surveillance program in place for Nasdaq Bitcoin Index Options as it intends to apply the same program procedures that apply to the Exchange's other index options products.⁹¹ Index products and their respective symbols are integrated into the Exchange's

contracts trade and settle like other cash settled commodity futures contracts.

⁹⁰ A correlation analysis was conducted by the Commission in analyzing the Spot Bitcoin ETP proposals. The results of the Commission's analysis confirmed that the CME Bitcoin futures market has been consistently highly correlated with the subset of the spot Bitcoin market utilized in the analysis for the timeframe reviewed. See Spot Bitcoin ETPs Approval Order at 89 FR 3010.

⁹¹ 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).

existing surveillance system architecture and are thus subject to the relevant surveillance processes. This is true for both surveillance system processing and manual processes that support the Phlx's surveillance program. Additionally, the Exchange is also a member of the ISG under the Intermarket Surveillance Group Agreement. ISG members work together to coordinate surveillance and investigative information sharing in the stock and options markets. Both the Exchange and CME are members of ISG.⁹²

The Exchange, in its normal course of surveillance, will monitor for any potential manipulation of the Nasdaq Bitcoin Index Options settlement value according to the Exchange's current procedures. The Exchange believes that its surveillance procedures currently in place will allow it to adequately surveil for any potential manipulation in the trading of Nasdaq Bitcoin Index Options.

Capacity

The Exchange represents that it has the necessary system capacity to support additional quotations and messages that will result from the listing and trading Nasdaq Bitcoin Index Options. Finally, the Options Price Reporting Authority ("OPRA") has the necessary systems capacity to handle the additional traffic associated with the listing of Nasdaq Bitcoin Index Options. The proposal is limited to one new class and the additional traffic that would be generated from the introduction of Nasdaq Bitcoin Index Options would be manageable and well within any systems capacity capabilities.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁹³ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁹⁴ in particular, in that it will permit trading in Nasdaq Bitcoin Index Options pursuant to rules designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade. In particular, the Exchange believes the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace. The Exchange believes that listing Nasdaq Bitcoin Index Options will provide an opportunity for investors to hedge, or speculate on, the market risk associated

with trading Bitcoin. This proposal offers market participants with choice of product structures for Bitcoin exposure and offers a flexible way to gain exposure to Bitcoin through transparent, regulated index options.

Since January 2024, Spot Commodity ETF shares based on Bitcoin have been listed and traded on national securities exchanges.⁹⁵ Phlx's proposal to list and trade Nasdaq Bitcoin Index Options would allow market participants that hold spot Bitcoin-based ETFs to hedge or modify their exposure on a national securities exchange, within a single regulatory regime,⁹⁶ thereby fostering innovation and competition in the rapidly evolving market for digital asset derivatives.

Section 2(a)(1)(A) of the CEA⁹⁷ provides the CFTC with exclusive jurisdiction over, among other things, options on commodities traded on a designated contract market, swap execution facility, or other board of trade, exchange, or market. Section 4(c)(1) of the CEA⁹⁸ authorizes the CFTC, after notice and opportunity for hearing, to exempt any agreement, contract, or transaction from the requirements of any provision of the CEA, subject to certain determinations by the CFTC.⁹⁹ Section 717 of the Dodd-

⁹⁵ See SEC 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, Securities Exchange Act Release No. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024).

⁹⁶ Specifically, the proposed index options would allow investors in spot Bitcoin-based ETFs to carry the proposed index options in the same account subject to the same margin regime that applies to the asset through which they take long exposure to Bitcoin. See letter from Phlx, dated March 17, 2025, page 3, footnote 13, available at <https://www.sec.gov/comments/sr-phlx-2025-08/srphlx202508-581995-1674542.pdf>.

⁹⁷ See 7 U.S.C. 4.

⁹⁸ See 7 U.S.C. 6(c)(1).

⁹⁹ Under Section 4(c)(2) of the CEA, the CFTC may not grant an exemption under Section 4(c)(1) unless the CFTC determines that: (i) the requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought; (ii) the exemption would be consistent with the public interest and the purposes of the CEA; (iii) the agreement, contract, or transaction at issue will be entered into solely between appropriate persons (as set forth in Section 4(c)(3) of the CEA); and (iv) the agreement, contract, or transaction at issue will not have a material adverse effect on the ability of the CFTC or exchange to discharge its regulatory or self-regulatory duties under the CEA. The Exchange notes that, in enacting section 4(c) of the CEA, Congress stated that its goal "is to give the Commission a means of providing certainty and stability to existing and emerging markets so that financial innovation and market development can proceed in an effective and competitive manner." See House Conf. Report No. 102-978, 1992 U.S.C.A.N. 3179, 3213.

⁹² For a list of the current members and affiliate members of ISG, see <https://www.isgportal.com/>.

⁹³ 15 U.S.C. 78f(b).

⁹⁴ 15 U.S.C. 78f(b)(5).

Frank Act¹⁰⁰ amended the Exchange Act and the CEA to establish a framework designed to address the trading of novel derivative products. Among other things, the Dodd-Frank Act added Section 3B to the Exchange Act.¹⁰¹ Section 3B(a)¹⁰² provides that any agreement, contract, or transaction, or class thereof, that is exempted by the CFTC pursuant to Section 4(c)(1) of the CEA¹⁰³ with the condition that the SEC exercise concurrent jurisdiction over such agreement, contract, or transaction (or class thereof) shall be deemed a security for purposes of the securities laws. Further, Section 3B(b)¹⁰⁴ states:

With respect to any agreement, contract, or transaction (or class thereof) that is exempted by the Commodity Futures Trading Commission pursuant to section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) with the condition that the Commission exercise concurrent jurisdiction over such agreement, contract, or transaction (or class thereof), references in the securities laws to the 'purchase' or 'sale' of a security shall be deemed to include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under such agreement, contract, or transaction, as the context may require.

Phlx's proposal is a novel derivative product that should be permitted to trade on a national securities exchange pursuant to the Section 717 of the Dodd-Frank Act. The Exchange believes that the provisions of the Dodd-Frank Act covering novel derivative products provides the SEC and the CFTC with extensive freedom to craft solutions to allow products such as Phlx's index options to come to market.¹⁰⁵ To list and trade the proposed Nasdaq Bitcoin Index Options, the Exchange will seek

exemptive relief from the CFTC pursuant to Section 4(c)(1) of the CEA¹⁰⁶ from any applicable requirements of the CEA and the CFTC's rules and regulations, including the requirements applicable to a Designated Contract Market under Section 5 of the CEA¹⁰⁷ and part 38¹⁰⁸ of the CFTC's regulations. Further, the Exchange will seek exemptive relief to allow the proposed Nasdaq Bitcoin Index Options to clear through OCC in its capacity as a clearing agency registered with the SEC pursuant to Section 17A of the Act.¹⁰⁹

The Exchange acknowledges that it will not be permitted to list and trade the proposed Nasdaq Bitcoin Index Options unless and until the CFTC grants all necessary exemptive relief pursuant to Section 4(c)(1) of the CEA¹¹⁰ from the requirements of the CEA and the rules and regulations thereunder, with the condition that the SEC exercise concurrent jurisdiction with the CFTC over the proposed Nasdaq Bitcoin Index Options, as provided under Section 3B of the Exchange Act.¹¹¹ In addition, the Exchange acknowledges that it will not be permitted to list and trade the proposed Nasdaq Bitcoin Index options until the CFTC issues exemptive relief to allow OCC to clear the proposed options in its capacity as a clearing agency registered with the SEC pursuant to Section 17A of the Exchange Act.¹¹² Finally, the Exchange acknowledges that it will not be permitted to list and trade the proposed Nasdaq Bitcoin Index Options until the OCC receives approval to update The Characteristics and Risks of Standardized Options (the "Options Disclosure Document" or "ODD") to reflect the risks attendant to trading Nasdaq Bitcoin Index Options.

Pursuant to Section 717(b) of Dodd-Frank, the proposed Nasdaq Bitcoin Index Options would be deemed a security permitted to trade on Phlx, a self-regulatory organization regulated by the SEC.

In light of evolving market structures in digital asset developing markets, Phlx's proposal will foster responsible innovation and competition, while ensuring that appropriate regulatory protections are in place. The proposed Nasdaq Bitcoin Index Options are in the public interest and promote responsible innovation and fair competition.

Phlx will not list the Nasdaq Bitcoin Index Options until such time as it obtains an exemption from the CFTC pursuant to Section 4(c)(1) of the CEA¹¹³ with the condition that the Commission exercise concurrent jurisdiction over such agreement, contract, or transaction (or class thereof) and that it shall be deemed a security for purposes of the securities laws. Further, Phlx shall not list the Nasdaq Bitcoin Index Options until all conditions noted in the approval of the application pursuant to Section 4(c)(1) of the CEA have been satisfied. Finally, the Exchange would not list the Nasdaq Bitcoin Index Options until such time as OCC has received approval to update the ODD to reflect the risks attendant to trading Nasdaq Bitcoin Index Options.

The Exchange believes that with the commencement of trading of Bitcoin as an ETF on a national securities exchange, Phlx's proposal would serve important economic functions by providing investors, speculators and multinational corporations with an important risk-shifting mechanism by allowing them to hedge the price of Bitcoin. Phlx's proposal is an innovative response to the demands of various market participants who require greater flexibility to tailor their Bitcoin positions and portfolios to satisfy their investment objections by creating a "precise" hedge for approved Spot Bitcoin ETPs.

The introduction of Nasdaq Bitcoin Index Options will provide investors with an additional tool to manage their portfolio, whether by hedging or through diversification and will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering this new product will provide investors with a greater opportunity to realize the benefits of utilizing index options based on spot Bitcoin, including cost efficiencies and increased hedging strategies. In particular, the Exchange believes that offering Nasdaq Bitcoin Index Options will benefit investors by providing them with an additional, relatively lower cost risk management tool allowing them to manage, more easily, their positions and associated

¹⁰⁰ See Dodd-Frank Wall Street Reform and Consumer Protection Act, § 717, 12 U.S.C. 5481.

¹⁰¹ See 15 U.S.C. 78c-2.

¹⁰² See *id.*

¹⁰³ See 7 U.S.C. 6(c)(1).

¹⁰⁴ See 15 U.S.C. 78c-2.

¹⁰⁵ Of note, the CFTC and SEC entered into an MOU in March 2008 to address novel derivatives products that "may reflect elements of both securities and commodity futures or options, and may impact the regulatory mission of each agency." See CFTC & SEC, Memorandum of Understanding between the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission Regarding Coordination in Areas of Common Regulatory Interest (2008). In that timeframe, the CFTC granted an exemption pursuant to CEA section 4(c) to permit options on the ETF shares to be traded on national securities exchanges as options on securities and futures on such ETF shares to be traded on exchanges as security futures. See, e.g., SPDR Exemption Order, 73 FR 31,981; CFTC Order Exempting the Trading and Clearing of Certain Products Related to SPDR Gold Trust Shares, 73 FR 21,917 (proposed Apr. 28, 2008) (permitting options on SPDR Gold Trust Shares to be listed by securities exchanges and cleared by Options Clearing Corporation as options on securities).

¹⁰⁶ See 7 U.S.C. 6(c)(1).

¹⁰⁷ See 7 U.S.C. 7.

¹⁰⁸ See 17 CFR part 38.

¹⁰⁹ See 15 U.S.C. 78q-1.

¹¹⁰ See 7 U.S.C. 6(c)(1).

¹¹¹ See 15 U.S.C. 78c-2.

¹¹² See 15 U.S.C. 78q-1.

¹¹³ Phlx will make an application for an exemption with the CFTC pursuant to Section 4(c)(1) of the CEA requesting an exemption from the regulatory requirements under the CEA applicable to a Designated Contract Market pursuant to Section 5 of the CEA (7 U.S.C. 7) and Part 38 (17 CFR part 38) of the CFTC's regulations to list and trade Nasdaq Bitcoin Index Options. Further, the Exchange would seek exemptive relief so that the Nasdaq Bitcoin Index Options would clear through OCC in its capacity as a clearing agency registered with the SEC pursuant to Section 17A of the Act.

risks, in their portfolios in connection with exposure to spot Bitcoin. Additionally, this cash-settled index that permits holders to receive U.S. dollars representing the difference between the current Bitcoin spot market and the exercise price of the option eliminates risks associated with physical settlement such as volatility and movement in the underlying at expiration. Today, the CME CF Bitcoin Reference Rate—New York Variant for the Bitcoin—U.S. Dollar trading pair (the “CF Benchmarks Index”) constitutes the index for the following products: iShares Bitcoin Trust ETF, Franklin Bitcoin ETF, Bitwise Bitcoin ETF, Valkyrie Bitcoin Fund and ARK 21Shares Bitcoin ETF.

For the reasons which follow, the Exchange believes that Nasdaq Bitcoin Index Options is designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade. Nasdaq Bitcoin Index Options are representative of the underlying market, resistant to manipulation, and replicable by market participants, to be able to foster further institutional participation in the underlying market that is being measured. The final settlement value for Nasdaq Bitcoin Index Options would be the BRRNY on the expiration date (usually a Friday). BRRNY will be

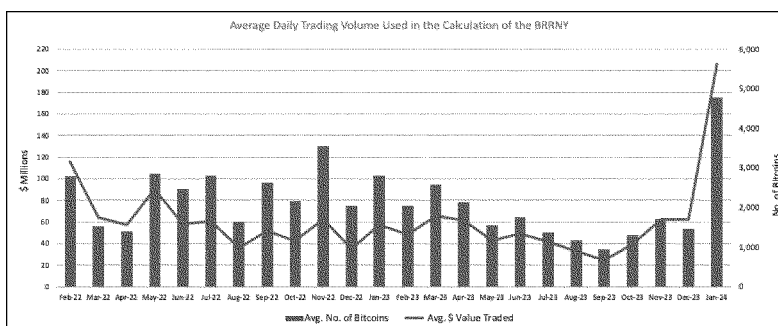
divided by a factor of one hundred (100) to create a new settlement value to arrive at the settlement value for Nasdaq Bitcoin Index Options and will be published as BRRNY—NOS (Nasdaq Options Settlement). BRRNY is a once-a-day benchmark index price for Bitcoin that aggregates trade data from multiple Bitcoin-USD markets operated by major cryptocurrency exchanges that conform to the CME CF Constituent Exchange Criteria. It is synchronized to the traditional U.S. financial market close of 1600 New York Time and is calculated every single day of the year. The index is a Registered Benchmark under UK BMR and as such is a Third Country benchmark under the EU BMR Regime.

The BRRNY index is methodologically identical to the regulated CME CF Bitcoin Reference Rate (BRR), the most widely used benchmark price for Bitcoin, that settles the Bitcoin-USD derivatives complex listed by CME Group, and which serves as the NAV for exchange listed investment products from WisdomTree Europe, Evolve ETFs (CAN) and QR Asset Management (BRZ). The only difference between the CME CF BRRNY and the CME CF BRR, is that BRRNY references the price of Bitcoin at the closing time of U.S. markets, 16:00 New York Time, rather than the price at

16:00 London Time, referenced by the BRR.

The purpose of BRRNY is to provide a replicable, manipulation-resistant and representative Bitcoin benchmark that synchronizes with the traditional U.S. market close. The CME CF Bitcoin Reference Rate—New York Variant is a regulated Benchmark under the UK Benchmarks Regulation (BMR) regime. The BRRNY calculation methodology aggregates transactions of Bitcoins in U.S. dollars that are only conducted on the most liquid markets for which data is publicly available and operated by exchanges that meet the CME CF Constituent Exchange Criteria.¹¹⁴

BRRNY is a valid and robust benchmark that is calculated from input data of sufficient volume so that it is representative of the market it seeks to measure. Additionally, BRRNY has volume sufficiency which permits it to be replicated by institutional market participants and product providers that need to warehouse price risk. The table below summarizes the total number of transactions and average number of transactions per day observed each month for BRRNY.¹¹⁵ Between February 28, 2022, and January 31, 2024 (weekdays only), on average 2,116.73 Bitcoins, or \$59M were traded during each daily observation window between 15:00 and 16:00 New York Time.¹¹⁶



This trading activity exhibits volatility that is not substantially different from that shown in traditional asset markets. The volume observed and the reliability of that volume are clearly evident to be sufficient for the calculation of a robust and reliable benchmark.

Phlx believes that Nasdaq Bitcoin Index Options will be utilized for a wide range of activities such as asset valuation, settlement of financial risk, risk management, NAV calculation, unit creation and unit redemption. To that

end, the index design is fair and transparent. CF Benchmarks exclusively sources input data from Constituent Exchanges that meet published criteria as set out in its Constituent Exchanges Criteria and conducts a thorough review of any exchange under consideration for inclusion as a Constituent Exchange.¹¹⁷ The BRRNY methodology takes an observation period and divides it into equal partitions of time. The volume-weighted median of all transactions within each partition is then calculated. The benchmark index value is

determined from the arithmetic mean of the volume-weighted medians, equally weighted. As a result, individual trades of large size have limited effect on the index level as they only influence the level of the volume-weighted median for that specific partition. Further, a cluster of trades in a short period of time will also only influence the volume-weighted median of the partition or partitions they were conducted in, thereby limiting impact. Use of volume-weighted medians as opposed to volume-weighted means ensures that

¹¹⁴ See *supra* note 24.

¹¹⁵ The data represents both trade count and Bitcoin volume during the observation window.

¹¹⁶ BRRNY was launched on February 28, 2022. LMAX Digital was added as a Constituent Exchange from May 2022.

¹¹⁷ See *supra* note 24.

transactions conducted at outlying prices do not have an undue effect on the value of a specific partition. By not volume weighting partitions, trades of large size or clusters of trades over a short period of time will not have an undue influence on the index level. CF Benchmarks applies equal weight to transactions observed from CME CF Constituent Exchanges. With no pre-set weights, the BRRNY index is not readily subject to manipulation. Using the arithmetic mean of partitions of equal weight further denudes the effect of trades of large size at prices that deviate from the prevailing price having undue influence on the benchmark level.¹¹⁸

BRRNY's methodology incorporates a procedure for potentially erroneous

data. Although volume-weighted medians of transaction prices from individual data sources are not part of the benchmark determination process, they are calculated as a means of quality control and manipulation resistance. In the event of an instance of index calculation in which a Constituent Exchange's volume-weighted median transaction price exhibits an absolute percentage deviation from the volume-weighted median price of other Constituent Exchange transactions greater than the Potentially Erroneous Data Parameter (10%), then transactions from that Constituent Exchange are deemed potentially erroneous and excluded from the index calculation. All instances of data excluded from a

calculation trigger a Benchmark Surveillance Alert that is investigated. By way of example, between February 28, 2022, and January 31, 2024, the Potentially Erroneous Data Parameter of the methodology for the CME CF Bitcoin Reference Rate—New York Variant has never been triggered. Analysis of the max volume-weighted median per exchange during the observation period produced the results in the table below. The results illustrate that during the observation period, no Constituent Exchange's input data needed to be excluded due to exhibiting potential manipulation and indeed no individual cryptocurrency exchange exhibits a deviation percentage above 2.41% during this period.

Max in Month	Max volume weighted median deviation per exchange (%)					
	Bitstamp	Coinbase	Gemini	itBit	Kraken	LMAX Digital
Feb-2022	0.04%	0.00%	0.10%	0.06%	0.12%	N/A
Mar-2022	0.47%	0.20%	0.21%	0.45%	0.36%	N/A
Apr-2022	0.31%	0.17%	0.28%	0.32%	0.38%	N/A
May-2022	0.70%	0.45%	0.43%	0.34%	0.55%	0.26%
Jun-2022	0.45%	0.28%	0.33%	0.37%	0.49%	0.43%
Jul-2022	0.36%	0.18%	0.62%	0.93%	0.76%	0.47%
Aug-2022	0.34%	0.25%	0.20%	0.46%	0.37%	0.21%
Sep-2022	0.49%	0.16%	0.23%	0.46%	0.33%	0.16%
Oct-2022	0.21%	0.10%	0.13%	0.15%	0.18%	0.28%
Nov-2022	1.66%	0.59%	0.54%	1.14%	1.38%	0.93%
Dec-2022	0.15%	0.07%	0.57%	0.08%	0.28%	0.09%
Jan-2023	0.21%	0.13%	0.34%	0.17%	0.23%	0.11%
Feb-2023	0.28%	0.14%	0.60%	0.46%	0.77%	0.22%
Mar-2023	0.39%	0.28%	2.41%	0.24%	0.26%	0.22%
Apr-2023	0.25%	0.49%	0.65%	0.28%	0.28%	0.56%
May-2023	0.23%	0.21%	0.29%	0.33%	0.19%	0.29%
Jun-2023	0.39%	0.13%	0.43%	0.30%	0.24%	0.18%
Jul-2023	0.18%	0.11%	0.35%	0.50%	0.20%	0.16%
Aug-2023	0.35%	0.08%	0.60%	0.61%	0.20%	0.14%
Sep-2023	0.66%	0.15%	0.10%	0.18%	0.27%	0.17%
Oct-2023	0.45%	0.12%	0.41%	0.15%	0.39%	0.16%
Nov-2023	0.16%	0.12%	0.21%	0.25%	0.26%	0.40%
Dec-2023	0.33%	0.09%	0.17%	0.16%	0.46%	0.10%
Jan-2024	0.37%	0.28%	0.43%	0.43%	0.36%	0.35%

CF Benchmarks has implemented a benchmark surveillance program for the investigation of alerts. Instances of suspected benchmark manipulation are escalated through appropriate regulatory channels in accordance with CF Benchmarks' obligations under the UK

Benchmarks Regulation (UK BMR). As a regulated Benchmark Administrator, CF Benchmarks is subject to supervision by the UK FCA.¹¹⁹

In terms of correlation, an analysis was undertaken of the pair-wise

correlation of prices from Constituent Exchanges on a per-minute basis (the price difference between transactions for each minute at each exchange) during the observation period. The results are shown in the table below.

¹¹⁸ See also <https://www.cfbenchmarks.com/blog/suitability-analysis-of-the-cme-cf-bitcoin-reference-rate-new-york-variant-as-a-basis-for-regulated-financial-products-february-2024-update>.

¹¹⁹ Furthermore, CF Benchmarks' Control Procedures with respect to compliance with the UK BMR have been audited by 'Big Four' accountancy firm Deloitte. The Independent Assurance Report on Control Procedures Noted by CF Benchmarks

Regarding Compliance with the UK Benchmarks Regulation as of September 12, 2022 is available at: https://docs.cfbenchmarks.com/Deloitte_CFBenchmarksSOC1AuditReport.pdf.

Pairwise Correlation of Constituent Exchanges to BRRNY			
Constituent Pair Platform	Mean Correlation %	Median Correlation %	Standard Deviation
Bitstamp-Coinbase	98.41%	98.98%	1.72%
Bitstamp-Gemini	96.38%	98.23%	5.78%
Bitstamp-itBit	97.62%	98.66%	2.97%
Bitstamp-Kraken	96.72%	98.20%	4.29%
Bitstamp-LMAX Digital*	96.70%	98.03%	4.36%
Coinbase-Gemini	96.25%	98.19%	5.97%
Coinbase-itBit	97.33%	98.55%	3.55%
Coinbase-Kraken	96.43%	98.13%	4.78%
Coinbase-LMAX Digital*	96.65%	98.07%	4.63%
Gemini-itBit	96.44%	98.30%	5.97%
Gemini-Kraken	95.67%	97.83%	6.13%
Gemini-LMAX Digital*	95.16%	97.49%	6.55%
itBit-Kraken	97.51%	98.65%	3.48%
itBit-LMAX Digital*	96.70%	98.17%	4.53%
Kraken-LMAX Digital*	95.85%	97.66%	5.45%

With respect to replicability, a simple replication simulation was thereby conducted of BRRNY to demonstrate the extent of slippage that implementation of the BRR would probably encounter. The methodology was as follows for weekdays only.

- Trades are executed on *n* (6) Constituent Exchanges, during a 3,600-second window.

- One trade is executed every second and the price achieved is assumed to be the last execution price observed in that second. Its

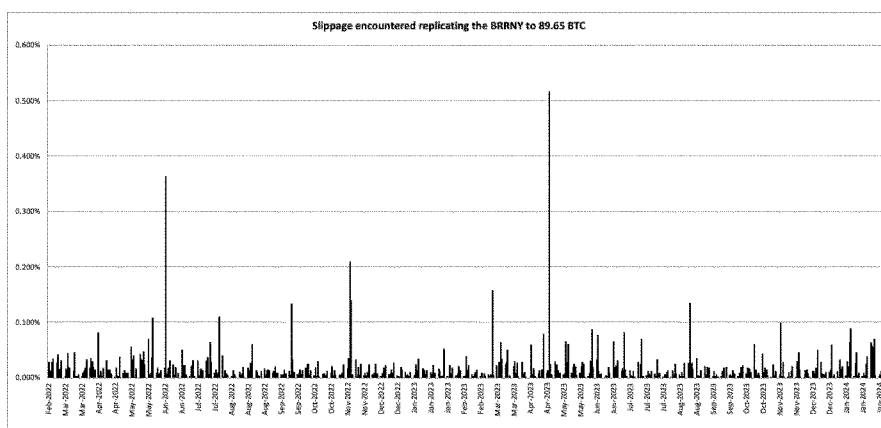
associated volume is assumed to be the volume executed during that second.

- If no trade is completed in any single-second period, then the price achieved is assumed to be the price achieved in the previous second, but the associated volume from the previous second is not added to the volume executed in the latest second.

The results of this simulation are displayed below.

Slippage %	
MAX	0.51639%
MIN	0.00006%
MEDIAN	0.01063%
MEAN	0.01895%
STD. DEV.	0.03493%

Summary data for the above simulation is provided below.



As evidenced above, the BRRNY can be replicated with a high degree of confidence and usually with slippage of no more than 1 basis point (0.01%). On only 6.76% of days would slippage have been greater than 5 basis points (0.05%). Indeed, even on the most volatile day, slippage was approximately one half of one percent, 51.6 basis points (0.516%). Furthermore, in the 24-month period

under observation slippage would have been in double-digit basis points only 10 times.

In 2024, the Commission approved various rule changes to list and trade Spot Bitcoin ETPs.¹²⁰ The Commission noted in the Spot Bitcoin ETPs Approval Order that, “. . . one way an exchange that lists Bitcoin-based

exchange-traded products (“ETPs”) can meet the obligation under Exchange Act Section 6(b)(5) that its rules be designed to prevent fraudulent and manipulative acts and practices is by demonstrating that the exchange has a comprehensive surveillance-sharing agreement with a regulated market of significant size related to the underlying or reference Bitcoin assets. Such an agreement

¹²⁰ See *supra* note 29.

would assist in detecting and deterring fraud and manipulation related to that underlying asset.” 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.¹²¹ 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].¹²²

As described in the Spot Bitcoin ETPs Approval Order, there is currently a regulated U.S. market with respect to spot Bitcoin, the CME Bitcoin futures (“Bitcoin Futures”) market.¹²³ In its Spot Bitcoin ETPs Approval Order, the Commission found there was a high price correlation between the underlying and the futures market.¹²⁴

¹²¹ See Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 at 37580 (August 1, 2018) (the “Winklevoss Order”). 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.” See Winklevoss Order, 83 FR at 37582.

¹²² See Spot Bitcoin ETPs Approval Order 89 FR 3010 and 3011.

¹²³ CME began offering trading in Bitcoin Futures in 2017. Each contract represents five Bitcoin and is based on the CME CF Bitcoin Reference Rate. The contracts trade and settle like other cash settled commodity futures contracts.

¹²⁴ A correlation analysis was conducted by the Commission in analyzing the Spot Bitcoin ETP proposals. The results of the Commission’s analysis confirmed that the CME Bitcoin futures market has been consistently highly correlated with the subset of the spot Bitcoin market utilized in the analysis for the timeframe reviewed. See Spot Bitcoin ETPs Approval Order at 89 FR 3010.

The proposed Nasdaq Bitcoin Index Options and the various Spot Bitcoin ETPs reference the same underlying market for spot Bitcoin that trade on spot Bitcoin trading platforms.

Specifically, the Exchange has a comprehensive surveillance-sharing agreement with the CME via its common membership in ISG, which facilitates the sharing of information that is available to the CME through its surveillance of its markets, including its surveillance of the Bitcoin Futures market. Similar to the Spot Bitcoin ETPs previously approved by the SEC, Phlx’s ability to obtain information regarding trading in the Bitcoin Futures market from other markets that are members of the ISG (specifically the CME) would assist Phlx in detecting and deterring misconduct.

Further, the exchanges that list Spot Bitcoin ETPs comprehensively surveil market conditions and price movements on a real time and ongoing basis in order to detect and prevent price distortions, including price distortions caused by manipulative efforts. Thus, the CME’s surveillance as well as Nasdaq’s surveillance and other equity markets that list Spot Bitcoin ETPs can reasonably be relied upon to capture the effects on the Bitcoin Futures market and Spot Bitcoin ETPs, as applicable, that are caused by a person attempting to manipulate the futures ETP or Spot Bitcoin ETPs by manipulating the price of Bitcoin futures contracts or Spot Bitcoin ETPs, whether that attempt is made by directly trading on the Bitcoin Futures market or Spot Bitcoin ETPs, or indirectly by trading outside of the Bitcoin Futures market or Spot Bitcoin ETPs.

The Exchange would have an adequate surveillance program in place for Nasdaq Bitcoin Index Options as it intends to apply the same program procedures that apply to the Exchange’s other index options products.¹²⁵ Index products and their respective symbols are integrated into the Exchange’s existing surveillance system architecture and are thus subject to the relevant surveillance processes. This is true for both surveillance system processing and manual processes that support the Phlx’s surveillance program. Additionally, the Exchange is also a member of the ISG under the Intermarket Surveillance Group Agreement. ISG members work together to coordinate surveillance and investigative information sharing in the

¹²⁵ 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).

stock and options markets. Both the Exchange and CME are members of ISG.¹²⁶

The Exchange, in its normal course of surveillance, will monitor for any potential manipulation of the Nasdaq Bitcoin Index Options settlement value according to the Exchange’s current procedures. The Exchange believes that its surveillance procedures currently in place will allow it to adequately surveil for any potential manipulation in the trading of Nasdaq Bitcoin Index Options.

The Exchange believes that the proposed contract specifications will be attractive to market participants, and will remove impediments to and perfect the mechanism of a free and open market and a national market system. The proposal is designed to ensure that Nasdaq Bitcoin Index Options are listed and traded under the same terms that apply to other index options that are currently traded on the Exchange. Nasdaq Bitcoin Index Options will be subject to the same rules that presently govern the trading of index options, including sales practice rules, margin requirements, trading rules, and position and exercise limits. The proposed product is a cash-settled index option that permit holders to receive U.S. dollars representing the difference between the current Bitcoin spot market and the exercise price of the option and would not involve holding physical Bitcoin similar to the Spot Bitcoin ETPs, which entailed the custody of Bitcoin assets. The Exchange’s proposal to have a minimum increment of \$0.01 for all series will enable traders to make the most effective use of the product for trading and hedging purposes. The Exchange believes that the rules applicable to trading in Nasdaq Bitcoin Index Options are consistent with the protection of investors and the public interest.

Permitting Nasdaq Bitcoin Index Options to be P.M.-settled whereby the exercise settlement value would be derived from closing prices on the day of expiration is consistent with the Act. The proposed rule change will provide investors with greater trading and hedging opportunities and flexibility. The size of the spot bitcoin market,¹²⁷ and the high correlation of these components to the Spot Bitcoin ETPs make it unlikely the proposal would result in material impact on the underlying, the index value, or the

¹²⁶ For a list of the current members and affiliate members of ISG, see <https://www.isgportal.com/>.

¹²⁷ As of September 23, 2025, the market capitalization of the spot bitcoin market is 2,249,669,484.352. This figure utilizes a price of \$112,950.

broader market. Further, the Nasdaq Bitcoin Index Options would trade within a complex where there are multiple other highly correlated instruments that all hold bitcoin available for hedging—such as Spot Bitcoin ETPs for which the CME CF Bitcoin Reference Rate constitutes the index, and options and futures on bitcoin, in addition to the underlying—and that this reduces the risk that listing these options would strain liquidity providers or materially impact, the index value, or the broader market. The Exchange is unaware of any reason why trading Nasdaq Bitcoin Index Options as P.M.-settled options would create such concerns or impact. Particularly, the Exchange does not believe allowing Nasdaq Bitcoin Index Options to transact as P.M.-settled options will have any significant adverse economic impact on the index, or underlying. Today, options on the Cboe Exchange, Inc. (“Cboe”) Bitcoin U.S. ETF Index (“CBTX”) and the Mini-Cboe Bitcoin U.S. ETF Index (“MBTX”) are P.M.-settled.¹²⁸ In a recent proposal, Cboe noted that it had not experienced any adverse impact on fair and orderly markets in connection with the listing of CBTX and MBTX options that are P.M.-settled and expire on the last calendar day of the month and quarter.¹²⁹ Further, the Exchange believes that providing P.M.-settlement will make this product more attractive to market participants and help garner additional support for this new index options product. In particular, retail investors, prefer P.M.-settled index options. P.M.-settlement is preferred by retail investors as it allows market participants to hedge their exposure for the full week. A.M.-settled options by contrast are based on opening prices on the day of expiration and therefore stop trading on the day prior, leaving residual risk on the day of expiration. P.M.-settled Weekly and Expiration Friday expirations for the Nasdaq Bitcoin Index Options will provide investors with expanded hedging tools and greater trading opportunities and

flexibility providing investors with additional means to manage their risk exposures and carry out their investment objectives. The Exchange does not believe that permitting Nasdaq Bitcoin Index Options to trade as P.M.-settled Index Options will raise any prohibitive regulatory concerns, nor adversely impact fair and orderly markets on expiration days. The Exchange has not experienced any meaningful regulatory concerns, nor adverse impact on fair and orderly markets, in connection with these programs on its Nonstandard Expirations.¹³⁰

The Exchange believes the permitting Weekly expirations and EOMs should create greater trading and hedging opportunities and flexibility, and provide customers with the ability to tailor their investment objectives more closely. This is comparable to the manner in which all index options trade on Phlx.

Additionally, a position and exercise limit for Nasdaq Bitcoin Index Options of 24,000 contracts is consistent with the Act because the limits are in line with options on the Cboe CBTX and MBTX that have position limits of 24,000 contracts. Today, CBTX is trading 2,660.00 as of September 23, 2025. CBTX notional is \$266,000 (index price * \$100) as of September 23, 2025. The Nasdaq Bitcoin Index has a notional value of \$112,444.28 as of September 23, 2025. The proposed 24,000 position and exercise limits for Nasdaq Bitcoin Index Options represent less than half of the notional value of CBTX. The Exchange believes that the proposed position and exercise limits will prevent fraudulent and manipulative acts and practices.

Finally, the Exchange represents that it and OPRA have the necessary system capacity to support additional quotations and messages that will result from the listing and trading Nasdaq Bitcoin Index Options.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an index option product with a novel structure that will enhance competition among market participants, to the benefit of investors and the marketplace.

¹³⁰ Options trading in the Exchange's Non-Standard Program are p.m.-settled. See Options 4A, Section 12(b)(6).

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as Nasdaq Bitcoin Index Options would be subject to Exchange rules that currently govern the listing and trading of index options, including permissible expirations, strike prices, minimum increments, position and exercise limits, and margin requirements. Nasdaq Bitcoin Index Options will be equally available to all market participants who wish to trade such options.

The Exchange does not believe the proposal will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the extent that permitting Nasdaq Bitcoin Index Options to trade on the Exchange may make Phlx a more attractive marketplace to market participants, such market participants are free to elect to become market participants on the Exchange. Additionally, other options exchanges are free to amend their rules, as applicable, to permit them to list and trade index options that track the value of Bitcoin. The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition, as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a relatively low-cost means to hedge their portfolios and meet their investment needs in connection with spot Bitcoin prices and Bitcoin-related products and positions, in a cash-settled product. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products.

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 (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings

¹²⁸ CBTX and MBTX options have P.M.-settlement and expirations on the last calendar day of the month or quarter pursuant to Cboe Rule 4.13(a)(2)(C) and (B), respectively; and P.M.-settled Weeklys and Expiration Friday expirations pursuant to Cboe Rule 4.13(e) and Rule 4.13, Interpretation and Policy .13.

¹²⁹ See Securities and Exchange Act Release No. 103997 (September 17, 2025, 90 FR 45431 at 45434 (September 22, 2025) (SR-Cboe-2025-004) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Add P.M.-Settled Options on the Cboe Bitcoin U.S. ETF Index and the Mini-Cboe Bitcoin U.S. ETF Index With Third Friday Expirations, Nonstandard Expirations, and Quarterly Index Expirations).

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–Phlx–2025–50 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–2025–50. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–Phlx–2025–50 and should be submitted on or before October 20, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³¹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2025–18797 Filed 9–26–25; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21311 and #21312;
KANSAS Disaster Number KS–20028]

Presidential Declaration of a Major
Disaster for Public Assistance Only for
the State of Kansas

AGENCY: U.S. Small Business
Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Kansas (FEMA–4891–DR), dated September 11, 2025.

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

DATES: Issued on September 11, 2025.

Incident Period: June 3, 2025 through June 7, 2025.

Physical Loan Application Deadline Date: November 10, 2025.

Economic Injury (EIDL) Loan Application Deadline Date: June 11, 2026.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President’s major disaster declaration on September 11, 2025, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications online using the MySBA Loan Portal <https://lending.sba.gov> or other locally announced locations. Please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1–800–659–2955 for further assistance.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Barber, Butler, Chase, Coffey, Cowley, Franklin, Greenwood, Harper, Hodgeman, Kingman, Lyon, Morris, Osage, Stanton, Sumner, Wallace.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Non-Profit Organizations with Credit Available Elsewhere ...	3.625
Non-Profit Organizations without Credit Available Elsewhere	3.625
<i>For Economic Injury:</i>	
Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 213116 and for economic injury is 213120.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 1234.3(b).)

James Stallings,
Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2025–18803 Filed 9–26–25; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21320 and #21321;
CALIFORNIA Disaster Number CA–20036]

Administrative Declaration of a
Disaster for the State of California

AGENCY: U.S. Small Business
Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of California dated September 24, 2025.

Incident: TCU September Lightning Complex Fire.

DATES: Issued on September 24, 2025.

Incident Period: September 2, 2025 through September 13, 2025.

Physical Loan Application Deadline Date: November 24, 2025.

Economic Injury (EIDL) Loan Application Deadline Date: June 24, 2026.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Jennifer Talarico, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator’s disaster declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal <https://lending.sba.gov> or other locally announced locations. Please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1–800–659–2955 for further assistance. The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Tuolumne.
Contiguous Counties: California: Alpine, Calaveras, Madera, Mariposa, Merced, Mono, Stanislaus.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere	6.000
Homeowners without Credit Available Elsewhere	3.000

¹³¹ 17 CFR 200.30–3(a)(12).

	Percent
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere ...	3.625
Non-Profit Organizations without Credit Available Elsewhere	3.625
<i>For Economic Injury:</i>	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 213205 and for economic injury is 213210.

The State which received an EIDL Declaration is California.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 1234.3(b))

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2025-18783 Filed 9-26-25; 8:45 am]

BILLING CODE 8026-09-P

SUSQUEHANNA RIVER BASIN COMMISSION

Actions Taken at the September 24, 2025 Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: As part of its regular business meeting held on September 24, 2025 in Harrisburg, Pennsylvania, the Commission approved the applications of certain water resources projects and took additional actions, as set forth in the **SUPPLEMENTARY INFORMATION** below.

DATES: September 25, 2025.

ADDRESSES: Susquehanna River Basin Commission, 4423 N Front Street, Harrisburg, PA 17110-1788.

FOR FURTHER INFORMATION CONTACT:

Jason E. Oyler, General Counsel and Secretary, telephone: (717) 238-0423, ext. 1312, fax: (717) 238-2436; email: joyler@srbc.gov. Regular mail inquiries may be sent to the above address. See also the Commission website at www.srbc.gov.

SUPPLEMENTARY INFORMATION: The Commission took the following actions at its September 24, 2025 business meeting: (1) adopted the preliminary Fiscal Year 2027 budget; (2) unanimously adopted the member

jurisdiction allocation requests for Fiscal Year 2027; (3) approved a grant amendment with the PA Department of Environmental Protection; (4) approved two settlements of regulatory violations; and (5) approved 21 regulatory program projects and tabled one project as listed below.

Project Applications Approved

1. *Project Sponsor and Facility:* Blackhill Energy LLC (Chemung River), Athens Township, Bradford County, Pa. Application for renewal with modification of surface water withdrawal of up to 1.999 mgd (peak day) (Docket No. 20220903).

2. *Project Sponsor:* Calpine Mid Merit, LLC. *Project Facility:* York Energy Center 1, Peach Bottom Township, York County, Pa. Application for consumptive use of up to 4.900 mgd (peak day).

3. *Project Sponsor:* Calpine Mid Merit, LLC. *Project Facility:* York Energy Center 2 (Susquehanna River), Peach Bottom Township, York County, and Drumore Township, Lancaster County, Pa. Modification to surface water withdrawal of up to 19.010 mgd (peak day) and consumptive use of up to 5.800 mgd (peak day) (Docket No. 20060308).

4. *Project Sponsor and Facility:* City of Lock Haven, Wayne Township, Clinton County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.720 mgd from the Matz Well and 0.720 mgd from the Quaker Hill Well.

5. *Project Sponsor and Facility:* Coterra Energy Inc., Eaton Township, Wyoming County, Pa. Application for renewal of groundwater withdrawals of up to 0.864 mgd (30-day average) from the Hatchery Wellfield (Wells 1, 2, and 3) (Docket No. 20200903).

6. *Project Sponsor and Facility:* Expand Operating LLC (Susquehanna River), Standing Stone Township, Bradford County, Pa. Application for surface water withdrawal of up to 4.000 mgd (peak day).

7. *Project Sponsor and Facility:* Expand Operating LLC (Susquehanna River), Wilmot Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 3.000 mgd (peak day) (Docket No. 20200905).

8. *Project Sponsor and Facility:* Expand Operating LLC (Susquehanna River), Windham Township, Wyoming County, Pa. Application for renewal of surface water withdrawal of up to 3.000 mgd (peak day) (Docket No. 20200906).

9. *Project Sponsor and Facility:* Expand Operating LLC (Wyalusing Creek), Wyalusing Township, Bradford County, Pa. Application for renewal of

surface water withdrawal of up to 3.000 mgd (peak day) (Docket No. 20200907).

10. *Project Sponsor:* Graymont (PA) Inc. *Project Facility:* Pleasant Gap Facility, Spring Township, Centre County, Pa. Application for renewal of groundwater withdrawal of up to 0.050 mgd (30-day average) from the Plant Make-Up Well (Docket No. 20100307).

11. *Project Sponsor and Facility:* Green Leaf Water LLC (Lycoming Creek), Lewis Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.900 mgd (peak day) (Docket No. 20200908).

12. *Project Sponsor and Facility:* Greylock Production, LLC (Pine Creek), Gaines Township, Tioga County, Pa. Application for surface water withdrawal of up to 3.000 mgd (peak day).

13. *Project Sponsor and Facility:* Hanover Foods Corporation, Penn and Heidelberg Townships, York County, Pa. Applications for renewal of consumptive use of up to 0.499 mgd (peak day) and groundwater withdrawals (30-day averages) of up to 0.072 mgd from Well PW-3, 0.144 mgd from Well PW-4, and 0.231 mgd from Well PW-5 (Docket Nos. 19980503 and 19991104).

14. *Project Sponsor and Facility:* Hegins-Hubley Authority, Hegins Township, Schuylkill County, Pa. Application for renewal of groundwater withdrawal of up to 0.216 mgd (30-day average) from Well 6 (Docket No. 19981204).

15. *Project Sponsor:* Hillandale-Gettysburg, L.P. *Project Facility:* Site 3, Tyrone Township, Adams County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.019 mgd from Well 1, 0.035 mgd from Well 2, 0.035 mgd from Well 3, and 0.060 mgd from Well 4.

16. *Project Sponsor and Facility:* Lykens Borough Authority, Wiconisco Township, Dauphin County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.393 mgd from Well 2 and 0.035 mgd from Well 3.

17. *Project Sponsor and Facility:* Pennsylvania General Energy Company, L.L.C. (Muncy Creek), Shrewsbury Township, Lycoming County, Pa. Application for surface water withdrawal of up to 1.500 mgd (peak day).

18. *Project Sponsor and Facility:* Repsol Oil & Gas USA, LLC (Susquehanna River), Sheshequin Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20200913).

19. *Project Sponsor and Facility:* Sabre Energy Development LLC (Muncy Creek), Muncy Creek Township, Lycoming County, Pa. Application for surface water withdrawal of up to 1.700 mgd (peak day).

20. *Project Sponsor and Facility:* Sabre Energy Development LLC (Muncy Creek), Penn Township, Lycoming County, Pa. Application for surface water withdrawal of up to 1.700 mgd (peak day).

21. *Project Sponsor:* York Haven Power Company, LLC. *Project Facility:* York Haven Hydroelectric Project, Londonderry Township, Dauphin County; Conoy Township, Lancaster County; and York Haven Borough and Newberry Township, York County, Pa., Modification to the design of the nature-like fishway (Docket No. 20200308).

Project Tabled

22. *Project Sponsor:* Veolia Water Pennsylvania, Inc. *Project Facility:* Newberry Operation, Newberry Township, York County, Pa. Application for renewal of groundwater withdrawal of up to 0.121 mgd (30-day average) from the Paddletown Well (Docket No. 20090917).

Authority: Public Law 91–575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806, 807, and 808.

Dated: September 25, 2025.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2025–18831 Filed 9–26–25; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Operating Limitations at Newark Liberty International Airport

AGENCY: Department of Transportation, Federal Aviation Administration (FAA).

ACTION: Notice of Order Extending and Modifying Scheduling Limits at Newark Liberty International Airport.

SUMMARY: The FAA is amending the June 10, 2025, order limiting the number of scheduled aircraft operations at Newark Liberty International Airport (EWR). The amendment extends the June 2025 order by approximately one year, or two IATA scheduling seasons, through October 24, 2026. Further, the amendment increases the operating limitation from 68 to 72 hourly operations.

DATES: This action is effective October 26, 2025.

ADDRESSES: If you wish to review the background documents or comments received in this proceeding, you may go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the electronic docket. You may also go to the U.S. Department of Transportation's Docket Operations in Room W12–140 on the ground floor of the West Building 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: Al Meilus, Slot Administration and Capacity Analysis, FAA ATO System Operations Services, AJR–G5, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–2822; email 7-awa-slotadmin@faa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

On June 10, 2025, the FAA issued a final order limiting operations at EWR (the June 2025 order).¹ The June 2025 order is scheduled to expire on December 31, 2025. On August 12, 2025, the FAA published a notice that invited comments on its proposal to extend the June 2025 order.² For the reasons described in the notice, the staffing levels at EWR have not materially changed since the FAA hosted delay reduction meetings earlier this year from May 14, 2025, to May 16, 2025. The FAA finds that significant delay and operational disruption would occur at EWR if the June 2025 order were to expire as originally scheduled. As such, the FAA proposed to extend the June 2025 order for approximately one year.

Now, the FAA issues this one-year extension of the June 2025 order to address staffing shortfalls and provide additional time for controller onboarding and training. The FAA received written submissions on the proposal from ten commenters. The commenters include eight scheduled carriers, the airport operator, and an anonymous commenter.

II. Background

The U.S. Government has exclusive sovereignty over the airspace of the United States.³ Under this broad authority, Congress has delegated to the Administrator extensive and plenary authority to ensure the safety of aircraft and the efficient use of the nation's

navigable airspace. In this regard, the Administrator is required to assign the use of navigable airspace by regulation or order under such terms, conditions and limitations as he may deem necessary to ensure its efficient use.⁴ The Administrator may modify or revoke an assignment when required in the public interest.⁵ Furthermore, in carrying out the Administrator's safety responsibilities under the statute, the Administrator must consider controlling the use of the navigable airspace and regulating civil operations in that airspace in the interest of the safety and efficiency of those operations.⁶

The FAA's statutory authority to manage “the efficient use of airspace” encompasses its management of the nationwide system of air commerce and air traffic control. Ensuring the efficient use of the airspace means that the FAA must take all necessary steps to prevent extreme congestion at an airport from disrupting or adversely affecting the overall air traffic system for which the FAA is responsible. Further, delays at EWR frustrate the efficient operations of air carriers transporting passengers to and from this important region. The impacts of delays at EWR spread throughout the national airspace system (NAS), resulting in substantial economic loss and inconvenience for the traveling public, air carriers, shippers, and others.

EWR Level 2 Designation

On April 6, 2016, the FAA designated EWR as a Level 2 schedule-facilitated airport under the International Air Transportation Association (IATA) Worldwide Slot Guidelines (WSG), effective October 30, 2016.⁷

The FAA does not allocate slots or impose minimum usage requirements at EWR. Level 2 schedule facilitation depends upon close and continuous discussions and voluntary agreement between carriers and the FAA to reduce congestion. At Level 2 airports, the FAA provides priority consideration for flights approved by the FAA and operated by the carrier in those approved times in the prior scheduling season when the FAA reviews proposed flights for facilitation in the next corresponding scheduling season. Only those flights that were actually operated

⁴ 49 U.S.C. 40103(b)(1), as previously codified in 49 U.S.C. App. 307(a). Title 49 was recodified by Public Law 103–222, 108 Stat. 745 (1994). The textual revisions were not intended to result in substantive changes to the law. The recodification stated that the words in 307(a) “under such terms, conditions, and limitations as he may deem” were omitted as surplus. H. Rpt. 103–180 (103d Cong., 1st Sess. 1993) at 262.

⁵ *Id.*

⁶ 49 U.S.C. 40101(d)(4).

⁷ 81 FR 19861 (April 6, 2016).

¹ See Operating Limitations at Newark Liberty International Airport, Order Establishing Targeted Scheduling Limits, 90 FR 24482 (June 10, 2025).

² See Operating Limitations at Newark Liberty International Airport, Notice of Request for Comment, 90 FR 38881 (August 12, 2025).

³ 49 U.S.C. 40103.

as approved in a scheduling season generally receive priority for the next corresponding scheduling season. However, the FAA notes that the usual Level 2 processes include flexibility for the facilitator to prioritize planned flights that are canceled in advance or on the day of the scheduled operation due to operational impacts beyond the control of the carrier.

Although the FAA redesignated EWR from a Level 3 to Level 2 airport in 2016, the FAA has continuously monitored the airport's performance due to its prominence in the NAS and impact on the system overall. As such, the FAA implemented targeted scheduling limits at EWR in an effort to minimize delay and congestion. The current nominal targeted scheduling limit for EWR is 77 operations per hour.⁸ The FAA has implemented a number of mitigations to address delays at the airport due to staffing challenges and runway construction.

Staffing-Related Relief at EWR

On March 27, 2023, the FAA announced a limited policy for prioritizing up to ten percent of a carrier's operations at EWR, if returned due to post-pandemic effects on ATC staffing at New York Terminal Radar Approach Control (TRACON) (N90), for purposes of establishing a carrier's operational baseline in the next corresponding season.⁹ The FAA determined that the interdependency and complexity of the airspace, number of flights into the New York City region, and N90 staffing shortfalls met the applicable waiver standard for the N90's Level 3 airports and justified an offer of relief for carriers at EWR. The FAA extended this relief through the close of the Summer 2025 Scheduling Season.¹⁰ This relief is part of a continuous effort to manage traffic at EWR safely and efficiently while staffing levels improve.

EWR Construction

On November 20, 2024, the FAA announced a limited, conditional policy for prioritizing returned operations at EWR due to a construction-related runway closure at EWR for purposes of establishing a carrier's operational baseline in the next corresponding scheduling seasons.¹¹ Runway 4L–22R was scheduled to be closed daily from April 15, 2025, through June 15, 2025.¹²

Weekend closures of Runway 4L–22R were scheduled from March 1, 2025, to April 14, 2025, and will resume September 1, 2025, to December 31, 2025, from Friday at 11:00 p.m. through 5:00 a.m. on Sunday, Eastern Time. These two time periods are referred to as “the construction period” throughout.

The FAA worked with carriers prior to issuing the policy to address the impact this runway closure has on scheduled operations for the Summer 2025 and Winter 2025/2026 scheduling seasons. The FAA requested that carriers reduce operations from April 15, 2025, through June 15, 2025, to no more than 35 arrivals per hour from 6:00 a.m. to 2:00 p.m., Eastern Time and no more than 31 arrivals per hour from 3:00 p.m. to the end of the day, Eastern Time. The FAA also requested that carriers reduce operations to no more than 35 departures per hour through 4:00 p.m., Eastern Time, and no more than 31 departures per hour from 5:00 p.m. through the end of the day, Eastern Time. The FAA stated that no new requested timings would be approved during the runway closure period.

Air Traffic Controller Staffing Status

In July 2024, the FAA transferred ATC oversight for the Newark area, known as Area C, to the Philadelphia TRACON (PHL). Presently, PHL's targeted staffing number remains 114 Certified Professional Controllers (CPCs); the current onboard number at PHL is 82, representing 71.9 percent of the staffing target. Within PHL, Area C's targeted staffing number is 46 CPCs, with its current staff of 22 CPCs representing 48 percent of the staffing target. Under an arrangement by the previous administration, by the end of July 2026, 14 CPCs currently assigned to Area C will return to the New York Terminal Radar Approach Control facility (N90), which had overseen the Newark area. ATO is taking action to replace those 14 CPCs. PHL now has a total of 31 trainees, with 26 assigned to Area C.

Delay Reduction Meeting

The FAA, on behalf of the Department of Transportation (DOT), convened a delay reduction meeting with U.S. air carrier participants with a minimum of 10 scheduled arrivals at EWR and representatives from PANYNJ on May

14, 2025, and the meeting continued until its recess on May 16, 2025. The FAA held individual sessions over the three days with seven air carriers and PANYNJ. In these sessions, the FAA and carriers discussed voluntary modifications to schedules during the construction period and through the rest of the Summer 2025 scheduling season. Representatives of the Department of Justice's Antitrust Division and the DOT monitored the joint and individual meeting sessions of the delay reduction meeting. In addition, the in-person sessions were transcribed.

Order Establishing Targeted Scheduling Limits

The June 2025 order resulted from the schedule reductions achieved by the delay reduction meetings. The June 2025 order reduced hourly operations through the end of the Summer 2025 scheduling season, October 25, 2025, and Saturdays from September 1, 2025, to December 31, 2025. This order took effect on June 10, 2025, and without the extension provided here, would have expired in part on October 25, 2025, and in full on December 31, 2025. The FAA established the order's December 31, 2025, expiration date to encompass the remainder of the Summer 2025 scheduling season and the completion of runway construction planned for EWR's Runway 4L–22R.

The June 2025 order limited operations at two separate rates depending on the date of the operation. During the construction period, the targeted limit is no more than 28 arrivals and 28 departures per hour. Outside of the construction period, until the close of the Summer 2025 scheduling season, October 25, 2025, the limit is no more than 34 arrivals and 34 departures per hour.

Notice of Request for Comment on Proposed Order Extension and Rate Increase

On August 12, 2025, the FAA published a Notice of Request for comment.¹³ The FAA announced a proposed extension of the June 2025 order for approximately one year, through October 24, 2026, and an increase in the daily operating limitations outside of the construction period. The FAA asked carriers operating at EWR to consider three allocation options to achieve a rate of 72 hourly operations, with 36 arrivals and departures respectively, up from the 68 hourly operations established by the

⁸ 89 FR 43501 (May 17, 2024).

⁹ 88 FR 18032 (March 27, 2023).

¹⁰ 90 FR 12931 (March 19, 2024).

¹¹ 89 FR 91544 (November 20, 2024).

¹² On June 2, 2025, Secretary of Transportation Sean Duffy, Acting FAA Administrator Christopher Rocheleau, and the Port Authority of New York and New Jersey announced that Runway 4L–22R

reopened 13 days ahead of schedule, allowing regular runway operations to resume for Instrument Flight Rules operations once the FAA conducts the necessary check flights. See <https://www.panynj.gov/port-authority/en/press-room/press-release-archives/2025-press-releases/governor-murphy-and-the-port-authority-of-new-york-and-new-jersey.html>.

¹³ Operating Limitations at Newark Liberty International Airport, Request for Comment, 90 FR 38881 (August 12, 2025).

June 2025 order. Option One was based on proportionality to the number of operations given up by each air carrier in the summer schedule to distribute the incremental operations for the Winter 2025/2026 season. Under this scenario, the FAA would apply equivalent reductions agreed upon in the Summer 2025 season to the approved Winter 2025/2026 baseline schedule to the extent practicable and then proportionately allocate the four new operations per hour up to the new 72 operations per hour cap, based on air carriers' prior reductions.

Option Two included a reverse weighted lottery to withdraw operations, using the approved Winter 2025/2026 baseline schedule with the objective of achieving an operational capacity of 72 operations per hour for the Winter 2025/2026 schedule. For the Summer 2026 schedule, the FAA would use the Summer 2025 schedule under the June order as the baseline and a weighted lottery to allocate the additional four operations per hour. The FAA asked for comments from carriers on how to structure such a lottery, including what baseline schedule should be used.

The final Option Three included convening a new round of delay reduction meetings pursuant to 49 U.S.C. 41722 to negotiate reductions. The FAA proposed either starting negotiations from the approved Winter 2025/2026 baseline schedule or rolling over the agreed-upon hourly reductions from the Summer 2025 season to the Winter 2025/2026 approved baseline schedule and utilizing the delay reduction meeting to reverse some of the negotiated reductions to achieve the new 72 operations per hour target.

III. Comments Regarding Allocation Method and Long-Term Options for EWR

By the close of the public comment period on August 15, 2025, the FAA received ten comments on the proposed extension and amendment to the order as well as the allocation methods. Commenters included United Airlines (United), Delta Air Lines (Delta), DHL, Alaska Airlines (Alaska), Air Canada, the Port Authority of New York and New Jersey (PANYNJ), Volaris Airlines, El Al Israel Airlines, Air Premia and one anonymous commenter. The comments generally indicated support for extending the operating limitations as a means to address congestion at EWR. Commenters requested transparency from the FAA irrespective of what allocation method is used to achieve the rate of 72 hourly operations.

United commended the Department for acknowledging and attempting to remediate the adverse effects of EWR controller staffing shortages, ATC relocation, and outdated and unreliable technology. United further pledged to work with the FAA and industry to improve operations and efficiency at EWR. United asked the FAA to consider limiting operations by 30-minute intervals instead of 60-minute intervals. United contends that this would make operations at EWR more precise, predictable, and efficient.

United also encouraged the FAA to publish the approved movements by carrier for the order to provide transparency to the reduction process. The airline further called on the FAA to retain the enforcement provisions found in the June 2025 order to prevent the backfilling of returned operations by other carriers, thereby eliminating reduction efforts.

Additionally, United suggested that the FAA consider setting operations for Summer 2026 at the targeted scheduling rate under normal conditions, 77 hourly operations, and establish criteria or improvement checkpoints that would allow for the FAA to increase the limit from 72 to 77 hourly operations by the start of Summer 2026. United also requested that the FAA re-include EWR under the Staffing-Related Relief waiver recently extended at JFK and LGA.¹⁴

With respect to the allocation method for the order extension, United supports the proportionality method proposed by the FAA. United believes this to be the simplest and fairest method and recognizes good citizenship on the part of the carriers who participated in the delay reduction meetings in May. According to United, the schedule from Summer 2025 can easily be used as a reduced baseline for the Summer 2026 allocation as it reflects approved operations after the delay reduction meetings. To that end, United requested that the FAA publish the final approvals for Summer 2025, by carrier, by hour. Since the Winter 2025/2026 baseline is not finalized, United recommends using the schedules submitted by air carriers in early May 2025 and approved by the FAA by the Seasonal Allocation Deadline in June 2025. United suggests that the FAA could then work with carriers, including cargo and foreign air carriers, one-on-one to identify the operational adjustments needed per

carrier. United contends that the weighted lottery option is "needlessly complicated" and that another round of delay reduction meetings is overly burdensome and could undermine the progress made during the May sessions.

Lastly, United reiterated their support for transitioning EWR from a Level 2 to a Level 3 airport. United believes that this will improve the passenger experience at EWR through long-term, comprehensive, predictable, and transparent slot controls with equitable rules across EWR and JFK.

In light of the comments filed, the FAA has determined that it will extend a voluntary offer of up to ten percent relief at EWR through the end of Summer 2026 in addition to extending these operating limitations. The FAA welcomes voluntary returns by carriers beyond this effort to further the goal of efficiency and on-time performance at the airport. The terms of this relief are expanded upon in Section X of this document. Consistent with both the Level 2 schedule facilitation process and the delay reduction proceedings earlier this year, the FAA notified carriers individually of their approved movements.

Consideration of a return to Level 3 slot controls at EWR is beyond the scope of this final Order.

The FAA has determined that operating limitations by 30-minute intervals provides an appropriate level of detail to identify and assign schedule reduction targets to specific carriers.

Delta also supports the FAA's decision to extend the order through October 24, 2026, and amend the operating limitations to 72 hourly operations from 68 hourly operations currently established. Delta is not in favor of a weighted lottery and instead supports a proportional return of approved runway authorizations voluntarily relinquished as part of the June 2025 order. Delta also supports publication of the approved timings upon the finalization of the order.

The FAA acknowledges Delta's comments and participation in this process to establish new temporary scheduling limits. As discussed, FAA notified carriers individually of their approved movements, consistent with both the Level 2 schedule facilitation process and the delay reduction proceedings earlier this year.

Alaska also supports an increase in the number of hourly operations at EWR moving forward. Alaska expressed a preference for another round of delay reduction meetings on the basis of the statutory framework established by 49 U.S.C. 41722 and the collaborative nature of the proceedings. Additionally,

¹⁴ See Staffing-Related Relief Concerning Operations at Ronald Reagan Washington National Airport, John F. Kennedy International Airport, and LaGuardia Airport, October 26, 2025, Through March 28, 2026 (Winter 2025/2026), and March 29, 2026, Through October 24, 2026 (Summer 2026), 90 FR 35360 (July 25, 2025).

Alaska indicated that the May delay reduction meetings allowed for an opportunity to provide the Department with insight into the nature of their operations at EWR and the impact certain reductions would have on their network. Alaska highlighted that their operations at EWR are long-haul, transcontinental round trips to West Coast markets that are constrained by the three-hour time difference between coasts. From a competition and market access perspective, Alaska stated that it provides an alternative option to larger U.S. carriers for customers purchasing transcontinental flights.

Upon consideration of all of the comments and available options, the FAA has determined that moving forward with a proportional reduction based on the reductions received during the delay reduction proceedings is the appropriate path forward at this time.

PANYNJ stated that it remains committed to partnering with the FAA in returning to full operational capacity. PANYNJ detailed the circumstances leading up to the FAA calling a delay reduction meeting and the subsequent telecommunications improvements made to ensure reliability and redundancy. Additionally, PANYNJ asked for more information from the FAA on the staffing pipeline for Area C. PANYNJ also outlined the improvements undertaken at EWR to enhance the airfield and improve efficiency throughout the airport's facilities. As such, PANYNJ emphasizes that capacity reductions hinder the ability of PANYNJ to maximize the utilization of the improvements made at EWR. With respect to the allocation method, PANYNJ requests that the FAA use a method that considers competition over proportionality. PANYNJ also expressed a commitment to participation in any additional delay reduction proceedings.

The FAA shares PANYNJ's goal of returning EWR to full capacity in the future and, in doing so, to address safety, efficiency, and other concerns as warranted.

Air Canada requested that the staffing waiver be put in place once again at EWR. As discussed in the response to United, the FAA will extend the staffing waiver to EWR through the end of the Summer 2026 scheduling season.

DHL asked that their only operation at EWR, CVG–EWR–CVG operated by 21Air, not be impacted by this reduction effort. At this time, the FAA is not seeking reductions from carriers with fewer than ten daily round trips at EWR.

Volaris Airlines asked that the FAA not reduce any of their approved operations at EWR. As with the original

order, the FAA is not mandating reductions from foreign carriers as part of these proceedings.

El Al Israel Airlines (El Al) also supports a proportional reduction and suggested criteria for the FAA to consider under a weighted lottery allocation. El Al provided a number of suggestions for how the FAA could improve its collaboration with carriers including: increased communication with carriers such as convening meetings in advance of major events like the FIFA World Cup, implementing performance-based adjustments if conditions at EWR improve, and providing increased lead time on decisions to allow carriers to inform customers of itinerary changes well in advance, particularly where religious observance is impacted by a schedule change.

Air Premia requested to return to seven daily frequencies consistent with their pre-construction period schedule. Further, they cited an arrangement with the U.S. Department of Justice to operate seven frequencies due to anti-trust concerns raised by the Korean Air-Asiana Airlines merger. Air Premia stated that in December 2024, the Korean Air-Asiana Airlines merger was approved on the condition that Air Premia receive specific U.S. routes, which included New York. Air Premia stated that its expanded role helps prevent monopolistic control over transpacific routes and ensures continued consumer choice and competitive pricing, especially for the Incheon-New York route.

As previously mentioned, the FAA will not reduce operations on foreign carriers as part of these proceedings. The FAA will work with Air Premia to confirm their baseline operations outside of these proceedings.

An anonymous commenter supports the extension of the operating limitations to prevent potential airport congestion and delays for passengers traveling through EWR. The commenter further stated that the previous staffing shortages due to the pandemic are no longer an issue and the Newark airport should be able to maintain the operating limitations by extending the timeframe through 2026 to continue to ease flight delays.

The FAA acknowledges that staffing shortages remain an issue, but the FAA aims to make significant improvements in the staffing pipeline in 2026 which will allow EWR to increase operations. The FAA appreciates the comments received and has taken them under consideration.

IV. Allocation Method

After consideration of the comments received on the options, the FAA selects Option One to issue the allocations. As described above, allocations will be made proportionally based on carriers' operations at EWR.

In the Summer 2025 reductions achieved at the delay reduction meeting, the FAA focused on reducing arrivals and departures to no more than 34 operations of each per hour. Correspondingly, for Winter 2025/2026 and Summer 2026, the FAA will focus on reducing arrivals and departures to no more than 36 operations of each per hour.

The FAA will begin by carrying each carrier's reductions per hour from the Summer schedule, to the extent practicable, to the currently approved Winter schedules at EWR for Winter 2025/2026, and the approved Summer schedules at EWR in Summer 2026.

The FAA will work to ensure the targeted schedule for each carrier each hour will be proportional to their approved schedules for each individual season, taking into account that schedules may be different from one season to the next.

The FAA does not believe that a weighted lottery, Option Two, is the best path to achieve the necessary reductions at this time. The FAA appreciates those carriers who provided suggestions on criteria for this approach if this option would have been selected. Similarly, the FAA determined that another round of delay reduction meetings, Option Three, is overly burdensome and will likely achieve a similar result as the first round. The proportional allocation method will be based on the reductions achieved through the 49 U.S.C. 41722 process. These reductions were recently agreed upon by the carriers. As such, the FAA does not believe that another round of delay reduction meetings would be an efficient use of public resources when the FAA can leverage the results of the May meetings. The FAA believes that applying a proportional reduction to the Winter 2025/2026 and Summer 2026 schedules based on the delay reduction meetings in May is a reasonable and rational approach to effectuate this order extension and amendment. Further, Option One is a timely means to issue a decision in light of the comments

V. Hourly Targeted Scheduling Limitations

Under this order, outside of the construction period from October 26, 2025, through December 31, 2025, the

daily scheduling limit is no more than 72 hourly operations, or 36 arrivals and departures each per hour. From January 1, 2026, through October 24, 2026, or the expiration date of this order, the daily scheduling limit is 72 hourly operations, or 36 arrivals and departures each per hour. Consistent with the June 2025 order, during the construction period, on weekends from September 1, 2025, through December 31, 2025, from Friday at 11:00 p.m. through 5:00 a.m. on Sunday, the scheduling limit is 56 hourly operations, or 28 arrivals and departures each per hour.

The FAA will continue to work with carriers to ensure more balanced operations within each 30-minute interval of each schedule-facilitated hour.

VI. Foreign Air Carriers

Prior to the issuance of this Order, the FAA notified all stakeholders, including foreign carriers, of proposed extension and amendment of the June 2025 order. The FAA will accept any returns from foreign carriers through the IATA process consistent with the delay reduction proceedings and the June 2025 order. The FAA will also work with all carriers, including foreign air carriers, as usual in responding to requests and confirming times that are available subject to the limits described above.

VII. Unscheduled Operations and New Scheduled Operations

The FAA will not accommodate new scheduled operations at EWR. Permitting new scheduled operations could exacerbate the existing conditions and undo the purpose of the delay reduction meeting and these operating limitations, which is to achieve operational stability at EWR.

The FAA will continue to accommodate other unscheduled operations, such as cargo, charter, or nonscheduled foreign carrier operations, on a “first come, first serve” basis to the extent such operators can be accommodated at EWR. All requests must be submitted to and approved by the FAA Slot Administration at 7-awa-slotadmin@faa.gov. In addition, these operations must also obtain approval from the EWR terminal to operate as appropriate. The FAA encourages operators to utilize nearby airports to access the region while this Order is in effect.

VIII. Additional Operational Modifications

Based on the FAA’s experience with capacity-constrained airports, the FAA anticipates that carriers may

occasionally need to modify their schedules for operational or other reasons while this Order is in effect. Accordingly, this Order provides a mechanism through which such carriers can modify their schedules.

Carriers operating at EWR must obtain the Administrator’s written approval before making a schedule change to outside the hourly window associated with an authorized timing.

The FAA also recognizes that the Winter 2025/2026 schedule submission date was May 15, 2025. The FAA will continue to work with carriers to address schedules on Saturdays in the construction period in the Winter 2025/2026 Scheduling Season.

The FAA recognizes that there may be unexpected disruptions due to operation issues, weather, or other circumstances beyond the carriers’ control. Since EWR is a Level 2 airport, the FAA will work with the carriers on any additional relief needed to prioritize impacted operations for the purposes of establishing operational baselines for the next corresponding season.

IX. National Environmental Policy Act

On June 4, 2025, the FAA prepared a categorical exclusion (CATEX) document applicable to the original order that is herein being extended. The CATEX relied upon FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures*, paragraphs 5–6.5(j), 5–6.6(d), and 5–6.6(f).¹⁵ On July 1, 2025, Secretary of Transportation Sean P. Duffy signed Department of Transportation (DOT) Order 5610.1D. Paragraph 18 of DOT Order 5610.1D states that an Operating Administration (OA) such as the FAA “may rely on any pre-existing EIS, EA, or determination that a [CATEX] applies to a given project” if the actions are substantially the same. The FAA has determined that the extension of the currently effective order is substantially the same as the original order for purposes of compliance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*

X. Order

Accordingly, with respect to flight operations at EWR, under the authority provided to the Secretary of Transportation and the FAA Administrator by 49 U.S.C. 40101,

40103, 40113, and 41722, it is hereby ordered that:

1. This Order modifies the targeted scheduling limit for arrivals and departures at EWR during the affected hours for the U.S. air carriers who operate at EWR as reflected by authorized scheduled timings. The FAA will not accommodate authorized scheduled timings under this Order to any person or entity other than a certificated U.S. air carrier with appropriate economic authority and the FAA operating authority under 14 CFR part 121, 129, or 135 (‘revised allocations based upon proportionality to air carriers that contributed timings during delay reduction meetings’). This Order further affirms that the FAA will not accommodate new requests or re-timings into schedule-facilitated hours with 36 arrivals and 36 departures if such a request will result in exceeding the hourly limit (‘no backfills’). Finally, the FAA will accommodate foreign air carrier requests and unscheduled operations in certain hours with availability throughout the schedule-facilitated day, on a “first come, first serve” basis. All requests must be submitted to and approved by the FAA Slot Administration at 7-awa-slotadmin@faa.gov. The FAA Vice President, System Operations Services, is the final decision-maker for determinations under this paragraph. The provisions in paragraphs 2 through 11 below apply to the following:

a. All U.S. air carriers conducting scheduled operations at EWR as of the date of this Order, any U.S. air carrier that operates under the same designator code as such carrier, and any air carrier that has or enters into a codeshare agreement with such carrier.

b. All U.S. air carriers operating scheduled or regularly conducted commercial service to EWR while this Order is in effect.

2. This Order establishes daily targeted scheduled arrivals and departures at EWR from 6 a.m. through 10:59 p.m., Eastern Time, until October 24, 2026, and on weekends from October 26, 2025, through December 31, 2025, from Friday at 11 p.m. through 5 a.m. on Sunday.

3. This Order takes effect on October 26, 2025, and expires on October 24, 2026.

4. The following procedures apply to authorized scheduled timings at EWR:

a. Scheduled air carrier arrivals and departures should not exceed 28 per hour on weekends from September 1, 2025, through December 31, 2025, from Friday at 11 p.m. through 5 a.m. on Sunday, Eastern Time. Outside of that period, from October 26, 2025, through

¹⁵ On June 30, 2025, the FAA issued an updated environmental order, FAA Order 1050.1G, *FAA National Environmental Policy Act Implementing Procedures*. However, the CATEX was prepared prior to the effective date of the new order. The CATEX categories referenced above are located in paragraphs B–2.5(j), B–2.6(d), and B–2.6(f) of the updated order.

October 24, 2026, arrivals and departures should not exceed 36 per hour, respectively, aside from the Saturdays designated as part of the construction period when the lower targeted rate applies.

b. The Administrator may change the operating limits if he determines that capacity exists to accommodate additional operations without a significant increase in delays. If delays substantially increase due to circumstances adversely impacting operations, the Administrator may further reduce the operating limitations.

5. Carriers will retain historic priority for the next corresponding season for authorized scheduled timings reduced or re-timed under the delay reduction proceedings.

6. A carrier operating an authorized scheduled timing may request the Administrator's approval to move any arrival or departure scheduled from 6 a.m. through 10:59 p.m. to another half hour within that period. Except as provided in paragraph seven, the carrier must receive the written approval of the Administrator, or his delegate, prior to conducting any scheduled arrival or departure. All requests to move an authorized scheduled timing must be submitted to the FAA Slot Administration Office at 7-AWA-Slotadmin@faa.gov and must come from a designated representative of the carrier.

7. Notice of a swap must be submitted in writing to the FAA Slot Administration Office at 7-AWA-Slotadmin@faa.gov and must come from a designated representative of each carrier. The FAA must confirm and approve these exchanges in writing prior to the effective date of the exchange.

8. Any authorized scheduled timing not used during the Winter 2025/2026 or Summer 2026 scheduling seasons will not be prioritized for the purposes of establishing an operational baseline for the next corresponding season unless the carrier notifies the FAA of a request for prioritization. The FAA will review these requests. The FAA will respond to the carrier with an acknowledgement of the request and a determination.

9. If the FAA determines that a further reduction in targeted scheduled operations is needed, the FAA may call an additional scheduling reduction meeting pursuant to 49 U.S.C. 41722.

10. Carriers may voluntarily return up to ten percent of their operations for the Winter 2025/2026 and the Summer 2026 scheduling seasons in addition to the reductions assigned under the Order. This relief includes operations between

EWR and DCA. Carriers requesting this relief must submit returned operations to the FAA Slot Administration Office at 7-AWA-Slotadmin@faa.gov. Returned operations will be treated as operated for the purposes of establishing an operational baseline for the next corresponding season. The FAA may reallocate these operations on a non-historic basis for the duration of this voluntary relief so long as the reallocation does not exceed the hourly operating limitation. This relief is not available for any DCA slots granted by the DOT pursuant to section 505 of the FAA Reauthorization Act of 2024 (Pub. L. 118-63).

11. The FAA may enforce this Order through an enforcement action seeking a civil penalty under 49 U.S.C. 46301(a). A carrier that is not a small business as defined in the Small Business Act, 15 U.S.C. 632, will be liable for a civil penalty of up to \$75,000 for every flight it operates above the limits set forth in this Order. A carrier that is a small business as defined in the Small Business Act will be liable for a civil penalty of up to \$16,630 for every flight it operates above the limits set forth in this Order. The FAA also could file a civil action in U.S. District Court, under 49 U.S.C. 46106, 46107, seeking to enjoin any air carrier from violating the terms of this Order.

12. The FAA may modify or withdraw any provision in this Order on its own or on application by any carrier for good cause shown.

Issued in Washington, DC, on September 25, 2025.

William H.W. McKenna,

Chief Counsel.

Bryan Bedford,

Administrator.

[FR Doc. 2025-18871 Filed 9-25-25; 4:15 pm]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA-2025-2694; Summary Notice No. 2025-55]

Petition for Exemption; Summary of Petition Received; Wings of Mercy, Inc.

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 October 20, 2025.

ADDRESSES: Send comments identified by docket number FAA-2025-2694 using any of the following method.

- **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, at 202-267-9677.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Dan A. Ngo,

Manager, Part 11 Petitions Branch, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2025–2694.

Petitioner: Wings of Mercy, Inc.

Section(s) of 14 CFR Affected:

61.113(a) and 61.113(c).

Description of Relief Sought: Wings of Mercy, Inc. is seeking to amend their current exemption to revise the conditions and limitations on the following: documentation of flight experience, pilot certification documentation, currency of FAA medical certificate, possession of second class medical certificate; completion of an instrument proficiency check; recent flight experience for night operations; use of precision approach procedures; takeoff and landing obstacle clearance procedures; initial pilot ground training program; aircraft airworthiness documentation; and the inclusion of Wings of Mercy, Inc. affiliates.

[FR Doc. 2025–18788 Filed 9–26–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2024–0067]

HOLON—Receipt of Application for Temporary Exemption From Various Requirements of the Federal Motor Vehicle Safety Standards for an Automated Driving System-Equipped Vehicle; Reopening of Comment Period

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Reopening of comment period.

SUMMARY: NHTSA published a request for public comment on November 8, 2024, announcing receipt of and seeking comment on an application for temporary exemption from HOLON U.S. Inc (HOLON). HOLON's application seeks a temporary exemption from various requirements of the Federal motor vehicle safety standards (FMVSS) for a vehicle equipped with an automated driving system (ADS).

DATES: The comment period for the Part 555 receipt notice published on November 8, 2024 will be open until October 29, 2025.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

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

- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9332 before coming.

- *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below. NHTSA will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, NHTSA will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> at any time or to 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202–366–9826.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to inform its rulemaking process. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL–14 FDMS, accessible through www.dot.gov/privacy. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you must submit your request directly to NHTSA's Office of the Chief Counsel. Requests for confidentiality are governed by Part 512. NHTSA is currently treating electronic submission

as an acceptable method for submitting confidential business information to the agency under Part 512. If you would like to submit a request for confidential treatment, you may email your submission to Dan Rabinovitz in the Office of the Chief Counsel at Daniel.Rabinovitz@dot.gov or you may contact Dan for a secure file transfer link. At this time, you should not send a duplicate hardcopy of your electronic CBI submissions to DOT headquarters. If you claim that any of the information or documents provided to the agency constitute confidential business information within the meaning of 5 U.S.C. 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. 1905, you must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with Part 512, to the Office of the Chief Counsel. Your request must include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR 512.8) and a certificate, pursuant to § 512.4(b) and Part 512, appendix A. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket at the address given above.

FOR FURTHER INFORMATION CONTACT: For legal issues: Callie Roach, Office of the Chief Counsel at callie.roach@dot.gov. For technical issues: Emily Shull, Rulemaking Office of Automation Safety at Emily.Shull@dot.gov, Telephone: (202) 366–4276; Fax: (202) 366–7002. Mailing address: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On November 8, 2024, in accordance with statutory and administrative provisions, NHTSA published a notice (89 FR 88856) announcing receipt of an application from HOLON seeking exemption under 49 U.S.C. 30113 (implemented at 49 CFR part 555) from portions of seven FMVSS. HOLON's application sought exemption from portions of FMVSS No. 101, *Controls and displays*; FMVSS No. 102, *Transmission shift position sequence, starter interlock, and transmission braking effect*; FMVSS No. 104, *Windshield wiping and washing systems*; FMVSS No. 105, *Hydraulic and electric brake systems*; FMVSS No. 108, *Lamps, reflective devices, and associated equipment*; FMVSS No. 111, *Rear visibility*; and FMVSS No. 208, *Occupant crash protection*. The notice sought public comment regarding the merits of HOLON's exemption and on

potential terms and conditions that should be applied to the temporary exemption if granted. The first comment period ended January 7, 2025. NHTSA is now reopening the comment for an additional 30 days.

Explanation for Reopening Comment Period

NHTSA has decided to reopen the public comment period for 30 days. Following the close of the initial comment period, NHTSA requested and received additional information from HOLON necessary to continue evaluating the application. NHTSA finds it in the public interest to reopen the comment period to allow review and comment on the complete set of materials that HOLON has submitted to NHTSA.

NHTSA recently developed process improvements to evaluate Part 555 applications more efficiently, as outlined in a June 13, 2025 letter.¹ As stated in that letter, NHTSA intends to publish enhanced application instructions to help manufacturers better understand the application requirements in Part 555 and to provide guidance to manufacturers about the information that will be most helpful to the agency when evaluating their applications. NHTSA believes that this guidance will help streamline the Part 555 process by reducing the need for NHTSA to request additional information from manufacturers in the future.

As noted above, NHTSA has received additional information from HOLON, and the docket now includes the following materials:

- HOLON's final application, received August 28, 2024;
- HOLON's responses to NHTSA's first set of follow-up questions, also received August 28, 2024; and
- HOLON's responses to NHTSA's second set of questions, received July 15, 2025.

Reopening the comment period will provide the public with an opportunity to review and comment on all relevant materials while allowing NHTSA to move toward a final decision on HOLON's application. NHTSA is seeking public comment regarding the merits of HOLON's application and on potential terms and conditions that should be applied to the temporary exemption if granted.

Authority: 49 U.S.C. 30113 and 30166; delegation of authority at 49 CFR 1.95, 501.5, and 501.8.

David M. Hines,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2025-18812 Filed 9-26-25; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT-OST-2025-0600]

Senior Executive Service Performance Review Board Membership

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Notice of Performance Review Board (PRB) appointments.

SUMMARY: DOT published the names of the persons selected to serve on Departmental PRBs.

FOR FURTHER INFORMATION CONTACT:

Anne Audet, Director, Departmental Office of Human Resource Management (202) 366-2478.

SUPPLEMENTARY INFORMATION: The persons named below may be selected to serve on one or more Departmental PRBs.

(Authority: 5 U.S.C. 4314(c)(4).)

Issued in Washington, DC on September 25, 2025.

Anne B. Audet,

Director, Departmental Office of Human Resource Management.

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

BEZIO, BRIAN R
BIONDI, EMILY CHRISTINE
BRIGGS, VALERIE ANNETTE
BURROWS, SHAY K
CHRISTIAN, JAMES C
CRONIN, BRIAN P
CURTIS, STEPHANIE
DAVIS, DONALD E
FINFROCK, ARLAN E JR
FLEURY, NICOLLE M
FOUCH, BRIAN J
FRYE, ROBERT ANTHONY
HARDING, JOHN A
HARKINS, MICHAEL W
HARTMANN, JOSEPH L
HOGGE, BRIAN R.
JENSEN, GARY ALAN
KALLA, HARI
KEHRLI, MARK R
KNOPP, MARTIN C
KONOVE, ELISSA K
LEWIS, DAVID A

MARQUIS, RICHARD J
MARSHALL, DANA R
MCMASTER, SEAN KENNETH BR
NEHME, JEAN ANTOINE
NELSON, THOMAS L JR.
NESBITT, MICHAEL D
PAYNE, JAMES OROURKE III
PETTY, KENNETH II
RICHARDSON, CHRISTOPHER S
RITTER, ROBERT G
RUSNAK, ALLISON B
SANTIAGO, DAMARIS
SHEPHERD, GLORIA MORGAN
SIDDIQI, BASHARAT
THORNTON, NICHOLAS R
WILNER, MARCUS D
WINTER, DAVID R
YUNG, JESSIE L

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

BECK, VALERIE S
COX, DAVID MATTHEW JR
ELISON, JESSE PHILLIP
HAMPTON, MICHAEL MADDEN
HERNANDEZ, SCOTT
HILL, JAMES JOSEPH III
LENFERT, WINSOME A
LIBERANTE, WENDY LOUISE
LIBERATORE, THOMAS JOSEPH
MINOR, LARRY W
NEMONS, PATRICK D
RIDDLE, KENNETH H.
STEELE, GEORGIA SHARLENE
THOMAS, PHILIP WALTER III

FEDERAL RAILROAD ADMINISTRATION

ALEXY, JOHN KARL
DAVIS, HAKIM R
DYER, WILLIAM PATRICK
FEELEY, ROBERT ANDREW
FIELDS, KYLE D
FINK, DAVID ARMSTRONG
GARLAND, JAMES JASON
GLUCK, STUART MURRAY
HAYWARD-WILLIAMS, CAROLYN
KOUL, NEERAJ
LONG, MICHAEL T
LONGLEY, MICHAEL M
NISSENBAUM, PAUL
OSTERHUES, MARLYS A
PATTERSON, MARK A
REYES-ALICEA, REBECCA
RIGGS, TAMELA LYNN
VAN NOSTRAND, CHRISTOPHER

FEDERAL TRANSIT ADMINISTRATION

ALLAHYAR, MARYAM
ALLEN, REGINALD E
BOKHARI, TARIQ SCOTT
BROOKINS, KELLEY
BUTLER, PETER S
CAIN, DANIEL
CULOTTA, MICHAEL L
DALTON-KUMINS, SELENE FAE
DELORENZO, JOSEPH P
FERRONI, MARK A
FLETCHER, SUSAN K

¹ <https://www.nhtsa.gov/press-releases/streamline-exemption-process-noncompliant>.

GARCIA CREWS, THERESA
 LYSSY, GAIL C
 MOLINARO, MARCUS JOSEPH
 NIFOSI, DANA C.
 OSBORNE BUTLER, CARRIE EL
 PFISTER, JAMIE DURHAM
 ROHDE, SUZANNE MARIE
 TAYLOR, YVETTE G
 TELLIS, RAYMOND S
 WELBES, MATTHEW J

*GREAT LAKES ST. LAWRENCE
 SEAWAY DEVELOPMENT
 CORPORATION*

FISHER, ANTHONY JR
 O'BERRY, DONNA
 SCHARF, JEFFREY W

MARITIME ADMINISTRATION

BECKETT, COREY ANDREW
 CHAPPELL, ASHLEY MARCIAL
 GORE, CAMERON VON
 HARRINGTON, DOUGLAS M
 HELLER, DAVID M
 KUMAR, SHASHI N
 NOBLE, MICHAELA ELIZABETH
 NUNAN, JOANNA
 O'CONNOR, ELIZABETH
 PAAPE, WILLIAM
 SHEA, JOHN TIMOTHY
 SIMMONS-HEALY, MELINDA B
 WULF, DAVID
 YI, SANG HYUN

*NATIONAL HIGHWAY TRAFFIC
 SAFETY ADMINISTRATION*

BAUMANN, ROLAND T III
 CHEN, CHOU-LIN
 CLAYTON, SEAN METRICE
 DANIELSON, JACK
 DOHERTY, JANE H
 GATTI, JONATHAN D
 HATIPOGLU, CEM
 HINES, DAVID M
 JOHNSON, TIM J
 KOLODZIEJ, KERRY E
 MATHEKE, OTTO G III
 MORRISON, JONATHAN
 SAUERS, BARBARA F
 SIMSHAUSER, PETER J
 SULLIVAN, EILEEN FALLON
 TOPKA, TANYA L
 VALLESE, JULIETTE M.

*OFFICE OF THE SECRETARY OF
 TRANSPORTATION*

ABRAHAM, JULIE
 ALBRIGHT, JACK G
 ALEXANDER, FELICIA LANISE
 AUDET, ANNE
 BARABAN, CINDY A
 BARRY, MINDY
 BUSKARD, BRIAN
 BYRD, ANNE SANFORD
 CAHILL, MATTHEW
 CALLENDER, DUANE A
 CARLSON, TERENCE W
 COHEN, NEAL
 COHEN, DANIEL

CONSTANTINE, PETER JOHN
 COTE, GREGORY DAKENT
 EDWARDS, DANIEL JOSEPH
 EMMER, JACK OLIVER
 ENLOE, CHARLES E
 FARAJIAN, MORTEZA
 FLEMING, GREGG G
 GAUTREAUX, CATHY FOSTER
 GEIER, PAUL M
 GUTIERREZ, ALLEN MAURICIO
 HALEM, MICHAEL ALLEN
 HOMAN, TODD M
 HUBBARD, RHEA ANN
 HUYNH, JULI C
 IRVINE, PETER D
 JACKSON, RONALD A
 JONES, CHRISHAUN P
 KALETA, JUDITH S
 KERN, DABNEY R
 KING, DANIEL E.
 LANG, JAMES M.
 LANKENAU, MATTHEW
 LEFEVRE, MARIA S.
 LITTLETON, THOMAS
 MARTIN, HAROLD W III
 MATESIC, HANNAH MARIE
 MCCARTNEY, ERIN P
 MCCORMACK, RYAN JAMES
 MEACHUM, CHARLES PETERSEN
 MIDDLETON, GARY LEE
 MOORE, CAROLINE ELIZABETH
 MORGAN, DANIEL S.
 MORGAN, OWEN ROY
 ORNDORFF, ANDREW R
 PIDUGU, PAVANKUMAR
 POPKIN, STEPHEN M
 SCHMITT, ROLF R
 SESSIONS, KAREN DIEBEL
 SHEIKH IBRAHIM, FIRAS
 SHEPARD, DESHAWN
 SIEGRIST, BENJAMIN JAY
 SIMON, DOUGLAS A.
 SIZEMORE, NATHANIEL TAYLO
 SMITH, JARED LAINE
 SMITH, LOREN ALLAN JR
 SWAFFORD, LISA ANN
 SZAKAL, KEITH J
 SZATMARY, RONALD ALLEN JR
 TANG, VINCENT
 TAYLOR, BENJAMIN J
 TIMOTHY, DARREN P
 TOROSSIAN, CONNOR ARTHYN
 URE, DEVIN L.
 USUAL, JAMES A
 WALKER, JONATHAN B
 WASHINGTON, KEITH E
 WIED, JASON GERALD
 WORKIE, BLANE A

*PIPELINE AND HAZARDOUS
 MATERIALS SAFETY
 ADMINISTRATION*

COYLE, KEITH J
 DAUGHERTY, LINDA
 DAVIS, CAREY
 HARR, TRICIA M
 KOCHMAN, BENJAMIN DAVID
 QUADE, WILLIAM A III
 RELES, MICHAEL E

[FR Doc. 2025-18863 Filed 9-26-25; 8:45 am]

BILLING CODE 4910-9X-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974; Matching Program

AGENCY: Department of the Treasury, Internal Revenue Service.

ACTION: Notice of a new matching program.

SUMMARY: Pursuant to section 552a(e)(12) of the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Circular No. A-108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act, notice is hereby given of the conduct of the Internal Revenue Service (IRS) Insider Risk Management (InRM) Computer Matching Program.

DATES: Comments on this matching notice must be received no later than 30 days after date of publication in the **Federal Register**. If no public comments are received during the period allowed for comment, the agreement will be effective October 29, 2025, provided it is a minimum of 30 days after the publication date.

Beginning and completion dates: The matches will be conducted on an ongoing basis in accordance with the terms of the computer matching agreement in effect with the IRS as approved by the applicable Data Integrity Board. The term of this agreement is expected to cover the 18-month period, September 30, 2025, through March 31, 2027. Ninety days prior to expiration of the agreement, the parties to the agreement may request a 12-month extension in accordance with 5 U.S.C. 552a(o).

ADDRESSES: Comments may be sent by email to FOIA@treasury.gov, or by mail to the Office of Privacy, Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: John Davis, Management and Program Analyst, IRS Privacy, Governmental Liaison and Disclosure, 303-603-4733 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The InRM program involves a computer matching program, including a computer matching agreement (CMA), established to assist the IRS in furthering the purposes of the InRM program.

Participating Agencies

Department of the Treasury, IRS, and The Treasury Inspector General for Tax Administration.

Authority For Conducting the Matching Program

Executive Order 13587, “Structural Reforms to Improve the Security of Classified 2 Networks and the Responsible Sharing and Safeguarding of Classified Information, and its implementing policies and standards such as National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs” requires agencies to ensure responsible sharing and safeguarding of classified information on computer networks that shall be consistent with appropriate protections for privacy and civil liberties as required by the Internal Revenue Code, the Privacy Act of 1974, the Bank Secrecy Act, Title 18 of the United States Code, the Federal Information Security Modernization Act (FISMA), and other applicable laws that require safeguarding of information.

Purpose(s)

This matching program will assist the IRS in deterring, detecting, and mitigating insider threats to the IRS’s information, resources, and personnel.

The purpose of this program is to detect, deter and mitigate breaches of security policy by IRS employees, contractors, or other individuals who wittingly or unwittingly engage in activities that threaten harm to the security of the United States. These threats can include damage to the United States through espionage, terrorism, unauthorized disclosure of national security information, or through the loss or degradation of departmental resources or capabilities.

Categories of Individuals

Current and former employees, contractors, interns, visitors. Individuals who are, or have been, temporarily authorized to perform, provide, or use services in IRS facilities (either on an ongoing or occasional basis), including, but not limited to, security personnel, custodial staff, maintenance workers, food service workers, employee assistance program staff, and other non-IRS employees with access to IRS assets; witnesses and other individuals who provide statements or information to the IRS related to an insider inquiry.

Categories of Records

Information relevant, or potentially relevant, to identifying, preventing, or mitigating insider risk to IRS resources, including potential risk indicators (PRIs) about or related to individuals reported to exhibit behaviors requiring analysis and consideration by Holistic Insider Risk Management’s Hub Operations Team as a result of exceeding risk tolerance, including records of the results of the analysis and explanations of any responsive actions; IRS security investigations, including authorized IT Security, Physical Security, and Personnel Security risk scoring; information systems security analysis and logs; and determinations derived from information obtained in other systems. Data used in this match from the listed systems of records includes, but is not limited to, employee name, Social Security Number (SSN), employee number, address, email addresses; employee spouse’s name, SSN, address; taxpayer name, Taxpayer Identification Number (TIN), address, tax return/account information, credit card or bank account information, taxpayer entity information, including prior and current name; electronic transmission specifics, including sender’s email address, recipients’ email addresses, recipients’ internet service providers, transmission date and time, internet protocol (IP) address, computer machine name, and terminal identification.

System(s) of Records

The following systems of records maintained by the IRS and the Department of the Treasury Offices may be utilized:

01. Treasury/IRS 22.054 Subsidiary Accounting Files
02. Treasury/IRS 22.060 Automated Non-Master File
03. Treasury/IRS 22.061 Information Return Master File (IRMF)
04. Treasury/IRS 24.030 Customer Account Data Engine Individual Master File
05. Treasury/IRS 24.046 Customer Account Data Engine Business Master File
06. Treasury/IRS 26.019 Taxpayer Delinquent Account Files
07. Treasury/IRS 34.016 Security Clearance Files

08. Treasury/IRS 34.018 Insider Risk Management Records
09. Treasury/IRS 34.021 Personnel Security Investigations
10. Treasury/IRS 34.022 Automated Background Investigations System (ABIS)
11. Treasury/IRS 34.037 Audit Trail and Security Records
12. Treasury/IRS 35.001 Reasonable Accommodation Request Records
13. Treasury/IRS 36.001 Appeals, Grievances and Complaints Records
14. Treasury/IRS 36.003 General Personnel and Payroll Records
15. Treasury/IRS 42.001 Examination Administrative Files
16. Treasury/IRS 48.001 Disclosure Records
17. Treasury/DO .311 Treasury Inspector General for Tax Administration (TIGTA) Office of Investigation Files
18. Treasury/DO .411 Intelligence Enterprise Files
19. Treasury .015 General Information Technology Access Account Records
20. Treasury .020 Health Screening and Contact Tracing Records

Ryan Law,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

[FR Doc. 2025–18880 Filed 9–26–25; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0521]

Agency Information Collection Activity Under OMB Review: Certification of Loan Disbursement, Request for Verification of Employment and Request for Verification of Deposit

Correction

In notice document 2025–17980, appearing on pages 44906–44907 in the issue of Wednesday, September 17, 2025, make the following correction:

On page 44907, in the first column, in the **DATES** section, “September 17, 2025” should read “October 17, 2025”.

[FR Doc. C1–2025–17980 Filed 9–26–25; 8:45 am]

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