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FEDERAL TRADE COMMISSION

16 CFR Parts 425, 463, and 910

RIN 3084-AB60

RIN 3084-AB72

RIN 3084-AB74

Revision of the Negative Option Rule, Withdrawal of the CARS Rule, Removal of the Non-Compete Rule To Conform These Rules to Federal Court Decisions

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: In light of Federal court decisions, the Federal Trade Commission (“FTC” or “Commission”) is taking final action to conform three of its recent rules to the results ordered by the courts. First, the Commission is revising its recently amended “Rule Concerning Recurring Subscriptions and Other Negative Option Programs” (“Negative Option Rule”) to recodify the text of the Negative Option Rule as it existed before the effective date of the Commission’s 2024 final rule amending it. Second, the Commission is withdrawing its final rule titled “Combating Auto Retail Scams Trade Regulation Rule” (“CARS Rule”). Third, the Commission is removing its “Non-Compete Clause Rule” (“Non-Compete Rule”) from the Code of Federal Regulations.

DATES: This rule is effective February 12, 2026. The withdrawal of the Commission’s final rule published at 89 FR 590 (Jan. 4, 2024) and delayed at 89 FR 13267 (Feb. 22, 2024) is also effective February 12, 2026.

FOR FURTHER INFORMATION CONTACT: Josephine Liu, Office of the General Counsel, 202–326–2170 Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion

The Federal Trade Commission (“FTC” or “Commission”) is taking final

action in light of Federal court decisions vacating the Commission’s final rules in three of the Commission’s recent rulemaking proceedings. These decisions vacated final rules revising the Negative Option Rule and promulgating the CARS Rule and the Non-Compete Rule. Each will be discussed in turn.

A. The Negative Option Rule—16 CFR Part 425

The Commission first promulgated the Negative Option Rule in 1973 pursuant to the FTC Act, 15 U.S.C. 41 *et seq.*, finding that some negative option marketers were engaged in unfair and deceptive practices that violated section 5 of the Act, 15 U.S.C. 45.¹ On November 15, 2024, the Commission published a final rule (“2024 Rule”) amending its Negative Option Rule.² Among other things, the 2024 Rule (1) prohibited misrepresentations of any material fact made while marketing using negative option features; (2) required sellers to provide important information prior to obtaining consumers’ billing information and charging consumers; (3) required sellers to obtain consumers’ unambiguously affirmative consent to the negative option feature prior to charging them; and (4) required sellers to provide consumers with simple cancellation mechanisms to immediately halt all recurring charges.

After the 2024 Rule was published, businesses and industry groups asked four Federal circuit courts to review the Negative Option Rule. The Judicial Panel on Multidistrict Litigation consolidated their petitions in the U.S. Court of Appeals for the Eighth Circuit.³ Petitioners argued that the 2024 Rule did not meet the specificity and prevalence requirements of section 18 of the FTC Act,⁴ violated section 22 of the FTC Act⁵ because the Commission had not issued a preliminary regulatory analysis, and was overbroad and unworkable.⁶ The Eighth Circuit found that the Commission’s failure to issue a preliminary regulatory analysis was

“procedurally insufficient” and vacated the 2024 Rule.⁷

In light of the Eighth Circuit’s vacatur, this final rule revises the Negative Option Rule to restore it in the form it existed before the 2024 Rule became effective.⁸ *See Menorah Med. Ctr. v. Heckler*, 768 F.2d 292, 297 (8th Cir. 1985) (“Unless special circumstances are present, which we do not find here, prior regulations remain valid until replaced by a valid regulation or invalidated by a court.”); *see also Action on Smoking & Health v. CAB*, 713 F.2d 795, 797 (D.C. Cir. 1983) (“[B]y vacating or rescinding the [amendments], the judgment of this court had the effect of reinstating the rules previously in force.”).

B. The CARS Rule—16 CFR Part 463

In January 2024, the Commission published its CARS Rule⁹ which, among other things, prohibited motor vehicle dealers from making certain misrepresentations in the course of selling, leasing, or arranging financing for motor vehicles; required accurate pricing disclosures in dealers’ advertising and sales communications; required dealers to obtain consumers’ express, informed consent for charges; prohibited the sale of any add-on product or service that confers no benefit to the consumer; and required dealers to keep records of certain advertisements and customer transactions.¹⁰

On or about January 5, 2024, the National Automobile Dealers Association and the Texas Automobile Dealers Association filed a petition for review in the U.S. Court of Appeals for the Fifth Circuit.¹¹ On January 8, 2024, they filed a motion with the Fifth Circuit seeking a stay of the CARS Rule and expedited consideration of their petition. On February 22, 2024, the Commission delayed the effective date

⁷ *Id.* at 1074.

⁸ This recodification includes changing the full name of the rule back to “Use of Prenotification Negative Option Plans.”

⁹ *See* FTC, Final Rule: Combating Auto Retail Scams Trade Regulation Rule, 89 FR 590 (Jan. 4, 2024). The Dodd-Frank Act (Pub. L. 111–203, 124 Stat 1376 (2010)) authorizes the Commission to prescribe rules with respect to unfair or deceptive acts or practices by motor vehicle dealers. 12 U.S.C. 5519(d).

¹⁰ 89 FR 590.

¹¹ *Nat’l Auto. Dealers Ass’n v. FTC*, 127 F.4th 549 (5th Cir. 2025).

¹ *See* FTC, Final Rule: Negative Option Rule, 89 FR 90476, 90477–78 (Nov. 15, 2024).

² *See id.* at 90476.

³ *Custom Commc’ns, Inc. v. FTC*, 142 F.4th 1060 (8th Cir. 2025).

⁴ 15 U.S.C. 57a.

⁵ 15 U.S.C. 57b-3(b)(1).

⁶ 142 F.4th at 1069–70.

of the CARS Rule during the pendency of this legal challenge.¹²

On January 27, 2025, the Fifth Circuit found “that the substantive authority for the CARS Rule arises from § 18(a)(1)(B) of the FTC Act and that subpart B¹³ [of the FTC’s] procedures apply in all rulemakings where § 18(a)(1)(B) provides authority.”¹⁴ The court concluded that the FTC “violated its own regulations when it failed to issue an ANPRM for the CARS Rule.”¹⁵ The Fifth Circuit further found that this error was not harmless and vacated the CARS Rule.¹⁶

This final rule withdraws the CARS Rule published at 89 FR 590 (Jan. 4, 2024) and delayed at 89 FR 13267 (Feb. 22, 2024) to conform the rule with the Fifth Circuit’s decision.

C. The Non-Compete Rule—16 CFR Part 910

On May 7, 2024, the Commission published its Non-Compete Rule.¹⁷ The Non-Compete Rule provided that it is an unfair method of competition and therefore a violation of section 5 of the FTC Act for persons to, among other things, enter into non-compete clauses (“non-competes”) with workers on or after September 4, 2024. With respect to existing non-competes—*i.e.*, non-competes entered into before September 4, 2024—the Non-Compete Rule adopted a different approach for senior executives than for other workers. For senior executives, existing non-competes could remain in force, while existing non-competes with other workers were not enforceable after September 4, 2024.¹⁸

After the Non-Compete Rule was issued, several employers and trade groups filed lawsuits challenging it. Plaintiffs argued, among other things, that the Commission did not have the statutory authority to issue the Non-Compete Rule; that the rule violated the

major questions doctrine; and that it was unlawfully retroactive. Federal district courts in three jurisdictions issued opinions in lawsuits challenging the Non-Compete Rule. In one case, the court denied the plaintiff’s motion for a preliminary injunction.¹⁹ In another case, the court concluded that the plaintiff had demonstrated a likelihood of success on its claim that the Non-Compete Rule violated the major questions doctrine and entered a preliminary injunction that was limited to the plaintiff.²⁰ In the third case, the court held that the Non-Compete Rule was unlawful and set it aside.²¹ Specifically, because the court “concluded that (i) the FTC promulgated the Non-Compete Rule in excess of its statutory authority, and (ii) the Rule is arbitrary and capricious,” the court found that it “must ‘hold unlawful’ and ‘set aside’ the FTC’s Rule as required under § 706(2)” of the Administrative Procedure Act.²²

On September 5, 2025, the Commission voted 3–1 to dismiss its appeals in *Ryan, LLC v. FTC*, No. 24–10951 (5th Cir.), and *Properties of the Villages v. FTC*, No. 24–13102 (11th Cir.) and accede to the vacatur of the Non-Compete Rule.²³ With the Commission having now acceded to vacatur, this final rule removes the Non-Compete Rule codified at 16 CFR part 910 from the Code of Federal Regulations (“CFR”).

II. Procedural Requirements

A. The Administrative Procedure Act

The APA allows agencies to dispense with notice and public comment if the agency finds for good cause that notice and comment are unnecessary.²⁴ The Commission has determined that notice and comment is unnecessary in this instance because Federal courts have vacated these rules. Here, the Commission—by revising the Negative Option Rule, withdrawing the CARS Rule, and removing the Non-Compete Rule from the CFR—is simply undertaking the ministerial task of conforming these Rules to the results ordered by the circuit courts. Thus,

¹⁹ *ATS Tree Servs., LLC v. FTC*, No. CV 24–1743, 2024 WL 3511630, at *19 (E.D. Pa. July 23, 2024).

²⁰ *Props. of the Villages, Inc. v. FTC*, No. 5:24–CV–316–TJC–PRL, 2024 WL 3870380, at *11 (M.D. Fla. Aug. 15, 2024).

²¹ *Ryan, LLC v. FTC*, 746 F. Supp. 3d 369 (N.D. Tex. 2024).

²² *Id.* at 389–90.

²³ Press Release, FTC, Federal Trade Commission Files to Accede to Vacatur of Non-Compete Clause Rule (Sept. 5, 2025), <https://www.ftc.gov/news-events/news/press-releases/2025/09/federal-trade-commission-files-accede-vacatur-non-compete-clause-rule>.

²⁴ 5 U.S.C. 553(b)(B).

seeking public comment on these actions is unnecessary.

For the same reasons that this final rule is exempt from notice-and-comment rulemaking requirements, the Commission finds that good cause exists to make this final rule effective upon publication in the **Federal Register** under 5 U.S.C. 553(d)(3).

B. E.O. 14215, Ensuring Accountability for All Agencies; E.O. 12866, Regulatory Planning and Review; E.O. 14192, Unleashing Prosperity Through Deregulation

E.O. 14215 requires all executive branch departments and agencies, including independent agencies, to submit all their proposed and final significant regulatory actions to the Office of Budget and Management (OMB) for review. E.O. 12866 says that agencies should assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and distributive impacts). OMB determined that this final rule is not a significant regulatory action under E.O. 12866.

Executive Order 14192 requires that any new incremental costs associated with certain significant regulatory actions “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” OMB’s guidance to agencies implementing E.O. 14192 defines two types of E.O. 14192 actions: an E.O. 14192 regulatory action and an E.O. 14192 deregulatory action.²⁵ The guidance defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.”²⁶ The guidance further explains that “an E.O. 14192 deregulatory action qualifies as both (1) one of the actions used to satisfy the provision to repeal or revise at least 10 existing regulations for each regulation issued and (2) a cost savings for purposes of the total incremental cost allowance.”²⁷ This rulemaking is expected to have total costs less than zero, and therefore is expected to be an E.O. 14192 deregulatory action.

²⁵ OMB, M–25–20; Memorandum For: Regulatory Policy Officers at Executive Departments And Agencies and Managing and Executive Directors of Certain Agencies and Commissions (Mar. 26, 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/02/M-25-20-Guidance-Implementing-Section-3-of-Executive-Order-14192-Titled-Unleashing-Prosperity-Through-Deregulation.pdf>.

²⁶ *Id.* at 4.

²⁷ *Id.*

¹² See FTC, Final Rule: Combating Auto Retail Scams Trade Regulation Rule, delay of effective date, 89 FR 13267 (Feb. 22, 2024) (stating that although the petitioners did not seek a stay from the Commission in the first instance as required by Rule 18(a)(1) of the Federal Rules of Appellate Procedure, the Commission nonetheless reviewed their motion, construing it as though it were a stay request submitted under Commission Rule 4.2(d) (16 CFR 4.2(d)), and delayed the effective date of the CARS Rule). This delay document also stated that the Commission would publish a document in the **Federal Register** announcing the CARS Rule’s new effective date once the court resolved the merits of the petition.

¹³ 16 CFR 1.7–1.20.

¹⁴ 127 F.4th at 559.

¹⁵ *Id.*

¹⁶ *Id.* at 561.

¹⁷ See FTC, Final Rule: Non-Compete Clause Rule, 89 FR 38342 (May 7, 2024).

¹⁸ *Id.*

C. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 and its implementing regulations, the FTC is required to submit changes to collections of information to OMB for review and approval.²⁸ The vacatur of the 2024 Rule amending the Negative Option Rule, the CARS Rule, and the Non-Compete Rule impacted the following OMB-approved collections:

- Negative Option Rule collection of information, control number 3084–0104,²⁹
- CARS Rule collection of information, control number 3084–0172,³⁰ and
- Non-Compete Rule collection of information, control number 3084–0173.³¹

The Commission will file a request to discontinue these collections with OMB on the same date that this final rule publishes in the **Federal Register**. For the CARS Rule and Non-Compete Rule, the Commission will request a discontinuance of all collections and their associated OMB control numbers. For the Negative Option Rule, the Commission will request a discontinuance only for the revised collections associated with the 2024 Rule.³² This final rule recodifies the text of the Negative Option Rule as it existed before the 2024 Rule became effective. Thus, OMB's February 13, 2024 approval of an extension for information collections associated with the previous and now recodified version of the Negative Option Rule will be in effect.³³

D. Regulatory Flexibility Act

Because the Commission has determined that it may revise the Negative Option Rule, withdraw the CARS Rule, and remove the Non-Compete Rule from the CFR without public comment, the Commission is also not required to publish an initial or final regulatory flexibility analysis under the Regulatory Flexibility Act as part of such action.³⁴

E. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of

Information and Regulatory Affairs designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2).

List of Subjects

16 CFR Part 425

Advertising, consumer protection, trade practices.

16 CFR Part 463

Consumer protection, motor vehicles, reporting and recordkeeping requirements, trade practices.

16 CFR Part 910

Antitrust.

For the reasons set forth above, under the authority of 15 U.S.C. 41 *et seq.*, the Commission amends 16 CFR chapter I as follows:

- 1. Revise part 425 to read as follows:

PART 425—USE OF PRENOTIFICATION NEGATIVE OPTION PLANS

Sec.

425.1 The rule.

425.2 [Reserved]

Authority: 15 U.S.C. 41 through 58

PART 425—USE OF PRENOTIFICATION NEGATIVE OPTION PLANS

§ 425.1 The rule.

(a) In connection with the sale, offering for sale, or distribution of goods and merchandise in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice, for a seller in connection with the use of any negative option plan to fail to comply with the following requirements:

(1) Promotional material shall clearly and conspicuously disclose the material terms of the plan, including:

(i) That aspect of the plan under which the subscriber must notify the seller, in the manner provided for by the seller, if he does not wish to purchase the selection;

(ii) Any obligation assumed by the subscriber to purchase a minimum quantity of merchandise;

(iii) The right of a contract-complete subscriber to cancel his membership at any time;

(iv) Whether billing charges will include an amount for postage and handling;

(v) A disclosure indicating that the subscriber will be provided with at least ten (10) days in which to mail any form, contained in or accompanying an announcement identifying the selection, to the seller;

(vi) A disclosure that the seller will credit the return of any selections sent to a subscriber, and guarantee to the Postal Service or the subscriber postage to return such selections to the seller when the announcement and form are not received by the subscriber in time to afford him at least ten (10) days in which to mail his form to the seller;

(vii) The frequency with which the announcements and forms will be sent to the subscriber and the maximum number of announcements and forms which will be sent to him during a 12-month period.

(2) Prior to sending any selection, the seller shall mail to its subscribers, within the time specified by paragraph (a)(3) of this section:

(i) An announcement identifying the selection;

(ii) A form, contained in or accompanying the announcement, clearly and conspicuously disclosing that the subscriber will receive the selection identified in the announcement unless he instructs the seller that he does not want the selection, designating a procedure by which the form may be used for the purpose of enabling the subscriber so to instruct the seller, and specifying either the return date or the mailing date.

(3) The seller shall mail the announcement and form either at least twenty (20) days prior to the return date or at least fifteen (15) days prior to the mailing date, or provide a mailing date at least ten (10) days after receipt by the subscriber, provided, however, that whichever system the seller chooses for mailing the announcement and form, such system must provide the subscriber with at least ten (10) days in which to mail his form.

(b) In connection with the sale or distribution of goods and merchandise in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, it shall constitute an unfair or deceptive act or practice for a seller in connection with the use of any negative option plan to:

(1) Refuse to credit, for the full invoiced amount thereof, the return of any selection sent to a subscriber, and to guarantee to the Postal Service or the subscriber postage adequate to return such selection to the seller, when:

(i) The selection is sent to a subscriber whose form indicating that he does not want to receive the selection was received by the seller by the return date or was mailed by the subscriber by the mailing date;

(ii) Such form is received by the seller after the return date, but has been mailed by the subscriber and

²⁸ 44 U.S.C. 3501–3521; 5 CFR part 1320.

²⁹ On November 11, 2024, OMB approved this revised collection through November 30, 2027.

³⁰ On June 20, 2024, OMB approved this collection through June 30, 2027.

³¹ On June 25, 2024, OMB approved this collection through June 30, 2027.

³² 89 FR 90476 (Nov. 15, 2024).

³³ On February 13, 2024, OMB approved an extension of the information collections associated with the version of the Negative Option Rule that was legally applicable before the subsequent 2024 Rule became effective.

³⁴ See 5 U.S.C. 603(a), 604(b).

postmarked at least 3 days prior to the return date;

(iii) Prior to the date of shipment of such selection, the seller has received from a contract-complete subscriber, a written notice of cancellation of membership adequately identifying the subscriber; however, this provision is applicable only to the first selection sent to a canceling contract-complete subscriber after the seller has received written notice of cancellation. After the first selection shipment, all selection shipments thereafter are deemed to be unordered merchandise pursuant to section 3009 of the Postal Reorganization Act of 1970, as adopted by the Federal Trade Commission in its public notice, dated September 11, 1970;

(iv) The announcement and form are not received by the subscriber in time to afford him at least ten (10) days in which to mail his form.

(2) Fail to notify a subscriber known by the seller to be within any of the circumstances set forth in paragraphs (b)(1)(i) through (iv) of this section, that if the subscriber elects, the subscriber may return the selection with return postage guaranteed and receive a credit to his account.

(3) Refuse to ship within 4 weeks after receipt of an order merchandise due subscribers as introductory and bonus merchandise, unless the seller is unable to deliver the merchandise originally offered due to unanticipated circumstances beyond the seller's control and promptly makes a reasonably equivalent alternative offer. However, where the subscriber refuses to accept alternatively offered introductory merchandise, but instead insists upon termination of his membership due to the seller's failure to provide the subscriber with his originally requested introductory merchandise, or any portion thereof, the seller must comply with the subscriber's request for cancellation of membership, provided the subscriber returns to the seller any introductory merchandise which already may have been sent him.

(4) Fail to terminate promptly the membership of a properly identified contract-complete subscriber upon his written request.

(5) Ship, without the express consent of the subscriber, substituted merchandise for that ordered by the subscriber.

(c) For the purposes of this part:

(1) *Negative option plan* refers to a contractual plan or arrangement under which a seller periodically sends to subscribers an announcement which identifies merchandise (other than annual supplements to previously

acquired merchandise) it proposes to send to subscribers to such plan, and the subscribers thereafter receive and are billed for the merchandise identified in each such announcement, unless by a date or within a time specified by the seller with respect to each such announcement the subscribers, in conformity with the provisions of such plan, instruct the seller not to send the identified merchandise.

(2) *Subscriber* means any person who has agreed to receive the benefits of, and assume the obligations entailed in, membership in any negative option plan and whose membership in such negative option plan has been approved and accepted by the seller.

(3) *Contract-complete subscriber* refers to a subscriber who has purchased the minimum quantity of merchandise required by the terms of membership in a negative option plan.

(4) *Promotional material* refers to an advertisement containing or accompanying any device or material which a prospective subscriber sends to the seller to request acceptance or enrollment in a negative option plan.

(5) *Selection* refers to the merchandise identified by a seller under any negative option plan as the merchandise which the subscriber will receive and be billed for, unless by the date, or within the period specified by the seller, the subscriber instructs the seller not to send such merchandise.

(6) *Announcement* refers to any material sent by a seller using a negative option plan in which the selection is identified and offered to subscribers.

(7) *Form* refers to any form which the subscriber returns to the seller to instruct the seller not to send the selection.

(8) *Return date* refers to a date specified by a seller using a negative option plan as the date by which a form must be received by the seller to prevent shipment of the selection.

(9) *Mailing date* refers to the time specified by a seller using a negative option plan as the time by or within which a form must be mailed by a subscriber to prevent shipment of the selection.

§ 425.2 [Reserved]

PART 910 [Removed and Reserved]

■ 2. Remove and reserve part 910.

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2026-02866 Filed 2-11-26; 8:45 am]

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1241

[Docket No. CPSC-2020-0023]

Safety Standard for Crib Mattresses

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In 2022, the U.S. Consumer Product Safety Commission (CPSC) published a consumer product safety standard for crib mattresses under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The standard incorporated by reference ASTM F2933-21, *Standard Consumer Safety Specification for Crib Mattresses*, with modifications to make the standard more stringent. The CPSIA sets forth a process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard, when a voluntary standards organization revises the standard. Consistent with the CPSIA update process, this direct final rule updates the mandatory standard for crib mattresses to incorporate by reference ASTM's 2025 version of the voluntary standard, while maintaining certain modifications.

DATES: The rule is effective on May 3, 2026, unless the Commission receives a significant adverse comment by March 16, 2026. If the Commission receives such a comment, it will publish a document in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of certain material listed in this rule is approved by the Director of the Federal Register as of May 3, 2026.

ADDRESSES: You can submit comments, identified by Docket No. CPSC-2020-0023, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by electronic mail (email), except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

Mail/Hand Delivery/Courier/Confidential Written Submissions: Submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504-7479. If you wish to submit

confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC–2020–0023, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT:

Joseph Williams, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–7585; email: jfwilliams@cpsc.gov; or Daniel Taxier, Project Manager, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987–2211; email: dtaxier@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Authority

Section 104(b)(1) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). The mandatory standard must be “substantially the same as” the voluntary standard, or it may be “more stringent than” the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA specifies the process for updating the Commission’s rules when a voluntary standards organization revises a standard that the Commission incorporated by reference under section 104(b)(1). First, the voluntary standards organization must notify the Commission of the revision. Once the

Commission receives this notification, the Commission may reject or accept the revised standard. The Commission may reject the revised standard by notifying the voluntary standards organization, within 90 days of receiving notice of the revision, that it has determined that the revised standard does not improve the safety of the consumer product and that it is retaining the existing standard. If the Commission does not take this action to reject the revised standard, the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision or on a later date specified by the Commission in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B).

B. Safety Standard for Crib Mattresses

Under section 104(b)(1) of the CPSIA, the Commission adopted a mandatory rule for crib mattresses, codified in 16 CFR part 1241, “Safety Standard for Crib Mattresses.” The rule incorporated by reference ASTM F2933–21, *Standard Consumer Safety Specification for Crib Mattresses*, with modifications to make the standard more stringent. 87 FR 8640 (Feb. 15, 2022).¹ The modifications to ASTM F2933–21 addressed:

(1) suffocation hazards associated with crib mattresses, due to overly soft mattresses, by adding a test for mattress firmness based on sections 6 and 8 of AS/NZS 8811.1:2013—Methods of testing infant products—Method 1: Sleep Surfaces—Test (AS/NZS 8811.1);

(2) entrapment hazards associated with full-size crib mattresses, due to poor mattress fit from compression by sheets, by measuring for corner gaps after installing a shrunken (by washing twice) cotton sheet;

(3) entrapment hazards associated with after-market, non-full-size crib mattresses, due to lack of dimensional requirements for rectangular-shaped products, by extending dimension and other requirements for after-market non-rectangular non-full-size crib mattresses to all after-market non-full-size crib mattresses;

(4) laceration hazards associated with coils and springs breaking and poking through mattresses, by adding a cyclic impact test for mattresses that use coils and springs;

(5) the risks of sudden infant death syndrome (SIDS) and suffocation related

to infant positioning, soft bedding, and gap entrapment, by improving the labeling and instructional literature requirements to communicate risks better to consumers, and to clarify requirements for manufacturers and test labs; and

(6) the replacement of references to ASTM standards with references to the corresponding CPSC regulation which incorporates that standard by reference, to maintain consistency with CPSC regulations.

Since CPSC promulgated a final rule for crib mattresses in February 2022, staff continued to work with the ASTM F15.66 Crib Mattresses Subcommittee to address differences between the voluntary standard and the final rule. On October 1, 2025, ASTM approved and in October 2025, published a new version of the voluntary standard for crib mattresses, ASTM F2933–25. The revised voluntary standard includes performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to infants. On November 4, 2025, ASTM notified CPSC of the newest revision to ASTM F2933. On December 3, 2025, the Commission provided notice in the **Federal Register** of the availability of the revised standard and sought comment on the effect of the revisions on the safety standard for crib mattresses. 90 FR 55701. CPSC received four comments.

Two comments were duplicative and out of scope. An anonymous commenter stated their support for CPSC to approve and support the revised voluntary standard. Another anonymous commenter expressed appreciation for CPSC’s review of the voluntary standard. The commenter acknowledged that some revisions improve safety, however, the commenter emphasized the importance of confirming that the revisions reduce risks such as suffocation and entrapment in gaps. The commenter concluded by expressing support for ASTM F2933–25 as long as CPSC determines that it improves safety compared to the existing mandatory standard.

CPSC acknowledges support for the revised voluntary standard and agrees with the importance of confirming that the revisions to ASTM F2933–25 reduce risks such as suffocation and entrapment in gaps or otherwise improve the safety of crib mattresses. CPSC’s assessment of ASTM F2933–25 is described below.

Based on staff’s review of ASTM F2933–25 and the public comments received, the Commission will allow the revised voluntary standard to become a mandatory standard, with some retained

¹ In September 2021, ASTM published a revised version, ASTM F2933–21a. Because ASTM published this revision prior to CPSC’s adoption of a mandatory crib mattress standard, the Commission did not evaluate this revision pursuant to the CPSIA.

modifications. Specifically, three modifications that address hazardous corner gaps, entrapment hazards for rigid-sided rectangular after-market products (*i.e.*, non-full-size cribs), and references to requirements in ASTM standards, as required by other CPSC regulations, will be maintained in 16 CFR part 1241. Specifically, ASTM F406–24, *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards* (codified at 16 CFR part 1220 for non-full-size baby cribs and at 16 CFR part 1221 for play yards) include performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to children from non-full-size baby cribs and play yards. ASTM F2194–25, *Standard Consumer Safety Specification for Bassinets and Cradles* (codified at 16 CFR part 1218) include performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to children from bassinets and cradles. ASTM F2933–25 does not address these hazards or include references to the relevant CPSC regulations.

Accordingly, by operation of law under section 104(b)(4)(B) of the CPSIA, ASTM F2933–25 will become a mandatory consumer product safety standard for crib mattresses, with some retained modifications, on May 3, 2026. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates 16 CFR part 1241 to incorporate by reference the revised voluntary standard, ASTM F2933–25, and retains modifications that maintain testing requirements for corner gaps, requirements for rectangular after-market non-full-size crib mattresses, and references to CPSC regulations.

II. Revisions to ASTM F2933

ASTM F2933–25 includes several additions and revisions to ASTM F2933–21, including new definitions, new performance requirements and test methods, clarifications to existing requirements, as well as editorial revisions that do not alter substantive requirements in the standard or impact safety. The Commission considers the revisions in ASTM F2933–25 to be an improvement to the safety of crib mattresses because the revised standard includes clarifications to the scope of the voluntary standard and enhancements to the performance and testing requirements to improve testing repeatability and reproducibility.

A. Scope and Definitions

ASTM F2933–25 clarifies in section 1.1 that after-market mattresses for certain bassinet accessories of play

yards are in scope of the voluntary standard. ASTM F2933–21 included performance requirements for after-market play yard mattresses that are interchangeably used as a play yard mattress and as a bassinet mattress/pad, but the scope did not specify that such mattresses were addressed in the standard. The change to explicitly identify such mattresses for bassinet accessories of play yards as being in scope improves safety by helping users of the standard understand which products are subject to its requirements.

Additionally, in section 3, ASTM F2933–25 adds definitions for “conspicuous” and for “sleep surface” that align with terms that were added as a modification to ASTM F2933–21 in CPSC’s mandatory safety standard for crib mattresses. As a result, the change does not reduce safety, and these terms will be removed from the modifications in 16 CFR part 1241.

B. Calibration and Standardization

ASTM F2933–21 required that products be placed in a room with an ambient temperature of $73^{\circ}\text{F} \pm 9^{\circ}\text{F}$ for at least 8 hours prior to and during testing. ASTM F2933–25 adds a new requirement that the relative humidity shall be between 20 percent and 70 percent prior to and during testing.

The revisions to the voluntary standard in ASTM F2933–25 also lengthen the pre-conditioning from at least 8 hours, required in ASTM F2933–21, to at least 24 hours or the duration specified in the manufacturer’s instructions, whichever is longer, for the mattress to fully inflate or recover to the intended size before testing.

These changes improve safety by reducing the chance of underinflated crib mattresses being tested and meeting the requirements, when such mattresses would otherwise fail to meet the requirements when fully inflated or recovered.

C. Performance and Testing Requirements

1. Mattress Firmness

ASTM F2933–25 adds a firmness requirement and test method based on the modification in CPSC’s mandatory safety standard for crib mattresses with the following differences:

- The test fixture must use a bullseye level or two linear levels, instead of only one linear level. This helps ensure the test fixture is as flat as possible when determining whether a product meets the firmness requirement.
- A specification was added to require the combined weight of the bottom disk and the lower collar of the

test fixture to be not less than 95 percent of the total weight, instead of specifying only the weight of the bottom disk and the total weight. This improves the precision of the test fixture.

- Specifications for the design and use of a rigid bar were added to achieve more consistent test results by flattening non-hazardous wrinkles or bulges in fabric in the test area.

- The test setup includes a clarification that the requirement to test mattresses sold independent of a product on a flat, rigid, horizontal support only applies to full-size crib mattresses, and not to after-market mattresses for play yards and non-full-size cribs. This helps ensure that crib mattresses are placed on the appropriate surface for testing.

- A step was added to flatten the test area before the fixture is placed. This helps to remove small amounts of loose fabric from the test area and improves testing repeatability and reproducibility.

- The outer 0.5 inches of the mattress were removed from the possible test area. This section is excluded from testing because many modern mattress designs are difficult to test repeatably close to the outer edge, and because the area does not accommodate more than half of a newborn’s accessible face: the 0.5 inches accounts for a 3-inch bizygomatic diameter newborn head size,² half of which is 1.5 inches, minus a 1 inch allowable gap between the mattress and crib. Therefore, this change improves testing repeatability and reproducibility without reducing safety.

In addition to these changes, the firmness test method was also rewritten with the intent of being more easily readable and understandable and includes several other minor clarifications. Overall, the new firmness test is more repeatable and reproducible, and therefore is an improvement in the safety of crib mattresses. As a result, the modification related to the firmness test requirement is being removed from 16 CFR part 1241. Instead, crib mattresses will be subject to the firmness test requirements included in ASTM F2933–25, incorporated by reference in 16 CFR part 1241.

2. Coil Springs

ASTM F2933–25 adds a requirement and test method for mattresses with coil springs to reduce the risk of lacerations caused by coil springs poking out of the mattress. This change is consistent with

² Brandt, J.M., Allen, G.A., Haynes JL, Butler, M.G., “Normative Standards And Comparison Of Anthropometric Data Of White And Black Newborn Infants.” *Dysmorphol Clin Genet.* 1990; 4(4): pp. 121–137. PMID: 27695162; PMCID: PMC5042572.

a modification made in the mandatory safety standard for crib mattresses, with one exception. ASTM F2933–25 allows repeating the test on a mattress which has previously been tested with the coil spring test. Repeating the test on a single mattress is more likely to cause a product to fail; therefore, because this is a more stringent test, it is an improvement to safety. As a result of this revision, the modification that added a requirement and test method for mattresses with coil springs will be removed from 16 CFR part 1241. Instead, crib mattresses will be subject to the coil spring test requirements included in ASTM F2933–25, incorporated by reference in 16 CFR part 1241.

3. Other Changes

ASTM F2933–25 removes section 5.1 from ASTM F2933–21, which required products to meet all other applicable mandatory statutes and regulations. This section was not necessary in the voluntary standard because compliance with all applicable mandatory statutes and regulations remains obligatory for all products; therefore, this change does not impact safety. Modifications to section 5 of ASTM F2933–25 have been renumbered in 16 CFR part 1241 to account for this change. In section 5.8.1.2, ASTM F2933–25 replaces the word “pad” with “mattress” when referring to requirements in ASTM F2194, *Consumer Safety Specification for Bassinets and Cradles*. This change is a terminology update and does not impact the safety of any requirements in ASTM F2933. 16 CFR part 1241 is also revised to reflect this change when referencing ASTM F2194 and 16 CFR part 1218, *Safety Standard for Bassinets and Cradles*.³

D. Warnings and Instructions

The warnings and instructions for ASTM F2933–25 have been updated to substantially align with modifications in the mandatory standard for crib mattresses, with some minor deviations that are not expected to reduce safety. This includes minor changes in wording or formatting that do not change the overall meaning, such as the following:

- In section 7.2, the word “mattress” is used in place of “product.”
- In section 7.5, the phrase “unless otherwise specified” is omitted from the phrase, “Each mattress shall have warning statements to address the following, at a minimum, unless otherwise specified.”

- In section 7.7, “shall include” is used instead of “shall have.”

The revised voluntary standard also provides visual examples of warning labels exhibiting stated requirements in section 7 (FIG. 9, FIG. 10, and FIG. 11). These figures are similar to those included in the modifications.

Accordingly, these revisions to the warnings and instructions do not reduce safety. As a result, CPSC’s modifications to the marking and labeling and instructional literature requirements in 16 CFR part 1241 will be removed. Instead, crib mattresses will be subject to the warning and instruction requirements included in ASTM F2933–25, incorporated by reference in 16 CFR part 1241.

E. Other Revisions

ASTM F2933–25 also includes several minor additions and revisions that are editorial in nature, such as updates to section and figure numbers to reflect revised and new sections and figures and an updated Rationale section.⁴ These revisions do not impact safety because they do not alter any substantive requirements in the standard.

F. Modifications to the Standard

ASTM F2933–25 does not address the following modifications in the mandatory safety standard for crib mattresses:

- The addition of a mattress compression test to further reduce the risk of injury associated with corner gap entrapment from compression of the mattress by a fitted sheet.
- Extended dimension and other requirements for after-market non-rectangular non-full-size crib mattresses to all after-market non-full-size crib mattresses.
- A reference to requirements in either 16 CFR part 1220, *Safety Standard for Non-Full-Size Baby Cribs*, or 16 CFR part 1221, *Safety Standard for Play Yards*, as appropriate, to ensure consistency with other mandatory requirements in addition to referring to requirements in ASTM F406, *Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards*.
- A reference to requirements in 16 CFR part 1218, *Safety Standard for Bassinets and Cradles*, to ensure consistency with other mandatory requirements in addition to referring to requirements in ASTM F2194.

This direct final rule maintains these requirements as modifications to ASTM

F2933–25, as excluding these requirements would be a reduction in safety.

III. Incorporation by Reference

Section 1241.2 of the direct final rule incorporates by reference ASTM F2933–25. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to interested parties, and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section I. and II. of this preamble summarizes the major provisions of ASTM F2933–25 that the Commission incorporates by reference into 16 CFR part 1241. The standard is reasonably available to interested parties in several ways. Until the direct final rule takes effect, a read-only copies of ASTM F2933–25 and ASTM F2194–25 are available for viewing on ASTM’s website at: <https://www.astm.org/CPSC.htm>. On February 21, 2026, a read-only copy of ASTM F2194–25 will be available for viewing on the ASTM website at: <https://www.astm.org/READINGLIBRARY/>. Once the rule takes effect, a read-only copy of ASTM F2933–25 will also be available for viewing on the ASTM website at: <https://www.astm.org/READINGLIBRARY/>. ASTM F406–24 is already available for viewing at this location. Additionally, interested parties can purchase all referenced ASTM standards from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; phone: (610) 832–9585; www.astm.org. Finally, interested parties can schedule an appointment to inspect a copy of the standard at CPSC’s Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, telephone: (301) 504–7479; email: cpsc-os@cpsc.gov.

IV. Certification

Section 14(a) of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051–2089) requires manufacturers, including importers, of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must

³ 16 CFR part 1218 incorporates by reference ASTM F2194–25, effective February 21, 2026. 90 FR 57691 (Dec. 12, 2025).

⁴ The Rationale section is an appendix to the voluntary standard that describes in further detail the reason several requirements were included.

be based on a test of each product, or on a reasonable testing program, or, for children's products, on tests of a sufficient number of samples by a third party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are "consumer product safety standards." Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because crib mattresses are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products. Products subject to part 1218 also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA;⁵ the phthalates prohibitions in section 108 of the CPSIA⁶ and 16 CFR part 1307; the tracking label requirements in section 14(a)(5) of the CPSA;⁷ and the consumer registration form requirements in section 104(d) of the CPSIA.⁸ ASTM F2933–25 does not make any changes that would impact any of these existing requirements.

V. Notice of Requirements

In accordance with section 14(a)(3)(B)(iv) of the CPSA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies (third party labs) for testing crib mattresses, and codified the requirement at 16 CFR 1112.15(b)(50). 87 FR 8640 (Feb. 15, 2022). The NOR provided the criteria and process for CPSC to accept accreditation of third party conformity assessment bodies for testing crib mattresses to 16 CFR part 1241. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission's rule, "Requirements Pertaining to Third Party Conformity Assessment Bodies," codified in 16 CFR part 1112.

ASTM F2933–25 includes one new test fixture, a "rigid bar," and adds specifications to the firmness test fixture currently used in 16 CFR part 1241. The rigid bar can be easily machined, and its use is simply integrated into the firmness test protocol. The added specifications to the firmness test fixture could cause test laboratories to modify or remake existing test fixtures to ensure they remain within specification, but the fixture's use is based on the existing test protocol. Accordingly, the revisions

do not significantly change the way that third party conformity assessment bodies test these products for compliance with the safety standard for crib mattresses. Laboratories will begin testing to the new standard when ASTM F2933–25 goes into effect, and the existing accreditations that the Commission has accepted for testing to this standard will cover testing to the revised standard. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F2933–21 to be capable of testing to ASTM F2933–25 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing laboratories' accreditations to reflect the revised standard in the normal course of renewing their accreditations.

VI. Direct Final Rule Process

On December 3, 2025, the Commission provided notice in the **Federal Register** of the revision to the standard and requested comment on whether the revision improves the safety of crib mattresses covered by the standard. 90 FR 55701. CPSC received four comments. Now, the Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551–559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency "for good cause finds" that notice and comment are "impracticable, unnecessary, or contrary to the public interest." *Id.* 553(b)(B). The Commission concludes that when it updates a reference to an ASTM standard that the Commission incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

The purpose of this direct final rule is to update the reference in the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by operation of law. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F2933–25 would take effect as the new CPSC standard for crib mattresses in the absence of any action by the Commission. Thus, public comments would not lead to substantive changes to the standard or to the effect of the revised standard as a consumer product safety rule under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 2024–6, the Administrative Conference of the

United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are unlikely to elicit any significant adverse comments. *See* 89 FR 106406 (Dec. 30, 2024). ACUS recommends that agencies use the direct final rule process when they act under the "unnecessary" prong of the good cause exemption in 5 U.S.C. 553(b)(B). 89 FR 106406, 106409. ACUS also explains that notice and comment may be "unnecessary" when the agency lacks discretion regarding the substance of the rule. *Id.* at 106408. As noted, this rule updates a reference in the CFR to reflect a change that occurs by operation of law. Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on May 3, 2026. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be one where the commenter explains why the rule would be inappropriate, "including challenges to the rule's underlying premise or approach," or where the commenter explains why the rule would be ineffective or unacceptable without change. *Id.* at 106409. As noted, this rule updates a reference in the CFR to reflect a change that occurs by statute.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section VI. of this preamble, the Commission has determined notice and comment are unnecessary for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA by operation of law.

⁵ 15 U.S.C. 1278a.

⁶ 15 U.S.C. 2057c.

⁷ 15 U.S.C. 2063(a)(5).

⁸ 15 U.S.C. 2056a(d).

VIII. Paperwork Reduction Act

The current mandatory standard for crib mattresses includes requirements for marking, labeling, and instructional literature that constitute a “collection of information,” as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501–3521). The Commission took the steps required by the PRA for information collections when it promulgated 16 CFR part 1241, and the marking, labeling, and instructional literature for crib mattresses are currently approved under OMB Control Number 3041–0159. The revision does not affect the information collection requirements or approval related to the standard.

IX. Environmental Considerations

The Commission’s regulations provide for a categorical exclusion from any requirement to prepare an environmental assessment or an environmental impact statement where they “have little or no potential for affecting the human environment.” 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

X. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the Federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSA deems rules issued under that provision “consumer product safety standards.” Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

XI. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard 180 days after notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the

Federal Register. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the revised standard for crib mattresses. Therefore, ASTM F2933–25 automatically will take effect as the new mandatory standard, with some retained modifications, for crib mattresses on May 3, 2026, 180 days after the Commission received notice of the revision. As a direct final rule, unless the Commission receives a significant adverse comment within 30 days of this notice, the rule will become effective on May 3, 2026, and will apply to products manufactured after the rule’s effective date.

XII. Congressional Review Act and Executive Order 12866

Pursuant to the Congressional Review Act (CRA) and Executive Order (E.O.) 12866, the Office of Management and Budget’s Office of Information and Regulatory Affairs has determined that this rule does not qualify as a “major rule,” as defined in 5 U.S.C. 804(2), and is not a significant regulatory action as defined under section 2(f) of E.O. 12866. To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1241

Consumer protection, Imports, Incorporation by reference, Infants and children, Law enforcement, Safety.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1241—SAFETY STANDARD FOR CRIB MATTRESSES

- 1. The authority citation for part 1241 is revised to read as follows:

Authority: 15 U.S.C. 2056a.

- 2. Revise and republish § 1241.2 to read as follows:

§ 1241.2 Requirements for Crib Mattresses.

(a) Except as provided in paragraph (b) of this section, each crib mattress must comply with all applicable provisions of ASTM F2933–25 (incorporated by reference, see § 1241.3).

(b) Comply with ASTM F2933–25 with the following additions or exclusions:

(1) Instead of complying with section 5.6.1.1 of ASTM F2933–25, comply with the following:

(i) 5.6.1.1 *Mattress Size*—The dimensions of a full-size crib mattress shall measure at least 27 ¼ in. (690 mm) wide and 51 ⅝ in. (1310 mm) long.

When the mattress with the test mattress sheet is placed against the perimeter and in the corner of the crib, the corner gap shall not exceed 3.15 in. (80.0 mm). Dimensions shall be tested in accordance with 6.2.

(ii) [Reserved]

(2) Instead of complying with section 5.6.2 through 5.6.2.2 of ASTM F2933–25, comply with the following:

(i) 5.6.2 *Non-Full-Size Crib Mattresses*—For the purposes of this section, the term product refers to a non-full-size crib.

(ii) 5.6.2.1 *Mattress supplied with a non-full-size crib*: Shall meet the applicable requirements of the following sections of ASTM F406 (incorporated by reference, see § 1241.3) when tested with the product with which it is supplied: *Stability; Cord/Strap Length; Mattresses for Rigid sided products; and Crib Side Height*. (See 16 CFR part 1220 for the Safety Standard for Non-Full-Size Baby Cribs.)

(iii) 5.6.2.2 *After-market mattresses for non-full-size cribs*: Shall be treated as though the mattresses were “the mattress supplied with a non-full-size crib” and shall meet the applicable requirements of the following sections of ASTM F406 when tested to the equivalent interior dimension of the product for which it is intended to be used: *Stability; Cord/Strap Length; Mattresses for Rigid sided products; and Crib Side Height*. (See 16 CFR part 1220 for the Safety Standard for Non-Full-Size Baby Cribs.)

(iv) 5.6.2.3 The after-market mattress must be at least the same size as the original equipment mattress or larger and lay flat on the floor of the product, in contact with the product mattress support structure.

(v) 5.6.2.4 If the original equipment mattress includes a floor support structure, the after-market mattress must include a floor support structure that is at least as thick as the original equipment mattress floor support structure.

(vi) 5.6.2.5 If the original equipment mattress includes storage accommodations for the product instruction manual, the after-market mattress shall provide equivalent storage accommodations for the product instruction manual.

(3) Instead of complying with section 5.8 through 5.8.1.2 of ASTM F2933–25, comply with the following:

(i) 5.8 *After-Market Mattress for Play Yard*—For the purposes of this section, the term “product” refers to a play yard.

(ii) 5.8.1 For Mesh/Fabric Sided Play Yard Products.

(A) 5.8.1.1 The after-market mattress and product it is tested in shall meet the

applicable requirements of the following sections of ASTM F406 when tested with each brand and model of product for which it is intended to replace the mattress: *Stability; Cord/Strap Length; Mattress; Height of Sides; Floor Strength; Mattress Vertical Displacement*. (See 16 CFR part 1221 for the Safety Standard for Play Yards.)

(B) 5.8.1.2 If the aftermarket mattress is intended to be used in the bassinet of a play yard with a bassinet attachment, the mattress shall also meet the applicable requirements of the following sections of ASTM F2194 (incorporated by reference, see § 1241.3) when tested with each brand and model for which it is intended to replace the mattress: *Mattress Thickness for Fabric or Mesh Sided Products; Mattress dimensions; Side Height; Bassinets with Segmented Mattresses*. This paragraph applies only to a play yard mattress that is interchangeably used as a play yard mattress and as a bassinet mattress/pad.

(See 16 CFR part 1218 for the Safety Standard for Bassinets and Cradles.)

(4) Renumber section 6.2.2 of ASTM F2933–25 to section 6.2.3.

(5) Renumber section 6.2.2.1 of ASTM F2933–25 to section 6.2.3.1.

(6) Renumber section 6.2.2.2 of ASTM F2933–25 to section 6.2.3.2.

(7) Renumber section 6.2.2.3 of ASTM F2933–25 to section 6.2.3.3.

(8) Renumber section 6.2.2.4 of ASTM F2933–25 to section 6.2.3.4.

(9) Add the following paragraphs to section 6.2.3 of ASTM F2933–25:

(i) 6.2.3.5 The test mattress sheet shall be placed on the mattress such that each sheet edge is wrapped fully around and under the mattress.

(ii) 6.2.3.6 Repeat step 6.2.3.2. Then measure the shortest gap between the mattress and the projected crib corner after the dimensions of the mattress have been recorded. The projected crib corner is located 53 in. $\pm$ $\frac{1}{8}$ in. (1346 mm $\pm$ 3.2 mm) from Wall C and 28 $\frac{5}{8}$ in. $\pm$ $\frac{1}{8}$ in. (727 mm $\pm$ 3.2 mm) from

Wall D, as shown in Fig. 12. The mattress shall not be moved during measurement. This shall be the corner gap measurement.

(iii) 6.2.3.7 Rotate the mattress 180° such that the opposing corner is adjacent to Walls C and D, then repeat 6.2.3.6.

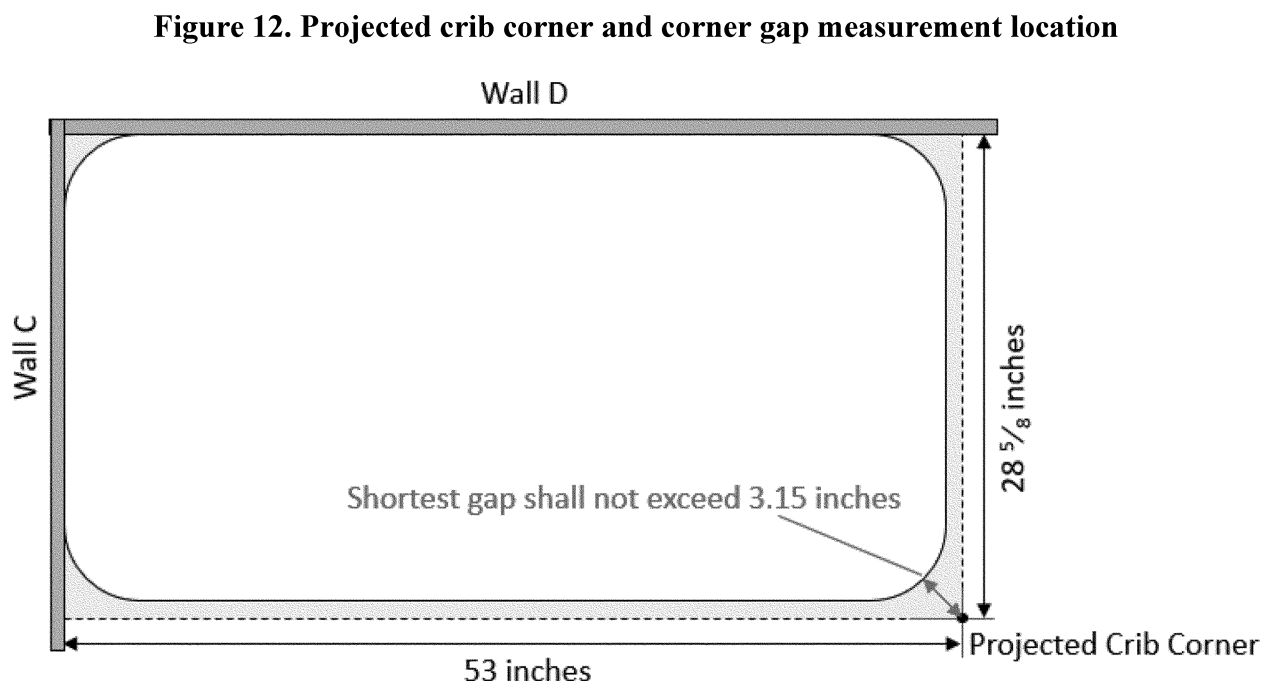
(10) Instead of complying with section 6.2.2 of ASTM F2933–25, comply with the following:

(i) 6.2.2 Test Equipment-Mattress Sheet. (A) 6.2.2.1 The mattress sheet shall be 100% cotton and fitted for the mattress to be tested.

(B) 6.2.2.2 The mattress sheet shall be washed in hot water (50 °C [122 °F] or higher) and dried a minimum of two times on the highest setting using household textile laundering units. This shall be the test mattress sheet.

(11) Add the following Figure to section 6 of ASTM F2933–25: Figure 12.

Figure 12. Projected Crib Corner and Corner Gap Measurement Location



■ 3. Add § 1241.3 to read as follows:

§ 1241.3 Incorporation by reference.

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at the U.S. Consumer Product Safety Commission and at the National Archives and Records Administration (NARA). Contact the U.S. Consumer

Product Safety Commission at: Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7479, email cpsc-os@cpsc.gov. 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. The material may be obtained from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428; phone (610)

832-9585; website: www.astm.org/READINGLIBRARY/:

(a) ASTM F406–24, Standard Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards, approved August 1, 2024; into § 1241.2.

(b) ASTM F2194–25, Standard Consumer Safety Specification for Bassinets and Cradles, approved August 1, 2025; into § 1241.2.

(c) ASTM F2933–25, Standard Consumer Safety Specification for Crib

Mattresses, approved October 1, 2025; into § 1241.2.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2026–02855 Filed 2–11–26; 8:45 am]

BILLING CODE 6355–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2024–0537; EPA–R05–OAR–2024–0538; EPA–R05–OAR–2024–0539; FRL–12534–02–R5]

Air Plan Approval; Ohio; Second Maintenance Plan for 2008 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Ohio State Implementation Plan (SIP). On November 6, 2024, the Ohio Environmental Protection Agency (Ohio EPA) submitted the State's plans for maintaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) in the Columbus, Ohio; Cleveland-Akron-Lorain, Ohio; and Cincinnati, Ohio-Kentucky-Indiana areas. The EPA is approving these maintenance plans because they provide for the maintenance of the 2008 ozone NAAQS for each area for 10 additional years as required by the Clean Air Act (CAA). The EPA is also finding adequate and approving the motor vehicle emission budgets for each area. This approval makes certain commitments related to maintenance of the 2008 ozone NAAQS in these areas federally enforceable as part of the Ohio SIP.

DATES: This final rule is effective on March 16, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2024–0537 (Cincinnati); EPA–R05–OAR–2024–0538 (Cleveland-Akron-Lorain); EPA–R05–OAR–2024–0539 (Columbus). 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, *i.e.*, Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either through <https://www.regulations.gov> or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Delaney Kilgour, at (312) 886–1493, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Delaney Kilgour, Air and Radiation Division (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1493, kilgour.delaney@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

On May 19, 2025 (90 FR 21254), the EPA proposed to approve Ohio's plans for maintaining the 2008 ozone NAAQS through 2036 in the Columbus area and through 2037 in the Cleveland-Akron-Lorain and Cincinnati areas as revisions to the Ohio SIP. The EPA also proposed to find adequate and approve the volatile organic compounds (VOC) and nitrogen oxides (NO_x) motor vehicle emission budgets (Budgets) for 2036 for the Columbus area and for 2037 for the Cleveland-Akron-Lorain and Cincinnati areas (90 FR 21254). An explanation of the CAA requirements, a detailed analysis of the revisions, and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking. The public comment period for this proposed rule ended on June 18, 2025. The EPA received two comments on the proposal.

II. Response to Comments

EPA received two anonymous comments during the comment period. Summaries of the comments and the EPA's response are provided below. The full comments are in the rulemaking docket; see Addresses for details on accessing the docket.

Comment 1: The commenter suggests that Ohio needs a plan to be carbon neutral by 2030 and recommends disapproving the 2008 ozone second maintenance plans for Ohio until the State “deconstructs, degrowth, retreats and rewilds 10% of the proposed areas.”

Comment 2: The commenter recommends disapproving the 2008 ozone second maintenance plans for Ohio until the State adopts California's strict air quality laws.

Response: The requirement for a State to submit a maintenance plan demonstrating attainment of the NAAQS in an area for an additional 10 years beyond the initial 10-year maintenance period is set forth in section 175A of the CAA. In a 1992 Memorandum entitled “Procedures for Processing Requests to Redesignate Areas to Attainment,” the EPA has long-standing guidance for States on developing maintenance plans.¹ It explains that a maintenance plan should address five elements: (1) an attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. Ohio's maintenance plans for the 2008 ozone NAAQS address each of these components of a maintenance plan and meet the requirements of section 175A of the CAA. The received comments regarding Ohio adopting a plan for carbon neutrality and equivalent air quality laws to California are beyond the scope of this action. These comments have no bearing on the EPA's proposed approval of Ohio's 2008 ozone second maintenance plans as the plans fulfill the requirements under section 175A of the CAA.

III. Emission Inventories

After the comment period for the notice of proposed rulemaking closed on June 18, 2025, Ohio EPA discovered errors in the emission inventories affecting area sources in the Columbus and Cleveland-Akron-Lorain areas and point, area, and nonroad sources in the Cincinnati area. On August 19, 2025, Ohio EPA submitted a supplement to the State's plans to correct the emission inventories for each area. The procedures used to develop the emission inventories were documented in the notice of proposed rulemaking (90 FR 21254).

The EPA evaluated Ohio's corrected attainment and maintenance year emission inventories. Just as with Ohio's original emission inventories, the corrected emission inventories continue to demonstrate maintenance of the 2008 ozone standard in the Columbus, Cleveland-Akron-Lorain, and Cincinnati areas by showing that future emissions of NO_x and VOC will remain at or below attainment year emission levels when considering both future source growth and implementation of future controls.

¹ “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992.

Attainment inventories for the
Columbus area are in Tables 1 and 2,
attainment inventories for the

Cleveland-Akron-Lorain area are in
Tables 3 and 4, and attainment

inventories for the Cincinnati area are in
Tables 5 and 6.

TABLE 1—COLUMBUS AREA TYPICAL SUMMER DAY VOC EMISSIONS FOR ATTAINMENT YEAR 2016

[Tons/day (tpd)]

County	Point	Area	Nonroad	On-road	Total
Delaware	0.27	6.23	4.44	2.67	13.61
Fairfield	0.34	4.92	1.26	1.91	8.43
Franklin	1.25	35.43	8.20	19.23	64.11
Knox	0.10	3.40	0.94	0.61	5.05
Licking	0.44	7.13	1.52	2.85	11.94
Madison	0.13	2.81	0.66	1.27	4.87
Total	2.53	59.92	17.02	28.54	108.01

TABLE 2—COLUMBUS AREA TYPICAL SUMMER DAY NO_x EMISSIONS FOR ATTAINMENT YEAR 2016

[Tons/day (tpd)]

County	Point	Area	Nonroad	On-road	Total
Delaware	0.09	1.95	2.77	3.45	8.26
Fairfield	1.71	0.46	1.47	2.45	6.09
Franklin	1.46	5.18	7.71	25.47	39.82
Knox	0.05	0.47	1.05	0.79	2.36
Licking	0.82	0.70	1.59	3.86	6.97
Madison	0.02	0.45	1.15	1.70	3.32
Total	4.15	9.21	15.74	37.72	66.82

TABLE 3—CLEVELAND-AKRON-LORAIN AREA TYPICAL SUMMER DAY VOC EMISSIONS FOR ATTAINMENT YEAR 2016

[Tons/day (tpd)]

County	Point	Area	Nonroad	On-road	Total
Ashtabula	8.12	3.83	4.76	1.13	17.84
Cuyahoga	1.78	41.76	13.05	13.77	70.36
Geauga	0.03	3.40	2.70	1.30	7.43
Lake	0.50	8.47	4.24	2.81	16.02
Lorain	0.76	8.90	4.48	3.41	17.55
Medina	0.13	6.93	2.09	2.97	12.12
Portage	1.04	6.47	5.18	2.06	14.75
Summit	0.53	18.34	5.50	6.51	30.88
Total	12.89	98.10	42.00	33.96	186.95

TABLE 4—CLEVELAND-AKRON-LORAIN AREA TYPICAL SUMMER DAY NO_x EMISSIONS FOR ATTAINMENT YEAR 2016

[Tons/day (tpd)]

County	Point	Area	Nonroad	On-road	Total
Ashtabula	0.97	2.57	3.08	2.04	8.66
Cuyahoga	7.37	8.08	10.23	26.63	52.31
Geauga	0.00	0.57	1.47	2.55	4.59
Lake	2.30	3.37	3.84	5.44	14.95
Lorain	14.22	3.47	3.61	6.63	27.93
Medina	0.05	1.35	1.63	5.92	8.95
Portage	0.30	2.20	2.09	3.70	8.29
Summit	0.47	3.56	3.44	11.13	18.60
Total	25.68	25.17	29.39	64.04	144.28

TABLE 5—CINCINNATI-OH-KY-IN AREA TYPICAL SUMMER DAY VOC EMISSIONS FOR ATTAINMENT YEAR 2016

[Tons/day (tpd)]

State (county)	Point	Area	Nonroad	On-road	Total
Ohio:					
Butler	1.72	12.18	2.69	5.23	21.82

TABLE 5—CINCINNATI-OH-KY-IN AREA TYPICAL SUMMER DAY VOC EMISSIONS FOR ATTAINMENT YEAR 2016—
Continued
[Tons/day (tpd)]

State (county)	Point	Area	Nonroad	On-road	Total
Clermont	0.23	6.64	2.44	3.12	12.43
Clinton	0.01	2.10	0.78	0.30	3.19
Hamilton	1.60	27.52	6.52	11.36	47.00
Warren	0.61	8.45	2.84	3.35	15.25
Indiana:					
Dearborn	6.21	1.37	0.37	0.20	8.15
Kentucky:					
Boone	2.23	3.86	0.97	1.47	8.53
Campbell	0.30	1.36	0.35	0.75	2.76
Kenton	0.47	2.32	0.43	1.52	4.74
Total	13.38	65.80	17.39	27.30	123.87

TABLE 6—CINCINNATI-OH-KY-IN AREA TYPICAL SUMMER DAY NO_x EMISSIONS FOR ATTAINMENT YEAR 2016
[Tons/day (tpd)]

State (county)	Point	Area	Nonroad	On-road	Total
Ohio:					
Butler	9.36	2.33	2.31	9.84	23.84
Clermont	18.83	1.16	1.62	6.02	27.63
Clinton	0.00	0.29	0.95	0.26	1.50
Hamilton	17.37	4.65	6.89	25.62	54.53
Warren	0.18	1.06	2.32	9.32	12.88
Indiana:					
Dearborn	1.75	0.26	0.38	0.57	2.96
Kentucky:					
Boone	10.87	0.56	0.50	6.07	18.00
Campbell	0.30	0.63	0.26	2.05	3.24
Kenton	0.26	0.96	0.37	5.15	6.74
Total	58.92	11.90	15.60	64.90	151.32

Ohio EPA demonstrated maintenance through 2036 for the Columbus area and through 2037 for the Cleveland-Akron-Lorain and Cincinnati areas by showing that future VOC and NO_x emissions remain at or below attainment year emission levels. The 2036 summer day emission inventories for the Columbus

area are in Tables 7 and 8, and changes in VOC and NO_x emissions in the Columbus area between 2016 and 2036 are summarized in Table 9. The 2037 summer day emission inventories for the Cleveland-Akron-Lorain area are in Tables 10 and 11, and changes in VOC and NO_x emissions in the Cleveland-

Akron-Lorain area between 2016 and 2037 are summarized in Table 12. The 2037 summer day emission inventories for the Cincinnati area are in Tables 13 and 14, and changes in VOC and NO_x emissions in the Cincinnati area between 2016 and 2037 are summarized in Table 15.

TABLE 7—COLUMBUS AREA TYPICAL SUMMER DAY VOC EMISSIONS FOR MAINTENANCE YEAR 2036
[Tons/day (tpd)]

County	Point	Area	Nonroad	On-road	Total
Delaware	0.29	8.87	2.20	1.52	12.88
Fairfield	0.34	5.88	0.76	0.84	7.82
Franklin	1.12	38.15	7.10	7.55	53.92
Knox	0.10	3.50	0.47	0.25	4.32
Licking	0.43	8.02	1.00	1.26	10.71
Madison	0.13	2.76	0.43	0.53	3.85
Total	2.41	67.18	11.96	11.95	93.50

TABLE 8—COLUMBUS AREA TYPICAL SUMMER DAY NO_x EMISSIONS FOR MAINTENANCE YEAR 2036
[Tons/day (tpd)]

County	Point	Area	Nonroad	On-road	Total
Delaware	0.09	1.49	1.41	0.81	3.80
Fairfield	2.26	0.44	0.54	0.43	3.67
Franklin	1.55	4.31	3.68	4.26	13.80

TABLE 8—COLUMBUS AREA TYPICAL SUMMER DAY NO_x EMISSIONS FOR MAINTENANCE YEAR 2036—Continued
[Tons/day (tpd)]

County	Point	Area	Nonroad	On-road	Total
Knox	0.05	0.37	0.35	0.13	0.90
Licking	0.83	0.67	0.57	0.69	2.76
Madison	0.02	0.35	0.28	0.28	0.93
Total	4.80	7.63	6.83	6.60	25.86

TABLE 9—CHANGE IN TYPICAL SUMMER DAY VOC AND NO_x EMISSIONS IN THE COLUMBUS AREA BETWEEN 2016 AND 2036
[Tons/day (tpd)]

	VOC			NO _x		
	2016	2036	Net change (2016–2036)	2016	2036	Net change (2016–2036)
Point	2.53	2.41	–0.12	4.15	4.80	0.65
Area	59.92	67.18	7.26	9.21	7.63	–1.58
Nonroad	17.02	11.96	–5.06	15.74	6.83	–8.91
On-road	28.54	11.95	–16.59	37.72	6.60	–31.12
Total	108.01	93.50	–14.51	66.82	25.86	–40.96

TABLE 10—CLEVELAND-AKRON-LORAIN AREA TYPICAL SUMMER DAY VOC EMISSIONS FOR MAINTENANCE YEAR 2037
[Tons/day (tpd)]

County	Point	Area	Nonroad	On-road	Total
Ashtabula	8.93	4.09	1.98	1.24	16.24
Cuyahoga	1.77	37.98	10.99	4.77	55.51
Geauga	0.02	4.04	1.79	0.48	6.33
Lake	0.53	8.60	2.18	0.94	12.25
Lorain	0.71	9.00	2.79	1.34	13.84
Medina	0.13	8.53	1.55	1.04	11.25
Portage	1.01	7.14	2.55	0.73	11.43
Summit	0.52	18.30	3.94	2.27	25.03
Total	13.62	97.68	27.77	12.81	151.88

TABLE 11—CLEVELAND-AKRON-LORAIN AREA TYPICAL SUMMER DAY NO_x EMISSIONS FOR MAINTENANCE YEAR 2037
[Tons/day (tpd)]

County	Point	Area	Nonroad	On-road	Total
Ashtabula	1.90	2.12	1.85	2.29	8.16
Cuyahoga	6.37	6.37	5.94	3.60	22.28
Geauga	0.00	0.53	0.80	0.35	1.68
Lake	2.80	2.81	2.26	0.69	8.56
Lorain	2.39	2.59	1.95	0.97	7.90
Medina	0.05	1.26	0.67	0.74	2.72
Portage	0.33	1.69	1.39	0.50	3.91
Summit	0.52	2.94	2.06	1.50	7.02
Total	14.36	20.31	16.92	10.64	62.23

TABLE 12—CHANGE IN TYPICAL SUMMER DAY VOC AND NO_x EMISSIONS IN THE CLEVELAND-AKRON-LORAIN AREA BETWEEN 2016 AND 2037
[Tons/day (tpd)]

	VOC			NO _x		
	2016	2037	Net change (2016–2037)	2016	2037	Net change (2016–2037)
Point	12.89	13.62	0.73	25.68	14.36	–11.32
Area	98.10	97.68	–0.42	25.17	20.31	–4.86
Nonroad	42.00	27.77	–14.23	29.39	16.92	–12.47

TABLE 12—CHANGE IN TYPICAL SUMMER DAY VOC AND NO_x EMISSIONS IN THE CLEVELAND-AKRON-LORAIN AREA BETWEEN 2016 AND 2037—Continued

[Tons/day (tpd)]

	VOC			NO _x		
	2016	2037	Net change (2016–2037)	2016	2037	Net change (2016–2037)
On-road	33.96	12.81	– 21.15	64.04	10.64	– 53.40
Total	186.95	151.88	– 35.07	144.28	62.23	– 82.05

TABLE 13—CINCINNATI-OH-KY-IN AREA TYPICAL SUMMER DAY VOC EMISSIONS FOR MAINTENANCE YEAR 2037

[Tons/day (tpd)]

State (county)	Point	Area	Nonroad	On-road	Total
Ohio:					
Butler	1.77	12.68	2.15	1.96	18.56
Clermont	0.19	8.07	1.47	1.28	11.01
Clinton	0.01	2.21	0.39	0.22	2.83
Hamilton	1.48	25.07	5.38	4.42	36.35
Warren	0.58	11.61	1.58	1.62	15.39
Indiana:					
Dearborn	6.24	1.58	0.27	0.07	8.16
Kentucky:					
Boone	0.90	4.88	0.73	0.81	7.32
Campbell	0.23	1.35	0.21	0.35	2.14
Kenton	0.35	2.45	0.41	0.74	3.95
Total	11.75	69.90	12.59	11.47	105.71

TABLE 14—CINCINNATI-OH-KY-IN AREA TYPICAL SUMMER DAY NO_x EMISSIONS FOR MAINTENANCE YEAR 2037

[Tons/day (tpd)]

State (county)	Point	Area	Nonroad	On-road	Total
Ohio:					
Butler	9.06	1.79	1.17	1.47	13.49
Clermont	5.85	0.77	0.84	0.89	8.35
Clinton	0.00	0.26	0.25	0.12	0.63
Hamilton	5.28	3.83	3.31	3.85	16.27
Warren	0.18	0.93	1.09	1.68	3.88
Indiana:					
Dearborn	1.51	0.19	0.17	0.09	1.96
Kentucky:					
Boone	0.34	0.32	0.31	0.97	1.94
Campbell	0.16	0.32	0.15	0.26	0.89
Kenton	0.16	0.56	0.20	0.76	1.68
Total	22.54	8.97	7.49	10.09	49.09

TABLE 15—CHANGE IN TYPICAL SUMMER DAY VOC AND NO_x EMISSIONS IN THE CINCINNATI AREA BETWEEN 2016 AND 2037

[Tons/day (tpd)]

	VOC			NO _x		
	2016	2037	Net change (2016–2037)	2016	2037	Net change (2016–2037)
Ohio Portion of the Area						
Point	4.17	4.03	– 0.14	45.74	20.37	– 25.37
Area	56.89	59.64	2.75	9.49	7.58	– 1.91
Nonroad	15.27	10.97	– 4.30	14.09	6.66	– 7.43
On-road	23.36	9.50	– 13.86	51.06	8.01	– 43.05
Total	99.69	84.14	– 15.55	120.38	42.62	– 77.76

TABLE 15—CHANGE IN TYPICAL SUMMER DAY VOC AND NO_x EMISSIONS IN THE CINCINNATI AREA BETWEEN 2016 AND 2037—Continued
[Tons/day (tpd)]

	VOC			NO _x		
	2016	2037	Net change (2016–2037)	2016	2037	Net change (2016–2037)
Entire Area						
Point	13.38	11.75	– 1.63	58.92	22.54	– 36.38
Area	65.80	69.90	4.10	11.90	8.97	– 2.93
Nonroad	17.39	12.59	– 4.80	15.60	7.49	– 8.11
On-road	27.30	11.47	– 15.83	64.90	10.09	– 54.81
Total	123.87	105.71	– 18.16	151.32	49.09	– 102.23

IV. Motor Vehicle Emission Budgets

EPA is finding adequate and approving motor vehicle emission budgets for use to determine transportation conformity in the Columbus, Cleveland-Akron-Lorain, and Cincinnati areas. Detailed information on the transportation conformity program and the EPA's reasons for proposing approval can be found in our May 19, 2025 (90 FR 21254), proposed approval of Ohio's second maintenance

plans for the 2008 ozone NAAQS. NO_x and VOC Budgets for the last year of the maintenance periods for the Columbus area (2036), the Cleveland-Akron-Lorain area (2037), and the Cincinnati area (2037) are included in Table 16.

Updates to emission inventories in the point, area, and nonroad sectors result in updates to each area's safety margins. The Columbus area is projected to have a safety margin of 40.96 tpd for NO_x and 14.51 tpd for

VOC in 2036 (Table 9). The Cleveland-Akron-Lorain area is projected to have a safety margin of 82.05 tpd for NO_x and 35.07 tpd for VOC in 2037 (Table 12). The Cincinnati area is projected to have a safety margin of 102.23 tpd for NO_x and 18.16 tpd for VOC in 2037 (Table 15). As shown in Table 16, the portions of each area's safety margins allocated to the mobile source sector are still less than each area's entire available safety margins.

TABLE 16—MAINTENANCE YEAR BUDGETS FOR THE COLUMBUS AREA (2036), CLEVELAND-AKRON-LORAIN AREA (2037), AND CINCINNATI, OH-KY-IN AREA (2037)
[Tons/day (tpd)]

	Maintenance year estimated on-road emissions	Maintenance year mobile safety margin allocation	Maintenance year budgets
Columbus Area:			
VOC	11.95	1.79	13.74
NO _x	6.60	0.99	7.59
Cleveland-Akron-Lorain Area:			
VOC	12.81	1.92	14.73
NO _x	10.64	1.60	12.24
Ohio and Indiana Portions of Cincinnati, OH-KY-IN Area:			
VOC	9.57	1.44	11.01
NO _x	8.10	1.22	9.32
Kentucky Portion of Cincinnati, OH-KY-IN Area:			
VOC	1.90	0.29	2.19
NO _x	1.99	0.30	2.29

V. What action is the EPA taking?

The EPA is approving the second maintenance plans for the 2008 ozone NAAQS submitted by Ohio EPA on November 6, 2024, as revisions to the Ohio SIP. These second maintenance plans are designed to keep the Columbus area in attainment of the 2008 ozone NAAQS through 2036, the Cleveland-Akron-Lorain area in attainment of the 2008 ozone NAAQS through 2037, and the Cincinnati area in attainment of the 2008 ozone NAAQS through 2037. The EPA is finding adequate and approving the newly

established Budgets for the Columbus, Cleveland-Akron-Lorain, and Ohio portion of the Cincinnati maintenance areas.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of

the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or

an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 13, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: February 3, 2026.

Cheryl L. Newton,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. In § 52.1870, the table in paragraph e is amended under the heading “Summary of Criteria Pollutant Maintenance Plan” by adding three entries for “Ozone (8-Hour, 2008)” before the entry for “Ozone (8-Hour, 2015)” to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
*	*	*	*	*
Summary of Criteria Pollutant Maintenance Plan				
Ozone (8-Hour, 2008)	Cincinnati (Butler, Clermont, Clinton, Hamilton, and Warren Counties).	11/6/2024	2/12/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	2nd maintenance plan. Conformity Budgets 2037 [tons/day] Ohio and Indiana: VOC 11.01; NO _x 9.32
Ozone (8-Hour, 2008)	Cleveland-Akron-Lorain (Ash-tabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit Counties).	11/6/2024	2/12/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	2nd maintenance plan. Conformity Budgets 2037 [tons/day] VOC 14.73; NO _x 12.24
Ozone (8-Hour, 2008)	Columbus (Delaware, Fairfield, Franklin, Knox, Licking, and Madison Counties).	11/6/2024	2/12/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	2nd maintenance plan. Conformity Budgets 2036 [tons/day] VOC 13.74; NO _x 7.59
*	*	*	*	*

* * * * *

[FR Doc. 2026-02822 Filed 2-11-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-OLEM-2024-0294; FRL-12112-03-OLEM]

Deletion From the National Priorities List; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendment.

SUMMARY: The Environmental Protection Agency is correcting a final rule that was published in the **Federal Register** on March 5, 2025, regarding the deletion of one site and partial deletion of three sites from the Superfund National Priorities List (NPL). This action is necessary to correct an error in the name of one site.

DATES: Effective on February 12, 2026. Applicable on March 5, 2025.

ADDRESSES: The EPA docket for this action is under Docket ID No. EPA-HQ-OLEM-2024-0294. 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 (CBI) or other information whose disclosure is

restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

- Grace Stern and Robert Keating, U.S. EPA Region 2 (NJ, NY, PR, VI), email address: stern.grace@epa.gov, telephone number: (212) 637-4341; email address: keating.robert@epa.gov, telephone number: (212) 637-4325.
- Ashley Miller, Matt Spencer, and Jennifer Edwards, U.S. EPA Headquarters, email address: miller.ashley@epa.gov, telephone number: (202) 566-1084; email address: spencer.matthew@epa.gov, telephone number: (202) 566-1851; email address: edwards.jennifer@epa.gov, telephone number: (202) 566-1051.

SUPPLEMENTARY INFORMATION: On March 5, 2025, the Environmental Protection Agency published a final rule in the **Federal Register** to delete one site and partially delete three sites from the Superfund National Priorities List (NPL) (90 FR 11218). In that final rule, EPA inadvertently revised the name of one site. Lawrence Aviation Industries, Inc. in Port Jefferson Station, NY, was incorrectly listed as Lawrence Aviation, Inc. This resulted in an error in table 1 in appendix B to 40 CFR part 300 (National Priorities List). This document corrects the final regulation to provide the correct name of Lawrence Aviation

Industries, Inc. in table 1 in appendix B to 40 CFR part 300 (National Priorities List).

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Mark Barolo,

Office Director, Office of Superfund and Emergency Management.

Accordingly, 40 CFR part 300 is corrected by making the following correcting amendment:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

- 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

- 2. In appendix B to part 300 amend table 1 by revising the entry “NY”, “Lawrence Aviation, Inc”, “Port Jefferson Station” to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes ^a
* NY	* Lawrence Aviation Industries, Inc	* Port Jefferson Station	* P
* *	* *	* *	* *

P = Sites with partial deletion(s).

* * * * *

[FR Doc. 2026-02809 Filed 2-11-26; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 26-135; MB Docket No. 25-298; FR ID 330662]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Table of FM Allotments, of the Federal Communications Commission’s

(Commission) rules, by substituting Channel 277A for vacant Channel 221A at Hamilton, Alabama; Channel 261B1 for vacant Channel 261B at Coalinga, California; Channel 289A for vacant Channel 291A at Rocksprings, Texas; Channel 261A for vacant Channel 221A at Silverton, Texas; and Channel 281C2 for vacant Channel 260C2 at Spur, Texas. The existing vacant FM channels are not in compliance with the minimum distance separation requirements of the Federal Communications Commission (Commission) rules, and vacant Channel 261B at Coalinga is also not in

compliance with the city-grade coverage requirements of the Commission's rules. The window period for filing applications for these vacant FM allotments will not be opened at this time. Instead, the issue of opening these allotments for filing will be addressed by the Commission in subsequent order. See Supplementary Information.

DATES: Effective March 26, 2026.

FOR FURTHER INFORMATION CONTACT:

Rolanda F. Smith, Media Bureau, (202) 418–2054, Rolanda-Faye.Smith@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, adopted February 9, 2026, and released February 9, 2026. The full text of this Commission decision is available online at <https://apps.fcc.gov/ecfs/>. The full text of this document can also be downloaded in Word or Portable Document Format (PDF) at <https://www.fcc.gov/edocs>. This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission will send a copy of this *Report and Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

Channel 277A can be allotted to Hamilton, Alabama consistent with the minimum distance separation requirements of 47 CFR 73.207, provided there is a site restriction of 7 kilometers (4.4 miles) north of the community at reference coordinates 34–11–50 NL and 88–01–37 WL. Channel 261B1 can be allotted to Coalinga, California consistent with the minimum distance separation requirements of 47 CFR 73.207, without a site restriction at the community's reference coordinates 36–8–23 NL and 120–21–37 WL. Channel 289A can be allotted to Rocksprings, Texas consistent with the minimum distance separation requirements of 47 CFR 73.207, provided there is a site restriction of 12.1 kilometers (7.5 miles) west of the community at reference coordinates 29–59–52 NL and 100–20–10 WL. Channel 261A can be allotted to Silverton, Texas consistent with the minimum distance separation requirements of 47 CFR 73.207, provided there is a site restriction of 11 kilometers (6.8 miles) northwest of the community at reference coordinates 34–33–34 NL and 101–21–13 WL. Channel 281C2 can be allotted to Spur, Texas consistent with the minimum distance separation requirements of 47 CFR 73.207, provided there is a site restriction of 22.5 kilometers (14 miles) east of the

community at reference coordinates 33–26–51 NL and 100–36–59 WL.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.202, amend table 1 to paragraph (b) by:

■ a. Revising the entry for “Hamilton” under Alabama;

■ b. Revising the entry for “Coalinga” under California; and

■ c. Under Texas:

■ i. Revising the entries for “Rocksprings” and “Silverton”; and

■ ii. Adding in alphabetical order the entry for “Spur”.

The revisions and addition read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) *Table of FM Allotments.*

TABLE 1 TO PARAGRAPH (b)
[U.S. States]

Channel No.				
* * * * *				
Alabama				
* * * * *				
Hamilton				277A
* * * * *				
California				
* * * * *				
Coalinga				247A, 261B1
* * * * *				
Texas				
* * * * *				
Rocksprings				289A

TABLE 1 TO PARAGRAPH (b)—
Continued
[U.S. States]

Channel No.				
* * * * *				
Silverton				261A
* * * * *				
Spur				281C2
* * * * *				

[FR Doc. 2026–02857 Filed 2–11–26; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 260209–0040]

RIN 0648–BM64

Fisheries of the Exclusive Economic Zone off Alaska; Amendment 125 to the Bering Sea and Aleutian Islands Fishery Management Plan; Pacific Cod Small Boat Access

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement amendment 125 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP). Amendment 125 and this final rule add a small vessel provision to the BSAI Pacific cod jig sector in the A season, January 1 to April 30. Under this small vessel provision, catch from catcher vessels (CV) using hook-and-line or pot gear that are less than or equal to 55 feet (ft) (16.8 meters (m)) length overall (LOA) harvesting Pacific cod in the BSAI during the jig gear A season accrues to the jig sector allocation. This action provides stability and additional opportunities for some fishery participants and potential new entrants. It also advances the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the BSAI FMP, and other applicable laws.

DATES: This rule is effective May 1, 2026.

ADDRESSES: Electronic copies of the Regulatory Impact Review for amendment 125 to the BSAI FMP

(referred to as the Analysis), and the categorical exclusion prepared for this action are available from <http://www.regulations.gov> or from the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/region/alaska>.

FOR FURTHER INFORMATION CONTACT: Lis Henderson, 907-586-7228, lis.henderson@noaa.gov.

SUPPLEMENTARY INFORMATION: This final rule implements amendment 125 to the BSAI FMP. NMFS published a notice of availability (NOA) for amendment 125 in the **Federal Register** on June 4, 2025, with comments invited through August 4, 2025 (90 FR 23664). NMFS also published the proposed rule for amendment 125 in the **Federal Register** on August 6, 2025 (90 FR 37831), with comments invited through September 5, 2025. Comments on the NOA and the proposed rule for amendment 125 were considered in evaluation of this final rule. NMFS approved amendment 125 on September 3, 2025 after considering public comments and determining that amendment 125 is consistent with the BSAI FMP, the Magnuson-Stevens Act, and other applicable laws. NMFS received four comment letters during the public comment period on the NOA and three comment letters during the public comment period on the proposed rule. NMFS summarized and responded to these comments under the Comments and Responses heading, below.

NMFS manages the groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands management area off Alaska under the BSAI FMP. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the BSAI FMP under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). Regulations implementing the BSAI FMP appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600. In order to promote the long-term health and stability of the BSAI Pacific cod fishery, the Council recommended and NMFS approved amendment 125 under the authority of the Magnuson-Stevens Act sections 302(h)(1), 303(a)(1), and 304(a)(3). The Council recommended and NMFS approved this final rule to implement amendment 125 under the rulemaking authority of the Magnuson-Stevens Act sections 303(c) and 304(b)(3).

Background

This section provides a brief description of (1) Pacific cod allocations, (2) inseason adjustments, and (3) affected fishery sectors. A more detailed description of the need for this

rule and this background information is included in the preamble to the proposed rule (90 FR 37831, August 6, 2025) and Section 1.1 of the Analysis (See **ADDRESSES**).

Pacific Cod Allocations

The BSAI FMP and implementing regulations require that, after consultation with the Council, NMFS specify a total allowable catch (TAC) amount for Pacific cod on an annual basis. During the annual harvest specifications process, and after subtraction of the Community Development Quota (CDQ) Program allocation, NMFS allocates an amount of the combined BSAI non-CDQ TAC to each of nine non-CDQ fishery sectors. The non-CDQ fishery sectors are defined by a combination of gear type (e.g., trawl gear or hook-and-line gear), operation type (i.e., CV or catcher/processor (C/P)), and vessel size, or LOA, categories (e.g., vessels greater than or equal to 60 ft (18.3 m) LOA). Regulations at § 679.20(a)(7)(ii)(A) allocate 1.4 percent of the BSAI non-CDQ Pacific cod TAC to the jig sector and 2 percent to the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector.

Under regulations at § 679.20(a)(7), allocations of Pacific cod to most of the CDQ Program and non-CDQ fishery sectors are further apportioned by seasons, which are uniquely defined for each sector at § 679.23(e)(5). Regulations apportion jig gear allocations among three seasons that correspond to January 1 through April 30 (A season), April 30 through August 31 (B season), and August 31 through December 31 (C season). The less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector is not divided into seasons, and the annual allocation may be harvested January 1 through December 31. Depending on the specific sector allocation (CDQ Program or non-CDQ fishery), between 40 and 75 percent of the Pacific cod allocation is apportioned to the A season.

While Pacific cod remains one of the most abundant species in the BSAI management area, population declines since 2016 have resulted in lower annual TACs than historical averages (see table 3-1 in Section 3.2 of the Analysis). The smaller annual TACs have resulted in earlier season closures. Smaller vessels (less than or equal to 55 ft (16.8 m) LOA) are disproportionately affected by early closures because vessel operators have less flexibility to fish when the weather is poor and typically fish waters closer to port, which may be less productive.

Inseason Adjustments

Regulations at § 679.20(a)(7)(iv)(B) allow any unused portion of a seasonal allowance from any sector, except the jig sector, to be rolled over to that sector's next season during the current fishing year unless the Regional Administrator determines that sector would be unable to harvest its allocation. For the jig sector, regulations require that any projected unused portion of a seasonal allowance of Pacific cod for the jig sector be reallocated to the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector. In the past, Pacific cod in the sectors with seasonal allowances other than the jig sector is often fully utilized later in the year and, therefore, the unused portion of Pacific cod has consistently rolled over to that sector's next season.

Historically, there has been little to no participation by vessels using jig gear in the A season, which has allowed NMFS to reallocate projected unused A season TAC from the jig sector to the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector early in the year (frequently in January). In recent years, the majority of the jig sector's A season allowance has been reallocated to the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector at the beginning of the year.

Affected Fishery Sectors

This action affects the jig gear sector and the hook-and-line and pot CVs less than 60 ft (18.3 m) LOA sector. The jig sector is allocated 1.4 percent of the annual BSAI Pacific cod non-CDQ TAC, with 60 percent of this allocation apportioned to the A season (§ 679.20(a)(7)(iv)(A)(3)). The jig gear sector includes all vessels operating as a CV and using jig gear, as well as C/P vessels using jig gear to harvest Pacific cod.

The less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector is allocated 2 percent of the annual BSAI Pacific cod non-CDQ TAC for the year, with no seasonal apportionments (§ 679.20(a)(7)(iv)(A)(4)). The jig sector A season apportionment has typically been reallocated and made available to the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector at the beginning of the year. Due to the relatively large fishing capacity of the participants in the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector, their total allocation is typically harvested by late January or early February. Since 2020, reallocations to the less than 60 ft (18.3 m) LOA hook-and-line or pot CV sector have typically occurred first at the beginning of the

year and then again in early to mid-September. Regulations at § 679.20(a)(7)(iv)(B) and (C) require a reallocation of BSAI Pacific cod from the jig sector's C season to the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector on or near September 1.

Amendment 125

Amendment 125 modifies the jig sector, during the A season, to include catch from CVs using hook-and-line or pot gear that are less than or equal to 55 ft (16.8 m) LOA. Pacific cod catch from these vessels during the jig sector A season would accrue to the jig sector allocation. Amendment 125 does not change the allocation percentages or reallocation hierarchy established under amendment 85 to the BSAI FMP (72 FR 50788, September 4, 2007). Amendment 125 does not change how Pacific cod catch accrues to the various sector allocations after the end of the jig sector A season. Amendment 125 also does not change that catch from CVs less than 60 ft (18.3 m) LOA and greater than 55 ft (16.8 m) LOA accrues to the less than 60 ft (18.3 m) LOA hook-and-line and pot gear CV sector allocation at all times during the fishing year.

Under amendment 125, after the jig sector A season ends (April 30), catch from all CVs less than 60 ft (18.3 m) LOA and using hook-and-line or pot gear (including those that are less than or equal to 55 ft (16.8 m) LOA) accrues to the less than 60 ft (18.3 m) LOA hook-and-line and pot gear CV sector allocation for the remainder of the year.

Final Rule

This final rule adds a small vessel provision at § 679.20(a)(7)(iv)(D) to specify how catch from hook-and-line or pot CVs that are less than or equal to 55 ft (16.8 m) LOA will accrue during the jig sector A season and the rest of the year. During the jig sector A season, catch from hook-and-line or pot gear CVs that are less than or equal to 55 ft (16.8 m) LOA will accrue to the jig sector allocation. After the jig sector A season ends on April 30 at 1200 hours Alaska local time (A.L.T.), jig sector seasonal allowances will be designated for jig vessels only. Beginning April 30 at 1200 hours A.L.T., catch from smaller CVs (less than or equal to 55 ft (16.8 m) LOA) using hook-and-line or pot gear will accrue against the hook-and-line and pot CV less than 60 ft (18.3 m) LOA sector's allocation.

This final rule also changes the sector allocations table at § 679.20(a)(7)(ii)(A) to modify the descriptions of the jig sector and the hook-and-line and pot CV less than 60 ft (18.3 m) LOA sector to accommodate the distinction between

smaller (less than or equal to 55 ft (16.8 m) LOA) hook-and-line or pot CVs and larger (greater than 55 ft (16.8 m) LOA) hook-and-line or pot CVs during the jig sector A season (January 1 to April 30) as specified at § 679.23(e)(5)(iv)(A).

This final rule revises the descriptions of seasonal allowances by sector under § 679.20(a)(7)(iv) to reflect these distinctions by vessel size, type, and season. Note that season dates vary by sector and are listed under § 679.23(e)(5). This small vessel provision only applies during the jig gear A season and does not modify regulations that govern when directed fishing by CVs using hook-and-line or pot gear is authorized. Additional revisions are made in regulations to include cross references to the small vessel provision at § 679.20(a)(7)(iv)(D) as needed.

With this final action, NMFS modifies regulations at § 679.20(a)(7)(ii)(B) to specify which sectors have an incidental catch allowance deducted from their aggregate TAC to include the jig sector. The inclusion of smaller CVs (less than or equal to 55 ft (16.8 m) LOA) using hook-and-line or pot gear in the jig sector means that a portion of the jig sector allocation should be set aside for an incidental catch allowance to account for Pacific cod retained by CVs less than or equal to 55 ft (16.8 m) LOA using hook-and-line or pot gear in other fisheries during the jig gear A season.

This final rule also modifies regulations at § 679.20(a)(7)(iii) to incorporate the small vessel provision into the existing non-CDQ sector reallocation hierarchy and make technical changes to the organization. Paragraph § 679.20(a)(7)(iii)(A) is divided into six subparagraphs, and references to the new small vessel provision are added to paragraph (a)(7)(iii)(A)(1). Additional revisions to regulations at § 679.20(a)(7)(iii)(B) add introductory text to clarify that reallocations to trawl gear sectors are considered after applying paragraphs (a)(7)(iii)(A)(1) through (6) that specify the hierarchy of reallocations to the non-trawl CV sectors.

This action retains the reallocation hierarchy as specified at § 679.20(a)(7)(iii) and (iv)(C), which requires the Regional Administrator to reallocate a projected unused portion of a Pacific cod allowance from the jig sector to the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector at the beginning of the C season. This hierarchy also allows NMFS to reallocate the unused jig sector allocation earlier in the year if NMFS is confident that they could project the amount of TAC that the newly modified

jig sector would need to finish the A season.

Changes From Proposed to Final Rule

NMFS determined that no changes to the regulatory text are necessary in this final rule. No public comments received on the NOA or the proposed rule indicated need for changes to the proposed action.

Comments and Responses

NMFS received seven comment letters on amendment 125 and the proposed rule. NMFS has summarized and responded to four unique comments below. The comments were from individuals and representatives for Tribal and Alaska Native fishermen; the City of Unalaska, Alaska; the Alaska Department of Fish and Game; and one anonymous individual. All comments were supportive except for one that did not address this action.

Comment 1: Amendment 125 and the proposed rule would provide economic opportunities to fishermen and communities in Unalaska, Alaska, and support equitable access for small vessel operators who are more likely to be local and traditional users.

Response: NMFS acknowledges this comment.

Comment 2: In recent years, the Pacific cod less than 60 ft (18.3 m) LOA hook-and-line or pot gear sector has experienced shortened fishing seasons while the jig sector has had little to no effort during the A season. These shortened seasons have a disproportionate impact on smaller vessels, which have less flexibility to fish in inclement weather and typically must stay closer to port. This action provides latitude for fishermen with smaller vessels to avoid inclement weather and fish closer to shore during the Pacific cod jig gear A season (January 1 to April 30).

Response: NMFS acknowledges this comment.

Comment 3: The Alaska Department of Fish and Game staff have evaluated the impacts of the proposed rule on coordinated State and Federal Pacific cod management. Staff do not anticipate any conflicts or changes to the existing Dutch Harbor Subdistrict state-waters fishery management plan to accommodate this action and the existing management plan adequately ensures that a vessel cannot participate in two fisheries, State and Federal, at the same time.

Response: NMFS acknowledges this comment.

Comment 4: The only fishing that should be allowed is subsistence

fishing. Commercial fishing should be prohibited.

Response: This final rule implements a limited change to the management of the commercial Pacific cod fishery in the BSAI by adding a small vessel provision in the regulations implementing the BSAI FMP. Changes to prohibit commercial fishing for groundfish are outside the scope of this action. Changes to non-commercial fishing activities, including subsistence fishing, are outside of the scope of this action.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with amendment 125 to the BSAI FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This final rule is not an E.O. 14192 regulatory action because this action is not significant under E.O. 12866.

NMFS has determined that this action would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes; therefore, consultation with Tribal officials under E.O. 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of E.O. 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2) of E.O. 13175 is not required and has not been prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Impact Review

A Regulatory Impact Review (RIR) was prepared to assess all costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). NMFS approved amendment 125 and these regulations based on those measures that maximized net benefits to the Nation. Specific aspects of the economic analysis are discussed below in the Final Regulatory Flexibility Analysis (FRFA) section.

Final Regulatory Flexibility Analysis

A FRFA was prepared. This FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA) and a

summary of the analyses completed to support this final rule. No public comments responded to the IRFA.

Section 604 of the Regulatory Flexibility Act (RFA) requires that, when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code (5 U.S.C. 553), after being required by that section or any other law to publish a general notice of final rulemaking, the agency shall prepare a FRFA (5 U.S.C. 604). Section 604 describes the required contents of a FRFA: (1) A statement of need for and objectives of the rule; (2) a statement of the significant issues raised by the public comments in response to the IRFA, a statement of the agency's assessment of such issues, and a statement of any changes made to the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule as a result of the comments; (4) a description and estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes including a statement of the factual, policy, and legal reasons for selecting the alternative adopted and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

A description of this final rule and the need for and objectives of this rule are contained in the preamble to the proposed rule (90 FR 37831) and this final rule and are not repeated here.

Public and Chief Counsel for Advocacy Comments on the IRFA

An IRFA was prepared in the Classification section of the preamble to the proposed rule. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule. NMFS received no comments specifically on the IRFA. No comments provided information that refuted the conclusions presented in the IRFA.

Number and Description of Small Entities Regulated by this Final Action

Entities directly regulated by this final rule include vessels operating in the Federal BSAI Pacific cod less than 60 ft (18.3 m) LOA hook-and-line and pot CV and jig sectors. The jig sector includes CVs and C/P vessels. This section identifies all entities that could be considered directly regulated entities under the range of alternatives considered and likely represents an overestimate of the number of small entities that would be directly regulated.

During the most recent 5 years for which annual economic data are available (2019 through 2023), there were 53 active vessels that participated in the Federal BSAI Pacific cod less than 60 ft (18.3 m) LOA hook-and-line and pot CV and jig sectors. All 53 active vessels are directly regulated entities. All but 1 of the 53 directly regulated entities are considered small entities under the RFA. As many as three vessels from the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector also participated in the BSAI Pacific cod jig sector in either 2019 or 2020; however, no vessel participated in the jig sector in 2021 through 2023. All of these jig vessels are considered directly regulated small entities. Sixteen hook-and-line or pot CVs that are less than or equal to 55 ft (16.8 m) LOA participated in the BSAI Pacific cod fishery (2019 through 2023), and all 16 were active in 2023. All 16 of these hook-and-line or pot CVs are considered directly regulated small entities. Thirty-seven hook-and-line or pot CVs greater than 55 ft (16.8 m) LOA participated in the less than 60 ft (18.3 m) hook-and-line and pot CV sector (2019 through 2023), of which 34 vessels were active in 2023. Thirty-six of those 37 vessels are considered directly regulated small entities. These counts identify all unique directly regulated small entities that may participate in the fishery, recognizing that not all of these vessels participate in every year.

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

NMFS considered, but did not adopt, one alternative (Alternative 1). NMFS also considered two options and one sub-option under the second, adopted alternative (Alternative 2), before selecting one option (Option 1) and the sub-option. Alternative 1 and the unselected option (Option 2), and their impacts to small entities, are described below.

Alternative 1, the no-action alternative, would retain the status quo

by keeping the BSAI Pacific cod non-CDQ sectors specified at § 679.20(a)(7)(ii)(A), resulting in no change to impacts on small entities. Under the status quo, the BSAI Pacific cod jig sector has historically underutilized its 1.4 percent allocation of BSAI Pacific cod, the majority of which has been reallocated to the less than 60 ft (18.3 m) hook-and-line and pot CV sector. Despite this reallocation, increased participation in the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector and smaller BSAI Pacific cod allocation amounts and reallocations from other sectors have resulted in shortened fishing seasons for the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector. Alternative 1 would not address existing impacts to smaller vessels, which have lower capacity to harvest fish and, as such, are particularly affected by shortened fishing seasons and their reduced flexibility to operate in poor weather and sea conditions.

Alternative 2, the selected alternative, modifies the BSAI Pacific cod jig sector to include smaller hook-and-line or pot CVs. Alternative 2 contains two options, one of which was not selected (Option 2). Option 2 would set the LOA for smaller CVs at less than or equal to 56 ft (17.1 m) LOA. This option would include a greater number of vessels in the small vessel provision added to the jig gear sector. Information presented to the Council showed that some hook-and-line or pot CVs with a reported LOA of exactly 56 ft (17.1 m) have additional capacities to harvest BSAI Pacific cod more competitively than smaller vessels. Therefore, the Council did not recommend, and NMFS did not choose, to implement Option 2 because allowing 56 ft (17.1 m) LOA vessels with additional capacity to harvest Pacific cod from the jig sector's allocation in the A season may not eliminate the unintended intra-sector competition that current fishery participants in the less than 60 ft (18.3 m) hook-and-line and pot CV sector face.

This action (Alternative 2, Option 1, with the sub-option) would result in a modified jig sector to include vessels less than or equal to 55 ft (16.8 m) LOA using hook-and-line or pot gear during the jig sector A season. Option 1 ensures that the cut off for hook-and-line or pot CVs to harvest Pacific cod from the jig sector's allocation is set at a length that excludes larger vessels with additional efficiencies.

The selected sub-option allows for the addition of smaller vessels to the jig sector only during the jig sector A season. The sub-option specifies that the

jig sector B and C seasons remain a jig-gear-only fishery. During the A season, catch from hook-and-line or pot CVs less than or equal to 55 ft (16.8 m) LOA would accrue to the jig sector allocation, and catch from hook-and-line or pot CVs with an LOA greater than 55 ft (16.8 m) LOA and less than 60 ft (18.3 m) LOA would accrue toward the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector's 2 percent allocation. After the jig sector's A season ends, all catch by hook-and-line or pot CVs less than 60 ft (18.3 m) LOA (including vessels less than or equal to 55 ft (16.8 m) LOA) would accrue to the same sector as under the status quo.

The sub-option would likely result in additional opportunities for smaller hook-and-line or pot CVs to harvest Pacific cod during the jig sector A season. Keeping the B season as a jig-gear-only fishery (*i.e.*, status quo) minimizes potential impacts to jig vessels, which make the majority of their BSAI Pacific cod deliveries between April and September (*i.e.*, the B season) when the weather is safest for smaller vessels that use jig gear to operate. Additionally, hook-and-line or pot CVs typically prosecute other fisheries during the jig sector's B season. Due to this lack of demand and the amount of catch allocation necessary to make reopening the sector practical, NMFS has not been able to make a reallocation to reopen the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector in the spring and summer months since 2011. Finally, keeping the C season as a jig-gear-only fishery (*i.e.*, status quo) responds to concerns the Council heard in public comment from fishery participants with larger hook-and-line or pot CVs who have come to depend on a fall fishing opportunity. This important fall fishing opportunity depends on the historically common reallocation of jig sector TAC to the less than 60 ft (18.3 m) LOA hook-and-line and pot CV sector on or near September 1.

Based upon the best scientific data available, and in consideration of the objectives of this action, there are no significant alternatives to this action that have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and other applicable statutes and that have the potential to minimize any significant adverse economic impact of the proposed rule on small entities.

This action modifies fishing sectors to improve fishery efficiency, allows for new small entity entrants to the fishery, and improves small vessel safety at sea. NMFS determined that the recommended action would best

accomplish the stated objectives articulated in the preamble for the proposed rule and this final rule, and in applicable statutes, and would minimize to the extent practicable adverse economic impacts on the universe of directly regulated small entities.

Duplicate, Overlapping, or Conflicting Federal Rules

No duplication, overlap, or conflict between this final action and existing Federal rules has been identified.

Recordkeeping, Reporting, and Other Compliance Requirements

This action does not modify recordkeeping or reporting requirements, or duplicate, overlap, or conflict with any Federal rules.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS prepared a "frequently asked questions and responses" that also serves as the small entity compliance guide. Copies of this final rule are available from the NMFS Alaska Regional Office and the small entity compliance guide ("frequently asked questions and responses") will be posted online at <https://www.fisheries.noaa.gov/action/amendment-125-bering-sea-and-aleutian-islands-fishery-management-plan-pacific-cod-small-boat>. This final rule and the guide will be available upon request.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Date: February 9, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447; Pub. L. 111–281.

■ 2. Amend § 679.20 by revising paragraphs (a)(7)(ii)(A)(1) and (2) and

(B); (a)(7)(iii)(A) and (B) introductory text; (a)(7)(iv)(A)(3) and (C); and adding paragraph (a)(7)(iv)(D) to read as follows:

§ 679.20 General Limitations.

(a) * * *
(7) * * *
(ii) * * *
(A) * * *

Sector	% Allocation
(1) Jig (During the jig gear A season, see small vessel provision in paragraph (a)(7)(iv)(D) of this section)	1.4
(2) Hook-and-line and pot CV <60 ft (18.3 m) LOA (During the jig gear A season, see small vessel provision in paragraph (a)(7)(iv)(D) of this section)	2
* * * * *	

(B) *Incidental catch allowance.* During the annual harvest specifications process set forth at paragraph (c) of this section, the Regional Administrator will specify an amount of Pacific cod that NMFS estimates will be taken as incidental catch in directed fisheries for groundfish other than Pacific cod by the hook-and-line and pot gear sectors. This amount will be the incidental catch allowance and will be deducted from the aggregate portion of Pacific cod TAC annually allocated to the hook-and-line and pot gear sectors (including the jig sector due to the small vessel provision in paragraph (a)(7)(iv)(D) of this section) before the allocations under paragraph (a)(7)(ii)(A) of this section are made to these sectors.

(iii) * * *

(A) *Catcher vessel sectors.* The Regional Administrator will reallocate projected unharvested amounts of Pacific cod TAC from a catcher vessel sector as follows:

(1) First, to the jig sector, as described under paragraph (7)(ii)(A)(1) of this section, or to the less than 60 ft (18.3 m) LOA hook-and-line and pot catcher

vessel sector, as described under paragraph (7)(ii)(A)(2) of this section, or to both of these sectors;

(2) Second, to the greater than or equal to 60 ft (18.3 m) LOA hook-and-line or to the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sectors; and

(3) Third, to the trawl catcher vessel sector.

(4) If the Regional Administrator determines that a projected unharvested amount from the jig sector allocation, the less than 60 ft (18.3 m) LOA hook-and-line and pot catcher vessel sector allocation, or the greater than or equal to 60 ft (18.3 m) LOA hook-and-line catcher vessel sector allocation is unlikely to be harvested through this hierarchy, the Regional Administrator will reallocate that amount to the hook-and-line catcher/processor sector.

(5) If the Regional Administrator determines that a projected unharvested amount from a greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector allocation is unlikely to be harvested through this hierarchy, the Regional Administrator will reallocate

that amount to the pot catcher/processor sector in accordance with the hierarchy set forth in paragraph (a)(7)(iii)(C) of this section.

(6) If the Regional Administrator determines that a projected unharvested amount from a trawl catcher vessel sector allocation is unlikely to be harvested through this hierarchy, the Regional Administrator will reallocate that amount to the other trawl sectors in accordance with the hierarchy set forth in paragraph (a)(7)(iii)(B) of this section.

(B) *Trawl gear sectors.* After applying paragraphs (a)(7)(iii)(A)(1) through (6) of this section, if applicable, the Regional Administrator will reallocate any projected unharvested amounts of Pacific cod TAC from the trawl catcher vessel or AFA catcher/processor sectors to other trawl sectors before unharvested amounts are reallocated and apportioned to specified gear sectors as follows:

* * * * *
(iv) * * *
(A) * * *

Sector	Seasonal allowances		
	A Season (%)	B Season (%)	C Season (%)
(3) Jig (During the jig gear A season, see small vessel provision in paragraph (a)(7)(iv)(D) of this section)	60	20	20
* * * * *			

* * * * *

(C) *Jig sector.* See § 679.20(a)(7)(iv)(D) for small vessel provisions during the A season. The Regional Administrator will reallocate any projected unused portion of a seasonal allowance of Pacific cod for the jig sector under this section to the less than 60 ft (18.3 m) LOA hook-and-line and pot catcher vessel sector. The Regional Administrator will reallocate the projected unused portion

of the jig sector's C season allowance on or about September 1 of each year.

(D) *Small vessel provision.* (1) During the jig gear A season (see § 679.23(e)(5)(iv)), harvest by vessels using jig gear and harvest by CVs less than or equal to 55 ft (16.8 m) LOA using hook-and-line or pot gear accrues against the jig sector seasonal allowance.

(2) During the jig gear B and C seasons (see § 679.23(e)(5)(iv)), harvest by

vessels using jig gear accrues against the seasonal allowances for the jig sector, and harvest by CVs less than or equal to 55 ft (16.8 m) LOA using hook-and-line or pot gear accrues against the hook-and-line and pot CV less than 60 ft (18.3 m) LOA sector's allocation.

* * * * *

[FR Doc. 2026–02872 Filed 2–11–26; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 91, No. 29

Thursday, February 12, 2026

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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 706

RIN 3133–AF69

Investments in and Licensing of Permitted Payment Stablecoins Issuers

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) is seeking comment on proposed regulations to implement portions of the Guiding and Establishing National Innovation for U.S. Stablecoins Act (GENIUS Act). The GENIUS Act charges the NCUA with licensing, regulating, and supervising payment stablecoin issuers that are subsidiaries of federally insured credit unions (FICU subsidiaries). The GENIUS Act also requires the NCUA to issue implementing regulations by July 18th, 2026. This proposed rule proposes regulations to implement the statutorily required process for approval and licensure of permitted payment stablecoin issuers (PPSIs) subject to the NCUA's jurisdiction. It also proposes regulations limiting FICUs to investing in NCUA-licensed PPSIs. A forthcoming proposal will propose regulations to implement the standards and restrictions imposed by the GENIUS Act on PPSIs.

DATES: Comments must be received by April 13, 2026.

ADDRESSES: Comments may be submitted in one of the following ways. (Please send comments by one method only):

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. The docket number for this proposed rule is NCUA–2025–1335. Follow the “Submit a comment” instructions. If you are reading this document on [federalregister.gov](https://www.federalregister.gov), you may use the green “SUBMIT A PUBLIC COMMENT” button beneath this rulemaking’s title to

submit a comment to the [regulations.gov](https://www.regulations.gov) docket. A plain language summary of the proposed rule is also available on the docket website.

- *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

- *Hand Delivery/Courier:* Same as mailing address.

Mailed and hand-delivered comments must be received by the close of the comment period.

Public inspection: Please follow the search instructions on <https://www.regulations.gov> to view the public comments. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are public records; they are publicly displayed exactly as received, and will not be deleted, modified, or redacted. Comments may be submitted anonymously. If you are unable to access public comments on the internet, you may contact the NCUA for alternative access by calling (703) 518–6540 or emailing OGCMail@ncua.gov.

FOR FURTHER INFORMATION CONTACT:

Office of Examination and Insurance: Amanda Parkhill, at (703) 518–6385 or at 1775 Duke Street, Alexandria, VA 22314.

Office of General Counsel: Thomas Zells and Rachel Ackmann, Senior Staff Attorneys; or Ariel Woodard-Stephens, Staff Attorney at (703) 518–6540 or at the above address.

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I. Background

On July 18, 2025, President Trump signed the GENIUS Act into law. The GENIUS Act establishes a regulatory framework for payment stablecoins and provides pathways for regulation at both the Federal and State level.

Under the GENIUS Act, “insured depository institutions,” which the Act defines to include both FDIC-insured depository institutions and FICUs (collectively referred to as “IDIs”), cannot be issuers of payment stablecoins. Instead, IDIs must use “subsidiaries” as issuers. The GENIUS Act defines the term “subsidiary of an insured credit union” to mean “(A) an organization providing services to the insured credit union that are associated with the routine operations of credit unions, as described in section 107(7)(I) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I)); (B) a credit union service organization, as such term is used under part 712 of title 12, Code of Federal Regulations, with respect to which the insured credit union has an ownership interest or to which the insured credit union has extended a loan; and (C) a subsidiary of a State chartered insured credit union authorized under State law.” The GENIUS Act requires that issuers that are subsidiaries of IDIs (including subsidiaries of FICUs) must be regulated by the primary Federal payment stablecoin regulators and does not allow them to opt for the state-level regulatory framework. Thus, the NCUA has jurisdiction over payment stablecoin issuers that are FICU subsidiaries.

Under the GENIUS Act, only PPSIs may issue a payment stablecoin in the United States, subject to certain

exceptions and safe harbors. PPSIs are subject to a number of requirements, including requirements related to reserves, capital, liquidity, illicit finance, and information technology risk management standards. For example, PPSIs must maintain reserves backing the stablecoin on a one-to-one basis using U.S. currency or certain other liquid assets, as specified. PPSIs must also publicly disclose their redemption policy and publish monthly the details of their reserves.

The GENIUS Act details the process for the primary Federal payment stablecoin regulators, which include the NCUA, the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Board of Governors of the Federal Reserve System (Federal Reserve Board), to evaluate and review applications for licenses to be PPSIs and provides examination, supervision, and enforcement authority over PPSIs. Other issues addressed in the GENIUS Act include the provision of custody services for payment stablecoins; application of the Bank Secrecy Act and anti-money laundering and economic sanctions requirements; and treatment of payment stablecoin issuers in insolvency proceedings.

The GENIUS Act establishes clear prohibitions and penalties to prevent the misrepresentation of Federal backing or insurance for payment stablecoins and to ensure that only authorized products may be marketed as such.¹ The Act explicitly dictates that payment stablecoins are not backed by the full faith and credit of the United States, they are not guaranteed by the U.S. Government, nor are they covered by deposit or share insurance from the FDIC or NCUA. Similarly, it is unlawful to market any product as a “payment stablecoin” in the United States unless it is issued pursuant to the GENIUS Act’s procedures.²

As detailed below, the GENIUS Act imposes a number of rulemaking, review, and reporting requirements on the primary Federal payment stablecoin regulators, including the NCUA. This proposal proposes regulations to implement the statutorily required process for licensure of PPSIs subject to the NCUA’s jurisdiction. It also proposes regulations limiting FICUs to investing in NCUA-licensed PPSIs. A forthcoming proposal will propose regulations to implement the standards and restrictions imposed by the GENIUS Act on PPSIs.

Separately, as is required by the GENIUS Act, the NCUA is engaging in a required review of its existing guidance and regulations to determine what steps are necessary, if any, to amend or promulgate new regulations and guidance to clarify FICUs’ authority to engage in the payment stablecoin activities and investments contemplated by the GENIUS Act.

In addition to the above, the GENIUS Act requires the NCUA to examine and supervise issuers that are FICU subsidiaries. Thus, the NCUA is working to update various NCUA examination policies, guidance, and procedures, such as the National Supervision Policy Manual and Examiner’s Guide, to accommodate the new examination and supervision authority over FICU subsidiaries. The NCUA is also working to determine whether further guidance to FICUs and FICU subsidiaries may be necessary on these subjects.

II. Legal Authority

As discussed in Section I. Background of this **SUPPLEMENTARY INFORMATION** section, the NCUA is a primary Federal payment stablecoin regulator with respect to a FICU or FICU subsidiary.³ As a primary Federal payment stablecoin regulator, the GENIUS Act provides authority for the NCUA to approve and license issuance of payment stablecoins through FICU subsidiaries,⁴ establish regulations for issuing payment stablecoins,⁵ and examine for and enforce applicable requirements imposed on FICU subsidiaries.⁶ The GENIUS Act also confers authority related to standards for custody of payment stablecoin reserves.⁷ The GENIUS Act grants the NCUA general authority to promulgate regulations to carry out the GENIUS Act through appropriate notice and comment rulemaking.⁸

Apart from the GENIUS Act, the FCU Act grants the NCUA a broad mandate to issue regulations governing both Federal Credit Unions (FCUs) and all FICUs. Section 120 of the FCU Act is a general grant of regulatory authority, and it authorizes the Board to prescribe rules and regulations for the administration of the FCU Act.⁹ Section 209 of the FCU Act is a plenary grant of regulatory authority to the NCUA to issue rules and regulations necessary or

appropriate to carry out its role as share insurer for all FICUs.¹⁰

Additionally, Section 204 of the FCU Act authorizes the Board, through its examiners, “to examine any [federally] insured credit union . . . to determine the condition of any such credit union for insurance purposes.”¹¹ Section 206(e) of the FCU Act authorizes the Board to take certain actions against a FICU, if, in the opinion of the Board, the credit union “is engaging or has engaged, or the Board has reasonable cause to believe that the credit union or any institution affiliated party is about to engage, in any unsafe or unsound practice in conducting the business of such credit union.”¹² Therefore, the Board has statutory authority to determine whether a FICU is operated in an unsafe or unsound manner and terminate a FICU’s insurance if a FICU is not operated in a safe or sound manner.

III. Proposed Rule

The Board interprets the GENIUS Act to limit PPSI status to those institutions functioning as a subsidiary of an insured depository institution (including a FICU),¹³ a Federal qualified payment stablecoin issuer,¹⁴ and a State qualified payment stablecoin issuer.¹⁵

¹⁰ 12 U.S.C. 1789.

¹¹ 12 U.S.C. 1784.

¹² 12 U.S.C. 1786.

¹³ As discussed throughout the proposed rule, the GENIUS Act uses banking-specific terminology when defining PPSIs. For example, the GENIUS Act uses the two defined terms “subsidiary” and “insured depository institution” without using the defined term, “subsidiary of an insured credit union.” With respect to subsidiaries of FICUs, the Board believes the defined terms “subsidiary” of an “insured depository institution” should be read referring to the defined term “subsidiary of an insured credit union.” Given that FICUs are defined as insured depository institutions, it appears reasonable to read the terms synonymously. Additionally, the GENIUS Act expressly provides that all subsidiaries of an insured credit union are subject to NCUA jurisdiction incorporating the defined term of “subsidiary of an insured credit union” into the definition of primary Federal payment stablecoin regulator. The term primary Federal payment stablecoin regulator is used for approvals under section 5 and it would be inharmonious for the NCUA to approve applications for issuers that otherwise are not subject to NCUA supervision.

¹⁴ A Federal qualified payment stablecoin issuer includes (1) a nonbank entity, (2) an uninsured national bank, and (3) a Federal branch. A nonbank entity means a person that is not a depository institution or subsidiary of a depository institution. Therefore, FICUs and their subsidiaries would not qualify as a Federal qualified payment stablecoin issuer.

¹⁵ A State qualified payment stablecoin issuer is an entity that is: (A) legally established under the laws of a State and approved to issue payment stablecoins by a State payment stablecoin regulator; and (B) is not an uninsured national bank chartered by the OCC, a Federal branch, an IDI, or a subsidiary of a national bank, Federal branch, or IDI. FICUs and FICU subsidiaries, including

¹ See 12 U.S.C. 5903(e).

² 12 U.S.C. 5903(e)(3).

³ 12 U.S.C. 5901(25)(B).

⁴ 12 U.S.C. 5904.

⁵ 12 U.S.C. 5903(h).

⁶ 12 U.S.C. 5905.

⁷ 12 U.S.C. 5909.

⁸ 12 U.S.C. 5913.

⁹ 12 U.S.C. 1766.

FICUs are not permitted to issue stablecoins directly. However, the GENIUS Act provides that subsidiaries of IDIs may apply and be approved to be PPSIs. As FICUs are expressly defined as IDIs, FICU subsidiaries may apply for and receive approval and license under the GENIUS Act to be PPSIs.

Section 5 of the GENIUS Act establishes the procedures and standards for the “approval of subsidiaries of insured depository institutions.”¹⁶ The NCUA is required to “receive, review, and consider for approval applications” to issue payment stablecoins through a FICU subsidiary and to “establish a process and framework for the licensing, regulation, examination and supervision of such entities that prioritizes the safety and soundness of such entities.” Section 5(a)(2) requires the NCUA to issue regulations to carry out section 5.¹⁷ Section 5(g) further requires that the NCUA issue rules necessary for the regulation of the issuance of payment stablecoins.¹⁸

As explained in more detail later in this preamble, the GENIUS Act does not allow FICUs to directly issue payment stablecoins and instead provides that they must be issued through FICU subsidiaries that receive an NCUA–PPSI license. The Board has made certain decisions in implementing the GENIUS Act’s application and licensing requirements that it believes will simplify the process and reduce the costs for the credit union industry and the NCUA. The Board discusses this approach in more detail later in this preamble, but wishes to provide a high-level summary so that interested parties understand why the Board has taken this nuanced approach and are able to appreciate the efficiencies it will allow in implementation.

The Board has preliminarily determined that it is preferable for FICU subsidiaries themselves to submit the required applications to be an NCUA-licensed PPSI jointly with their FICU Parent Company(ies), as defined in this proposed rule, rather than having every single FICU investing in them submit an application. The Board’s proposed approach would also require the applying FICU subsidiary, and any of its FICU Parent Companies and Principal Shareholders, to provide written certification that any filing or supporting material submitted to the

NCUA contains no material misrepresentations or omissions. Further, as required by the GENIUS Act, all Directors and Officers of the applying FICU subsidiary, its FICU Parent Company(ies), and any of its Principal Shareholders would have to provide certain information so that the NCUA can evaluate their competence, experience, and integrity and ensure they do not have felony convictions prohibited by the GENIUS Act. Finally, the Board is proposing to limit FICUs to investing in NCUA-licensed PPSIs. The Board believes this limitation is consistent with the definition of FICU subsidiary in the GENIUS Act and should not pose a barrier to the credit union industry’s ability to facilitate payment stablecoin services for their members.

The Board has chosen this approach because it believes it is most consistent with the intent of the GENIUS Act as applied to FICUs and FICU subsidiaries. The Board believes that if the NCUA required every single investing FICU to apply to the NCUA directly for PPSI licenses instead of the FICU subsidiary applying jointly with any FICU Parent Company(ies), a widely held applying FICU subsidiary would result in an unmanageable number of applications from each applying FICU. The Board is of the view that widely held FICU subsidiaries are likely and thinks that the chosen approach will minimize burdens on both the credit union industry and the NCUA.

The proposed approach requires the applying FICU subsidiary to work with FICUs and others investing materially in the subsidiary as part of the application process. The Board believes that the requirements for joint application and written certification that any filing or supporting material submitted to the NCUA contains no material misrepresentations or omissions will ensure that the applying FICU subsidiary and all material investors stand behind the application and understand what services they are intending to offer, their responsibilities, and their associated risks.

The Board understands that the approach taken in this proposed rule is nuanced. However, the Board believes that this nuance is key to ensuring that the NCUA fulfills its obligations in approving permitted payment stablecoin issuers under the GENIUS Act and minimizing the administrative burdens and costs on both the NCUA and the credit union industry. The Board also believes this approach better reflects standards and characteristics that are unique to the cooperative model in which credit unions operate

Request for Comment: The Board requests comment on the approach it has taken with regards to applications, certifications, and investment limitations and as to whether requiring each FICU investing in a PPSI to apply would be more prudent.

The NCUA is proposing the below procedures and standards for the approval of a license for a PPSI that is a FICU subsidiary. Each section of the proposed rule will be discussed separately.

A. § 706.1. Authority, Purpose, and Scope

The proposed rule would state that the NCUA is issuing part 706 under the GENIUS Act. Section 706.1 would state that part 706 applies to FICUs and all payment stablecoin issuers with investment or loans from FICUs and sets forth such entities’ requirements for an NCUA-issued license. Finally, § 706.1 would state that there is nothing in this part that shall be read to limit the authority of the NCUA to take action under provisions of law other than the GENIUS Act, including action to address unsafe or unsound practices or conditions, or violations of law or regulation, under section 206 of the FCU Act.

B. § 706.2. Definitions

Proposed § 706.2 would provide the definitions used throughout part 706. It would state that, unless otherwise provided in part 706, the terms used in this part have the same meanings as set forth in 12 U.S.C. 1752 and 5901. It would also state that all accounting terms not otherwise defined in this part have meanings consistent with the commonly accepted meanings under United States generally accepted accounting principles (U.S. GAAP). Proposed § 706.2 would provide the following defined terms specific to part 706.

1. Applying Issuer

The proposed rule would define the term “Applying Issuer” to mean any entity applying to the NCUA for an NCUA–PPSI license. The proposed rule would use this term throughout part 706 to generally refer to any entity, whether licensed or approved as a PPSI or yet to be licensed or approved, that is applying for an NCUA–PPSI license. As is required in proposed § 706.103, an Applying Issuer must apply jointly with any insured credit union Parent Company(ies), as defined in the proposed rule.

CUSOs, therefore, would not qualify as a State qualified payment stablecoin issuer.

¹⁶ 12 U.S.C. 5904.

¹⁷ 12 U.S.C. 5904(a)(2).

¹⁸ 12 U.S.C. 5904(g).

2. Director

The proposed rule would define the term “Director” to mean an individual who serves on the board of directors of an Applying Issuer, a Parent Company of the Applying Issuer, or a Principal Shareholder of the Applying Issuer. Under the proposed rule, individuals meeting the definition of a Director will generally need to complete the NCUA’s Biographical and Financial Report so that the NCUA can verify their competence, experience, and integrity, as is required by the GENIUS Act.¹⁹ The Directors and proposed Directors of an Applying Issuer will also generally need to provide legible fingerprints for a biometric based criminal history search so that the NCUA can evaluate whether any of these individuals have been convicted of a felony offense involving insider trading, embezzlement, cybercrime, money laundering, financing of terrorism, or financial fraud as is required by the GENIUS Act.²⁰

3. Issuing Group

The proposed rule would define the term “Issuing Group” to mean the Applying Issuer and Parent Company(ies) and the Officers, Directors, and Principal Shareholders, if applicable, of the Applying Issuer, its subsidiaries, and Parent Company(ies).

4. NCUA-Licensed Permitted Payment Stablecoin Issuer

The proposed rule would define an NCUA-Licensed Permitted Payment Stablecoin Issuer to mean a person formed in the United States that is a FICU subsidiary that has been approved and licensed by the NCUA under subpart A to issue payment stablecoins.

5. Officer

The proposed rule would define the term “Officer” to mean the president, chief executive officer, chief operating officer, chief financial officer, chief technology officer, chief lending officer, chief investment officer, chief risk officer, Bank Secrecy Act officer, and any other individual the NCUA identifies in writing to the Issuing Group who exercises significant influence over, or participates in, major policy making decisions of the Issuing Group without regard to title, salary, or compensation. The term also includes employees of entities retained by an Issuing Group to perform such functions in lieu of directly hiring the individuals. Under the proposed rule, individuals meeting the definition of an Officer will generally need to complete the NCUA’s

Biographical and Financial Report so that the NCUA can verify their competence, experience, and integrity, as is required by the GENIUS Act.²¹ The Officers and proposed Officers of an Applying Issuer will also generally need to provide legible fingerprints for a biometric based criminal history search so that the NCUA can evaluate whether any of these individuals have been convicted of a felony offense involving insider trading, embezzlement, cybercrime, money laundering, financing of terrorism, or financial fraud as is required by the GENIUS Act.²²

6. Parent Company

The proposed rule would define the term “Parent Company.” The GENIUS Act requires that applications for a PPSI license granted by a primary Federal payment stablecoin regulator be evaluated using specifically defined factors.²³ One of these factors requires the NCUA to evaluate the competency, experience, and integrity of the Officers and Directors of the Applying Issuer’s Parent Company(ies).²⁴ The proposed rule would define the term Parent Company to specify when a FICU must sign onto an application and when a FICU’s Officers and Directors should be evaluated as part of an Applying Issuer’s licensure application. The term Parent Company would also be used to determine when a FICU’s investment in an NCUA-licensed PPSI requires prior notice as a change in control.

The proposed rule would define a Parent Company as “an insured credit union(s) that will own, control or hold the power to vote 10 percent or more of any class of voting securities, or has the ability to direct the management or policies, of a Permitted Payment Stablecoin Issuer. If no insured credit union will own, control or hold the power to vote 10 percent or more of any class of voting securities, the FICU with the largest percentage of voting securities in relation to all other FICUs is considered the Parent Company.” Under this definition, any FICU that owns 10 percent or more of a class of voting securities would be a Parent Company. Additionally, if no FICU owns 10 percent or more of a class of voting securities, then the FICU with the greatest percentage of a class of voting securities in relation to any other FICU is the Parent Company for purposes of an NCUA PPSI license. The definition would also provide that a FICU that has the ability to direct the management or

policies of a PPSI would be considered a Parent Company. The Board believes it is important that the definition of Parent Company cover FICUs that have the power to direct the management or policies of a PPSI regardless of their ownership interests.

The proposed definition is derived from the FDIC’s change of control regulations.²⁵ The intent of the definition is to capture only the FICUs that are most likely to control or direct the management and policies of the PPSI. Under the proposed definition, if there is an Applying Issuer that is widely held by FICUs, then only the FICUs with 10 percent or more of a class of voting securities would be considered Parent Companies. For example, if 87 FICUs have an ownership interest in an Applying Issuer, but 83 of those FICUs own less than 10 percent, the NCUA would only require the four FICUs that own 10 percent or more to jointly file the application.

As another example, if one FICU shareholder owns 8 percent of a class of voting securities and no other FICU shareholder owns 10 percent or more, then the FICU shareholder with 8 percent would be considered the Parent Company. Under the proposed definition, it does not matter if there are six other FICU shareholders that own 5 percent or if there is a non-FICU shareholder that owns 51 percent. However, if, instead, there is a FICU shareholder that owns 13 percent of a class of voting securities, then only the FICU with the 13 percent ownership would be considered the Parent Company.

The Board believes the definition is the best interpretation of the term Parent Company as used in the GENIUS Act and appropriately balances the NCUA’s allocation of its resources with its statutory mandate under the GENIUS Act. While the GENIUS Act requires that the Board evaluate certain statutory factors related to the Officers and Directors of the Parent Company, the Board does not believe it is practical or consistent with congressional intent for the NCUA to review the Officers and Directors of each investing FICU. The Board also does not believe it is practical or consistent with congressional intent for the NCUA to review licensure applications from each

²¹ See 12 U.S.C. 5904(c)(3).

²² 12 U.S.C. 5904(c)(2).

²³ 12 U.S.C. 5904(b)–(c).

²⁴ 12 U.S.C. 5904(c)(3).

²⁵ 12 CFR 303, subpart E. The Board is aware that the FDIC’s change in control regulations provide a rebuttable presumption of control for less than 25 percent ownership of a class of voting securities, and that the 10 percent threshold depends, in part, on whether the bank is held publicly or privately. The Board did not adopt these additional elements to reduce the complexity in the proposed rule, but has solicited comment on the appropriate threshold.

¹⁹ See 12 U.S.C. 5904(c)(3).

²⁰ 12 U.S.C. 5904(c)(2).

investing FICU. Requiring this level of review would disadvantage Applying Issuers seeking NCUA licenses and FICUs investing in them as compared to proposed PPSIs and other IDIs seeking licenses from other primary Federal payment stablecoin regulators that may be more likely to have a single-parent ownership structure. It would also impose a prohibitive burden on the NCUA's resources, especially when considering the 120-day deadline the GENIUS Act imposes on the NCUA for rendering a decision on a substantially complete application.

In summary, the Board believes it is prudent to only require joint application filing and review of the Officers and Directors of an investing FICU when the FICU would have a material amount of control of the PPSI. The Board selected 10 percent as that is a reasonable threshold used for determining a material amount of control under certain banking laws.

Request for Comment: The Board specifically solicits comment on whether this is the appropriate threshold. Do commenters believe that a higher threshold would be appropriate? For example, 25 percent of any class of voting securities? If so, why? Should other factors be considered in evaluating control?

Request for Comment: Under the proposed definition, if no FICU owns 10 percent or greater of a class of voting securities, then the FICU(s) with the greatest ownership interest, even if that ownership is less than 10 percent, is the Parent Company. In theory, 100 FICUs could each own 1 percent and all would technically be considered the Parent Company. Is a widely held subsidiary with equal de minimis ownership interests likely? If so, should the Board adopt a provision such that the widely held group selects one FICU to be the Parent Company? The Board may consider adopting a provision that the widely held Issuing Group could designate the Parent Company(ies).

7. Principal Shareholder

The proposed rule would define the term "Principal Shareholder." The GENIUS Act requires that applications for a PPSI license granted by a primary Federal payment stablecoin regulator be evaluated using specifically defined factors.²⁶ One of these factors requires the NCUA to evaluate the competency, experience, and integrity of the Officers and Directors of the Applying Issuer's Principal Shareholders.²⁷ The proposed rule would define a Principal

Shareholder to mean "a person other than an insured credit union that directly or indirectly or acting in concert with one or more persons or companies, or together with members of their immediate family, will own, control, or hold the power to vote 10 percent or more of any class of voting securities." Under this definition, any non-FICU that owns 10 percent or more of a class of voting securities would be a Principal Shareholder. The proposed rule would include the defined term of Principal Shareholder to specify when a non-FICU's Officers and Directors should be evaluated as part of an Applying Issuer's licensure application.

The proposed definition is derived from the FDIC's change of control regulations.²⁸ The intent of the definition is to capture only the non-FICUs that are most likely to have an ability to control or direct the management and policies of the PPSI. Under the proposed definition, if there is an Applying Issuer that is widely held by FICUs that also has non-FICU shareholders, then only the non-FICU shareholders with 10 percent or more of a class of voting securities would be considered Principal Shareholders.

The Board believes the definition is the best interpretation of the term Principal Shareholders as used in the GENIUS Act and appropriately balances the NCUA's allocation of its resources with its statutory mandate under the GENIUS Act. While the GENIUS Act requires that the Board evaluate certain statutory factors related to the Officers and Directors of the Principal Shareholders, the Board does not believe it is practical or consistent with congressional intent for the NCUA to review the Officers and Directors of each investing shareholder. Requiring this level of review would disadvantage Applying Issuers seeking NCUA licenses and FICUs investing in them as compared to proposed PPSIs and other IDIs, which are more likely to be wholly owned, seeking licenses from other primary Federal payment stablecoin regulators. It would also impose a prohibitive burden on the NCUA's resources, especially when considering the 120-day deadline the GENIUS Act imposes on the NCUA for rendering a decision on a substantially complete application.

In summary, the Board believes it is prudent to only review Officers and Directors of an investing shareholder when the investing shareholder would have a material amount of control of the PPSI. The Board selected 10 percent as that is a common threshold used for

determining a material amount of control under banking law.

Request for Comment: The Board specifically solicits comment on whether this is the appropriate threshold. Do commenters believe that a higher threshold would be appropriate? For example, 25 percent of any class of voting securities? If so, why? Should other factors be considered in evaluating control?

Request for Comment: The Board also specifically solicits comment as to whether an NCUA-licensed PPSI should be permitted to have non-FICU investors or if there should otherwise be a cap on non-FICU investment.

8. Subsidiary of an Insured Credit Union

The definition of Subsidiary of an Insured Credit Union, or FICU subsidiary, in the GENIUS Act includes three separate prongs. Specifically, the GENIUS Act defines a "subsidiary of an insured credit union" to include the following:

(A) an organization providing services to the insured credit union that are associated with the routine operations of credit unions, as described in section 1757(7)(I) of this title;

(B) a credit union service organization, as such term is used under part 712 of title 12, Code of Federal Regulations, with respect to which the insured credit union has an ownership interest or to which the insured credit union has extended a loan; and

(C) a subsidiary of a State chartered insured credit union authorized under State law.²⁹

Each prong is a separate and distinct avenue to qualify as a FICU subsidiary for purposes of being a PPSI. Each prong will be discussed separately below.

FCU Subsidiaries

An FCU subsidiary would have two avenues to qualify as a FICU subsidiary PPSI. First, the GENIUS Act, under the first prong, states that a FICU subsidiary includes "an organization providing services to the insured credit union that are associated with the routine operations of credit unions, as described in section 1757(7)(I) of the FCU Act."³⁰ The GENIUS Act also provides, under the second prong of the definition, that a credit union service organization (CUSO) as defined in part 712 of the NCUA's regulations would meet the definition of FICU subsidiary. Therefore, under the language of the GENIUS Act, an entity does not have to

²⁶ 12 U.S.C. 5904(b)–(c).

²⁷ 12 U.S.C. 5904 (c)(3).

²⁸ 12 CFR part 303, subpart E.

²⁹ 12 U.S.C. 5901(33).

³⁰ 12 U.S.C. 5901(33)(A).

be, but may be, a CUSO under part 712 to qualify as a FICU subsidiary.

However, the NCUA has historically interpreted the lending and investment authority under the FCU Act as referring to the same types of organizations.³¹ The NCUA's first CUSO rule explicitly stated that "an organization described at Section 107(7)(I) of the [FCU Act], and a 'credit union organization,' as described at Section 107(5)(D) of the [FCU Act], are identical entities." The NCUA explained its interpretation in the preamble to its 1979 final rule after several commenters questioned the definitional section of the proposed rule that defined "credit union service corporation" to be both the entity described at Section 107(7)(1) and Section 107(5)(D). In the preamble, the NCUA discussed that the thrust of the comments was that the definition was unduly restrictive and was not legally mandated. In response, the NCUA stated that "in light of the mandate in the legislative history by Congressman St Germain that [investment] authority is to be 'exercised on a carefully controlled basis by NCUA,' the Administration feels justified in tying the two definitions together." The NCUA also stated that it found no substantive difference in an organization "which is established primarily to serve the needs of its member credit unions, and whose business relates to the daily operations of the credit unions they serve" and an organization "providing services which are associated with the routine operations of credit unions." The NCUA articulated that the legislative history indicated that the House committee stands ready to review investment interpretation matters upon request from NCUA "[s]hould a case be made for a more liberal interpretation of the provisions."

The NCUA also noted that the FCU Act specifically "intertwines the lending and investment powers. For instance, section 107(7)(A) allows a Federal credit union to "invest" its funds in "loans exclusively to members." Due to the preceding analysis, the NCUA believed that its interpretation of sections 107(5)(D) and 107(7)(I) were justified. The NCUA stated that "[w]hile it may restrict the permissible activities for Federal credit unions in this field, legislative history mandates a rather conservative approach."³²

Given NCUA's longstanding interpretation that the entities described in sections 107(5)(D) and 1757(7)(I) of the FCU Act are identical, the proposed

rule would require any FCU that seeks to issue payment stablecoins indirectly to do so through a CUSO. Specifically, the Board will interpret the first and second prong under the definition of Subsidiary of an Insured Credit Union as referring to the same entity. Therefore, any proposed PPSI applicant must meet the requirements in part 712. The Board is aware there may be some provisions in part 712 that are unnecessary for NCUA-licensed PPSIs. For example, investing or lending FICUs would not need to include a contractual provision with the PPSI for the NCUA's access to books and records given other more direct examination and enforcement authorities under the GENIUS Act. However, other requirements such as the CUSO Registry may be beneficial to apply to NCUA-licensed PPSIs. The CUSO Registry is intended for the NCUA to gather certain operational and financial data of CUSOs and could be used by NCUA-licensed PPSIs to submit certain statutorily required information to NCUA. Additionally, the public may use the Registry as a resource to find contact and service information about various CUSOs. Including NCUA-licensed PPSIs on the Registry would allow the public to search for and verify that a payment stablecoin issuer is an NCUA-licensed PPSI.

Request for Comment: The Board solicits comments on which provisions of part 712 should not be applicable to NCUA-licensed PPSIs. The Board seeks to reduce regulatory redundancies and is considering whether to explicitly exclude NCUA-licensed PPSIs from certain provisions in part 712 as part of future rulemakings related to PPSI issuer standards.

The Board notes that in 2021 it sought comments on whether it should reconsider its longstanding interpretation of the lending and investment authorities under the FCU Act.³³ The Board has not yet adopted this interpretation. However, if the Board does so at a future date it would increase the types of organizations that an FCU may invest in. Under such an interpretation, FCUs could potentially invest in companies that broadly serve the financial services community, but do not primarily serve credit unions and their members. For instance, an FCU could invest in an organization with community banks that could be primarily used by the community banks' customers but is also used by the FCU's members.

If the Board revises its historic interpretation, then the first and second

prong of the Subsidiary of an Insured Credit Union definition would refer to separate entities. The practical effect of this would be that FCU subsidiaries that issue payment stablecoins would not have to meet the "primarily serve" test under § 712.3(b).

The Board also notes that the GENIUS Act has slightly different wording related to FCU investment authority under section 1757(7)(I) of the FCU Act. The FCU Act provides that any organization in which the FCU invests must be providing services which are associated with the routine operations of credit unions. The GENIUS Act, however, states the organization providing services *to the insured credit union* must be associated with the routine operations of credit unions. It appears that the GENIUS Act requires investing FCUs to receive services from any PPSI that qualifies as a subsidiary. The Board would more fully consider the implications of this provision should it reconsider its historic interpretation on sections 107(5)(D) and 1757(7)(I) of the FCU Act.

Finally, the Board notes that there is a statutory limitation on the amount of investment under section 1757(7)(I) of the FCU Act. An FCU is only authorized to invest up to 1 percent of its total paid in and unimpaired capital and surplus in organizations. An FCU that has already invested 1 percent of its total paid in and unimpaired capital and surplus in CUSOs, would not be able to invest any additional money in a PPSI. Principally, the Board's interpretation related to sections 107(5)(D) and 1757(7)(I) of the FCU Act does not affect an FCU's total investments under section 1757(7)(I) of the FCU Act. Total CUSO investments and PPSI investments must be aggregated and limited to 1 percent of total paid in and unimpaired capital and surplus regardless of the Board's interpretation.

Request for Comment: Should the Board reconsider in a separate rulemaking its longstanding interpretation that the entities described in sections 107(5)(D) and 1757(7)(I) of the FCU Act are identical? If so, what would the implication be for PPSIs and non-PPSI CUSOs? Would a revised interpretation result in any additional risk to FCUs?

Request for Comment: What is the impact of the wording differences in the FCU Act and GENIUS Act related to section 1757(7)(I) of the FCU Act? Would FCUs have to receive services from any PPSI in which it invests under section 1757(7)(I) of the FCU Act?

Request for Comment: If the Board revises its historic interpretation, what provisions of part 712 should apply to

³¹ 44 FR 12401 (Mar. 7, 1979).

³² *Id.*

³³ 86 FR 11645 (Feb. 26, 2021).

subsidiaries of insured credit unions, if any? Should non-CUSO FICU subsidiaries be required to register with the CUSO Registry? The Board may consider requiring all FICU subsidiaries to register.

FISCU Subsidiaries

The GENIUS Act also broadly defines a subsidiary of a state-chartered insured credit union (hereinafter a FISCU) as a FICU subsidiary. Therefore, any entity that meets the FDI Act definition of a subsidiary and is chartered by a FISCU would meet the definition of a FICU subsidiary and be subject to NCUA supervisory authority if it is a PPSI. The Board notes that under part 712, certain State subsidiaries are defined as CUSOs and subject to certain requirements in part 712.³⁴ However, a subsidiary is only a CUSO if that entity is engaged primarily in providing products or services to credit unions or credit union members. State subsidiaries that are not engaged primarily in providing products or services to credit unions or credit union members, would not meet the definition of CUSO and therefore would not be subject to part 712.

The GENIUS Act definition does not require that the entity meet the “engaged primarily in providing products or services to credit unions or credit union members” standard. Therefore, a FISCU subsidiary may not be a CUSO, and not subject to part 712, but may be a FICU subsidiary for purposes of the GENIUS Act and subject to NCUA supervisory authorities if it is, or applies to be, a PPSI.

Indirect Subsidiaries

A FICU may establish one or more intermediate entities, by itself or with third parties, to invest in a PPSI. If the FICU is an FCU then any entity in which it invests is subject to the CUSO regulation as all levels or tiers of a CUSO are subject to part 712. Therefore, establishing multi-tiered corporate structures does not circumvent the NCUA’s jurisdiction as a primary Federal payment stablecoin regulator. This would also be true for subsidiaries of FISCUs that primarily serve credit unions, as such entities are also subject to the CUSO rule.

However, for a FISCU that has a subsidiary that does not primarily serve credit unions, part 712 is not

applicable.³⁵ Therefore, the proposed rule would provide that all tiers or levels of a FICU subsidiary are included as a FICU subsidiary under part 706. Thus, if a FISCU establishes a holding company or issues payment stablecoins through a multi-tiered subsidiary structure, the NCUA would remain a primary Federal payment stablecoin regulator with respect to the subsidiary.

Application to Existing CUSOs

The GENIUS Act generally limits the activities that a PPSI may engage in.³⁶ Specifically, a PPSI may only (i) issue payment stablecoins; (ii) redeem payment stablecoins; (iii) manage related reserves, including purchasing, selling, and holding reserve assets or providing custodial services for reserve assets, consistent with State and Federal law; (iv) provide custodial or safekeeping services for payment stablecoins, required reserves, or private keys of payment stablecoins, consistent with the GENIUS Act; and (v) undertake other activities that directly support any of the above activities. PPSIs may also engage in digital asset service provider activities specified in the GENIUS Act and activities incidental thereto, that are authorized by the primary Federal payment stablecoin regulators.³⁷

Given this limitation on other activities, the Board believes it is likely that existing CUSOs would not seek to become PPSIs. Additionally, the NCUA would have examination and enforcement authority over the PPSI that it does not have over traditional CUSOs. The Board notes that for existing CUSOs the NCUA only has contractual rights to access books and records. For example, the NCUA cannot take an enforcement action against a CUSO (provided the CUSO is not an institution-affiliated party), even if the NCUA perceives a risk after accessing the CUSO’s books and records.

Request for Comment: To what extent do commenters believe FICUs will seek to issue payment stablecoins through existing CUSOs? Or do commenters believe it will be more likely for FICUs to establish new subsidiaries if they seek to issue payment stablecoins?

Request for Comment: The Board solicits commenter’s feedback on all of these definitions and the approach to generally incorporating the definitions in the GENIUS Act by reference. Should the NCUA include the definitions in the GENIUS Act in the NCUA’s regulation? The Board also notes that further

definitions may be proposed as part of a future notice of proposed rulemaking implementing standards for NCUA-licensed PPSIs. The Board also requests input as to whether additional defined terms are necessary for implementation of the GENIUS Act.

C. § 706.101. Scope

Section 706.101 establishes the scope of Subpart A and states the subpart contains the NCUA rules and procedures for FICUs seeking to invest in payment stablecoin issuers and for FICUs and their subsidiaries to jointly apply for a license from the NCUA to be a PPSI. It also notes that Subpart A contains the information on rules of applicability, where and how to file an application to become an NCUA-licensed PPSI, and provides the requirements and policies applicable to filings.

D. § 706.102. Rules of General Applicability

Section 706.102 sets forth the general rules governing the process for an Applying Issuer to seek a license to become an NCUA-licensed PPSI. Paragraph (a) of proposed § 706.102 would state that additional filing guidance, including policies and procedures, are included in the NCUA’s Payment Stablecoin Issuer Manual (Manual). The Manual would be posted on NCUA’s website and include detailed information about the application process, including the required information, examples, forms, and additional resources for Applying Issuers. Paragraph (b) of proposed § 706.102 would state that electronic filing is encouraged but not required.

Paragraph (c) of proposed § 706.102 would include a reservation of authority. The reservation of authority would state that the Board may adopt materially different procedures for a particular filing, or class of filings as it deems necessary, for example, in exceptional circumstances or for unusual transactions. The Board would provide notice of the change to the filer and to any other party that the Board determines should receive notice. The Board expects to apply the reservation of authority only in limited circumstances. When making any such determination, the Board would consider all relevant factors affecting the filing and the activities of the Applying Issuer, its investors, and Parent Company, including their activities, business models, and risk-management practices. Any exercise of authority under this section by the Board would be in writing.

³⁴ All sections of part 712 apply to FCUs. Sections 712.2(d)(2)(ii), 712.3(d), 712.4, and 712.11(b) and (c) apply to FISCUs, as provided in § 741.222 of the chapter. FISCUs must follow the law in the state in which they are chartered with respect to the sections in part 712 that only apply to FCUs. FISCUs must follow the law in the state in which they are chartered with respect to the sections in part 712 that only apply to FCUs.

³⁵ 73 FR 23982 (May 1, 2008).

³⁶ 12 U.S.C. 5903(a)(7).

³⁷ See 12 U.S.C. 5903(a)(7)(B); 12 U.S.C. 5901(7) (defining digital asset service provider).

Finally, paragraph (d) of proposed § 706.102 provides additional information on timing considerations. Specifically, the proposed rule would provide that the NCUA does not include the day of the act or event (e.g., the date a filing is received by the NCUA) from which the period begins to run. When the last day of a period is a Saturday, Sunday, or Federal holiday, the period runs until the end of the next day that is not a Saturday, Sunday or Federal holiday.

Request for Comment: The Board seeks comment on these general rules of applicability. The Board is especially interested in commenter input as to adoption of a Manual. Do commenters believe this approach is appropriate? If so, what do commenters believe should be addressed in the Manual? The Board specifically solicits comment as to:

1. What information or resources would be most helpful for the NCUA to include in the Manual? Are there specific areas such as financial projections, risk management strategies, or operational models where more detailed explanations or model templates would be useful?

2. What documentation or evidence should the Manual suggest applicants provide to demonstrate the financial condition and resources necessary to maintain reserves on a 1:1 basis as a payment stablecoin issuer?

3. What specific documentation or evidence should the Manual detail that applicants should be able to demonstrate to show that their technology systems can comply with the terms of any lawful orders and execute actions required by law enforcement or regulatory authorities, such as freezing, seizing, burning, reissuing, and preventing the transfer of stablecoins, and the blocking of stablecoins or accounts?

4. What specific technological capabilities should the Manual detail applicants should be able to demonstrate with respect to:

a. Transaction monitoring and suspicious activity detection;
b. Reserve management and real time reconciliation; and
c. Cybersecurity and operational resilience?

5. The NCUA is considering requiring applicants to provide attestations of independent third-party technology assessments or audits. What standards or frameworks should govern such assessments? What challenges or benefits do you anticipate this requirement might pose? How should the Manual help address any challenges?

6. The NCUA is considering requiring audited financial statements as part of the initial application. What challenges or benefits do you anticipate this requirement might pose? How should the Manual help address any challenges?

7. What documentation or evidence should the Manual suggest that an applicant could provide to demonstrate that they meet operational, compliance, and information technology risk management requirements and standards? More specifically, what documentation or information should the Manual suggest applicants provide regarding their:

a. distributed ledger or blockchain infrastructure, including network architecture, smart contract design, and protocol governance;

b. technology systems' scalability, reliability, and disaster recovery capabilities; and

c. ability to demonstrate operational readiness to process redemptions in a timely manner?

8. It is expected that applicants be able to provide documented disclosures regarding redemption fees, procedures, and timelines at the time of application. What challenges or benefits do you anticipate this requirement might pose? How can the Manual help to address any challenges?

9. What additional factors, if any, should the NCUA consider in evaluating applications to ensure the safety and soundness of permitted payment stablecoin issuers? How can the Manual help address these factors?

E. § 706.103. Filing Required

Section 5(a)(1)(A) of the GENIUS Act requires the NCUA to receive, review, and consider for approval applications from any FICU that seeks to issue payment stablecoins through a FICU subsidiary.³⁸ Section 5(a)(1)(B) requires the NCUA to establish a process and framework for the licensing, regulation, examination, and supervision of such entities that prioritizes the safety and soundness of such entities.³⁹ Section 5(a)(3) requires that the NCUA, upon receipt of a substantially complete application, evaluate and make a determination on each application based on the criteria established under the GENIUS Act (hereinafter the "Statutory Evaluation Factors").⁴⁰

The proposed rule states that a FICU subsidiary seeking to issue payment stablecoins must apply to the NCUA for a license and receive NCUA approval

before issuing the stablecoins. The proposed rule requires that this application be filed jointly with any insured credit union Parent Company(ies). The Board notes that the FDIC's proposed rule requires only the IDI to apply.

The proposed rule would provide that the proposed PPSI would apply jointly with its FICU Parent Company(ies). The proposed rule would also require that the proposed PPSI, the Parent Company(ies), and any Principal Shareholders certify in writing that any filing or supporting material submitted to the NCUA contains no material misrepresentations or omissions. The Board believes it is more efficient and practical for the issuer, the entity receiving the license to engage in issuing payment stablecoins, to submit the application directly with its FICU Parent Company(ies) rather than having all investing FICUs apply.

Additionally, the Board believes PPSIs are more likely to be widely held in the credit union industry than in the banking industry. Jointly held credit union subsidiaries have the potential to provide significant value to the credit union industry by facilitating cooperation among credit unions. To compete effectively in the payment stablecoin market, FICUs may need to rely on pooling their resources to jointly fund a FICU subsidiary as the associated costs of issuing payment stablecoins may be prohibitive for all but a very few of the largest FICUs.

For these reasons, the Board anticipates that FICUs may jointly form a FICU subsidiary to issue payment stablecoins. Therefore, the proposed rule requires the potential PPSI to apply to the NCUA to be an NCUA-licensed PPSI jointly with only investing FICUs that are considered Parent Company(ies) under the proposed rule. The definition of Parent Company in the proposed rule is intended to capture only the FICUs that are most likely to control or direct the management and policies of the PPSI and have those FICUs apply jointly with the Applying Issuer. The Board does not believe it is practical or consistent with congressional intent for the NCUA to review licensure applications from each investing FICU.

As noted, the proposed rule would also require that the Applying Issuer and all Parent Companies and any Principal Shareholders of the Applying Issuer make certain certifications about the application and submit certain information on their Officers and Directors. The Board seeks comments on the proposed application scheme; specifically, whether (1) the application should be made by the proposed PPSI,

³⁸ 12 U.S.C. 5904(a)(1)(A).

³⁹ 12 U.S.C. 5904(a)(1)(B).

⁴⁰ 12 U.S.C. 5904(a)(3).

(2) an application from FICUs is preferred, or (3) the application should require joint filing and certification of all information in it by both the Applying Issuer and all investing FICUs.

The Board does understand, however, that requiring the proposed PPSI and the FICU Parent Company(ies) to apply may result in minor inconsistencies with the regulations of the other primary Federal payment stablecoin regulators in certain situations. Paragraph (b) of proposed § 706.103 provides that filings are submitted as provided in the NCUA's Payment Stablecoin Issuer Manual.

Paragraph (c) of proposed § 706.103 provides that before submitting a filing to the NCUA, a potential filer may contact the NCUA to discuss whether a prefiling meeting would be beneficial. The NCUA would decide whether to grant a prefiling meeting on a case-by-case basis and would consider whether the application would represent a novel, complex, or unique proposal such that a prefiling meeting would be beneficial. Paragraph (c) notes that submission of a draft business plan or other relevant information before any prefiling meeting may expedite the filing review process. It states that a potential filer considering a novel, complex, or unique proposal is encouraged to contact the NCUA to request a prefiling meeting early in the development of its proposal for the early identification and consideration of policy issues. Finally, paragraph (c) notes that information on model business plans can be found in the NCUA's Payment Stablecoin Issuer Manual.

As noted above, paragraph (d) of proposed § 706.103 provides that an Applying Issuer, and its Parent Company(ies), and any Principal Shareholders, must certify in writing that any filing or supporting material submitted to the NCUA contains no material misrepresentations or omissions. The Board notes that any person responsible for any material misrepresentation or omission in a filing or supporting materials may be subject to an enforcement action and other penalties, including criminal penalties provided in 18 U.S.C. 1001.

Paragraph (e) of proposed § 706.103 states that the NCUA may require filing fees to accompany certain filings made under Subpart A. At this time, the Board does not believe a filing fee is necessary. However, if the number of applications received, or the resources to process the application, are substantial, the Board may consider imposing a filing fee. The Board would not impose a filing fee without publishing an applicable fee

schedule on its website at <http://www.NCUA.gov>.

Request for Comment: The Board is seeking comments on the pros and cons of recovering the costs of administering the stablecoin program by imposing charges on individual FICUs or NCUA-licensed PPSIs. The Board is particularly interested in comments as to whether annual NCUA costs for staff and contractors to review proposed stablecoin issuer applications and conduct examinations should be borne entirely by the FICUs who own the applying PPSIs or spread across all FICUs through the NCUA's usual budget process. The Board is considering imposing a licensing fee or examination fee to offset the NCUA's additional costs. The Board believes that because payment stablecoin activities are optional and based on each FICU's business judgment; and that because it is likely that, at least initially, only a minority of FICUs participate in payment stablecoin activities, commenters may consider it more equitable to not pay these costs out of the general FCU operating fee and National Credit Union Share Insurance Fund (NCUSIF) overhead transfer.

However, previously when the Board raised the potential for charging a program-based fee, the Board declined to impose the fee following the notice and comment process. Previous commenters have raised negative precedent related to distinct fees; concerns about NCUA cost estimates; the collective benefit of certain programs are to the industry even if only select FICUs are engaged in the activity; and that by reducing risk to the NCUSIF, the specific activity in question may be saving the agency and the industry money. The Board requests comments on whether these considerations are present for administering a program-based fee for PPSI licensing or examination.

Finally, the Board notes that the intent for any charges would not be to act as a deterrent, but rather as an equitable way of assessing the cost of payment stablecoin activities and the NCUA's expanded supervision requirements.

F. § 706.104. Investigations

Section 706.104 of the proposed rule would detail certain information about examinations and investigations the NCUA may conduct related to filings. Paragraph (a) of proposed § 706.104 would express the NCUA's authority to examine or investigate and evaluate facts related to a filing to the extent necessary to reach an adequately informed decision. Paragraph (b) of

proposed § 706.104 would clarify that for certain filings the NCUA will require legible fingerprints for a biometric based criminal history search. The Board believes that such criminal history background checks are necessary for the NCUA to review the required Statutory Evaluation Factors,⁴¹ but requests commenters' input as to this approach.

The NCUA reserves the right to assess fees for investigations or examinations conducted under paragraph (a) of this section. The Board would not impose a fee without publishing an applicable fee schedule on its website at <http://www.NCUA.gov>.

Request for Comment: The Board specifically solicits commenter feedback as to whether the proposed rule should address the NCUA's authority to assess fees related to investigations or examinations under this section.

G. § 706.105. Evaluation of Applications and Factors To Be Considered

Upon receipt of a substantially complete application, the NCUA is required to evaluate and make a determination on each application based on the criteria established under the GENIUS Act.⁴² The GENIUS Act requires the NCUA to evaluate a substantially complete application using the following Statutory Evaluation Factors:⁴³

(1) The ability of the applicant (or, in the case of an applicant that is an insured depository institution, the subsidiary of the applicant), based on financial condition and resources, to meet the requirements set forth under section 4.

(2) Whether an individual who has been convicted of a felony offense involving insider trading, embezzlement, cybercrime, money laundering, financing of terrorism, or financial fraud is serving as an officer or director of the applicant.

(3) The competence, experience, and integrity of the officers, directors, and principal shareholders of the applicant, its subsidiaries, and parent company, including—

(A) the record of those officers, directors, and principal shareholders of compliance with laws and regulations; and

(B) the ability of those officers, directors, and principal shareholders to fulfill any commitments to, and any conditions imposed by, their primary Federal payment stablecoin regulator in connection with the application at issue and any prior applications.

⁴¹ See 12 U.S.C. 5904(c)(2)–(3).

⁴² 12 U.S.C. 5904(a)(3).

⁴³ 12 U.S.C. 5904(b).

(4) Whether the redemption policy of the applicant meets the standards under section 4(a)(1)(B).

(5) Any other factors established by the primary Federal payment stablecoin regulator that are necessary to ensure the safety and soundness of the permitted payment stablecoin issuer.⁴⁴

The NCUA proposes to adopt and implement these required Statutory Evaluation Factors in § 706.105 as described below.

1. Scope

Paragraph (a) of proposed § 706.105 addresses the scope of the section and would describe the procedures and requirements governing NCUA evaluation of an application for an NCUA PPSI license using the Statutory Evaluation Factors. Proposed § 706.105 clarifies that the NCUA would evaluate each substantially complete application to determine whether approval would be consistent with the safety and soundness of the applying payment stablecoin issuer based on the Statutory Evaluation Factors set forth in the GENIUS Act and implemented in proposed § 706.105. Proposed paragraph (a) concludes by advising that an applicant should consult the NCUA's Payment Stablecoin Issuer Manual to determine what other information is necessary for the NCUA to evaluate an application using the Statutory Evaluation Factors described in this section. As a supplement to these proposed regulations, the NCUA will be issuing the NCUA's Payment Stablecoin Issuer Manual to provide guidance to and assist PPSIs in seeking an NCUA PPSI license.

2. Statutory Evaluation Factors

Paragraph (b) of proposed § 706.105 would state that the NCUA grants NCUA-PPSI licenses under the authority provided by the GENIUS Act at 12 U.S.C. 5904, which requires the NCUA to evaluate applications using the Statutory Evaluation Factors described in subsection (c) of that section. The proposed rule would specifically codify these Statutory Evaluation Factors in paragraph (b) as follows:

(1) The ability of the Applying Issuer, based on financial condition and resources, to meet the requirements set forth under 12 U.S.C. 5903 and incorporated in Subpart B of part 706;

(2) Whether an individual who has been convicted of a felony offense involving insider trading, embezzlement, cybercrime, money laundering, financing of terrorism, or

financial fraud is serving as an Officer or Director of the Applying Issuer;

(3) The competence, experience, and integrity of the Officers, Directors, and Principal Shareholders of the Applying Issuer, its subsidiaries, and Parent Company, including:

(i) the record of those Officers, Directors, and Principal Shareholders of compliance with laws and regulations; and

(ii) the ability of those Officers, Directors, and Principal Shareholders to fulfill any commitments to, and any conditions imposed by, the NCUA in connection with the application at issue and any prior applications;

(4) Whether the redemption policy of the Applying Issuer meets the standards under 12 U.S.C. 5903(a)(1)(B) and incorporated in Subpart B of part 706; and

(5) Any other factors established by the NCUA that are necessary to ensure the safety and soundness of the Applying Issuer.

3. Policy

Paragraph (c) of proposed § 706.105 would provide the policy considerations that would guide the NCUA's evaluation of an Applying Issuer's ability to satisfy the Statutory Evaluation Factors provided by the GENIUS Act at 12 U.S.C. 5904(c) and reproduced in proposed § 706.105(b). Proposed paragraph (c)(1) would detail specific policy considerations that would guide the NCUA's evaluation. Paragraph (c)(2) would provide a framework as to the NCUA's policy for cumulatively evaluating an Applying Issuer based on its Issuing Group and its business plan together, along with factors specific to the markets and economic conditions in which an Applying Issuer intends to operate and the risks specific to the services it intends to provide.

As noted, proposed paragraph (c)(1) would detail specific policy considerations that would guide the NCUA's evaluation of the Statutory Evaluation Factors. The first three policy considerations stated in proposed (c)(1)(i)–(iii), would all relate to the competence, experience, and integrity Statutory Evaluation Factor. Proposed paragraph (c)(1)(i) would consider whether the Applying Issuer has an Issuing Group that has a record of compliance with laws and regulations and that is familiar with the laws and regulations applicable to PPSIs and digital asset service providers, as that term is defined in the GENIUS Act. Proposed paragraph (c)(1)(ii) would consider whether the Applying Issuer has an Issuing Group with the ability to fulfill any commitments to, and any

conditions imposed by, the NCUA in connection with the application at issue and any prior applications. Paragraph (c)(1)(iii) would consider whether the Applying Issuer has competent management, including a board of directors, with ability and experience relevant to the types of services to be provided.

The Board recognizes that these policy considerations are somewhat redundant of the required Statutory Evaluations Factors incorporated in paragraph (b). However, the Board feels it important to make it clear how the NCUA will consider the competence, experience, and integrity factors. Key to these factors would be completion of the NCUA's Biographical and Financial Report, as would be required in proposed § 706.105(f)(3).

Paragraph (iv) would articulate that the NCUA will consider whether the Applying Issuer has the capital, liquidity, and the capital and liquidity plans, sufficient to support the projected volume and type of business. The Board views realistic and well-developed capital and liquidity plans as fundamental to an Applying Issuer's demonstration that, as is required by the Statutory Evaluation Factors,⁴⁵ it has the ability, based on financial condition and resources, to meet the requirements for PPSIs set forth in the GENIUS Act⁴⁶ and to be implemented in the NCUA's regulations. The Board also views this as key to ensuring the safety and soundness of the Applying Issuer, as is required by the Statutory Evaluation Factors.⁴⁷

Paragraph (v) would articulate that the NCUA will consider whether the Applying Issuer has a redemption policy that is sufficient to meet all requirements in subpart B of this part. The Board views a redemption policy that is sufficient to meet all requirements in Subpart B as prescriptively required by the Statutory Evaluation Factors and key to the safety and soundness of an Applying Issuer.

Paragraph (vi) would articulate that the NCUA will consider whether the Applying Issuer can reasonably be expected to achieve and maintain profitability. The Board views a realistic and well-developed plan for achieving and maintaining profitability as fundamental to an Applying Issuer's demonstration that, as is required by the Statutory Evaluation Factors,⁴⁸ it has the ability, based on financial condition and resources, to meet the requirements for

⁴⁵ 12 U.S.C. 5904(c)(1).

⁴⁶ 12 U.S.C. 5903.

⁴⁷ 12 U.S.C. 5904(c)(5).

⁴⁸ 12 U.S.C. 5904(c)(1).

⁴⁴ 12 U.S.C. 5904(c)(1)–(5).

PPSIs set forth in the GENIUS Act.⁴⁹ The Board also views this as key to ensuring the safety and soundness of the Applying Issuer, as is required by the Statutory Evaluation Factors.⁵⁰

Paragraph (vii) would articulate that the NCUA will consider whether the Applying Issuer will be operated in a safe and sound manner. The Board views its consideration of an Applying Issuer's ability to operate in a safe and sound manner as prescriptively required by the Statutory Evaluation Factors.⁵¹ Paragraph (vii) would clarify that the NCUA's evaluation of an Applying Issuer's ability to operate in a safe and sound manner would include, but not be limited to (1) the ability of the Applying Issuer to meet the operational, compliance, and information technology risk management requirements and standards to be outlined in subpart B of this part; and (2) the ability of the Applying Issuer to maintain sufficient technological capabilities to comply with the terms of any lawful order and all applicable laws and regulations.

As noted, paragraph (c)(2) of proposed § 706.105 would provide additional information as to how the NCUA cumulatively evaluates an Applying Issuer based on its Issuing Group and its business plan together. Paragraph (c)(2) would clarify that the NCUA's judgment concerning one of these aspects may affect the evaluation of the other. It would also stress that an Issuing Group and its business plan must be stronger in markets where economic conditions are marginal, competition is intense, or the services to be provided have greater or unknown risk.

The Board believes that this policy for a cumulative evaluation that considers both the Issuing Group and the business plan together will best ensure proper consideration of the Statutory Evaluation Factors and that NCUA-licensed PPSIs are able to be successful, safe, and sound enterprises. The Board further believes that consideration of the markets and economic conditions in which an Applying Issuer intends to operate and the risks specific to the services it intends to provide are key to this holistic evaluation.

Request for Comment: The Board specifically solicits comment as to whether these policy considerations should be included in paragraph (c) and as to whether any additional factors or details should be included.

Request for Comment: The Board also solicits comment as to whether the policy considerations listed in

paragraph (c)(1)(vii) providing examples relevant to the NCUA's evaluation of an Applying Issuer to operate safely and soundly are appropriate to include in the regulation. Should the Board include any examples? Are there additional examples the Board should include?

4. Issuing Group

Paragraph (d) of proposed § 706.105 would provide specific requirements applicable to the Applying Issuer's Issuing Group. An Issuing Group, as defined in proposed § 706.2, would include the Applying Issuer and the Officers, Directors, and Principal Shareholders of the Applying Issuer, its subsidiaries, and Parent Company or Companies. A FICU or other party that is not covered by this definition, such as a FICU that has invested in the Applying Issuer, but is not a Parent Company, would not be a member of the Issuing Group.

Paragraph (d)(1) of proposed § 706.105 would generally discuss how the NCUA proposes to evaluate an Issuing Group as part of the Statutory Evaluation Factors and the holistic application. It would provide that, in general, an Issuing Group must have the competence, experience, and integrity to be active in directing the Applying Issuer's affairs in a safe and sound manner. It would require that the business plan and other information supplied in the application, including the completed NCUA Biographical and Financial Report forms, demonstrate an Issuing Group's collective ability to establish and operate a successful PPSI in the economic and competitive conditions of the market to be served. This proposed rule would also require that this be demonstrated with consideration of the activities to be engaged in by the Applying Issuer and the services it intends to provide. Paragraph (d)(1) would also state that each member of the Issuing Group must be knowledgeable about the business plan. The NCUA believes an inadequate business plan may be a reason for the NCUA to deny an application because it reflects adversely on the Issuing Group's qualifications.

Paragraph (d)(2) of proposed § 706.105 would prescribe standards for selection of management by the Issuing Group. Specifically, it would require that the initial board of directors select competent Officers before the NCUA grants an NCUA-PPSI License. The Board understands that selected Officers may be conditional pending NCUA's review and approval of the application. Early selection of Officers, especially the chief executive officer, contributes

favorably to the preparation and review of a business plan that is accurate, complete, and appropriate for the activities the Applying Issuer intends to engage in, and is necessary for a substantially complete application.

Paragraph (d)(3) of proposed § 706.105 would address requirements related to the financial resources of the Issuing Group. Specifically, paragraph (d)(3)(i) would require that each member of the Issuing Group have a history of responsibility, personal honesty, and integrity. The Board views this as required by the Statutory Evaluation Factors, both in terms of the competence, experience, and integrity of the Officers and Directors in the Issuing Group⁵² and the prohibition on certain felony offenses.⁵³ The Board envisions Officers and Directors in the Issuing Group generally demonstrating their history of responsibility, personal honesty, and integrity in the NCUA Biographical and Financial Report form required under paragraph (f)(3) of this section. However, the Board retains the right to request additional information in evaluating this requirement.

Paragraph (d)(3)(ii) would require the Issuing Group to have a realistic plan, or plans, for enabling the Applying Issuer to obtain capital and liquidity when needed. The Board views demonstrating realistic plans for obtaining capital and liquidity as key to an Applying Issuer's prospects and viability and a matter that the Issuing Group must be able to address. However, the Board does not believe FICUs should attempt to financially obligate themselves beyond their initial investments in a manner that poses future material risk to the investing FICUs and thus their members and the NCUSIF. The Board views it as inappropriate for a FICU to implicitly financially obligate its members and the NCUSIF as a backstop for Applying Issuers. The Board also notes that it may consider any purported financial obligation as an investment in or loan to the PPSI for purposes of the 1 percent investment and lending limitations under the FCU Act.⁵⁴

⁵² 12 U.S.C. 5904(c)(3).

⁵³ 12 U.S.C. 5904(c)(2).

⁵⁴ In the past, the NCUA has deemed all of the following to be either loan or investment equivalents in the context of the CUSO rule: standby letter of credit issued by an FCU to cover a CUSO; sale and leaseback transactions; payment of CUSO expenses by FCU, such as subsidies; guarantees of CUSO debt or purchase of CUSO debentures; FCU pledge and guarantee of loans from other entities to the CUSO; and FCU spin-off of assets to CUSOs. 63 FR 10743 (Mar. 5, 1998). Likewise, the Board would likely consider other contingent financial obligations to support a PPSI as an investment or loan.

⁴⁹ 12 U.S.C. 5903.

⁵⁰ 12 U.S.C. 5904(c)(5).

⁵¹ *Id.*

Paragraph (d)(3)(iii) would require that any financial or other business arrangement, direct or indirect, between the Issuing Group or other insiders and the Applying Issuer must be on non-preferential terms. The Board believes that financial or other business arrangements that would show preference to members of the Issuing Group or other insiders are inconsistent with the GENIUS Act's Statutory Evaluation Factors related to integrity and are inconsistent with safe and sound practices.

5. Business Plan

Paragraph (e) of proposed § 706.105 would set forth the subjects that an Applying Issuer's business plan must address and the NCUA's process for evaluating the plan. The purpose of this proposed section is to broadly address what subjects must be addressed in an Applying Issuer's business plan and how the NCUA will review it. The Board stresses that, because of the unique nature of any application and individual business plan, what specific information the NCUA must review for a particular application and its evaluation of the that information will vary. The NCUA intends that the NCUA Licensing Manual and various forms that will be developed for Applying Issuers will provide guidance to Applying Issuers and help facilitate their development of business plans and their broader application submissions.

Paragraph (e)(1)(i) of proposed § 706.105 would state the general requirement that an Applying Issuer submit a business plan that adequately addresses the Statutory Evaluation Factors and related policy considerations set forth in paragraphs (b) and (c) of this section. It would require that the plan reflect sound business and financial principles and demonstrate realistic assessments of risk in light of economic and competitive conditions in the market to be served and the services to be provided.

Paragraph (e)(1)(ii) would articulate the NCUA's holistic approach to examining a business plan. It would state that the NCUA may offset deficiencies in one factor by strengths in one or more other factors. However, it would also note deficiencies in some factors, such as unrealistic earnings prospects, may have a negative influence on the evaluation of other factors, such as capital adequacy, or may be serious enough by themselves to result in denial. It would articulate that the NCUA considers inadequacies in a business plan to reflect negatively on the Issuing Group's ability to operate a successful PPSI.

Paragraph (e)(2) of proposed § 706.105 would broadly speak to how a business plan must address earnings prospects and financial condition and how the NCUA will review those aspects. Specifically, it would require that an Applying Issuer submit balance sheets and income statements that demonstrate financial stability and earnings prospects as part of the business plan. This would include both actual and *pro forma* balance sheets and income statements, as applicable based on the availability of actual financial statements. Paragraph (e)(2) would state the NCUA would review all *pro forma* projections for reasonableness of assumptions and consistency with the business plan.

Paragraph (e)(3) of proposed § 706.105 would broadly speak to how a business plan must address management and articulate specific requirements that must be followed. Paragraph (e)(3)(i) would require that the business plan include information sufficient to permit the NCUA to evaluate the overall management ability of the entire Issuing Group. If the Issuing Group has limited relevant experience, the Officers of the Applying Issuer must be able to compensate for such deficiencies.

Paragraph (e)(3)(ii) would prohibit an Applying Issuer from hiring an Officer or electing or appointing a Director if the NCUA objects to that person at any time prior to the date the issuer commences business. Paragraph (e)(3)(iii) would require all Officers and Directors of the Issuing Group and any principal shareholders to submit the biographical and financial report information described in paragraph (f) to allow the NCUA to evaluate the competence, experience, and integrity of the Officers, Directors, and Principal Shareholders of the Applying Issuer, its subsidiaries, and Parent Company(ies) as described in paragraph (b)(3).

Paragraph (e)(4) of proposed § 706.105 would require that a business plan address an Applying Issuer's capital and capital plan, consistent with the requirements of the GENIUS Act and as will be proposed in Subpart B of part 706. It would state that an Applying Issuer must have sufficient initial capital, net of any organizational expenses that will be charged to the Applying Issuer's capital after it begins operations, to support the institution's projected volume and type of business. It would also require that the applying issuer have a longer-term capital plan that is sufficient to support the future projected volume and type of business as outlined in the business plan.

Paragraph (e)(5) of proposed § 706.105 would require an Applying Issuer's

business plan to address its liquidity and reserve asset diversification practice. The proposed rule would clarify that these policies must meet the requirements of Subpart B of this part, which will be proposed in a future notice of proposed rulemaking and will be based on the criteria that the GENIUS Act requires.⁵⁵

Finally, proposed paragraph (e)(6) of proposed § 706.105 would require the business plan to demonstrate that the Applying Issuer (and to the extent necessary, the Parent Company(ies)), is aware of, and understands, applicable laws and regulations, and how to conduct safe and sound operations and practices.

Request for Comment: The Board requests commenters provide feedback as to whether this section provides the necessary information for Applying Issuers and Issuing Groups to develop business plans as part of their application for an NCUA-PPSI license. The Board is especially interested in whether commenters feel like additional information needs to be provided in the regulation and if commenters are comfortable with the approach the NCUA plans to take with the NCUA Licensing Manual.

Request for Comment: Despite the Board's belief that the proposed regulations provide enough detail to address what a business plan must demonstrate, the Board solicits feedback as to whether additional information should be required as part of a business plan, such as the information listed below:

- *information detailing how the Applying Issuer plans to maintain their payment stablecoin's stable value;*
- *detailed information about all of the proposed activities of the Applying Issuer, including activities that are incidental to their payment stablecoin activities and digital asset service provider activities;*
- *relevant financial information related to the Applying Issuer's reserve assets, the composition of the reserve assets, and the associated asset management plan;*
- *an engagement letter with a registered public accounting firm as evidence that the Applying Issuer would be able to comply with the examination of monthly reserve reports and certification requirements in section 4 of the GENIUS Act; and*
- *relevant policies and procedures and customer agreements, including for custody and safekeeping, segregation of customer and reserve assets,*

⁵⁵ See 12 U.S.C. 5903(a)(4)(A)(ii)–(iii).

recordkeeping, reconciliation and transaction processing, and redemption.

6. Procedures

Paragraph (f) of proposed § 706.105 would articulate various standard procedures for the submission, review, and decision process of applications for an NCUA–PPSI license. Pursuant to Section 5(1)(B) of the GENIUS Act, the NCUA proposes a process and framework for the licensing of PPSIs that prioritizes the safety and soundness of such entities and complies with Section 5(3)(d)’s 120-day statutory window for decisions.

Paragraph (f)(1) of proposed § 706.105 would address the possibility of a prefiling meeting with the NCUA and the Issuing Group. Paragraph (f)(1) would state that the Issuing Group of an Applying Issuer may request a prefiling meeting with the NCUA before the Applying Issuer files an application. Paragraph (f)(1) would also state that the prefiling meeting normally would be held virtually.

The Board believes that prefiling meetings may be a beneficial way to allow proposed issuers applying for an NCUA–PPSI license to maximize their chances of submitting substantially complete applications and being granted a license while also helping to preserve the NCUA’s ability to fully evaluate and render decisions on substantially complete applications within the 120-day statutory window. As part of a prefiling meeting, the Board believes that all members of the Issuing Group should be familiar with the NCUA’s licensing policy and procedural requirements as will be articulated in the NCUA’s Licensing Manual. Finally, the Board thinks that providing virtual prefiling meetings as a default means for meeting will reduce expenses for both the NCUA and Applying Issuers while allowing the greatest flexibility for both parties. The Board requests comment on its use of discretion to propose a virtual prefiling meeting in the NCUA–PPSI licensing process.

Paragraph (f)(2) of proposed § 706.105 would reiterate the requirement that an Applying Issuer must file a business plan that addresses the subjects discussed in paragraph (e) of proposed § 706.105. The Board is proposing to specifically state this procedural requirement here as it views a well-developed business plan as essential to demonstrating that an Applying Issuer can satisfy the Statutory Evaluation Factors.

Paragraph (f)(3) of proposed § 706.105 would require submission of certain biographical and financial report information and information necessary

for background investigations. Paragraph (f)(3)(i) would require that each Director or Officer or proposed Director or Officer of a member of the Issuing Group, and any Principal Shareholder of the Applying Issuer, submit to the NCUA the information prescribed in the NCUA Biographical and Financial Report, to be made available at www.ncua.gov. The proposed rule contemplates the NCUA adopting an “NCUA Biographical and Financial Report” similar to the Interagency Biographical and Financial Report used by the other primary Federal payments stablecoin regulators as part of applications for various other chartering, licensing, and insurance processes.⁵⁶ Paragraph (f)(3)(ii) would require that each Director or Officer or proposed Director or Officer of only the Applying Issuer submit legible fingerprints for a biometric based criminal history search. Principal Shareholders do not need to submit fingerprints. These combined submissions would allow the NCUA to satisfy its evaluations of the required statutory factors related to competence, experience, and integrity⁵⁷ and the prohibited felony convictions.⁵⁸

Finally, paragraph (f)(3)(iii) would state that the NCUA may request additional information about any Director or Officer, or proposed Director or Officer, or any Principal Shareholder, if appropriate. Proposed (f)(3)(iii) would also state that the NCUA may waive any of the information requirements of paragraph (f) if the NCUA determines that it is in the public interest.

Request for Comment: The Board specifically solicits feedback as to the development and use of an NCUA Financial and Biographical Report. Should the Board consider alternative approaches to fulfilling these statutory requirements? Is there specific information that should be included in the proposed NCUA Financial and Biographical Report?

Request for Comment: The Board solicits feedback as to the proposal to collect legible fingerprints from the Officers and Directors, or proposed Officers and Directors, of an Applying Issuer for a biometric based criminal history search. Should the Board consider alternative approaches to evaluating whether any of these

individuals have been convicted of a felony offense involving insider trading, embezzlement, cybercrime, money laundering, financing of terrorism, or financial fraud as is required by the GENIUS Act?

Paragraph (f)(4) of proposed § 706.105 would require that the Applying Issuer designate a contact person to represent the Issuing Group in all contacts with the NCUA.

Paragraph (f)(5) of proposed § 706.105 would state that the NCUA will notify the contact person and other relevant parties in writing of its decision on an application to be an NCUA-licensed PPSI.

Paragraph (f)(6) of proposed § 706.105 would require that before the NCUA grants a license to an Applying Issuer, the Applying Issuer must be established as a legal entity under State law.

7. Investments in Other Licensed Issuers

Once a FICU has made an investment in a PPSI, the PPSI becomes a “subsidiary of an insured credit union” under the GENIUS Act. The GENIUS Act designates the NCUA as the primary Federal payment stablecoin regulator of subsidiaries of insured credit unions. Therefore, the Board is proposing to restrict FICU investment in any PPSI to only those with an NCUA license.

The Board understands that FICUs may seek to invest in PPSIs that meet the PPSI definition because they are a subsidiary of a non-FICU IDI, are a Federal qualified payment stablecoin issuer,⁵⁹ or a State qualified payment stablecoin issuer.⁶⁰ The Board is also aware that these investments may create ambiguity regarding designation of the primary Federal payment stablecoin regulator. The NCUA and the other primary Federal payment stablecoin regulators may address such potential interjurisdictional issues in the future.

Request for Comment: What approach should the NCUA and other PPSI regulators take to licensing, examining, and regulating PPSIs that may be considered subsidiaries of multiple types of insured depository institutions? Specifically, should PPSIs be required to obtain multiple licenses in some instances? If multiple licenses are required, should NCUA provide a process for expedited licensure of a PPSI or rather than require multiple licenses, rely on the licensure of another Primary Federal payment stablecoin regulator, if the PPSI has already been licensed or approved by another regulator?

⁵⁶ See Interagency Biographical and Financial Report, available at <https://www.occ.treas.gov/static/licensing/form-ia-bio-financial-v2.pdf>, <https://www.fdic.gov/formsdocuments/f6200-06.pdf>, and <https://www.federalreserve.gov/apps/reportingforms/Download/DownloadAttachment?guid=e5e9a72a-0667-4c4e-9f5d-af27ab90809b>.

⁵⁷ See 12 U.S.C. 5904(c)(3).

⁵⁸ 12 U.S.C. 5904(c)(2).

⁵⁹ See 12 U.S.C. 5901(11).

⁶⁰ See 12 U.S.C. 5901(31).

H. § 706.106. Timing for Decision on Applications

Section 5(d)(1) of the GENIUS Act addresses the timing for a primary Federal payment stablecoin regulator to render a decision on an application to be a licensed PPSI.⁶¹ Specifically, the GENIUS Act requires the NCUA to render a decision on the application not later than 120 days after receiving a substantially complete application.⁶²

The GENIUS Act also establishes a standard for when an application shall be considered “substantially complete” and obligations on the applicable primary Federal payment stablecoin regulator to provide notifications to an applicant regarding the status of the application. An application shall be considered substantially complete if the application contains sufficient information for the NCUA to render a decision on whether the applicant satisfies the factors to be considered detailed in section 5(c) of the GENIUS Act.⁶³ The proposed rule would detail these factors and how the NCUA will evaluate them in § 706.105. Additionally, not later than 30 days after receiving an application, the NCUA must notify the applicant as to whether the NCUA considers the application to be substantially complete and, if the application is not substantially complete, the additional information the applicant must provide for the application to be considered substantially complete.⁶⁴ An application considered substantially complete remains substantially complete unless there is a material change in circumstances that requires the NCUA to treat the application as a new application.⁶⁵

Finally, the GENIUS Act dictates that the failure of the NCUA to render a decision on a complete application within the time specified above shall be deemed an approval of the application.⁶⁶

The NCUA proposes to adopt these requirements as prescribed by the GENIUS Act in § 706.106.

Request for Comment: Should the Board explicitly state that it may include conditions on any approval of an application?

I. § 706.107. Denial

The GENIUS Act establishes the grounds under which the NCUA may deny a substantially complete

application. The NCUA may only deny a substantially complete application received if the NCUA determines that the activities of the applicant would be unsafe or unsound based on the factors described in section 5(c) of the GENIUS Act, noted above, and included in proposed § 706.105.⁶⁷ The GENIUS Act also specifies that the issuance of a payment stablecoin on an open, public, or decentralized network shall not be a valid ground for denial of an application received.⁶⁸ The proposed rule would articulate the grounds for denial as prescribed by the GENIUS Act in paragraph (a) of § 706.107.

The GENIUS Act also imposes a requirement upon the NCUA to explain the denial of an application. If the NCUA denies a substantially complete application, not later than 30 days after the date of such denial, the NCUA must provide the applicant with written notice explaining the denial with specificity, including all findings made by the NCUA with respect to all identified material shortcomings in the application, including actionable recommendations on how the applicant could address the identified material shortcomings.⁶⁹ The proposed rule would articulate the required explanation as prescribed by the GENIUS Act in paragraph (b) of § 706.107. Paragraph (b) would state that if the NCUA denies a substantially complete application received under this subpart, not later than 30 days after the date of such denial, the NCUA shall provide the applicant with written notice explaining the denial with specificity, including all findings made with respect to all identified material shortcomings in the application and actionable recommendations on how the applicant could address the identified material shortcomings.

J. § 706.108. Opportunity for Hearing; Final Determination

In the event the NCUA denies an application to be an NCUA-licensed PPSI, the GENIUS Act provides the applicant with an opportunity for a hearing to appeal the denial.⁷⁰ Not later than 30 days after the date of receipt of any notice of the denial of an application, the applicant may request, in writing, an opportunity for a written or oral hearing before the Board to appeal the denial.⁷¹ Upon receipt of a timely request for a hearing, the NCUA must notice a time (not later than 30

days after the date of receipt of the request) and place at which the applicant may appear, personally or through counsel, to submit written materials or provide oral testimony and oral argument.⁷² Not later than 60 days after the date of a hearing under this section, the NCUA is required to notify the applicant of a final determination, which shall contain a statement of the basis for that determination, with specific findings.⁷³

If an applicant does not make a timely request for a hearing to appeal the denial, the GENIUS Act requires the NCUA to notify the applicant, not later than 10 days after the date by which the applicant may have requested a hearing, in writing, that the denial of the application is a final determination of the NCUA.⁷⁴

The NCUA proposes to adopt these requirements as prescribed by the GENIUS Act in § 706.108. The NCUA proposes that hearings to appeal the denial of an application to be an NCUA-licensed PPSI be before the Board. The Board believes that this appeal and hearing process should be excluded from the procedures in part 746 of the NCUA’s regulations, which provides default procedures for appeals of material supervisory determinations and other initial agency determinations made by NCUA staff. However, the Board specifically requests comment as to these approaches and any alternatives the Board should consider. The Board also solicits comment as to whether it should amend part 746 to exclude an appeal of a denial of an application to be an NCUA-licensed PPSI from part 746.

K. § 706.109. Right To Reapply

The GENIUS Act explicitly states that the denial of an application shall not prohibit the applicant from filing a subsequent application.⁷⁵

The NCUA proposes to replicate this right to reapply as prescribed by the GENIUS Act in § 706.109.

L. § 706.110. Certification of Anti-Money Laundering and Economic Sanctions Compliance Programs

Section 5(i)(1) of the GENIUS Act requires that, not later than 180 days after the approval of an application, and on an annual basis thereafter, each PPSI shall submit to its primary Federal payment stablecoin regulator a certification that the issuer has implemented anti-money laundering

⁶¹ 12 U.S.C. 5904(d)(1)(A).

⁶² *Id.*

⁶³ 12 U.S.C. 5904(d)(1)(B)(i).

⁶⁴ 12 U.S.C. 5904(d)(1)(B)(ii).

⁶⁵ 12 U.S.C. 5904(d)(1)(B)(iii).

⁶⁶ 12 U.S.C. 5904(d)(3).

⁶⁷ 12 U.S.C. 5904(d)(2)(A)(i).

⁶⁸ 12 U.S.C. 5904(d)(2)(A)(ii).

⁶⁹ 12 U.S.C. 5904(d)(2)(B).

⁷⁰ 12 U.S.C. 5904(d)(2)(C).

⁷¹ 12 U.S.C. 5904(d)(2)(C)(i).

⁷² 12 U.S.C. 5904(d)(2)(C)(ii).

⁷³ 12 U.S.C. 5904(d)(2)(C)(iii).

⁷⁴ 12 U.S.C. 5904(d)(2)(C)(iv).

⁷⁵ 12 U.S.C. 5904(d)(4).

and economic sanctions compliance programs that are reasonably designed to prevent the PPSI from facilitating money laundering, in particular, facilitating money laundering for cartels and organizations designated as foreign terrorist organizations under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), and the financing of terrorist activities, consistent with the requirements of this Act.⁷⁶ Section 5(i)(2) requires a primary Federal payment stablecoin regulator to make these certifications available to the Secretary of the Treasury upon request.⁷⁷

Section 5(i)(3) provides specific penalties for failing to submit the required certification or knowingly submitting a certification that is false.⁷⁸ The primary Federal payment stablecoin regulator may revoke the approval of a PPSI that fails to submit the required certification.⁷⁹ Additionally, any person that knowingly submits a certification that is false shall be subject to the criminal penalties set forth under section 1001 of title 18, United States Code.⁸⁰ If the NCUA or any other Federal or State payment stablecoin regulator, has reason to believe that any person has knowingly violated the certification requirement, the applicable regulator may refer the matter to the Attorney General or to the attorney general of the PPSI's host State.⁸¹

Consistent with section 5 of the GENIUS Act, paragraph (a) of § 706.110 of the proposed rule would require all NCUA-licensed PPSIs to certify to the NCUA that they have implemented anti-money laundering and economic sanctions compliance programs, within 180 days of application approval and annually thereafter. Paragraph (a) would specifically restate the GENIUS Act's requirement that these programs must be reasonably designed to prevent the issuer from facilitating money laundering, especially for cartels and foreign terrorist organizations,⁸² and the financing of terrorist activities.

Paragraph (b) of the proposed rule would reiterate the GENIUS Act's requirement that failure to submit the certification required under paragraph (a) shall constitute cause for the NCUA to revoke its approval and licensure of the PPSI.

As required by the GENIUS Act, the NCUA will make these certifications

available to the Secretary of the Treasury upon request. The proposed rule does not restate this requirement. The proposed rule also does not restate the GENIUS Act's criminal penalties for a knowingly false certification or the NCUA's authority to refer a person it believes has violated the certification requirement to the Attorney General. The Board views these statutory provisions as unnecessary to include in proposed § 706.110. However, the Board solicits commenter input as to whether it would be beneficial to include these statutory provisions in § 706.110. The Board also stresses that the provisions' lack of inclusion in the regulation does not limit their effect or the Board's ability to make referrals as allowed by the GENIUS Act.

M. § 706.111. Change in Control

As discussed previously, the proposed rule would require a joint application with both the Parent Company FICU(s) and proposed PPSI applying for an NCUA license. While this approach has administrative efficiencies, especially for widely held FICU subsidiaries, questions may arise as to whether an NCUA-licensed PPSI needs to reapply when its Parent Company(ies) changes. For example, if a FICU has a wholly owned subsidiary and sells it to a subsequent FICU, the underlying PPSI would remain licensed. However, without an additional filing with NCUA, the purchasing FICU would become a new Parent Company without NCUA approval and without NCUA finding that the FICU's Officers and Directors have the necessary competency, experience, and integrity to be a Parent Company of an NCUA-licensed PPSI, as is required by the GENIUS Act.⁸³ A similar problem would exist where a FICU's investment would make them a Parent Company of an already NCUA-licensed PPSI.

To provide clarity, paragraph (a) of § 706.111 of the proposed rule would require a FICU to provide the NCUA with a written notice sixty days prior to an acquisition that would make it a Parent Company of an NCUA-licensed PPSI. The Board would not require an application, but only prior notice with an opportunity for the NCUA to issue a notice of disapproval, to reduce burden to both acquiring FICUs and the NCUA.

Paragraph (b) of proposed § 706.111 would detail what must be included in the notice. The notice would generally include information related to the acquiring FICU and not the PPSI. This is intended to satisfy the GENIUS Act's requirement that the NCUA evaluate

whether the FICU Parent Company's Officers and Directors have the necessary competency, experience, and integrity to be a Parent Company of an NCUA-licensed PPSI.⁸⁴ More specifically, proposed paragraph (b)(1) would require the biographical and financial report information described in § 706.105(f)(3) of this part be sufficient to allow the NCUA to (1) evaluate the competence, experience, and integrity of the proposed Parent Company's Officers and Directors in relation to payment stablecoins; and (2) evaluate the compliance record of these Officers and Directors with relevant laws and regulations. The Board envisions submission of the Biographical and Financial Report form, as is required by § 706.105(f)(3)(i), as an appropriate method for allowing the NCUA to ensure these statutory requirements are met. Finally, proposed paragraph (b)(2) would require the notice to include a certification that the proposed Parent Company will meet any commitments and conditions imposed by the NCUA in connection with its proposed investment.

Proposed § 706.111(c) would state that a FICU may proceed with its proposed investment to become a Parent Company of an NCUA-licensed PPSI at the end of the sixty-day period unless the NCUA issues a notice disapproving the proposed acquisition.

Proposed § 706.111(d) would state that the NCUA may disapprove a FICU's proposed investment to become a Parent Company of an NCUA-licensed PPSI if it determines that the competence, experience, or integrity of the FICU's Officers and Directors indicates that the investment would not be in the best interests of the PPSI or the public.

Finally, proposed § 706.111(e) would provide appeal rights related to an NCUA notice of disapproval. Specifically, the proposed rule would provide that no later than 30 days after the receipt of a notice of disapproval, the notificant may request, in writing, an opportunity for a written or oral hearing before the NCUA to appeal the denial.

Request for Comment: Does the prior notice requirement impose an undue burden on acquiring FICUs? Do commenters have alternative suggestions to ensure subsequent controlling interests in a PPSI meet the statutory factors for approval necessary when an PPSI license is initially acquired?

⁷⁶ 12 U.S.C. 5904(i)(1).

⁷⁷ 12 U.S.C. 5904(i)(2).

⁷⁸ 12 U.S.C. 5904(i)(3).

⁷⁹ 12 U.S.C. 5904(i)(3)(A).

⁸⁰ 12 U.S.C. 5904(i)(3)(B)(i).

⁸¹ 12 U.S.C. 5904(i)(3)(B)(ii).

⁸² As designated under 8 U.S.C. 1189.

⁸³ See 12 U.S.C. 5904(c)(3).

⁸⁴ *Id.*

N. § 706.112. Investment Limitation

Once a FICU has made an investment in a PPSI, the PPSI becomes a “subsidiary of an insured credit union” under the GENIUS Act. The GENIUS Act designates the NCUA as the primary Federal payment stablecoin regulator of subsidiaries of insured credit unions. Therefore, the Board is proposing to restrict FICU investment in any PPSI to only those with an NCUA license.

The Board understands that FICUs may seek to invest in PPSIs that meet the PPSI definition because they are a subsidiary of a non-FICU IDI, are a Federal qualified payment stablecoin issuer,⁸⁵ or a State qualified payment stablecoin issuer.⁸⁶ The Board is also aware that these investments may create ambiguity regarding designation of the primary Federal payment stablecoin regulator. The NCUA and the other primary Federal payment stablecoin regulators may address potential interjurisdictional issues in the future.

Request for Comment: The Board solicits feedback as to commenters’ views on FICUs seeking to invest in a PPSI that is already licensed by another primary Federal payment stablecoin regulator. What steps or applications, if any, should the NCUA require with respect to the FICU’s interest in the PPSI?

Request for Comment: Can a PPSI that is already licensed and supervised by another primary Federal payment stablecoin regulator also be considered a FICU subsidiary? How, if at all, should the NCUA approve and supervise the PPSI or the FICU’s engagement with the PPSI? Should this answer depend on the relative size of the FICU’s interest?

O. Safe Harbor for Pending Applications

Section 5(f) of the GENIUS Act provides that a primary Federal payment stablecoin regulator may waive the application of the requirements of the GENIUS Act for a period not to exceed 12 months beginning on the effective date of the GENIUS Act, with respect to a subsidiary of an IDI, if the IDI has an application pending for the subsidiary to become a PPSI on that effective date.⁸⁷

The NCUA is not proposing language to address this waiver in subpart A of part 706. The Board believes that the statute provides clear waiver authority for the NCUA, either on a general or case-by-case basis, if the proposed payment stablecoin issuer has an application pending to become a PPSI on that effective date.

The NCUA solicits input as to this approach and whether it should instead include regulatory language addressing the waiver authority.

P. Relation to Other Licensing Requirements

Section 5(h) of the GENIUS Act provides that the provisions of Section 5 supersede and preempt any State requirement for a charter, license, or other authorization to do business with respect to a Federal qualified payment stablecoin issuer or subsidiary of an IDI that is approved under this section to be a PPSI.⁸⁸ However, it also clarifies that nothing in this subsection preempts or supersedes the authority of a State to charter, license, supervise, or regulate an IDI chartered in such State or to supervise a subsidiary of such IDI that is approved under this section to be a PPSI.⁸⁹

The NCUA is not proposing language to specifically address this preemption in subpart A of part 706. The Board believes the preemptive effect of section 5(h) is clear and unnecessary to include in the NCUA’s regulations. The NCUA solicits input as to this determination and whether it should instead include regulatory language addressing preemption.

Q. Reports on Pending Applications

Section 5(e) of the GENIUS Act requires each primary Federal payment stablecoin regulator to notify Congress upon beginning to process applications under the GENIUS Act.⁹⁰ It also requires each primary Federal payment stablecoin regulator to annually report to Congress on the applications that have been pending for 180 days or more since the date the initial application was filed and for which the applicant has been informed that the application remains incomplete. The report must include documentation on the status of such applications and why such applications have not yet been approved.⁹¹

The NCUA is committed to meeting these notice and reporting requirements.

IV. Regulatory Procedures

A. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) (Act) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a

proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as *regulations.gov*).

In summary, the proposed rule would implement the process for approval and licensure of permitted payment stablecoin issuers (PPSIs) subject to the NCUA’s jurisdiction, as required by the Guiding and Establishing National Innovation for U.S. Stablecoins Act (GENIUS Act). It would also limit Federally insured credit unions (FICUs) to investing in NCUA-licensed PPSIs. The GENIUS Act charges the NCUA with licensing, regulating, and supervising payment stablecoin issuers that are subsidiaries of FICUs and requires the NCUA to issue implementing regulations by July 18th, 2026.

The proposal and the required summary can be found at <https://www.regulations.gov>.

B. Executive Orders 12866, 13563, and 14192

Pursuant to Executive Order 12866 (“Regulatory Planning and Review”), as amended by Executive Order 14215, a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the Executive Order.⁹² Executive Order 13563 (“Improving Regulation and Regulatory Review”) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866.⁹³ This proposed rule was drafted and reviewed in accordance with Executive Order 12866 and Executive Order 13563. OMB has determined that this proposed rule is a “significant regulatory action” as defined in section 3(f) of Executive Order 12866. Executive Order 14192 (“Unleashing Prosperity Through Deregulation”) requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.⁹⁴ This proposed rule is not expected to be a regulatory action under Executive Order 14192 because it imposes no more than de minimis costs.

⁸⁵ See 12 U.S.C. 5901(11).

⁸⁶ See 12 U.S.C. 5901(31).

⁸⁷ 12 U.S.C. 5904(f)(1).

⁸⁸ 12 U.S.C. 5904(h).

⁸⁹ *Id.*

⁹⁰ 12 U.S.C. 5904(e)(1).

⁹¹ 12 U.S.C. 5904(e)(2).

⁹² 58 FR 51735 (Oct. 4, 1993).

⁹³ 76 FR 3821 (Jan. 21, 2011).

⁹⁴ 90 FR 9065 (Feb. 6, 2025).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act⁹⁵ generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. If the agency makes such a certification, it shall publish the certification at the time of publication of either the proposed rule or the final rule, along with a statement providing the factual basis for such certification.⁹⁶ For purposes of this analysis, the NCUA considers small credit unions to be those having under \$100 million in assets.⁹⁷ The Board fully considered the potential economic impacts of the regulatory amendments on small credit unions.

This rule will only apply to FICUs that wish to invest in NCUA-approved PPSIs, which are generally CUSOs for purposes of this rule. The NCUA does not anticipate a significant number of small credit unions will invest in PPSIs or work with a subsidiary (CUSO) to apply to become a PPSI. As of June 30, 2025, only 19 percent of small credit

unions have invested in a CUSO, compared to 71 percent of credit unions with assets over \$100 million.

Accordingly, the NCUA certifies the proposed rule would not have a significant economic impact on a substantial number of small credit unions.

D. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemaking in which an agency creates a new or amends existing information collection requirements. For purposes of the PRA, an information collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. The NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a valid Office of Management and Budget (OMB) control number.

The proposed rule will require a new information collection request to be submitted to OMB for approval under the PRA. The NCUA is submitting a copy of this proposal to OMB for its review and approval. Persons interested in submitting comments with respect to

the information collection aspects and the estimated burden of the proposed rule should submit them via email or to OMB as noted below.

Estimated PRA Burden

The proposed rule contains information collection reporting requirements that would impose PRA burden governing the application and licensing of permitted payment stablecoin issuers (PPSIs). The NCUA estimates a total annual burden of 440 hours as follows:

OMB Control Number: 3133–NEW.

Title of Information Collection: Application and Licensing of Permitted Payment Stablecoin Issuers.

Estimated number of respondents: 10.

Estimated number of responses per respondent: 1.

Estimated total annual responses: 10.

Estimated total annual burden hours per response: 44.

Estimated total annual burden hours: 440.

For each information collection activity, the burden table lists the estimated annual number of responses per respondent and estimated time per response.

NCUA SUMMARY OF ESTIMATED ANNUAL BURDEN [3133–NEW]

Information collection (IC) activity	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (hours)	Total estimated annual burden (hours)
Application to issue payment stablecoins 12 CFR 706 (Mandatory).	Reporting (One-Time)	10	1	40	400
NCUA Biographical and Financial Report Form.	Reporting (One-Time)	10	1	4	40
Total Estimated Annual Burden		10	1	44	440

The NCUA invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or

other technological collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and cost of operation, maintenance, and purchase of services to provide information.

All comments are a matter of public record. Interested persons are invited to submit written comments via email to (1) PRAComments@ncua.gov or (2) visit www.reginfo.gov/public/do/PRAMain (find this particular information collection by selecting the tab titled "Information Collection Review" and click on to the section titled "Currently under Review—Open for Public comment").

E. Executive Order 13132 on Federalism

Executive Order 13132 encourages regulatory agencies to consider the impact of their actions on State and local interests. The NCUA, an agency as defined in 44 U.S.C. 3502(5), complies with the executive order to adhere to fundamental federalism principles. As required by the GENIUS Act, the proposed rule would require that all FICU subsidiaries, including subsidiaries of FISCUs, seeking to become PPSIs apply to the NCUA for licensure. As any subsidiary of a FICU cannot be licensed a permitted State payment stablecoin regulator, the rulemaking would not have direct effect

⁹⁵ 5 U.S.C. 601 *et seq.*

⁹⁶ 5 U.S.C. 605(b).

⁹⁷ 80 FR 57512 (Sept. 24, 2015).

on the states, the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule would not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.⁹⁸ While the proposed rule could contribute to an expansion in access to payment stablecoin services, the effect would be indirect and not easily quantifiable.

List of Subjects in 12 CFR Part 706

Accounting, Advertising, Anti-Money Laundering, Appeals, Applications, Control, Credit unions, Credit union service organizations, Deadlines, Denials, Federal Credit Union Act, Filings, Guiding and Establishing National Innovation for U.S. Stablecoins Act, Hearings, Investigations, Investments, Jurisdiction, Licensing, Payment stablecoins, Permitted payment stablecoin issuers, Reports, Requirements, Safe harbor, Sanctions, Shareholders, Subsidiaries, Technology.

By the National Credit Union Administration Board, this 10th day of February, 2026.

Melane Conyers-Ausbrooks,
Secretary of the Board.

■ For the reasons stated in the preamble, the NCUA Board proposes to amend title 12 of the Code of Federal Regulations and add reserved part 706 to Subchapter A to read as follows:

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

SUBCHAPTER A—REGULATIONS AFFECTING CREDIT UNIONS

PART 706—PAYMENT STABLECOINS

Sec.

- 706.1 Authority, Purpose and Scope.
- 706.2 Definitions.
- 706.101 Scope.
- 706.102 Rules of General Applicability.
- 706.103 Filing Required.
- 706.104 Investigations.
- 706.105 Evaluation of Applications and Factors to be Considered.
- 706.106 Timing for Decision on Applications.
- 706.107 Denial.
- 706.108 Opportunity for Hearing; Final Determination.
- 706.109 Right to Reapply.
- 706.110 Certification of Anti-Money Laundering and Economic Sanctions Compliance Programs.

- 706.111 Change in Control.
- 706.112 Investment Limitation.

Authority: 12 U.S.C. 5901 *et seq.*; 12 U.S.C. 1766(a), 1786(b), and 1789(a)(11).

§ 706.1 Authority, purpose, and scope.

(a) *Authority and purpose.* The NCUA is issuing this part pursuant to its authority under the Guiding and Establishing National Innovation for U.S. Stablecoins Act or GENIUS Act (12 U.S.C. 5901 *et seq.*).

(b) *Scope.* This part applies to insured credit unions and all payment stablecoin issuers with investment or loans from insured credit unions and sets forth the requirements for NCUA-issued licenses.

(c) *No limitation of authority.* Nothing in this part shall be read to limit the authority of the NCUA to take action under other law, including action to address unsafe or unsound practices or conditions, or violations of law or regulation, under section 206 of the FCU Act.

§ 706.2 Definitions.

Unless otherwise provided in this part, the terms used in this part have the same meanings as set forth in 12 U.S.C. 1752 and 5901. All accounting terms not otherwise defined in this section have meanings consistent with the commonly accepted meanings under United States generally accepted accounting principles (U.S. GAAP). The following definitions apply to this part:

Applying Issuer means any entity applying to the NCUA for an NCUA permitted payment stablecoin license.

Director means an individual who serves on the board of directors of an Applying Issuer, a Parent Company of the Applying Issuer, or a Principal Shareholder of the Applying Issuer.

Issuing Group means the Applying Issuer and Parent Company(ies), and the Officers, Directors, and Principal Shareholders, if applicable, of the Applying Issuer, its subsidiaries, and Parent Company(ies).

NCUA-Licensed Permitted Payment Stablecoin Issuer means a person formed in the United States that is a Subsidiary of an Insured Credit Union that has been approved and licensed by the NCUA under subpart A to issue payment stablecoins.

Officer means the president, chief executive officer, chief operating officer, chief financial officer, chief technology officer, chief lending officer, chief investment officer, chief risk officer, Bank Secrecy Act officer, and any other individual the NCUA identifies in writing to the Issuing Group who exercises significant influence over, or participates in, major policy making

decisions of the Issuing Group without regard to title, salary, or compensation. The term also includes employees of entities retained by an Issuing Group to perform such functions in lieu of directly hiring the individuals.

Parent Company means an insured credit union(s) that will own, control or hold the power to vote 10 percent or more of any class of voting securities, or has the ability to direct the management or policies, of a Permitted Payment Stablecoin Issuer. If no insured credit union will own, control or hold the power to vote 10 percent or more of any class of voting securities, the insured credit union with the largest percentage of voting securities in relation to all other insured credit unions is considered the Parent Company.

Principal Shareholder means a person other than an insured credit union that directly or indirectly or acting in concert with one or more persons or companies, or together with members of their immediate family, will own, control, or hold the power to vote 10 percent or more of any class of voting securities.

Subsidiary of an Insured Credit Union means—

(A) An organization providing services to the insured credit union that are associated with the routine operations of credit unions, as described in section 107(7)(I) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I));

(B) A credit union service organization, as such term is used under part 712 of this title, with respect to which the insured credit union has an ownership interest or to which the insured credit union has extended a loan;

(C) A subsidiary of a State chartered insured credit union authorized under State law; and

(D) A subsidiary of any entity that meets the definition of a Subsidiary of an Insured Credit Union. All tiers or levels of a Subsidiary of an Insured Credit Union are included as a Subsidiary of an Insured Credit Union.

Subpart A—Investment in and Approval of Issuers That Are Subsidiaries of Insured Credit Unions

§ 706.101 Scope.

This subpart establishes the NCUA rules and procedures for insured credit unions seeking to invest in payment stablecoin issuers and for insured credit unions and their subsidiaries to jointly apply for an NCUA permitted payment stablecoin issuer license. It contains information on rules of applicability, where and how to file, and requirements and policies applicable to filings.

⁹⁸ Public Law 105–277, 112 Stat. 2681 (1998).

§ 706.102 Rules of general applicability.

(a) *NCUA's Permitted Stablecoin Issuer Licensing Manual.* The NCUA's "Permitted Stablecoin Issuer Licensing Manual" (Payment Stablecoin Issuer Manual) provides additional filing guidance, including policies and procedures. This Manual and sample forms are available at www.ncua.gov.

(b) *Electronic filing.* The NCUA encourages electronic filing for all filings. The NCUA's Payment Stablecoin Issuer Manual describes the NCUA's electronic filing procedures.

(c) *Reservation of authority.* The rules in this subpart apply to all sections in this part unless otherwise stated. The NCUA may adopt materially different procedures for a particular filing, or class of filings as it deems necessary, for example, in exceptional circumstances or for unusual transactions, after providing notice of the change to the filer and to any other party that the NCUA determines should receive notice.

(d) *Computation of time.* In computing the period of days under this subpart, the NCUA does not include the day of the act or event (e.g., the date a filing is received by the NCUA) from which the period begins to run. When the last day of a period is a Saturday, Sunday, or Federal holiday, the period runs until the end of the next day that is not a Saturday, Sunday or Federal holiday.

§ 706.103 Filing required.

(a) *Filing.* A Subsidiary of an Insured Credit Union who seeks to issue payment stablecoins must apply to the NCUA for an NCUA permitted payment stablecoin issuer license and receive approval before issuing payment stablecoins. This application must be filed jointly with any insured credit union Parent Company(ies).

(b) *Where to file.* Any submission under this part should be submitted as provided in the NCUA's Payment Stablecoin Issuer Manual.

(c) *Prefiling meeting.* Before submitting a filing to the NCUA, a potential filer may contact the NCUA to discuss whether a prefiling meeting would be beneficial. The NCUA may grant a prefiling meeting on a case-by-case basis. Submission of a draft business plan or other relevant information before any prefiling meeting may expedite the filing review process. A potential filer considering a novel, complex, or unique proposal is encouraged to contact the NCUA to request a prefiling meeting early in the development of its proposal for the early identification and consideration of policy issues. Information on model

business plans can be found in the NCUA's Payment Stablecoin Issuer Manual.

(d) *Certification.* An Applying Issuer, and all of its Parent Companies and any Principal Shareholders, must certify in writing that any filing or supporting material submitted to the NCUA contains no material misrepresentations or omissions. The NCUA may review and verify any information filed in connection with a notice or an application. Any person responsible for any material misrepresentation or omission in a filing or supporting materials may be subject to enforcement action and other penalties, including criminal penalties provided in 18 U.S.C. 1001.

(e) *Filing fees.*

(1) The NCUA may require filing fees to accompany certain filings made under this subpart before it will accept those filings. If the NCUA requires the aforementioned filing fee, the NCUA will publish an applicable fee schedule on its website at <http://www.ncua.gov>.

(2) Filing fees must be paid to the NCUA by electronic transfer.

§ 706.104 Investigations.

(a) *Authority.* The NCUA may examine or investigate and evaluate facts related to a filing to the extent necessary to reach an informed decision.

(b) *Fingerprints.* For certain filings, the NCUA requires fingerprints for a biometric based criminal history search.

§ 706.105 Evaluation of applications and factors to be considered.

(a) *Scope.* This section describes the procedures and requirements governing NCUA evaluation of an application to be an NCUA-Licensed Permitted Payment Stablecoin Issuer. The NCUA will evaluate each substantially complete application to determine whether approval would be consistent with the safety and soundness of the Applying Issuer based on the statutory evaluation factors set forth in this section. An applicant should consult the NCUA's Payment Stablecoin Issuer Manual to determine what other information is necessary for the NCUA to evaluate an application using the statutory evaluation factors described in this section.

(b) *Statutory evaluation factors.* The NCUA grants permitted payment stablecoin licenses under the authority of the Guiding and Establishing National Innovation for U.S. Stablecoins Act, 12 U.S.C. 5901 *et seq.*, which requires the NCUA to evaluate:

(1) The ability of the Applying Issuer, based on financial condition and

resources, to meet the requirements set forth under 12 U.S.C. 5903 and incorporated in subpart B of part 706;

(2) Whether an individual who has been convicted of a felony offense involving insider trading, embezzlement, cybercrime, money laundering, financing of terrorism, or financial fraud is serving as an Officer or Director of the Applying Issuer;

(3) The competence, experience, and integrity of the Officers, Directors, and Principal Shareholders of the Applying Issuer, its subsidiaries, and Parent Company, including:

(i) the record of those Officers, Directors, and Principal Shareholders of compliance with laws and regulations; and

(ii) the ability of those Officers, Directors, and Principal Shareholders to fulfill any commitments to, and any conditions imposed by, the NCUA in connection with the application at issue and any prior applications;

(4) Whether the redemption policy of the Applying Issuer meets the standards under 12 U.S.C. 5903(a)(1)(B) and incorporated in subpart B of part 706; and

(5) Any other factors established by the NCUA that are necessary to ensure the safety and soundness of the Applying Issuer.

(c) *Policy—*

(1) *In general.* In determining whether to approve an application to be an NCUA-Licensed Permitted Payment Stablecoin Issuer based on the statutory evaluation criteria in paragraph (c), the NCUA is guided by the following policy considerations as they relate to the Applying Issuer:

(i) Whether an Issuing Group has a record of compliance with laws and regulations and whether the Issuing Group is familiar with the laws and regulations applicable to NCUA-Licensed Permitted Payment Stablecoin Issuers and digital asset service providers;

(ii) Whether an Issuing Group has the ability to fulfill any commitments to, and any conditions imposed by, the NCUA in connection with the application at issue and any prior applications;

(iii) Whether an Issuing Group has competent management, including a board of directors, with ability and experience relevant to the types of services to be provided;

(iv) Whether an applicant has capital, liquidity, and capital and liquidity plans sufficient to support the projected volume and type of business;

(v) Whether an applicant has a redemption policy that meets all requirements in subpart B of this part;

(vi) Whether an applicant can reasonably be expected to achieve and maintain profitability; and

(vii) Whether an applicant can be operated in a safe and sound manner by evaluating criteria including, but not limited to, the following:

(A) the ability to meet the operational, compliance, and information technology risk management requirements and standards outlined in subparts B of this part; and

(B) the ability to maintain sufficient technological capabilities to comply with the terms of any lawful order and all applicable laws and regulations.

(2) *NCUA evaluation.* The NCUA evaluates an Issuing Group and its business plan together. The NCUA's judgment concerning one may affect the evaluation of the other. An Issuing Group and its business plan must be stronger in markets where economic conditions are marginal, competition is intense, or the services to be provided have greater or unknown risk.

(d) *Issuing group—*

(1) *In general.* An Issuing Group must have the competence, experience, and integrity to be active in directing the Applying Issuer's affairs in a safe and sound manner. The business plan and other information supplied in the application, including the completed NCUA Biographical and Financial Report forms, must demonstrate an Issuing Group's collective ability to establish and operate a successful permitted payment stablecoin issuer in the economic and competitive conditions of the market to be served. This collective ability must be demonstrated with consideration of the activities to be engaged in by the Applying Issuer and the services it intends to provide. Each member of the Issuing Group must be knowledgeable about the business plan. An inadequate business plan may be a reason for the NCUA to deny an application because it reflects adversely on the Issuing Group's qualifications.

(2) *Management selection.* The initial board of directors must select competent Officers before the NCUA grants an NCUA permitted payment stablecoin license. Early selection of Officers, especially the chief executive officer, contributes favorably to the preparation and review of a business plan that is accurate, complete, and appropriate for the activities the proposed permitted payment stablecoin issuer intends to engage in, and is necessary for a substantially complete application.

(3) *Financial resources.*

(i) Each member of the Issuing Group must have a history of responsibility, personal honesty, and integrity.

(ii) The Issuing Group must have a realistic plan to enable the Applying Issuer to obtain capital and liquidity when needed.

(iii) Any financial or other business arrangement, direct or indirect, between the Issuing Group or other insiders and the Applying Issuer must be on nonpreferential terms.

(e) *Business plan—*

(1) *In general.*

(i) An Applying Issuer must submit a business plan that adequately addresses the statutory and related policy considerations set forth in paragraphs (b) and (c) of this section. The plan must reflect sound business and financial principles and demonstrate realistic assessments of risk in light of economic and competitive conditions in the market to be served and the services to be provided.

(ii) The NCUA may offset deficiencies in one factor by strengths in one or more other factors. However, deficiencies in some factors, such as unrealistic earnings prospects, may have a negative influence on the evaluation of other factors, such as capital adequacy, or may be serious enough by themselves to result in denial. The NCUA considers inadequacies in a business plan to reflect negatively on the Issuing Group's ability to operate a successful NCUA-Licensed Permitted Payment Stablecoin Issuer.

(2) *Earnings prospects and financial condition.* An Applying Issuer must submit balance sheets and income statements that demonstrate financial stability and earnings prospects as part of the business plan. This would include both actual and *pro forma* balance sheets and income statements, as applicable based on the availability of actual financial statements. The NCUA reviews all *pro forma* projections for reasonableness of assumptions and consistency with the business plan.

(3) *Management.*

(i) The Applying Issuer must include in the business plan information sufficient to permit the NCUA to evaluate the overall management ability of the Issuing Group. If the Issuing Group has limited relevant experience, the Officers of the applying issuer must be able to compensate for such deficiencies.

(ii) The Applying Issuer may not hire an Officer or elect or appoint a Director if the NCUA objects to that person at any time prior to the date the Applying Issuer commences business.

(iii) All Issuing Group Officers, Directors, and any Principal Shareholders must also submit the Biographical and Financial Report information described in paragraph

(f)(3) of this section to allow the NCUA to evaluate the competence, experience, and integrity of the Officers, Directors, and Principal Shareholders of the Applying Issuer, its subsidiaries, and Parent Company or Parent Companies as described in paragraph (b)(3).

(4) *Capital.* An Applying Issuer must have sufficient initial capital, net of any organizational expenses that will be charged to the Applying Issuer's capital after it begins operations, to support the Applying Issuer's projected volume and type of business as outlined in the business plan. An Applying Issuer also must have a longer-term capital plan that is sufficient to support the future projected volume and type of business and is consistent with the capital requirements in subpart B of this part.

(5) *Liquidity and reserve asset diversification.* An Applying Issuer's business plan must address its liquidity and reserve asset diversification practice. Issuers must have liquidity and reserve asset diversification policies that meet the requirements of subpart B of this part.

(6) *Safety and soundness.* The business plan must demonstrate that the Applying Issuer is aware of, and understands, applicable laws and regulations, and how to conduct safe and sound operations and practices.

(f) *Procedures—*

(1) *Prefiling meeting.* The Issuing Group of an Applying Issuer may request a prefiling meeting with the NCUA before the Applying Issuer files an application. The prefiling meeting normally is held virtually.

(2) *Business plan.* An applying issuer must file a business plan that addresses the subjects discussed in paragraph (e) of this section.

(3) *Biographical and financial reports.*

(i) Each Director or Officer or proposed Director or Officer of a member of the Issuing Group or Principal Shareholder must submit to the NCUA the information prescribed in the NCUA's Biographical and Financial Report, available at www.ncua.gov;

(ii) Each Director or Officer or proposed Director or Officer of the Applying Issuer must submit legible fingerprints for a biometric based criminal history search; and

(iii) The NCUA may request additional information about any Director or Officer, or proposed Director or Officer, or any Principal Shareholder, if appropriate. The NCUA may waive any of the information requirements of this paragraph if the NCUA determines that it is in the public interest.

(4) *Contact person.* The Applying Issuer must designate a contact person

to represent the Issuing Group in all contacts with the NCUA.

(5) *Decision notification.* The NCUA notifies the contact person and other relevant parties in writing of its decision on an application.

(6) *Activities.* Before the NCUA grants a license to an Applying Issuer, the Applying Issuer must be established as a legal entity under State law.

§ 706.106 Timing for decision on applications.

(a) *In general.* Not later than 120 days after receiving a substantially complete application for license as an NCUA-Licensed Permitted Payment Stablecoin Issuer, the NCUA will render a decision on the application. If the NCUA fails to render a decision on a complete application within this period, the application shall be deemed approved.

(b) *Substantially complete applications.*

(1) An application is considered substantially complete if the application contains sufficient information for the NCUA to render a decision on whether the Applying Issuer satisfies the factors described in 706.105.

(2) Not later than 30 days after receiving an application, the NCUA will notify the Applying Issuer as to whether the NCUA determined the application to be substantially complete and, if the application is not substantially complete, the additional information the Applying Issuer must provide for the application to be considered substantially complete.

(3) *Material Change in Circumstances.* An application considered substantially complete under this section will remain substantially complete unless there is a material change in circumstances that requires the NCUA to treat the application as a new application.

§ 706.107 Denial.

(a) *Grounds for denial.*

(1) *In general.* The NCUA will only deny a substantially complete application received under this subpart if the NCUA determines that the activities of the Applying Issuer would be unsafe or unsound based on the statutory evaluation factors described in § 706.104.

(2) *Issuance on open, public, or decentralized network not grounds for denial.* The issuance of a payment stablecoin on an open, public, or decentralized network is not a valid ground for denial of an application received under this subpart.

(b) *Explanation required.* If the NCUA denies a substantially complete application received under this subpart, not later than 30 days after the date of

such denial, the NCUA shall provide the Applying Issuer with written notice explaining the denial with specificity, including all findings made with respect to all identified material shortcomings in the application and actionable recommendations on how the Applying Issuer could address the identified material shortcomings.

§ 706.108 Opportunity for hearing; final determination.

(a) *In general.* Not later than 30 days after the date of receipt of any notice of the denial of an application under this subpart, the Applying Issuer may request, in writing, an opportunity for a written or oral hearing before the NCUA Board to appeal the denial.

(b) *Timing.* Upon receipt of a timely hearing request, the NCUA will notice a time not later than 30 days after the date of receipt of the request and place at which the Applying Issuer may appear, personally or through counsel, to submit written materials or provide oral testimony and oral argument.

(c) *Final determination.* Not later than 60 days after the date of a hearing under this section, the NCUA will notify the Applying Issuer of a final determination, which will contain a statement of the basis for that determination, with specific findings.

(d) *Notice if no hearing.* If an applicant does not make a timely request for a hearing under this section, the NCUA will notify the Applying Issuer, not later than 10 days after the date by which the Applying Issuer may request a hearing under this subparagraph, in writing, that the denial of the application is a final determination of the NCUA.

§ 706.109 Right to reapply.

The denial of an application under this subpart does not prohibit the Applying Issuer from filing a subsequent application.

§ 706.110 Certification of anti-money laundering and economic sanctions compliance programs.

(a) *In general.* Not later than 180 days after the approval of an application, and on an annual basis thereafter, each NCUA-Licensed Permitted Payment Stablecoin Issuer must submit to the NCUA written certification that the NCUA-Licensed Permitted Payment Stablecoin Issuer has implemented anti-money laundering and economic sanctions compliance programs that are reasonably designed to prevent the NCUA-Licensed Permitted Payment Stablecoin Issuer from facilitating money laundering, in particular, facilitating money laundering for cartels and organizations designated as foreign

terrorist organizations under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), and the financing of terrorist activities, consistent with the requirements of this Act.

(b) *Failure to submit certification.* The failure by an NCUA-Licensed Permitted Payment Stablecoin Issuer to submit the certification required under paragraph (a) constitutes cause for the NCUA to revoke the approval and license of the NCUA-Licensed Permitted Payment Stablecoin Issuer.

§ 706.111 Change in control.

(a) *Change in control.* An insured credit union must provide the NCUA with sixty days' prior written notice of a proposed acquisition that would cause it to become a Parent Company of an NCUA-Licensed Permitted Payment Stablecoin Issuer.

(b) *Notice.* The notice must include:

(1) Biographical and financial report information described in § 706.105(f)(3) of this part sufficient to allow the NCUA to

(i) Evaluate the competence, experience, and integrity of the proposed Parent Company's Officers and Directors related to payment stablecoins; and

(ii) Evaluate the record of the proposed Parent Company's Officer and Directors with compliance with laws and regulations; and

(2) A certification that the proposed Parent Company will fulfill any commitments to, any conditions imposed by, the NCUA in connection with its proposed investment.

(c) *Timing.* The insured credit union may complete its proposed investment to become a Parent Company of an NCUA-Licensed Permitted Payment Stablecoin Issuer at the end of the sixty-day period unless the NCUA issues a notice disapproving the proposed acquisition.

(d) *Notice of disapproval.* The NCUA may disapprove of an insured credit union's proposed investment to become a Parent Company of an NCUA-Licensed Permitted Payment Stablecoin Issuer if it finds that the competence, experience, or integrity of the insured credit union's Officers and Directors indicates the investment would not be in the best interests of the NCUA-Licensed Permitted Payment Stablecoin Issuer or of the public.

(e) *Appeal.* Not later than 30 days after the date of receipt of the notice of disapproval, the notificant may request, in writing, an opportunity for a written or oral hearing before the NCUA to appeal the denial.

§ 706.112 Investment limitation.

An insured credit union cannot invest in a payment stablecoin issuer unless it is an NCUA-Licensed Permitted Payment Stablecoin Issuer.

[FR Doc. 2026–02868 Filed 2–11–26; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF AGRICULTURE**Forest Service****36 CFR Part 242****DEPARTMENT OF THE INTERIOR****43 CFR Part 51**

[Docket No. DOI–2025–0071; 256D0102DM DS61900000 DMSN00000.000000 DX61901]

RIN 1090–AB31

Subsistence Management Regulations for Public Lands in Alaska—2027–28 and 2028–29 Subsistence Taking of Fish and Shellfish Regulations

AGENCY: Office of Subsistence Management, Interior; Forest Service, Agriculture.

ACTION: Proposed rule.

SUMMARY: This proposed rule would update regulations for fish and shellfish seasons, harvest limits, methods, and means related to taking of fish and shellfish for subsistence uses during the 2027–2028 and 2028–2029 regulatory years. The Federal Subsistence Board (the Board) is on a schedule of completing the process of revising subsistence take of fish and shellfish regulations in odd-numbered years and subsistence take of wildlife regulations in even-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle and rural determinations every other fish and shellfish regulatory cycle. When final, the resulting rulemaking will replace the existing subsistence fish and shellfish taking regulations. This proposed rule could also amend the general regulations on subsistence taking of fish and wildlife. During this rulemaking cycle, the Board will accept proposals for rural determinations that will be decided by the Board during the subsequent fish and shellfish regulatory cycle.

DATES:

Public meetings: The Federal Subsistence Regional Advisory Councils (the Councils) will receive comments and make proposals to change this

proposed rule during public meetings held between February 17, 2026, and April 1, 2026. The Councils will hold another round of public meetings to discuss and receive comments on the proposals and make recommendations on the proposals to the Board between September 24, 2026, and October 29, 2026 (see Alaska Subsistence Regional Advisory Council Meetings for 2026; 91 FR 3921; January 29, 2026). The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, Alaska, in February 2027. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

Public comments: Comments and proposals to change this proposed rule must be received or postmarked by April 3, 2026.

ADDRESSES:

Public meetings: The Board and the Councils' public meetings are held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

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

Electronically: Go to the Federal Rulemaking Portal: <https://www.regulations.gov>. In the Search box, enter Docket number DOI–2025–0071. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on “Comment.”

By hard copy: Submit by U.S. mail or hand delivery: Regulations, Attn: DOI–2025–0071; Office of Subsistence Management; 1011 E Tudor Road M/S 121; Anchorage, AK 99503. If in-person Council meetings are held, you may also deliver a hard copy to the Designated Federal Officer attending any of the Councils' public meetings. See **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Review Process section below for more information).

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o Office of Subsistence Management, Attention: Crystal Leonetti, Director; (907) 786–3888 or subsistence@ios.doi.gov. For questions specific to National Forest System lands, contact

Gregory Risdahl, Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 302–7354 or gregory.risdahl@usda.gov. In compliance with the Providing Accountability Through Transparency Act of 2023, please see Docket No. DOI–2025–0071 on <https://www.regulations.gov> for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:**Background**

Under title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (hereafter referred to as “the Secretaries”) jointly implement the Federal Subsistence Management Program (the Program). The Program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. Only Alaska residents of areas or communities identified as rural are eligible to participate in the Program. The Secretaries published temporary regulations to carry out the Program in the **Federal Register** on June 29, 1990 (55 FR 27114), and final regulations on May 29, 1992 (57 FR 22940). Program officials have subsequently amended these regulations a number of times. Because the Program is a joint effort between the Departments of the Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): The Agriculture regulations are at title 36, “Parks, Forests, and Public Property,” and the Interior regulations are at title 43, “Public Lands: Interior,” at 36 CFR 242.1–28 and 43 CFR 51.1–28, respectively. Consequently, to indicate that identical changes are proposed for regulations in both titles 36 and 43, in this document we will present references to specific sections of the CFR as shown in the following example: § __.27.

The Program regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife. Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board (the Board) to administer the Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- Five public members appointed by the Secretary of the Interior with

concurrence of the Secretary of Agriculture;

- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, National Park Service;
- The Alaska Regional Director, U.S. Fish and Wildlife Service; and
- The Alaska Regional Forester, U.S. Forest Service.

Through the Board, these agencies and public members participate in the development of regulations for subparts C and D. Subpart C sets forth important Board determinations regarding program

eligibility, *i.e.*, which areas of Alaska are considered rural and which species are harvested in those areas as part of a “customary and traditional use” for subsistence purposes. Subpart D sets forth specific seasons, limits, and other harvest parameters and requirements.

In administering the Program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council. The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role

in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

Public Review Process—Comments, Proposals, and Public Meetings

The Councils have a substantial role in reviewing this proposed rule and making recommendations for the final rule. The Board, through the Councils, will hold public meetings in person and via teleconference on this proposed rule at the following locations in Alaska, on the following dates:

TABLE 1—WINTER 2026 MEETINGS OF THE FEDERAL SUBSISTENCE REGIONAL ADVISORY COUNCILS

Regional Advisory Council	Dates	Location
Southeast Alaska—Region 1	March 10–12	Juneau.
Southcentral Alaska—Region 2	March 17–18	Anchorage.
Kodiak/Aleutians—Region 3	March 4–5	Kodiak.
Bristol Bay—Region 4	March 9–10	Naknek.
Yukon-Kuskokwim Delta—Region 5	March 17–19	Bethel.
Western Interior—Region 6	February 24–25	Fairbanks.
Seward Peninsula—Region 7	March 30–31	Nome.
Northwest Arctic—Region 8	March 31–April 1	Kotzebue.
Eastern Interior—Region 9	March 3–5	Fairbanks.
North Slope—Region 10	February 24–25	Utqiagvik.

After the comment period concludes, the written proposals to change the regulations at subpart D, take of fish and shellfish and subpart C, customary and traditional use and rural determinations, will be compiled and distributed for public review. Written public comments

will be accepted on the distributed proposals during a second minimum 30-day public comment period, which will be announced in statewide newspaper and radio ads and posted to the Program web page and social media. The Board, through the Councils, will hold a

second series of public meetings or teleconference meetings in September through October 2026, to receive comments on specific proposals and to develop recommendations to the Board on the following dates:

TABLE 2—FALL 2026 MEETINGS OF THE FEDERAL SUBSISTENCE REGIONAL ADVISORY COUNCILS

Regional Advisory Council	Dates	Location
Southeast Alaska—Region 1	October 20–22	Gustavus.
Southcentral Alaska—Region 2	October 14–15	Anchorage.
Kodiak/Aleutians—Region 3	October 1–2	Unalaska.
Bristol Bay—Region 4	October 28–29	Dillingham.
Yukon-Kuskokwim Delta—Region 5	October 27–29	Bethel.
Western Interior—Region 6	October 6–7	Aniak.
Seward Peninsula—Region 7	October 20–21	Nome.
Northwest Arctic—Region 8	September 24–25	Kotzebue.
Eastern Interior—Region 9	October 6–8	Fort Yukon.
North Slope—Region 10	Oct 1–2	Utqiagvik.

Public notice of specific dates, times, call-in number(s), and how to participate and provide public testimony will be announced in radio ads and posted to the Program web page and social media at least 2 weeks prior to each meeting. The amount of work on each Council’s agenda determines the length of each Council’s meeting, but typically the meetings are scheduled to last 2–3 days. Occasionally a Council will lack the necessary information during a scheduled meeting to make a

recommendation to the Board or to provide comments on other matters affecting subsistence in the region. If this situation occurs, the Council may announce on the record a later teleconference to address the specific issue when the requested information or data is available; it is noted that any follow-up teleconference would be an exception and must be approved, in advance, by the Director of the Office of Subsistence Management. These teleconferences are open to the public,

along with opportunities for public comment; the date and time will be announced during the scheduled meeting, and through news releases and local radio, the Program web page, and social media ads.

The Board will discuss and evaluate proposed changes to the subsistence management regulations during a public meeting scheduled to be held in Anchorage, Alaska, in February 2027. The Council Chairs, or their designated representatives, will present their

respective Councils' recommendations at the Board meeting. Additional oral testimony may be given on specific proposals before the Board at that time. At that public meeting, the Board will deliberate and take final action on proposals received that request changes to this proposed rule.

Proposals to the Board to modify the general fish and wildlife regulations, fish and shellfish harvest regulations, customary and traditional use determinations, and rural determinations must include the following information:

- a. Name, address, and telephone number of the requestor;
- b. Each section and/or paragraph designation in the current regulations for which changes are suggested, if applicable;
- c. A description of the regulatory change(s) desired;
- d. A statement explaining why each change is necessary;
- e. Proposed wording changes; and
- f. Any additional information that you believe will help the Board in evaluating the proposed change.

The Board will immediately reject proposals that fail to include the above information, or proposals that are beyond the scope of § __.23, and __.24 subpart C (rural determinations and customary and traditional use determinations) and § __.25, __.27, and __.28 of subpart D (the general and specific regulations governing the subsistence take of fish and shellfish). If a proposal needs clarification, prior to being distributed for public review, the proponent may be contacted, and the proposal could be revised based on their input. Once a proposal is distributed for public review, no additional changes may be made. During the February 2027 meeting, the Board may defer review and action on some proposals to allow time for cooperative planning efforts, or to acquire additional needed information. The Board may elect to defer taking action on any proposal if the workload of staff, Councils, or the Board becomes excessive. These deferrals may be based on recommendations by the affected Council(s) or staff members or on the Board's intention to do least harm to the subsistence user and the resource involved. A proponent of a proposal may withdraw the proposal provided it has not been considered by a Council. The Board may consider and act on alternatives that address the intent of a proposal while differing in approach.

You may submit written comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. If you submit a comment via

<http://www.regulations.gov>, your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov> at Docket No. DOI-2025-0071, or by appointment, provided no public health or safety restrictions are in effect, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, at: Office of Subsistence Management, 1011 East Tudor Road, Anchorage, AK 99503.

Reasonable Accommodations

The Board is committed to providing access to these meetings for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to the Office of Subsistence Management at 907-786-3888, subsistence@ios.doi.gov, or 800-877-8339 (TTY), 7 business days prior to the meeting you would like to attend.

Tribal Consultation and Comment

As expressed in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and Federally Recognized Indian Tribes (herein after referred to as "Tribes") as listed in 82 FR 4915 (January 17, 2017). Consultation with Alaska Native corporations is based on Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175."

The Alaska National Interest Lands Conservation Act does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, because Tribal members are affected by subsistence fishing, hunting, and trapping

regulations, the Secretaries, through the Board, will provide Tribes and Alaska Native corporations an opportunity to consult on this proposed rule.

The Board will engage in outreach efforts for this proposed rule, including a notification letter, to ensure that Tribes and Alaska Native corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: proposing changes to the existing rule, commenting on proposed changes to the existing rule, engaging in dialogue at the Regional Council meetings, engaging in dialogue at Board meetings, and providing input in person, by mail, email, or phone at any time during the rulemaking process. The Board will commit to efficiently and adequately provide an opportunity to Tribes and Alaska Native corporations for consultation regarding subsistence rulemaking according to the Board's policies on consultation.

The Board will consider Tribes' and Alaska Native corporations' information, input, and recommendations, and address their concerns as much as practicable.

Developing the 2027-28 and 2028-29 Fish and Shellfish Proposed Regulations

In titles 36 and 43 of the CFR, the subparts C and D regulations are subject to periodic review and revision. The Board currently completes the process of revising subsistence take of fish and shellfish regulations in odd-numbered years and subsistence taking of wildlife regulations in even-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle. Rural determinations are taken up during every other fish and shellfish cycle, beginning in 2018.

Based on Board policy, the Board reviews each closure to the take of fish/shellfish and wildlife every 4 years, during each applicable cycle. The following table lists the current closures being reviewed for this cycle. In reviewing a closure, the Board may maintain, modify, or rescind the closure. If a closure is rescinded, the existing regulations apply, or if no regulations are in place, any changes to or the establishment of seasons, methods and means, and harvest limits must go through the full public proposal and review process. The public is encouraged to comment on these closures, and anyone recommending a regulatory change outside the scope of a closure review (*i.e.*, a change not

directly affecting the closure) should submit a regulatory proposal. Anyone recommending a closure to federally

qualified subsistence users be rescinded should consider also responding to this proposed rule by submitting a proposal

to establish Federal regulations for the area and species that was closed.

TABLE 3—FISH AND SHELLFISH CLOSURES TO BE REVIEWED BY THE FEDERAL SUBSISTENCE BOARD FOR THE 2027–2028 AND 2028–2029 REGULATORY YEARS

Fishery management area	Species	General description
Yukon-Northern Area	Salmon	Kanuti River—closed to federally qualified subsistence users.
Yukon-Northern Area	Salmon	Bonanza Creek—closed to federally qualified subsistence users.
Yukon-Northern Area	Salmon	Jim River—closed to federally qualified subsistence users.
Aleutian Islands Area	Salmon	Unalaska Lake—closed to federally qualified subsistence users.
Aleutian Islands Area	Salmon	Summers and Morris Lakes—closed to federally qualified subsistence users.
Aleutian Islands Area	Salmon	Unalaska Bay—closed to federally qualified subsistence users.
Aleutian Islands Area	Salmon	McLees Lake—closed to federally qualified subsistence users.
Kodiak Area	King Crab	Womens Bay, Gibson Cove, Karluk River, and Afognak Island marine waters—closed to non-federally qualified users.
Southeastern Alaska Area	Sockeye Salmon	Neva Lake, Neva Creek, and South Creek—closed to non-federally qualified users.
Southeastern Alaska Area	All Fish	Kah Sheets Creek—closed to non-federally qualified users.

The current subsistence program regulations form the starting point for consideration during each new rulemaking cycle. Consequently, in this fish and shellfish rulemaking action, the Board will consider proposals to revise the regulations in any of the following sections of titles 36 and 43 of the CFR:

- § __.23: rural determinations;
- § __.24: customary and traditional use determinations;
- § __.25: general provisions governing the subsistence take of wildlife, fish, and shellfish;
- § __.27: specific provisions governing the subsistence take of fish; and
- § __.28: specific provisions governing the subsistence take of shellfish.

As such, the text of the proposed 2027–2029 subparts C and D subsistence regulations in titles 36 and 43 is the combined text of previously issued rules that revised these sections of the regulations. The following **Federal Register** citations show when these CFR sections were last revised. Therefore, the regulations established by these final rules constitute the text of this proposed rule:

The text of the proposed amendments to 36 CFR 242.23, 242.27, and 242.28 and 43 CFR 51.23, 51.27, and 51.28 is the final rule for the 2025–2027 regulatory period for fish and shellfish (90 FR 34157, July 18, 2025).

The text of the proposed amendments to 36 CFR 242.24 and 242.25 and 43 CFR 51.24 and 51.25 is the final rule for the transfer and amendment of Federal Subsistence Management Program regulations (90 FR 34148; July 18, 2025).

These regulations will remain in effect until subsequent Board action changes them as a result of the public review process outlined above in this

document and a new final rule is published.

Compliance With Statutory and Regulatory Authorities

National Environmental Policy Act

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is

necessary to conserve healthy fish and wildlife populations or to continue subsistence uses. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent 1997 environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of the subsistence program regulations was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the regulations will not reach the "may significantly restrict" threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act of 1995 (PRA)

This proposed rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 *et seq.*). OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 43 CFR part 51, and assigned OMB Control Numbers 1090–0014 and 1090–0015, with an expiration date of November 30, 2028. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Regulatory Planning and Review (Executive Order 12866 and 13563)

According to Executive Order 12866, as reaffirmed by E.O. 13563, regulations

must be based on the best available science, and the rulemaking process must allow for public participation and an open exchange of ideas. The OMB Office of Information and Regulatory Affairs (OIRA) has determined that this proposed rule is not significant.

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

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant economic impact on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this proposed rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to, or impact on the economy. Therefore, the Departments certify that this rulemaking will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this proposed rule is not a major rule. It will not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence

priority on federal public lands. The scope of this program is limited by definition to certain federal public lands. Likewise, these proposed regulations have no potential takings of private property or require any permitting on private property as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or Tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

Title VIII of ANILCA does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, as described above under *Tribal Consultation and Comment*, the Secretaries, through the Board, will provide federally recognized Tribes and Alaska Native corporations a variety of opportunities for consultation: commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Advisory Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this proposed rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Executive Order 14153

This Executive order directs all bureaus of the Department of the Interior to consider the Alaskan cultural significance of hunting and fishing and the statutory priority of subsistence management required by ANILCA, to conduct meaningful consultation with the State fish and wildlife management agencies prior to enacting regulations that affect the ability of Alaskans to hunt and fish on public lands, and to ensure to the greatest extent possible that hunting and fishing opportunities on Federal lands are consistent with similar opportunities on State lands.

The Board will offer consultation with the State of Alaska on all matters addressed during this regulatory cycle. In addition, the State will be afforded opportunities to provide input into the analyses of all the proposed changes to the regulations and to provide comments to the Councils and the Board on regulatory matters being considered. The Board will consider all comments and information provided by the State in this process. The Board will also review applicable State regulations. Deviations in consistency between State and Federal hunting and fishing opportunities will be minimized to the extent possible while the Program continues to meet the mandates of ANILCA.

Executive Order 14192

This Executive order requires that, for each new regulation issued, at least 10 prior regulations be identified for elimination. The purpose is to ensure that the cost of planned regulations is responsibly managed and controlled through a rigorous regulatory budgeting process. The Program's rulemaking does not create new regulations, rather it revises existing regulations. Since this rulemaking does not create new regulations, it does not necessitate the identification of regulations for rescission.

Drafting Information

Justin Koller drafted this proposed rule under the guidance of Crystal Leonetti of the Office of Subsistence Management, Department of the Interior, Office of the Assistant Secretary for Policy, Management, and Budget, Anchorage, Alaska. Additional assistance was provided by:

- Matt Varner, Alaska State Office, Bureau of Land Management;
- Eva Patton, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Jill Klein, Alaska Regional Office, U.S. Fish and Wildlife Service; and

• Gregory Risdahl, Alaska Regional Office, USDA—Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

43 CFR Part 51

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Proposed Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board proposes to amend 36 CFR part 242 and 43 CFR part 51 for the 2027–28 and 2028–29 regulatory years:

Proposed amendments to 36 CFR 242.23, 242.27, and 242.28 and 43 CFR 51.23, 51.27, and 51.28 last amended by the final rule for the 2025–2027 regulatory period for fish and shellfish (90 FR 34157, July 18, 2025).

Proposed amendments to 36 CFR 242.24 and 242.25 and 43 CFR 51.24 and 51.25 last amended by the final rule for the transfer and amendment of Federal Subsistence Management Program regulations (90 FR 34148; July 18, 2025).

Crystal Leonetti,

Director, DOI—Office of Subsistence Management.

Gregory Risdahl,

Subsistence Program Leader, USDA—Forest Service.

[FR Doc. 2026–02853 Filed 2–11–26; 8:45 am]

BILLING CODE 3411–15–P; 4334–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2025–2961; FRL–13073–01–R9]

Air Plan Revisions; Arizona; Arizona Department of Environmental Quality; Gila County Reasonably Available Control Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, under the Clean Air Act (CAA or “Act”), revisions to the Arizona state implementation plan (SIP) addressing reasonably available control technology (RACT) requirements for the 2015 ozone

national ambient air quality standards (NAAQS or “standard”) within the Gila County portion of the Phoenix-Mesa ozone nonattainment area. This proposal explains our evaluation of Arizona’s SIP submittal and basis for proposing approval.

DATES: Comments must be received on or before March 16, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2025–2961 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Elijah Gordon, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; telephone number: (415) 972–3158; email address: gordon.elijah@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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I. Background

Pursuant to title I of the CAA, the EPA establishes ambient air quality standards for six “criteria” air pollutants known to be harmful to human health and the environment. States are required to submit plans, referred to as SIPs, that provide for implementation, maintenance, and enforcement of each standard. As appropriate, this includes measures to reduce emissions of criteria air pollutants and/or “precursor” air pollutants that lead to the formation of the criteria air pollutants. Areas causing or contributing to a violation of a NAAQS are designated under the CAA as “nonattainment” and must adopt and submit additional SIP elements. Ozone nonattainment areas are further classified as “Marginal,” “Moderate,” “Serious,” “Severe,” or “Extreme.”

In ozone nonattainment areas, one of the additional SIP elements is the submission of a RACT SIP. CAA sections 182(b)(2) and 182(f) require RACT to be implemented in ozone nonattainment areas classified as Moderate or higher for any source category covered by a Control Techniques Guidelines (CTG) document issued by the EPA and for any major stationary source of volatile organic compounds (VOC) and oxides of nitrogen (NO_x).¹ The EPA defines RACT as the “. . . lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.”²

In this proposal, we are evaluating a RACT SIP submitted by Arizona. In 2015, the EPA revised the ozone NAAQS establishing an 8-hour standard of 0.070 parts per million (“2015 ozone NAAQS” or “2015 standard”).³ In 2018, the EPA initially designated the Phoenix-Mesa area in Arizona as nonattainment for the 2015 standard with a classification of Marginal.⁴ In 2022, the EPA reclassified the Phoenix-Mesa ozone nonattainment area to Moderate.⁵ The reclassification to Moderate triggered the CAA requirement for Arizona to implement RACT in the Phoenix-Mesa ozone

¹ Emissions of VOC and NO_x are precursors to the formation of ozone in the ambient air.

² 44 FR 53761, 53762 (*September 17, 1979*).

³ 80 FR 65292 (October 26, 2015).

⁴ 83 FR 25776 (June 4, 2018).

⁵ 40 CFR 81.303. After failing to attain the NAAQS by the attainment date, the Phoenix-Mesa ozone nonattainment area was reclassified to Moderate for the 2015 ozone NAAQS on October 7, 2022 (87 FR 60897).

nonattainment area for the 2015 standard.⁶

II. The State's Submittal

On March 26, 2025, the Arizona Department of Environmental Quality (ADEQ) submitted a SIP revision to the

EPA certifying that RACT requirements for the portion of Gila County within the Phoenix-Mesa ozone nonattainment area have been met ("2025 RACT SIP" or "submittal"). The ADEQ is the governor's designee for submitting

official revisions of the Arizona SIP to the EPA. Table 1 lists the document in the submittal that is addressed by this proposal with the date that it was adopted and submitted to the EPA by the ADEQ.

TABLE 1—SUBMITTED DOCUMENT

Agency	Document title	Adopted	Submitted
ADEQ	SIP Revision: Gila County, Arizona RACT Analysis and Negative Declarations for the 2015 Ozone NAAQS.	03/24/2025	03/26/2025

On May 1, 2025, the EPA determined that ADEQ's 2025 RACT SIP met the completeness criteria in 40 CFR part 51, appendix V.

The ADEQ has jurisdiction for regulating stationary sources of air pollution within Gila County, Arizona. Therefore, consistent with CAA sections 182(b)(2) and 182(f), the 2025 RACT SIP must demonstrate that the ADEQ is implementing RACT in this area for all sources covered by a CTG document and for all major stationary sources of VOC or NO_x. Because the Phoenix-Mesa ozone nonattainment area is classified as Moderate, a major stationary source is any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant.⁷

The ADEQ's 2025 RACT SIP certifies that there are no sources subject to RACT requirements within the Gila County portion of the Phoenix-Mesa ozone nonattainment area for the 2015 ozone NAAQS. As such, the ADEQ submitted negative declarations for all CTG documents and for major stationary sources of VOC and NO_x. The ADEQ based its negative declarations on reviewing its permitting database, internal point source emissions inventory, and the EPA National Emissions Inventory (NEI). The ADEQ stated that "[t]here are currently no air permitted sources within the area."⁸ The EPA's technical support document (TSD) in the docket for this action has more information about the ADEQ's 2025 RACT SIP.

III. The EPA's Evaluation

A. How is the EPA evaluating the document?

The ADEQ's 2025 RACT SIP must demonstrate that it implements RACT in the Gila County portion of the Phoenix-Mesa ozone nonattainment area. The

EPA's implementation rule for the 2015 standard provides guidance for making a RACT demonstration and references prior discussions in our implementation rules for the 1997 and 2008 ozone standards.⁹ In sum, RACT SIPs must contain adopted RACT regulations, certifications (where appropriate) that existing provisions are RACT, and/or negative declarations that no sources in the nonattainment area are covered by a specific CTG.¹⁰ Furthermore, states must submit appropriate supporting information for their RACT submissions.¹¹

Additionally, relevant requirements in CAA sections 110(a) and 110(l) must also be met. CAA section 110(a) requires emissions limitations in the SIP to be "enforceable." CAA section 110(l) requires SIP revisions to be adopted after reasonable notice and public hearing and prohibits EPA approval if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act.

Rules, guidance, and policy documents that we used for our review include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. Memorandum dated May 18, 2006, from William T. Harnett, Director, Air Quality Policy Division, to Regional Air Division Directors, Subject: "RACT Qs & As—Reasonably Available Control Technology (RACT): Questions and Answers."
3. "Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2," 70 FR 71612 (November 29, 2005).
4. "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements," 80 FR 12264 (March 6, 2015).

5. "Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements," 83 FR 62998 (December 6, 2018).

B. Does the document meet the evaluation criteria?

We evaluated the ADEQ's 2025 RACT SIP to ensure it meets RACT and other CAA requirements. We reviewed the EPA's NEI, reviewed the EPA's Enforcement and Compliance History Online (ECHO) database, and performed multiple internet searches for sources potentially located within the nonattainment area to determine whether the ADEQ's determination that no sources are subject to RACT was reasonable.

We did not identify any major stationary sources of VOC or NO_x or any sources subject to a CTG document within the Gila County portion of the Phoenix-Mesa ozone nonattainment area. Given that no air permits have been issued for stationary sources within this area of Gila County, this is a reasonable finding. Additionally, this conclusion is not unexpected considering the portion of Gila County in the Phoenix-Mesa ozone nonattainment area represents less than 0.5 percent of the entire acreage of the nonattainment area, and the land is entirely National Forest and National Park land.

Thus, we did not identify any sources that would be subject to RACT requirements, and we agree with the ADEQ's submitted negative declarations. We also find that the submittal meets CAA section 110(l) because it was adopted after reasonable notice and public hearing and because it would not interfere with any applicable requirement concerning attainment, reasonable further progress, or any other applicable requirement of

⁶ 40 CFR 51.1312(a).

⁷ CAA sections 182(f) and 302(j). For ozone nonattainment areas classified as Serious, Severe, or Extreme, the CAA provides that the major

stationary source threshold is 50 tons per year (tpy), 25 tpy, and 10 tpy, respectively. See CAA sections 182(c), 182(d), 182(e), and 182(f), respectively.

⁸ See 2025 RACT SIP, page 6.

⁹ 83 FR 62998, 63007 (December 6, 2018).

¹⁰ 80 FR 12264, 12278 (March 6, 2015).

¹¹ Id.; 70 FR 71612, 71652 (November 29, 2005).

the Act. Because only negative declarations were adopted, the submittal does not contain any emissions limitations to evaluate for enforceability under CAA section 110(a). The TSD has more information on our evaluation.

IV. Proposed Action and Request for Public Comment

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve

the ADEQ's 2025 RACT SIP under CAA sections 182(b)(2) and 182(f) as meeting RACT for the Gila County portion of the Phoenix-Mesa ozone nonattainment area for the 2015 ozone NAAQS and because it fulfills the relevant requirements in CAA sections 110(a) and 110(l). For each RACT element, Table 2 lists the rule or negative declaration relied upon to address RACT and our proposed action for that RACT element.

We will accept comments from the public on this proposal until March 16, 2026. If finalized as proposed, our final action will add the document in Table 1 into the Arizona SIP and the negative declarations into 40 CFR 52.122.

Table 2—Proposed Action on RACT Elements for 2015 Ozone NAAQS ¹²

CTG document No.	RACT element	Rule implementing RACT	Negative declaration submitted	EPA proposed action
EPA-450/R-75-102	Design Criteria for Stage I Vapor Control—Gasoline Service Stations.	.....	Yes	Approval.
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans.	.....	Yes	Approval.
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Coils.	.....	Yes	Approval.
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Paper.	.....	Yes	Approval.
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Fabrics.	.....	Yes	Approval.
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Automobiles and Light-Duty Trucks.	.....	Yes	Approval.
EPA-450/2-77-022	Control of Volatile Organic Emissions from Solvent Metal Cleaning.	.....	Yes	Approval.
EPA-450/2-77-025	Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds.	.....	Yes	Approval.
EPA-450/2-77-026	Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals.	.....	Yes	Approval.
EPA-450/2-77-032	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume III: Surface Coating of Metal Furniture.	.....	Yes	Approval.
EPA-450/2-77-033	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Insulation of Magnet Wire.	.....	Yes	Approval.
EPA-450/2-77-034	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume V: Surface Coating of Large Appliances.	.....	Yes	Approval.
EPA-450/2-77-035	Control of Volatile Organic Emissions from Bulk Gasoline Plants.	.....	Yes	Approval.
EPA-450/2-77-036	Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks.	.....	Yes	Approval.
EPA-450/2-77-037	Control of Volatile Organic Emissions from Use of Cutback Asphalt.	.....	Yes	Approval.
EPA-450/2-78-015	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products.	.....	Yes	Approval.
EPA-450/2-78-029	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.	.....	Yes	Approval.
EPA-450/2-78-030	Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.	.....	Yes	Approval.
EPA-450/2-78-032	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VII: Factory Surface Coating of Flat Wood Paneling.	.....	Yes	Approval.
EPA-450/2-78-033	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VIII: Graphic Arts-Rotogravure and Flexography.	.....	Yes	Approval.
EPA-450/2-78-036	Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment.	.....	Yes	Approval.
EPA-450/2-78-047	Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks.	.....	Yes	Approval.
EPA-450/2-78-051	Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems.	.....	Yes	Approval.

¹² The ADEQ also adopted a negative declaration for “Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile

and Light-Duty Truck Primer-Surfacer and Topcoat Operations (EPA 453/R-08-002, 2008/09).”

However, this document is not a CTG document, and the EPA will not propose action on it.

CTG document No.	RACT element	Rule implementing RACT	Negative declaration submitted	EPA proposed action
EPA-450/3-82-009	Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners.	.....	Yes	Approval.
EPA-450/3-83-006	Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.	.....	Yes	Approval.
EPA-450/3-83-007	Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants.	.....	Yes	Approval.
EPA-450/3-83-008	Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.	.....	Yes	Approval.
EPA-450/3-84-015	Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.	.....	Yes	Approval.
EPA-450/4-91-031	Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.	.....	Yes	Approval.
EPA-453/R-96-007	Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations.	.....	Yes	Approval.
EPA-453/R-94-032; 61 FR 44050; 8/27/96.	Alternative Control Technology Document—Surface Coating Operations at Shipbuilding and Ship Repair Facilities.	.....	Yes	Approval.
EPA-453/R-97-004; 59 FR 29216; 6/06/94.	Control of VOC Emissions from Coating Operations at Aerospace Manufacturing and Rework.	.....	Yes	Approval.
EPA-453/R-06-001	Control Techniques Guidelines for Industrial Cleaning Solvents.	.....	Yes	Approval.
EPA-453/R-06-002	Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing.	.....	Yes	Approval.
EPA-453/R-06-003	Control Techniques Guidelines for Flexible Package Printing	.....	Yes	Approval.
EPA-453/R-06-004	Control Techniques Guidelines for Flat Wood Paneling Coatings.	.....	Yes	Approval.
EPA 453/R-07-003	Control Techniques Guidelines for Paper, Film, and Foil Coatings.	.....	Yes	Approval.
EPA 453/R-07-004	Control Techniques Guidelines for Large Appliance Coatings	.....	Yes	Approval.
EPA 453/R-07-005	Control Techniques Guidelines for Metal Furniture Coatings	.....	Yes	Approval.
EPA 453/R-08-003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings: Table 2—Metal Parts and Products.	.....	Yes	Approval.
EPA 453/R-08-003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings: Table 3—Plastic Parts and Products.	.....	Yes	Approval.
EPA 453/R-08-003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings: Table 4—Automotive/Transportation and Business Machine Plastic Parts.	.....	Yes	Approval.
EPA 453/R-08-003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings: Table 5—Pleasure Craft Surface Coating.	.....	Yes	Approval.
EPA 453/R-08-003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings: Table 6—Motor Vehicle Materials.	.....	Yes	Approval.
EPA 453/R-08-004	Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials.	.....	Yes	Approval.
EPA 453/R-08-005	Control Techniques Guidelines for Miscellaneous Industrial Adhesives.	.....	Yes	Approval.
EPA 453/R-08-006	Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings.	.....	Yes	Approval.
EPA 453/B-16-001	Control Techniques Guidelines for the Oil and Natural Gas Industry.	.....	Yes	Approval.
	Major non-CTG VOC Sources .....	.....	Yes	Approval.
	Major non-CTG NO _x Sources .....	.....	Yes	Approval.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed

action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it proposes to approve a state program;

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 3, 2026.

Michael Martucci,

Acting Regional Administrator, Region IX.

[FR Doc. 2026–02845 Filed 2–11–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2025–0256; FRL–12788–01–R2]

Air Plan Approval; New York; New York Metropolitan Area Second Ten-Year Limited Maintenance Plan for the 2006 24-Hour PM_{2.5} Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, under the Clean Air Act (CAA), the

limited maintenance plan (LMP) for the 2006 PM_{2.5} national ambient air quality standard (NAAQS) for ten counties which comprise the New York portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) 2006 PM_{2.5} NAAQS maintenance area. This LMP was submitted on October 15, 2024 by the New York State Department of Environmental Conservation (NYSDEC). The plan addresses the second ten-year maintenance period for particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, known as PM_{2.5}. The EPA is proposing approval of New York's LMP submission because it provides for the maintenance of the 2006 24-hour PM_{2.5} NAAQS through the end of the second ten-year portion of the maintenance period. In addition, the EPA completed the adequacy review process of this New York PM_{2.5} LMP for transportation conformity purposes on September 4, 2025.

DATES: Written comments must be received on or before March 16, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R02–OAR–2025–0256 at <https://www.regulations.gov> (our preferred method) or the other submission methods identified in the link below. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). Please visit <https://www.epa.gov/dockets/commenting-epa-dockets> for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

FOR FURTHER INFORMATION CONTACT:

Blythe Reder, Environmental Protection Agency, Air Programs Branch, Region 2, 290 Broadway, New York, New York 10007–1866, telephone number: (212) 637–3678, email address: rederyblythe@epa.gov.

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I. Background and Purpose

A. The PM_{2.5} National Ambient Air Quality Standards (NAAQS)

The EPA has established NAAQS for particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers, known as PM_{2.5}, to protect human health and the environment. In 1997, EPA established the first PM_{2.5} standards based on significant scientific evidence and health studies demonstrating the serious health effects associated with exposure to PM_{2.5}. *See* 62 FR 38652, July 18, 1997. EPA set an annual standard of 15.0 micrograms per cubic meter (µg/m³) and a 24-hour (or daily) standard of 65 µg/m³. In 2006, EPA strengthened the 24-hour PM_{2.5} NAAQS by revising it to 35 µg/m³ and retained the level of the annual PM_{2.5} standard at 15.0 µg/m³. *See* 71 FR 61144, October 17, 2006. Subsequently, in 2012, EPA established an annual primary PM_{2.5} NAAQS at 12.0 µg/m³ and retained the 2006 24-hour PM_{2.5} NAAQS at 35 µg/m³. *See* 78 FR 3086, January 15, 2013. In a rule that became effective on October 24, 2016, EPA revoked the 1997 primary annual PM_{2.5} standard in lieu of the more stringent 2012 primary annual PM_{2.5} NAAQS. *See* 81 FR 58010, August 24, 2016. In early 2024, EPA strengthened the level of the annual primary PM_{2.5} standard to 9.0 µg/m³ and retained the 2006 24-hour PM_{2.5} NAAQS at 35 µg/m³.¹ *See* 89 FR 16202, March 6, 2024.

¹ The PM_{2.5} 2024 NAAQS is currently being reconsidered. *See, e.g.*, “Trump EPA Announces Path Forward on National Air Quality Standards for Particulate Matter (PM_{2.5}) to Aid Manufacturing, Small Businesses,” Mar. 12, 2025, at <https://www.epa.gov/newsreleases/trump-epa-announces-path-forward-national-air-quality-standards-particulate-matter>.

B. Regulatory Actions in the New York Metropolitan Area

Hereafter, New York Metropolitan Area (NYMA) refers to the New York portion of the NY-NJ-CT maintenance area, which is comprised of the following counties: Bronx, Kings, Nassau, New York, Orange, Queens, Richmond, Rockland, Suffolk, and Westchester. EPA promulgated the designations for NYMA as a PM_{2.5} nonattainment area for the 1997 annual PM_{2.5} NAAQS on January 5, 2005 (70 FR 944, January 5, 2005) which was then supplemented on April 14, 2005 (70 FR 19844, April 14, 2005), due to measured violations of the standards.

On June 27, 2013, the New York State Department of Environmental Conservation (NYSDEC) submitted a request to EPA to redesignate the NYMA nonattainment area to attainment of both the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. Concurrently, NYSDEC submitted a maintenance plan for the area as a State Implementation Plan (SIP) revision to ensure continued attainment. NYSDEC provided supplemental submissions to EPA on September 18, 2013, and February 27, 2014, to clarify portions of the redesignation request, maintenance plan, and emissions information. EPA redesignated the NYMA to attainment for the 1997 and 2006 PM_{2.5} NAAQS on April 18, 2014 (79 FR 21857, April 18, 2014) and approved the associated maintenance plan into the SIP. The purpose of NYSDEC's October 15, 2024, LMP submission is to fulfill the second ten-year planning requirement of CAA section 175A(b), thus ensuring PM_{2.5} NAAQS attainment through the end of the second maintenance period for PM_{2.5}.

In its LMP submission, the NYSDEC has requested approval for both the 2006 24-hour standard and the 1997 annual standard. However, the EPA is addressing only the 2006 24-hour NAAQS, in accordance with the PM_{2.5} SIP Requirements Rule (81 FR 58010, August 24, 2016), as a second ten-year maintenance plan is not required for the revoked 1997 annual PM_{2.5} standard.

II. The Limited Maintenance Plan Option

A. Demonstration of Maintenance Using the Limited Maintenance Plan Option

Section 175A of the CAA, 42 U.S.C. 7505a, sets forth the elements of a maintenance plan. Maintenance means that the area is at or below the respective NAAQS. Under section 175A, a state must submit a revision to the SIP that provides for maintenance of the applicable NAAQS for at least ten years

after an area is redesignated to attainment. Section 175A also requires that eight years into the first maintenance period, the state must submit a second maintenance plan demonstrating that the area will continue to attain for the following ten-year period.

EPA has published long-standing guidance for states on developing maintenance plans.² The Calcagni memo provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS, or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.*, attainment year inventory). EPA clarified in subsequent guidance memoranda that certain nonattainment areas could meet the CAA section 175A requirement to provide for maintenance by demonstrating that an area's design value is well below the NAAQS and that the historical stability of the area's air quality levels indicates that the area is unlikely to violate the NAAQS in the future.³ Design values are calculated using the three-year averages of the annual mean PM_{2.5} concentrations, in which the annual mean concentrations are calculated using the mean of daily averages of each quarter in the given year.⁴ Most recently, in October 2022, EPA released guidance extending this streamlined option for demonstrating maintenance under CAA section 175A to certain PM_{2.5} areas, titled "Guidance on Limited Maintenance Plan Option for Moderate PM_{2.5} Nonattainment Areas and PM_{2.5} Maintenance Areas" (PM_{2.5} LMP Guidance).⁵ EPA refers to this streamlined demonstration of

maintenance as an LMP. EPA has interpreted CAA section 175A as allowing this option because it defines specific content requirements for maintenance plans, and in EPA's experience implementing the various NAAQS, areas that qualify for an LMP and have approved LMPs have rarely experienced subsequent violations of the NAAQS. As noted in the PM_{2.5} LMP Guidance, states seeking an LMP should still submit the other maintenance plan elements outlined in the Calcagni memo, including the following: (1) An attainment emissions inventory; (2) provisions for the continued operation of the ambient air quality monitoring network; (3) verification of continued attainment; and (4) a contingency plan in the event of a future violation of the NAAQS. Moreover, states seeking an LMP must still submit their section 175A maintenance plan as a revision to their SIP, with all attendant notice and comment procedures.

The PM_{2.5} LMP Guidance, similar to the PM₁₀ LMP Guidance, allows states to demonstrate that certain areas qualify for an LMP by showing that, based on their most recent consecutive five years of measured air quality, they are unlikely to violate the NAAQS in the future. Specifically, the PM_{2.5} LMP Guidance relies on the critical design value (CDV) concept. This guidance directs states to calculate a site-specific CDV for the monitoring site in an area with the highest design value, and to monitor for all other active monitoring sites in the area with complete data. The highest design value is used because it represents the highest level of PM_{2.5} pollution an area has experienced over the past five years. The PM_{2.5} LMP Guidance states that areas should show that the average design value (ADV) for each monitoring site in the area, *i.e.*, the average of at least the most recent consecutive five years of PM_{2.5} design values, does not exceed the associated CDV for each site.⁶ If the ADV for each monitoring site in the area is below the CDV, then the probability of a future exceedance, based on the area's historical air quality and variability, is less than ten percent. The CDV calculation for a monitoring site involves the following parameters: (1) the level of the relevant NAAQS; (2) the co-efficient of variation (relative

² See John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards ("OAQPS"), "Procedures for Processing Requests to Redesignate Areas to Attainment," Sept. 4, 1992 ("Calcagni memo"). A copy of the Calcagni memo can be found in the docket for this proposed rulemaking.

³ See Sally L. Shaver, OAQPS, "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas," Nov. 16, 1994; Joseph Paisie, OAQPS, "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas," Oct. 6, 1995; and Lydia Wegman, OAQPS, "Limited Maintenance Plan Option for Moderate PM₁₀ Nonattainment Areas" (PM₁₀ LMP Guidance), Aug. 9, 2001. Copies of these guidance memoranda can be found in the docket for this proposed rulemaking.

⁴ Procedures for using the air quality data to determine whether a NAAQS violation has occurred are given in 40 CFR part 50 appendix N.

⁵ See the EPA guidance, titled, "Guidance on the Limited Maintenance Plan Option for Moderate PM_{2.5} Nonattainment Areas and PM_{2.5} Maintenance Areas." A copy of this guidance can be found in the docket for this proposed rulemaking.

⁶ EPA recommends that the ADV be calculated using at least five years of design values, each representing a three-year period, because this approach would rely on a more robust dataset. However, we acknowledge that an alternative interpretation may be acceptable, where these variables could be calculated using three years of design values, collectively representing five years of air quality data.

difference in PM_{2.5} concentrations among grids within a ZIP code) of recent design values measured at that site; and (3) a statistical parameter corresponding to a ten-percent probability of

exceedance, such that sites with historically high variability in design values result in a lower (or more stringent) CDV. The eligibility

calculation equations for the CDV demonstration are shown in table 1.

Table 1—The Critical Design Value Calculation

Table 1—The Critical Design Value Calculation

Standard Deviation (σ)	$\sigma = \sqrt{\frac{\sum (x_i - ADV)^2}{n-1}}$
Coefficient of Variation (CV)	$CV = \sigma / ADV$
Critical Design Value (CDV)	$CDV = NAAQS / (1 + (t_c * CV))$

ADV = Average of 3-year design values.

DV = Design value.

NAAQS = Applicable standard (35 $\mu\text{g}/\text{m}^3$).

t_c = Critical t-value (based on the one-tail student's t-distribution, at a significance level of 0.10).

x_i = a given three-year period design value for the area.

n = the total number of design values evaluated, which in this case is five.

B. Transportation Conformity Under Limited Maintenance Plan Option

Transportation conformity is required by section 176(c) of the CAA, 42 U.S.C. 7506(c). Under that provision, conformity to a SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, delay timely attainment of the NAAQS, or any required interim emission reductions or other milestones in any area. See CAA 176(c)(1)(A) and (B). EPA's transportation conformity rule at 40 CFR part 93, subpart A establishes the criteria and procedures to determine whether metropolitan transportation plans, transportation improvement programs, and federally supported highway and transit projects conform to the SIP. Transportation conformity applies for transportation-related criteria pollutants⁷ in nonattainment areas and redesignated attainment areas with a CAA section 175A maintenance plan (*i.e.*, maintenance areas).

While qualification for the LMP option does not exempt an area from the need to determine conformity, in an area with an adequate⁸ or approved

LMP, conformity may be demonstrated for a transportation plan or a transportation improvement program without a regional emissions analysis for the relevant NAAQS and pollutant (40 CFR 93.109(e)). However, transportation plan and transportation improvement program conformity determinations that meet applicable requirements continue to be required in these areas (*see* table 1 in 40 CFR 93.109), including a regional emissions analysis for other NAAQS for which the areas are nonattainment or maintenance (*e.g.*, the 2008 and 2015 ozone NAAQS). For the 2006 p.m.2.5 NAAQS, the areas also remain subject to the other transportation conformity requirements of 40 CFR part 93, subpart A, including fulfilling project-level conformity analyses requirements and consultation requirements. In addition, the state's LMP must demonstrate that the qualifying area is not expected to experience growth in on-road emissions (during the maintenance period) that might violate relevant NAAQS (40 CFR 93.109(e)).

Separate from this proposed action, EPA completed the adequacy review process for NYMA's submitted LMP (*see* 90 FR 42762, September 4, 2025).⁹ According to this previous document,

transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity.

⁹ See Transportation Adequacy Review attached in the docket.

EPA found that the LMP for the New York portion of the NY-NJ-CT PM_{2.5} maintenance area is adequate for transportation conformity purposes. See 90 FR 42762. Please note that an adequacy review is separate from the EPA's final decision on a transportation conformity SIP submission and should not be used to prejudice the EPA's ultimate action for the SIP. Even if the EPA finds that a limited maintenance plan is adequate for transportation conformity purposes, the SIP could be later disapproved.

C. General Conformity Under Limited Maintenance Plan Option

The general conformity rule of November 30, 1993 (58 FR 63214, November 30, 1993) applies to nonattainment areas and redesignated attainment areas operating under maintenance plans (*i.e.*, maintenance areas). General conformity requires compliance to the purpose of a SIP, which means that federal activities not related to transportation plans, programs, and projects will not cause or contribute to any new violation of any standard in any area, will not increase the frequency or severity of any existing violation of any standard in any area, or delay timely attainment of any standard or any required interim emission reductions, or other milestones in any area (CAA sections 176(c)(1)(A) and (1)(B)). As noted in the PM_{2.5} LMP

⁷ Transportation-related criteria air pollutants are carbon monoxide, ground-level ozone, nitrogen dioxide, and particulate matter. See 40 CFR part 50 for EPA's definitions of these pollutants.

⁸ EPA's adequacy process is described in 40 CFR 93.118(e) and (f), and EPA's adequacy website is located at <https://www.epa.gov/state-and-local->

Guidance, EPA’s general conformity regulations do not distinguish between maintenance areas with an approved “full maintenance plan” and those with an approved LMP. Thus, maintenance areas with an approved LMP are subject to the same general conformity requirements under 40 CFR part 93, subpart B as those covered by a “full maintenance plan.” Full compliance with the general conformity program is required within an LMP.

III. EPA’s Analysis of the State’s Submittal

A. Demonstration of Qualification for the Limited Maintenance Plan Option

EPA redesignated the NYMA to attainment of the PM_{2.5} NAAQS on April 18, 2014 (79 FR 21857, April 18, 2014). Table 2 below shows the historical design values for each monitoring site within the maintenance area since it was redesignated in 2014.¹⁰ The 2006 24-hour PM_{2.5} NAAQS is attained when the three-year average of

the 98th percentile of 24-hour PM_{2.5} concentrations is equal to or less than 35 µg/m³, and as shown in tables 2 and 3, the NYMA has been measuring air quality well below the 2006 PM_{2.5} NAAQS. The design values from the individual monitoring sites within the maintenance area demonstrate the relative stability of ambient PM_{2.5} concentrations over time. Furthermore, the design values for the individual sites are below the 35 µg/m³ limit as well (see table 3).¹¹

TABLE 2—DESIGN VALUES (DV) (µg/m³) HISTORY OF THE 2006 24-HOUR PM_{2.5} NAAQS IN THE NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND, NY-NJ-CT AREA SINCE REDESIGNATION TO ATTAINMENT [2012 to 2024]

Design value period	New York-Northern New Jersey-Long Island, NY-NJ-CT PM _{2.5} design value
2012–2014	27
2013–2015	28
2014–2016	24
2015–2017	23
2016–2018	23
2017–2019	23
2018–2020	22
2019–2021	22
2020–2022	21
2021–2023	27
2022–2024	23

¹⁰ See <https://www.epa.gov/air-trends/air-quality-design-values>.

¹¹ Queens College Near Road (AQ5 ID: 36–081–0125) was not included in the analysis due to having incomplete data for most years.

TABLE 3—PM_{2.5} DESIGN VALUES IN THE NYMA SINCE REDESIGNATION TO ATTAINMENT IN µg/m³
[2012 to 2024]

PM _{2.5} monitoring site	AQS ID	2012– 2014	2013– 2015	2014– 2016	2015– 2017	2016– 2018	2017– 2019	2018– 2020	2019– 2021	2020– 2022	2021– 2023	2022– 2024
IS 52	360050110	INC	23	19	19	17	18	19	20	19	20	19
Pfizer Lab Site	360050133	26	26	24	21	20	20	INC	INC	INC	21	20
JHS 126	360470122	22	23	21	20	17	18	INC	INC	INC	20	19
JHS 45	360610079	22	24	23	20	18	18	INC	INC	INC	22	21
PS 19	360610128	26	26	24	23	23	INC	INC	INC	ND	INC	INC
Division Street	360610134	23	24	22	21	19	20	INC	INC	INC	ND	ND
Newburgh	360710002	20	20	17	16	14	15	INC	INC	INC	20	19
Queens College 2	360810124	22	22	19	19	18	18	18	18	18	22	22
Port Richmond	360850055	INC	INC	INC	19	18	19	INC	INC	INC	27	23
Babylon	361030002	20	21	19	17	15	16	INC	INC	INC	19	17

INC = Incomplete data (less than 75% data completeness based on the monitor's operating schedule and monitoring frequency). ND = No data available.

The EPA proposes to find that the NYMA meets the critical design value (CDV) demonstration for an LMP. As noted below, the parameters of the CDV calculation include the level of the relevant NAAQS, the co-efficient of variation of recent design values, and a statistical parameter corresponding to a

ten-percent probability of future violation. The CDV demonstration is designed such that if a site's ADV is lower than the site's CDV, the probability of a future violation of the NAAQS is less than ten percent.¹² Section 2B of NYSDEC's LMP submission demonstrates the likelihood

of continued attainment. EPA reviewed the data and methodology provided by the State and finds that each monitor's five-year ADV is well below the corresponding site-specific CDV. EPA's analysis is shown below in table 4.

TABLE 4—RESULTS OF CALCULATION OF CDV'S AT THE NYMA MONITORS FOR THE 24-HOUR PM_{2.5} NAAQS¹³

Site	AQS ID	CDV µg/m ³ (2012–2024)	ADV µg/m ³ (2012–2024) ^a	Qualify for LMP?
IS 52	360050110	33.5	19.4	Yes.
Pfizer Lab Site	360050133	29.5	22.2	Yes.
JHS 126	360470122	29.5	19.8	Yes.
IS 45	360610079	29.0	20.6	Yes.
PS 19	360610128	32.0	24.4	Yes.
Division Street	360610134	30.7	21.2	Yes.
Newburgh	360710002	28.8	16.4	Yes.
Queens College 2	360810124	29.9	19.6	Yes.
Richmond Post Office	360850055	33.1	^b 18.7	Yes.
Babylon	361030002	28.9	17.6	Yes.

^a The design values averaged for the ADV span seven consecutive years of data between 2012–2024.

^b Only three years of design values (five years of data) were used for the Richmond Post Office monitor due to invalid data.

We propose to find that NYSDEC's submittal satisfies the transportation conformity regulation at 40 CFR 93.109(e). NYSDEC also analyzes the demonstration under 40 CFR 93.109(e) within its submittal in section II, Part F. This transportation conformity regulation requires that an LMP demonstrate that it would be unreasonable to expect that a maintenance area would experience sufficient motor vehicle emissions growth for a NAAQS violation to occur (40 CFR 93.109(e)).

NYSDEC conducted an analysis of vehicle miles travelled (VMT) from 2022–2034 for the NYMA using linear annual growth rate inputs provided by the New York State Department of Transportation (NYSDOT) that were then entered into the MOVES3¹⁴ version of EPA's motor vehicle emissions model. NYSDOT is part of the Metropolitan Planning Organization (MPO) with NYC, Long Island and lower Hudson Valley referred to as the New York Metropolitan Transportation Council. In consultation with NYSDOT, NYSDEC also provided county-level VMT yearly growth rates, which are all below 1.5%, indicating only slight increases in vehicle travel across the area.

In the October 2022 “Guidance on the Limited Maintenance Plan Option for Moderate PM_{2.5} Nonattainment Areas and PM_{2.5} Maintenance Areas,” EPA

clarifies that an area submitting the second ten-year maintenance plan may be eligible for the LMP option if monitored air quality data, and its historical and projected VMT, support the LMP option. Given that the air quality data demonstrates that the NYMA has been maintaining the 2006 PM_{2.5} NAAQS for at least ten years, the current PM_{2.5} design values in the area, and the State's analysis of projected VMT discussed above, we propose to find that NYSDEC's LMP submittal for the NYMA 2006 PM_{2.5} maintenance area meets the qualification criteria for an LMP, consistent with 40 CFR 93.109(e) and the October 2022 PM_{2.5} LMP Guidance. Furthermore, the design values from the individual monitoring sites within the maintenance areas demonstrate the stability of ambient PM_{2.5} concentrations over time.

The following is a summary of EPA's interpretation of the CAA section 175A requirements and EPA's evaluation of how each requirement is met. Under the LMP option, the state will be expected to determine annually that the criteria are still being met. If the state determines that the LMP criteria are not being met, it should take action to reduce PM_{2.5} concentrations enough to requalify. One possible approach the state could take is to implement the contingency measures contained in its first maintenance plan (79 FR 21857, April 18, 2014), to which it will

continue to adhere for the second maintenance period (*see* section 2E within the September 2024 state submittal). If the attempt to reduce PM_{2.5} concentrations fails, or if it succeeds, but in future years it becomes necessary again to address increasing PM_{2.5} concentrations in an area, the area will no longer qualify for the LMP option.

B. Attainment Inventory

As noted above, states that qualify for an LMP must still meet the other elements of a maintenance plan, as articulated in the Calcagni Memo. This includes an attainment year emissions inventory. NYSDEC's NYMA PM_{2.5} submission includes an emissions inventory with data for the base year of 2007, followed by 2008, 2011, 2014, 2017, and 2020. The 2017 inventory was prepared as part of the 2017 National Emissions Inventory 9, Version 2, under EPA's Air Emissions Reporting Rule (73 FR 76539, December 17, 2008). The 2017 periodic emission inventory represents the most recent emissions inventory data available when the state prepared the submission. The 2017 periodic emission inventory is also representative of the level of emissions during a period in which the area shows monitored attainment of the NAAQS and is consistent with the data used to determine applicability of the LMP option (*i.e.*, having no violations of the

¹² See the “Guidance on the Limited Maintenance Plan Option for Moderate PM_{2.5} Nonattainment Areas and PM_{2.5} Maintenance Areas” at page 7, “Example Site Calculation,” found in the docket for this rulemaking.

¹³ The spreadsheet for our CDV and ADV calculations can be found in the docket for this rulemaking.

¹⁴ MOVES3 EPA, or Motor Vehicle Emission Simulator 3, is the latest version of the EPA's emissions modeling system used to estimate emissions from mobile sources.

NAAQS during the five-year period used to calculate the design value). Table 5 shows the total 2017 emissions in the NYMA in tons per year in the state's submission.

TABLE 5—2017 EMISSIONS (TONS/YEAR) IN THE NYMA

Pollutant	Total emissions
NH ₃	4,158
NO _x	120,684
PM _{2.5} (including road dust)	22,195
Road Dust	3,984
SO ₂	5,657
VOC	163,311

C. Air Quality Monitoring Network

Once an area is redesignated, the state must continue to operate an appropriate air monitoring network in accordance with 40 CFR part 58 to verify the attainment status of the area. NYSDEC continues to operate a PM_{2.5} monitoring network sited and maintained in accordance with federal siting and design criteria in 40 CFR part 58, and in consultation with EPA Region 2. NYSDEC submitted its 2023 Annual Monitoring Network plan¹⁵ on June 16, 2023, which EPA approved on January 3, 2024.¹⁶ In the LMP submittal, NYSDEC commits to continued operation of its PM_{2.5} monitors within the NYMA, consistent with the EPA-approved NYSDEC annual network plan. Currently, there are ten monitoring sites that produce data comparable to the PM_{2.5} NAAQS in the NYMA area.

D. Verification of Continued Attainment

The 2006 24-hour PM_{2.5} NAAQS is 35 µg/m³ (40 CFR 50.13). The NAAQS is attained when the three-year average of the 98th percentile of PM_{2.5} concentrations is equal to or less than the NAAQS, which NYSDEC has proven in its LMP submittal. As stated previously, NYSDEC commits to verifying continued attainment of the PM_{2.5} standards through the maintenance plan period with the operation of an appropriate PM_{2.5} monitoring network. Certified air quality data from 2023, as shown in table 3, confirms continued attainment of the standard.¹⁷

E. Contingency Provisions

CAA section 175A(d) states that a maintenance plan must include contingency provisions, as necessary, to ensure prompt correction of any violation of the relevant NAAQS which may occur after redesignation of the area to attainment. As explained in the Calcagni memo, these contingency provisions are an enforceable part of the federally approved SIP. The maintenance plan should clearly identify the events that would trigger the adoption and implementation of a contingency provision, the contingency provision(s) that would be adopted and implemented, and the schedule indicating the timeframe by which the state would adopt and implement the provision(s). The Calcagni memo states that EPA will determine the adequacy of a contingency plan on a case-by-case basis. At a minimum, the plan must require that the state implement all measures contained in the CAA Part D nonattainment plan for the area prior to redesignation.

NYSDEC will continue to adhere to the contingency plan it submitted with its first maintenance plan, which includes the required contingency provisions to ensure the State will promptly correct any violation of the 2006 p.m.2.5 NAAQS in the area, see 79 FR 8133, February 11, 2014. According to the State's submittal, if an NYMA maintenance area monitor shows a 98th percentile 24-hour concentration exceeding 35.5 µg/m³ in any given year, NYSDEC will conduct an analysis to determine the cause of the exceedance, evaluate whether the exceedance is likely to continue, and implement necessary control measures. If any NYMA monitors show exceedances for two consecutive years, then NYSDEC will determine additional control measures and implement emissions reduction controls by regulation. EPA proposes to find that the contingency provisions in the current proposed rule for the PM_{2.5} LMP for the NYMA meet the requirements of section 175A(d) of the CAA.

IV. EPA's Proposed Action

EPA is proposing to approve the second ten-year PM_{2.5} LMP for the NYMA submitted by NYSDEC on October 15, 2024. EPA's review of the air quality data and VMT trends for the maintenance area indicates that it would be unreasonable to expect that the area will experience growth in motor vehicle emissions sufficient to cause a violation of the 2006 24-hour PM_{2.5} NAAQS over the second maintenance period. The area meets all

the LMP qualifying criteria as described in this action. If finalized, EPA's approval of this LMP will satisfy the CAA section 175A requirements for the second ten-year maintenance period.

As discussed previously, EPA determined that the LMP is adequate for transportation conformity purposes. See 90 FR 42762, September 4, 2025. EPA completed this determination through a separate process provided for in the transportation conformity regulations. See 40 CFR 93.118(f).

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

¹⁵ See NYSDEC's 2023 Annual Air Monitoring Network Plan, found in the docket for this proposed rulemaking.

¹⁶ See EPA's Approval Letter for NYSDEC's 2023 Annual Monitoring Network Plan, found in the docket for this proposed rulemaking.

¹⁷ See <https://www.epa.gov/air-trends/air-quality-design-values>.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Michael Martucci,

Regional Administrator, Region 2.

[FR Doc. 2026-02810 Filed 2-11-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2024-0617; EPA-R05-OAR-2024-0618; FRL-13163-01-R5]

Air Plan Approval; Illinois; Moderate Attainment Plan Elements for the Chicago and Metro East Areas for the 2015 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of Illinois' 2015 ozone National Ambient Air Quality Standard (NAAQS or standard) Moderate nonattainment area State Implementation Plan (SIP) submission for the Chicago and the Metro East St. Louis areas. The portions of the SIP submission that the EPA is proposing to approve are the reasonable further progress (RFP) demonstration including the associated motor vehicle emissions budgets for 2023, the motor vehicle inspection and maintenance (I/M) program, the nonattainment new source review (NNSR) program, and the updated 2017 base year emissions inventories. The EPA is proposing to approve these portions of the State's SIP submission pursuant to section 110 and part D of the Clean Air Act (CAA), and the EPA's regulations. The EPA is also initiating the adequacy process for the 2023 motor vehicle emissions budgets (budgets) for the Chicago and Metro East St. Louis Moderate ozone nonattainment

RFP demonstration included in this SIP submission.

DATES: Comments must be received on or before March 16, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2024-0617 or EPA-R05-OAR-2024-0618 at <https://www.regulations.gov>, or via email to arra.sarah@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI, PBI, or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Nicole Naber, Air and Radiation Division (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6609, naber.nicole@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean the EPA.

I. Background

On December 28, 2015, the EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm).¹ Promulgation of a revised NAAQS triggers a requirement for the EPA to designate all areas of the country

as nonattainment, attainment, or unclassifiable for the NAAQS. For the ozone NAAQS, this also involves classifying any nonattainment areas at the time of designation.² Ozone nonattainment areas are classified based on the severity of their ozone levels as determined by area's "design value," which represents air quality in the area for the most recent three years. The classifications for ozone nonattainment areas are Marginal, Moderate, Serious, Severe, and Extreme.³

Areas that the EPA designates nonattainment for the ozone NAAQS are subject to the general nonattainment area planning requirements of CAA section 172 and the ozone-specific planning requirements of CAA section 182. Ozone nonattainment areas in the lower classification levels have fewer and/or less stringent mandatory air quality planning and control requirements than those in higher classifications. In the EPA's December 6, 2018 (83 FR 62998), rule, "Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements," known as the "SIP Requirements Rule," the EPA set forth nonattainment area requirements for the 2015 ozone NAAQS. These requirements are codified at 40 CFR part 51 subpart CC. For Marginal areas, a State is required to submit a baseline emissions inventory, adopt provisions into the SIP requiring emissions statements from stationary sources, and implement a nonattainment new source review program for the relevant ozone NAAQS.⁴ For Moderate areas, a State needs to comply with the Marginal area requirements, plus additional Moderate area requirements, including the requirement to submit a modeled demonstration that the area will attain the NAAQS as expeditiously as practicable but no later than six years after designation, the requirement to submit an RFP plan, the requirement to adopt and implement certain emissions controls, such as Reasonably Available Control Technology (RACT) and a Basic I/M program, and the requirement for greater emissions offsets for new or modified major stationary sources under the State's NNSR program.

Effective June 4, 2018, the EPA designated the Chicago and Metro East St. Louis areas as Marginal nonattainment. The Chicago area includes Cook County, DuPage County, Grundy County, Kane County, Kendall

² CAA sections 107(d)(1) and 181(a)(1).

³ CAA section 181(a)(1).

⁴ CAA section 182(a).

¹ 80 FR 65292, October 26, 2015, codified at 40 CFR 50.19.

County, Lake County, McHenry County, and Will County, and the Metro East area includes Madison County, Monroe County, and St. Clair County. Under CAA section 181(b)(2), Marginal nonattainment areas that fail to attain the 2015 ozone NAAQS by the applicable attainment date will be reclassified as Moderate by operation of law upon the effective date of the final determination. For Chicago and Metro East, the deadline was August 3, 2021.

On October 7, 2022 (87 FR 60897), the EPA determined that the Chicago and Metro East areas failed to attain the 2015 ozone NAAQS by the August 3, 2021, deadline, resulting in the reclassification of the areas from Marginal to Moderate ozone attainment. In that action, the EPA established January 1, 2023, as the due date for Illinois to submit all Moderate area nonattainment plan SIP requirements applicable to newly reclassified areas. More recently, on December 17, 2024 (89 FR 101901), the EPA determined the areas did not attain the standards by the Moderate attainment date, and the areas were reclassified as Serious; however, this action is only addressing Moderate elements.

II. Evaluation of Illinois' Submittals

The Illinois Environmental Protection Agency (Illinois EPA) submitted SIP revisions on December 18, 2024, to address Moderate area requirements for the Chicago and Metro East areas under the 2015 ozone NAAQS. These submittals contained several nonattainment plan elements, including an updated 2017 base year emissions inventory for volatile organic compounds (VOC) and oxides of nitrogen (NO_x) and a 15% RFP plan with 2023 VOC and NO_x motor vehicle emissions budgets, an I/M program certification, and an NNSR certification. The submittals also included an attainment demonstration, a reasonably available control measures

demonstration, and contingency measures, which are not being addressed in this action. Illinois' SIP submittals and associated supporting documents are available in the docket for this action.

A. 2017 Base Year Emissions Inventory

1. Background

CAA sections 172(c)(3) and 182(a)(1), 42 U.S.C. 7502(c)(3) and 7511a(a)(1), require States to develop and submit, as SIP revisions, comprehensive, accurate, and complete emissions inventories for all areas designated as nonattainment for the ozone NAAQS. The specific emissions inventory requirements are codified at 40 CFR 51.1315, and the term "base year inventory" is defined at 51.1300(p). For ozone, the base year inventory is an estimation of actual emissions of VOC and NO_x from all sources within the boundaries of the nonattainment area.

The regulation at 40 CFR 51.1315(a) requires that the inventory year be selected consistent with the baseline year for the RFP plan as required by 40 CFR 51.1310(b), which states that the baseline emissions inventory shall be the emissions inventory for the most recent calendar year for which a complete triennial inventory is required to be submitted to the EPA under the provisions of subpart A of 40 CFR part 51, Air Emissions Reporting Requirements, 40 CFR 51.1 through 50. For areas designated as nonattainment in 2018, the most recent triennial inventory year conducted for the National Emissions Inventory (NEI) pursuant to the Air Emissions Reporting Requirements (AERR) rule is 2017.⁵

Further, 40 CFR 51.1315(c) requires emissions values included in the base year inventory to be actual ozone season day emissions as defined by 40 CFR 51.1300(q), which states: "Ozone season day emissions mean an average day's emissions for a typical ozone season work weekday. The State shall select,

subject to the EPA approval, the month(s) in the ozone season and the day(s) in the work week to be represented, considering the conditions assumed in the development of RFP plans and/or emissions budgets for transportation conformity."

On October 22, 2020, Illinois EPA submitted a SIP revision addressing the emissions inventory requirement of CAA section 182(a)(1). The EPA approved Illinois' 2017 base year emissions inventories for the Chicago area on August 15, 2023 (88 FR 55383).

2. Illinois' Emission Inventory Submittal

As part of Illinois' SIP revision request, Illinois EPA updated the 2017 base year emissions inventories to incorporate improved emissions estimates where available. In Illinois' original base year emissions inventory submittal, Illinois EPA used the 2016v1 modeling platform to generate emissions data for the point and nonpoint sectors and MOVES2014 to generate emissions data for the on-road and nonroad sectors. Illinois EPA updated the 2017 base year emissions inventories for the Chicago and Metro East areas using the 2016v1 modeling platform for point and nonpoint sectors and MOVES3 for nonroad and on-road sectors. Illinois EPA did not update biogenic emissions estimates.

Illinois EPA converted annual point and nonpoint values to tons per day (tpd) following the same procedure as was used when preparing the original 2017 base year emissions inventories. Illinois EPA extracted data from the 2016v1 modeling platform to calculate the ratio of July emissions to total annual emissions for each county by sector.

Table 1, below, shows the updated 2017 ozone season day emissions in tons per ozone season day of NO_x and VOC for the Chicago and Metro East nonattainment areas, respectively.

TABLE 1—2017 BASE YEAR NO_x AND VOC EMISSIONS FOR THE CHICAGO AND METRO EAST NONATTAINMENT AREAS
[Tons/day]

Area	Pollutant	Point source	Area source	On-road mobile	Off-road mobile	Total
Chicago	NO _x	66.39	101.36	208.20	53.34	429.29
	VOC	45.74	207.57	58.20	49.99	361.50
Metro East	NO _x	10.65	8.72	17.44	5.25	42.06
	VOC	8.62	18.94	6.81	3.82	38.19

⁵ 83 FR 62998 through 63036 at 63005, December 6, 2018.

3. Analysis of Illinois' 2017 Base Year Emission Inventory

EPA has reviewed Illinois' updated 2017 base year emissions inventory for consistency with sections 172(c)(3) and 182(a)(1) of the CAA and the EPA's emission inventory requirements. The selection of 2017 as the base year comports with the RFP baseline year requirements set forth in the SIP Requirements Rule and codified at 40 CFR 51.1310(b).

Illinois EPA documented the procedures used to estimate the emissions for each of the major source types. The documentation of the emission estimation procedures is sufficient to determine that Illinois followed acceptable procedures to estimate the emissions. Accordingly, the EPA concludes that Illinois has developed inventories of NO_x and VOC emissions that are comprehensive and complete and is therefore proposing to approve Illinois' updated 2017 base year emissions inventory for the Chicago and Metro East areas under the 2015 ozone NAAQS.

B. I/M Program

1. Background

CAA section 182(b)(4) requires States with ozone nonattainment areas classified as Moderate to implement a Basic motor vehicle I/M program. The goal of I/M programs is to identify and repair high-emitting vehicles to improve air quality in areas that are not attaining the NAAQS.⁶ The CAA generally requires I/M programs for areas across the country that meet certain criteria, such as air quality status, population, and/or geographic location. The CAA also directed the EPA to establish minimum performance standards for Basic and Enhanced I/M programs. States have flexibility to design their own programs if they can show that their program is as effective as the model program used in the respective performance standard. The EPA's requirements for Basic and Enhanced I/

M programs are found in 40 CFR part 51, subpart S.

Illinois EPA has been operating an enhanced I/M program in the Chicago and Metro East areas since February 22, 1999 (64 FR 8517), with a subsequent approval on August 13, 2014 (79 FR 47377). These EPA-approved I/M program requirements, that are incorporated into the Illinois SIP, remain in place in both the Chicago and Metro East areas.

2. Illinois' I/M Certification

Consistent with the I/M regulations, a State with an existing I/M program would need to conduct and submit a performance standard modeling (PSM) analysis as well as make any necessary program revisions as part of their Moderate area SIP submission to ensure that their I/M program is operating at or above the Basic I/M performance standard level for the 2015 ozone NAAQS. When certifying that an existing I/M program meets applicable I/M requirements for a new NAAQS, it is necessary that the State ensures that an I/M program reflects the I/M rule's required elements for a Basic or Enhanced I/M program and the applicable classification for the new ozone NAAQS. If an I/M program for a previous NAAQS contains the required elements for a new NAAQS (e.g., such as on-road mobile source testing for an Enhanced I/M program) then the State may determine through the performance standard modeling analysis that an existing SIP-approved program would meet the applicable performance standard for purposes of the 2015 ozone NAAQS without modification.

Illinois EPA is certifying that the existing SIP-approved I/M programs meet the Basic I/M program requirements of CAA section 182(b)(4) for the Chicago and Metro East areas under the 2015 ozone NAAQS. The Illinois Vehicle Emission Inspection Law of 2005(625 ILCS 5/13C) authorizes the State to implement I/M programs to reduce to reduce air pollution from motor vehicles in these areas. In addition, the requirements for the State's I/M programs are found in the Illinois Administrative Code (Ill. Adm. Code) Title 35, Parts 240 and 276. The Illinois I/M programs require on-board diagnostic (OBD) testing of gasoline-

fueled and hybrid motor vehicles up to 8500 pounds gross vehicle weight rating (GVWR) that are 1996 model year (MY) and newer but more than four MYs old, as well as the OBD testing of gasoline-fueled and hybrid vehicles between 8501 and 14,000 pounds GVWR that are 2007 MY and newer but more than four MYs old.

In addition, Illinois EPA conducted an I/M PSM analysis to demonstrate that Illinois' current I/M program continues to exceed the level of the EPA's Enhanced performance standard for areas designated and classified under the 8-hour ozone standard, as detailed at 40 CFR 51.351(i)(13), which states that the actual I/M program must achieve the same or lower emissions levels of NO_x and VOCs as the Federal model Enhanced program to within 0.02 grams/mile (g/m). Illinois EPA performed the modeling analysis using the EPA's mobile source emissions model, MOVES4, which was the latest model version at the time the analysis was started. The performance standard modeling analysis began after the mobile emissions modeling analyses conducted to prepare other elements of the SIP submission. This modeling was conducted for analysis year 2023 in accordance with the EPA's technical guidance: "Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model", EPA-420-B-22-034, October 2022,⁷ (October 2022 Performance Standard Modeling Guidance).

Table 2 below shows the results of Illinois EPA's modeling analysis comparing the average fleet emission rates of the current I/M program to that of the Enhanced I/M performance standard benchmark program for both the Chicago and Metro East nonattainment areas, respectively. In all cases, the analysis shows that the emission reductions from Illinois' actual I/M program exceed the emission reductions modeled for the benchmark program of the Enhanced I/M performance standard to within 0.02 g/m.

⁶ For more information, see *Overview of Vehicle Inspection and Maintenance (I/M) Programs* (EPA-420-F-21-067, October 2021) at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1013CC0.pdf>.

⁷ <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1015S5C.pdf>.

TABLE 2—SUMMARY OF JULY WEEKDAY NO_x AND VOC EMISSION RATES FOR THE CHICAGO AND METRO EAST NONATTAINMENT AREAS
[g/m]

Area	Pollutant	Existing I/M program	Enhanced I/M benchmark	Enhanced I/M benchmark with 0.02 g/m buffer	Does existing I/M program meet the I/M performance standard?
Chicago	NO _x	0.984	1.002	1.022	Yes.
	VOC	0.538	0.533	0.553	Yes.
Metro East	NO _x	0.527	0.533	0.553	Yes.
	VOC	0.302	0.297	0.317	Yes.

2. Evaluation of Illinois' I/M Program

At the Moderate classification for the 2015 ozone NAAQS, the Chicago and Metro East areas are only required to implement Basic I/M. However, these areas continue to implement Enhanced I/M programs as adopted into the SIP under prior ozone NAAQS. The EPA's October 2022 Performance Modeling Guidance addresses the situation where a State may need to demonstrate that an area's current Enhanced I/M program satisfies the Basic I/M SIP requirement: "[I]t is reasonable to presume that if an I/M program meets the Enhanced performance standard, then it would also meet the Basic performance standard so long as the analysis years are appropriate for the two 8-hour ozone standards in question."⁸ The guidance goes on to identify the attainment date as the appropriate analysis year for areas that have been reclassified.⁹

The Moderate attainment date for the Chicago and Metro East areas is August 3, 2024. However, because that date falls in the middle of the ozone season, 2023 is the year that will be used to determine whether the area achieves attainment by the attainment date. Therefore, Illinois appropriately chose 2023 as the analysis year to be consistent with the year in which attainment would be determined.

EPA has reviewed Illinois' I/M program submittals and determined that the emission reductions from the current Chicago and Metro East I/M programs meet or exceed the Basic I/M performance standard. Illinois EPA documented that the modeling analysis was conducted in accordance with the EPA's October 2022 Performance Modeling Guidance. Therefore, since the Chicago and Metro East I/M programs meet the applicable I/M performance requirements and also meet the Basic I/M requirements of CAA section 182(b)(4) and 40 CFR 51 subpart S, we are proposing to approve Illinois' I/M program SIP element for the

Chicago and Metro East Moderate nonattainment areas under the 2015 ozone NAAQS.

C. 15% RFP Plan

1. Background

The CAA requires that States with areas designated as nonattainment for ozone achieve RFP toward attainment of the ozone NAAQS. CAA section 172(c)(2) contains a general requirement that nonattainment plans must provide for emissions reductions that meet RFP. For areas classified Moderate, section 182(b)(1) imposes a more specific RFP requirement that a State is required to meet through a 15% reduction in VOC emissions from the baseline anthropogenic emissions within 6 years after November 15, 1990.

The SIP Requirements Rule addressed, among other things, RFP requirements as they apply to areas designated nonattainment and classified as Moderate for the 2015 ozone NAAQS.¹⁰ RFP requirements under the 2015 ozone NAAQS are codified at 40 CFR 51.1310. The EPA interprets the 15% VOC emission reduction requirement in CAA section 182(b)(1) such that a State that has already met the 15% requirement for VOC and NO_x for an area under either the 1-hour ozone NAAQS or a prior 8-hour ozone NAAQS would not have to fulfill that requirement through reductions of VOC again. Instead, States with such areas must obtain 15% ozone precursor emission reductions from VOC and/or NO_x over the first 6 years after the baseline year for the 2015 ozone NAAQS. Illinois previously met the 15% VOC reduction requirement of CAA section 182(b)(1) for the Chicago and Metro East areas under the 1-hour ozone NAAQS. Therefore, the State may rely upon both VOC and NO_x emissions reductions to meet the RFP requirement for the 2015 ozone NAAQS.

The SIP Requirements Rule specifies that the baseline emissions inventory for RFP plans shall be the most recent

calendar year prior to designation for which a complete triennial inventory is required to be submitted to the EPA under the provisions of subpart A of 40 CFR part 51, AERR, 40 CFR 51.1 through 50. For areas designated as nonattainment in 2018, the most recent triennial inventory year conducted for the NEI pursuant to the AERR rule is 2017. The rule also allows the use of an alternative RFP baseline year that corresponds with the year of the effective date of an area's designation, *i.e.*, 2018 for areas designated nonattainment in 2018.¹¹

States may not take credit for VOC or NO_x reductions occurring from sources outside the nonattainment area for purposes of meeting the 15% RFP requirements of CAA sections 172(c)(2), 182(b)(1) and 182(c)(2)(B).¹²

Except as specifically provided in CAA section 182(b)(1)(C) and (D) and CAA section 182(c)(2)(B), all emission reductions from SIP-approved or federally promulgated measures that occur after the baseline emissions inventory year are creditable for purposes of the RFP requirements in this section, provided the reductions meet the requirements for creditability, including the need to be enforceable, permanent, quantifiable, and surplus. Further, the Administrator has determined that the four categories of control measures listed in CAA section 182(b)(1)(D) are no longer required to be calculated for exclusion in RFP analyses because due to the passage of time the effect of these exclusions would be *de minimis*.¹³

2. Illinois' 15% RFP Plan

Emission Inventories

To demonstrate that the Chicago and Metro East areas have achieved 15% RFP over the 6-year attainment planning period, Illinois EPA is using a 2017 base year inventory and a 2023 RFP inventory. The procedures Illinois EPA

⁸ October 2022 Performance Standard Modeling Guidance, p. 10.

⁹ Ibid.

¹⁰ 83 FR 62998 through 63036 at 63004, December 6, 2018.

¹¹ 83 FR 62998 through 63036 at 63005, December 6, 2018, codified at 40 CFR 51.1310(b).

¹² 40 CFR 51.1310(a)(6).

¹³ 40 CFR 51.1310(a)(7).

used to develop the 2017 base year inventory are discussed in section I.A. of this preamble. A 2016 base year inventory was used to project 2023 emissions. The 2016 base year was selected because of meteorology, typical ozone conditions, and average wildfire conditions. Comparing Illinois' 2017 base year inventory to the 2016 base year inventory used to project 2023 emissions, Illinois' 2017 base year inventory VOC and NO_x emissions are higher. Therefore, projected emissions reductions for both pollutants in the RFP demonstration are more conservative when compared to the 2016 inventory. For both Chicago and Metro East, these base year emissions are substituted for 2017 data in all cases, except for onroad emissions projections. For the Chicago nonattainment area, the on-road mobile emissions were updated in this document to reflect the most up to date MOVES3 modeling at the time of analysis and motor information and

were used to project 2023 emissions from a 2019 base year. The 2019 base year was chosen as it had more detailed modeling information for the Chicago NAA compared to 2017. Since on-road emissions have trended downward from 2017 to 2020 based on NEI data, the 2019 base year should have lower emissions than the 2017 base year, therefore, estimates of emissions reductions between 2023 and 2019 are less than estimates between 2023 and 2017. Thus, the 2019 base year on-road mobile emissions can be conservatively substituted for 2017 data in all cases. For the Metro East nonattainment area, the on-road mobile emissions were updated in this document to reflect the most up to date MOVES3 modeling at the time of analysis and motor information and were used to project 2023 emissions from a 2017 base year. The primary source of data for point sources was the source-reported 2017 annual emissions reports. Area source

emissions are estimated by multiplying an emission factor by a known indicator of activity for a source category. The 2016v1 modeling platform used projection methods for the 2023 emissions inventory that are specific to the type of emissions source. In general, future emissions are projected from the 2016 base case through running models or adjusting base year emissions based on best estimates of changes expected to occur. Two electrical generating units (EGUs) announced shutdown before 2023 but after the development of the inventory; therefore, the Eastern Regional Technical Advisory Committee provided an EGU 16.2 beta inventory forecast for 2023 that was modified to remove the 2023 emissions from these units.

2023 ozone season day emissions of NO_x and VOC for the Chicago and Metro East areas are shown in Table 3.

TABLE 3—2023 BASE YEAR OZONE SEASON EMISSIONS
[Tons/day]

Area	Pollutant	Point source	Area source	On-road mobile	Off-road mobile	Total
Chicago	NO _x	66.59	93.11	150.90	53.34	345.92
	VOC	45.80	211.45	49.00	44.61	350.86
Metro East	NO _x	9.14	7.48	9.87	3.28	29.76
	VOC	7.97	18.80	4.79	2.80	34.35

15% RFP Demonstration

Illinois EPA demonstrated that the Chicago and Metro East Areas have achieved 15% RFP over the 6-year attainment planning period through VOC and NO_x emission reductions.

Illinois has documented Federal control measures and State measures adopted into the Illinois SIP that are permanent and enforceable and can be used to achieve emissions reductions. Illinois chose to count 2% VOC reductions and 13% NO_x reductions for Chicago and

3% VOC reductions and 12% NO_x reductions for Metro East from 2017–2023 to meet the 15% RFP requirement. Table 4 shows the calculations used to determine that emissions reductions in both areas are sufficient to meet the 15% RFP requirement.

TABLE 4—DEMONSTRATION OF 15% RFP REQUIREMENT
[Tons/day]

Step	Description	Formula	Area			
			Chicago		Metro East	
			NO _x	VOC	NO _x	VOC
1	2017 Base Year Inventory .....	.....	429.29	361.50	42.06	38.19.
2	RFP Reductions totaling 15% .....	.....	13%	2%	12%	3%.
3	Emissions reductions required between base and future year	Step 1 × Step 2	55.81	7.23	5.05	1.15.
4	Reductions between 2017 to 2023 from Federal on-road control programs.	.....	57.30	9.20	7.57	2.02.
5	Adjustments to reductions Increase for mobile source budget .....	.....	1.49	1.97	2.52	0.87.
6	Creditable reductions from on-road control programs	Step 4 – Step 5	55.81	7.23	5.05	1.15.
7	Compare creditable reductions to determine if at least 15% reduction is achieved.	Is Step 6 ≥ Step 3?	Yes	Yes	Yes	Yes.
8	RFP Target Level	Step 1 – Step 3	373.48	354.27	37.01	37.05.
9	Projected 2023 emissions .....	.....	345.92	350.86	29.76	34.35.
10	Compare RFP target with projected 2023 emissions to determine if RFP requirements are met.	Is Step 8 ≥ Step 9?	Yes	Yes	Yes	Yes.

3. Evaluation of Illinois' 15% RFP Plan

EPA has reviewed Illinois' 15% RFP plan for consistency with sections 172(c)(2) and 182(b)(1) of the CAA and 40 CFR 51.1310. The selection of 2017 as the base year comports with the RFP baseline year requirements set forth in the SIP Requirements Rule and codified at 40 CFR 51.1310(b). The EPA has reviewed the techniques used by Illinois to derive the 2017 and 2023 emission estimates. Illinois documented the procedures used to estimate the emissions for each of the major source types. The documentation of emission estimation procedures is thorough and adequate to determine that Illinois followed acceptable procedures to estimate the emissions. Illinois has demonstrated that these emission reductions are permanent and enforceable and will result in at least 15% RFP in the Chicago and Metro East areas over the six-year attainment planning period beginning with the 2017 base year. Thus, the EPA is proposing to approve Illinois' 15% RFP

plan for both areas for the 2015 ozone NAAQS.

D. Motor Vehicle Emission Budgets

1. Background

Under section 176(c) of the CAA, transportation plans, programs, or projects that receive Federal funding or support, such as the construction of new highways, must "conform" to (*i.e.*, be consistent with) the SIP before they receive Federal funding or approval. Conformity to the SIP means that transportation activities will not cause or contribute to any new air quality violations, increase the frequency or severity of any existing air quality problems, or delay timely attainment or any required interim emissions reductions or any other milestones. Regulations at 40 CFR part 93 subpart A set forth the EPA policy, criteria, and procedures for demonstrating and ensuring conformity of transportation activities to a SIP.

Transportation conformity is a requirement for nonattainment and

maintenance areas, as defined in 40 CFR 93.101. The budget in a State's SIP serves as a ceiling on emissions from an area's planned transportation system (see definition of "motor vehicle emissions budget" in 40 CFR 93.101 and how the term is used in 40 CFR 93.109 and 93.118).

2. VOC and NO_x Budgets for the Chicago and Metro East Areas

The RFP plan includes VOC and NO_x budgets for the Chicago and Metro East areas for 2023, the milestone year for RFP. These inventories were developed using up-to-date assumptions about vehicles mile traveled (VMT), vehicle type and age distribution, fuels used, weather inputs, other planning assumptions, and the latest approved motor vehicle emissions model at the time Illinois EPA began to prepare the SIP submission, which was MOVES3. Total on-road emissions in both the Chicago and Metro East areas are shown in Table 5.

TABLE 5—TOTAL ON-ROAD EMISSIONS IN THE CHICAGO AND METRO EAST AREAS
[Tons/day]

Area	Pollutant	2017	2023	Difference
Chicago	NO _x	208.20	150.90	– 57.30
	VOC	58.20	49.00	– 9.20
Metro East	NO _x	17.44	9.87	– 7.57
	VOC	6.81	4.79	– 2.02

Table 6 identifies Illinois' 2023 budgets. The budgets, agreed upon as part of the interagency consultation process, include the emission estimates

calculated for 2023 with an additional safety margin allocated to those estimates to accommodate future variations in travel demand models and

VMT forecasts. A State can add a safety margin to a budget based on the transportation conformity regulation at 40 CFR 93.124(a).

TABLE 6—PROPOSED MOTOR VEHICLE EMISSIONS BUDGETS FOR THE IL NONATTAINMENT AREAS
[Tons/day]

Area	Pollutant	2023 Estimated mobile emissions	Applied safety margin	Motor vehicle emissions budget
Chicago	NO _x	150.9	14.88	165.78
	VOC	49.0	3.47	52.47
Metro East	NO _x	9.87	4.42	14.29
	VOC	4.79	1.98	6.77

3. Evaluation of the VOC and NO_x Budgets

The VOC and NO_x budgets for the Chicago and Metro East areas were developed as part of an interagency consultation process which includes Federal, State, and local agencies. The budgets were clearly identified and precisely quantified. Illinois has demonstrated that both the Chicago and Metro East areas can meet the 15% RFP requirement in 2023 with mobile source

emissions of 165.78 tpd of NO_x and 52.47 tpd of VOC and 14.29 tpd of NO_x and 6.77 tpd of VOC, respectively, despite partial allocation of the RFP plan surplus reductions that can be seen in Table 4. The EPA is thus proposing to approve the 2023 VOC and NO_x budgets for use in determining transportation conformity in the Chicago and Metro East areas under the 2015 ozone NAAQS.

When reviewing submitted SIPs containing budgets, the EPA reviews the

budgets for adequacy. Once the EPA finds the submitted budget is adequate for transportation conformity purposes, that budget must be used by State and Federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a budget are set out in 40 CFR 93.118(e)(4). The process for determining adequacy is found in 40 CFR 93.118(f) and consists

of three basic steps: public notification of a SIP submission, a public comment period, and issuance of the EPA's adequacy finding. The regulations that allow the EPA to begin an adequacy review through a notice of proposed rulemaking in the **Federal Register** are found in 40 CFR 93.118(f)(2). This proposal notifies the public that the EPA has received a SIP submission with budgets that the EPA will review for adequacy and begins the public comment period. Comments must be submitted to the docket for this proposal by the close of the comment period on this proposal. The EPA invites the public to comment on the adequacy of these budgets as well as on its proposed approval of the budgets and on other actions the EPA is proposing in this action.

E. NNSR Review

1. Background

NNSR is a preconstruction review permit program that applies to new major stationary sources or major modifications at existing sources within a nonattainment area and is required under CAA sections 172(c)(5) and 173. NNSR permit program requirements were adopted for the 2015 ozone NAAQS at 40 CFR 51.1314 as part of the 2015 SIP Requirements Rule. The minimum SIP requirements for NNSR permitting programs for the 2015 ozone NAAQS are contained in 40 CFR 51.165. The SIP for each ozone nonattainment area must contain NNSR provisions that: (1) set major source thresholds for NO_x and VOC pursuant to 40 CFR 51.165(a)(1)(iv)(A)(1)(i) through (iv) and (2); (2) classify physical changes as a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(3); (3) consider any significant net emissions increase of NO_x as a significant net emissions increase for ozone pursuant to 40 CFR 51.165(a)(1)(v)(E); (4) consider any increase of VOC emissions in Extreme ozone nonattainment areas as a significant net emissions increase and a major modification for ozone pursuant to 40 CFR 51.165(a)(1)(v)(F); (5) set significant emissions rates for VOC and NO_x as ozone precursors pursuant to 40 CFR 51.165(a)(1)(x)(A) through (C) and (E); (6) contain provisions for emissions reductions credits pursuant to 40 CFR 51.165(a)(3)(ii)(C)(1) through (2); (7) provide that the requirements applicable to VOC also apply to NO_x pursuant to 40 CFR 51.165(a)(8); (8) set offset ratios for VOC and NO_x pursuant to 40 CFR 51.165(a)(9)(ii) through (iv); and (9) require public participation

procedures compliant with 40 CFR 51.165(i).

2. Illinois' NNSR Certification

Illinois affirms that the existing NNSR for new major stationary sources or major modifications located in areas that the EPA has designated as nonattainment for a particular criteria pollutant are sufficient to meet Moderate requirements. Illinois administers this program through 35 Ill. Adm. Code Part 203, Major Stationary Sources Construction and Modification. Illinois also implements a minor NSR permit program through 35 Ill. Adm. Code Part 204, Prevention of Significant Deterioration (PSD). New major stationary sources or major modifications subject to NNSR are required to obtain emission offsets for volatile organic material or nitrogen oxides at ratio of 1.15 to 1 in areas classified as Moderate nonattainment for ozone. The requirements of the NNSR program were most recently submitted to the EPA as a SIP revision for the 2008 ozone NAAQS on May 24, 2018, and approved on October 9, 2018 (83 FR 50551).

Illinois' PSD program set forth at 35 Ill. Adm. Code 204, was approved by the EPA into Illinois' SIP on September 9, 2021 (86 FR 50459) and became effective October 12, 2021. These program requirements along with the NNSR program ensure that the initial construction of new major stationary sources and major modifications of stationary sources do not cause or contribute to a violation of the 2015 ozone NAAQS.

3. Evaluation of Illinois' NNSR Certification

EPA has reviewed Illinois' approved NNSR rules and is proposing to approve Illinois' certification submittal because we find that the current SIP-approved NNSR program satisfies all the NNSR program requirements currently applicable to the moderate areas for the 2015 ozone NAAQS.

V. What action is the EPA taking?

EPA is proposing to approve portions of Illinois' attainment plan SIP revision request, dated December 18, 2024, pursuant to section 110 and part D of CAA. The Illinois attainment plan submission satisfies the base year emissions inventory, the RFP demonstration including 2023 budgets, I/M certification, and NNSR requirements of the CAA for the Chicago and Metro East nonattainment areas for the 2015 ozone NAAQS. The EPA is also initiating the adequacy process of the 2023 budgets for the Chicago and

Metro East St. Louis Moderate ozone nonattainment RFP demonstration included in this SIP submission.

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rulemaking does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as

specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 3, 2026.

Anne Vogel,

Regional Administrator, Region 5.

[FR Doc. 2026-02842 Filed 2-11-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2025-2270; FRL-13190-01-R6]

Air Plan Approval; Oklahoma; Interstate Transport Requirements for the 2010 SO₂ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve the portion of the State Implementation Plan (SIP) submittal from the state of Oklahoma demonstrating that the State satisfies the interstate transport requirements of section 110, also known as the “good neighbor” provision of the Clean Air Act (CAA or Act), for the 2010 1-hour sulfur dioxide (SO₂) primary National Ambient Air Quality Standard (NAAQS). The good neighbor provision requires each State’s implementation plan to contain adequate provisions prohibiting the interstate transport of air pollution in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of a NAAQS in any other State.

DATES: Written comments must be received on or before March 16, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R06-OAR-2025-2270, at <http://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be

Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.*, CBI).

FOR FURTHER INFORMATION CONTACT: Ms. Nevine Salem, EPA Region 6 Office, Air and Radiation Division, Infrastructure and Ozone Section, (214) 665-7222, salem.nevine@epa.gov. We encourage the public to submit comments via <https://www.regulations.gov>. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

A. Infrastructure SIPs

On June 2, 2010, the EPA established a revised primary 1-hour SO₂ NAAQS with a level of 75 parts per billion (ppb), based on a three-year average of the annual 99th percentile of daily maximum 1-hour average concentrations.¹ CAA section 110(a)(1) requires all states to submit, within three years after promulgation of a new or revised NAAQS, SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS.² The EPA has historically referred to these SIPs as “infrastructure

SIPs.” Specifically, section 110(a)(1) provides the procedural and timing requirements for SIP submissions. Section 110(a)(2) lists specific elements that all states must meet related to a newly established or revised NAAQS, such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS.

Section 110(a)(2)(D)(i)(I) of the CAA requires a state’s SIP to include provisions prohibiting any source or other type of emissions activity in the state from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in any other state. The EPA has long interpreted this language to enact a “functional prohibition” on certain emissions from upwind states, necessitating the EPA’s independent assessment of whether those emissions will occur or have been adequately controlled in the state where they originate.³ The EPA often refers to these requirements as Prong 1 (significant contribution to nonattainment of the NAAQS) and Prong 2 (interference with maintenance of the NAAQS). We are addressing Prongs 1 and 2 in this action. All other applicable infrastructure SIP requirements of the Oklahoma SIP submission are addressed in separate rulemakings.

B. 2010 1-Hour SO₂ NAAQS Designations Background

In this proposed action, the EPA has considered information from the 2010 1-hour SO₂ NAAQS designations process which is discussed in more detail in section III.C of this notice. For this reason, a brief summary of the EPA’s designations process for the 2010 1-hour SO₂ NAAQS is included here.⁴

³ See *Genon Rema LLC v. EPA*, 722 F.3d 513, 520–24 (3d Cir. 2013); *Appalachian Power Co. v. EPA*, 249 F.2d 1032, 1045–47 (D.C. Cir. 2001); see also 71 FR 25328, 25335 (April 28, 2006) (explaining that the SIP/FIP process under section 110 and the petitioning process for direct federal regulation under section 126 provide independent means of effectuating the same “functional prohibition” found in CAA section 110(a)(2)(D)(i)(I)).

⁴ While designations may provide useful information for purposes of analyzing transport, particularly for a more source-specific pollutant such as SO₂, EPA notes that designations themselves are not dispositive of whether upwind emissions are impacting areas in downwind states. EPA has consistently taken the position that CAA section 110(a)(2)(D)(i)(I) requires elimination of significant contribution and interference with maintenance in other states, and this analysis is not limited to designated nonattainment areas. Nor must designations for nonattainment areas have first occurred before states or the EPA can act under

Continued

¹ See 75 FR 35520 (June 22, 2010).

² In 2012, the EPA retained the current secondary NAAQS for SO₂. Thus, the CAA section 110(a)(1) requirement to submit an infrastructure SIP for this secondary standard was not triggered. The secondary SO₂ standard is 500 ppb averaged over three hours, not to be exceeded more than once per year. See 77 FR 20218 (April 3, 2012).

After the promulgation of a new or revised NAAQS, the EPA is required to designate areas as “nonattainment,” “attainment,” or “unclassifiable” pursuant to section 107(d)(1)–(2) of the CAA. The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d) of the CAA. The CAA requires the EPA to complete the initial designations process within two years of promulgating a new or revised standard. If the Administrator has insufficient information to make these designations by that deadline, the EPA has the authority to extend the deadline for completing designations by up to one year.

The EPA promulgated the 2010 1-hour SO₂ NAAQS on June 2, 2010. *See* 75 FR 35520 (June 22, 2010). The EPA Administrator signed the first round⁵ of designations; “Round 1”⁶ for the 2010 1-hour SO₂ NAAQS on July 25, 2013, designating 29 areas in 16 States as nonattainment for the 2010 1-hour SO₂ NAAQS. *See* 78 FR 47191 (August 5, 2013). The EPA Administrator signed **Federal Register** notices for Round 2 designations⁷ on June 30, 2016 (81 FR 45039 (July 12, 2016)) and on November 29, 2016 (81 FR 89870 (December 13, 2016)). Round 3 designations⁸ were signed on December 21, 2017 (83 FR 1098 (January 9, 2018)) and March 28, 2018 (83 FR 14597 (April 5, 2018)). Round 4 designations⁹ were signed on December 21, 2020 (86 FR 16055 (March

section 110(a)(2)(D)(i)(I). *See, e.g.,* Clean Air Interstate Rule, 70 FR 25162, 25265 (May 12, 2005); Cross State Air Pollution Rule, 76 FR 48208, 48211 (Aug. 8, 2011); Final Response to Petition from New Jersey Regarding SO₂ Emissions From the Portland Generating Station, 76 FR 69052 (Nov. 7, 2011) (finding facility in violation of the prohibitions of CAA section 110(a)(2)(D)(i)(I) with respect to the 2010 1-hour SO₂ NAAQS prior to issuance of designations for that standard).

⁵ The term “round” in this instance refers to which “round of designations.”

⁶ The EPA and state documents and public comments related to the Round 1 final designations are in the docket at [regulations.gov](https://www.regulations.gov) with Docket ID No. EPA–HQ–OAR–2012–0233 and at EPA’s website for SO₂ designations at <https://www.epa.gov/sulfur-dioxide-designations>.

⁷ The EPA and state documents and public comments related to the Round 2 final designations are in the docket at [regulations.gov](https://www.regulations.gov) with Docket ID No. EPA–HQ–OAR–2014–0464 and at EPA’s website for SO₂ designations at <https://www.epa.gov/sulfur-dioxide-designations>.

⁸ The EPA and state documents and public comments related to Round 3 final designations are in the docket at [regulations.gov](https://www.regulations.gov) with Docket ID No. EPA–HQ–OAR–2017–0003 and at EPA’s website for SO₂ designations at <https://www.epa.gov/sulfur-dioxide-designations>.

⁹ The EPA and state documents and public comments related to Round 4 final designations are in the docket at [regulations.gov](https://www.regulations.gov) with Docket ID No. EPA–HQ–OAR–2020–0037 and at EPA’s website for SO₂ designations at <https://www.epa.gov/sulfur-dioxide-designations>.

26, 2021))¹⁰ and April 8, 2021 (86 FR 19576 (April 14, 2021)).¹¹

For Oklahoma, the EPA designated Choctaw County, as unclassifiable/attainment in round 2, based on modeling submitted by Oklahoma Department of Environmental Quality (ODEQ). On January 9, 2018 (83 FR 1098), the EPA designated Kay, Le Flore, and Rogers Counties as attainment/unclassifiable based on modeling submitted by ODEQ. In the EPA’s multiple rounds of SO₂ designations, all Oklahoma’s counties were designated attainment/unclassifiable. At the time of this action, there are no designated nonattainment areas in Oklahoma or in any other states within 50 km of the Oklahoma border.

II. Relevant Factors Used To Evaluate 2010 1-Hour SO₂ Interstate Transport SIPs

Although SO₂ is emitted from a similar universe of point and nonpoint sources as directly emitted fine particulate matter (PM_{2.5}) and the precursors to ozone and PM_{2.5}, interstate transport of SO₂ is unlike the transport of PM_{2.5} or ozone, which disperse over a wide area and can contribute to nonattainment or maintenance issues hundreds of miles from precursor-emitting sources or activities. SO₂ emissions usually do not undergo long-range transport in the atmosphere. The transport of SO₂ relative to the 2010 1-hour SO₂ NAAQS is more analogous to the transport of lead (Pb) relative to the Pb NAAQS in that emissions of SO₂ typically result in 1-hour pollutant impacts of greatest concern near the emissions source. However, ambient 1-hour concentrations of SO₂ do not

decrease as quickly with distance from the source as do 3-month average concentrations of Pb, because SO₂ gas is not removed by deposition as rapidly as are Pb particles. Emitted SO₂ has wider-ranging impacts than emitted Pb, but it does not have such wide-ranging (far downwind) impacts that treatment in a manner similar to ozone or PM_{2.5} would be appropriate. Accordingly, the approaches that EPA has adopted for ozone or PM_{2.5} transport are too regionally focused, and the approach for Pb transport is too tightly circumscribed to the source, to be appropriate for assessing SO₂ transport. SO₂ transport is therefore a unique case and necessitates an analytical approach that examines potential impacts that are further from the source than would be examined for Pb transport but less regional in scope than ozone or PM transport.

In this proposed rulemaking, and consistent with prior SO₂ transport analyses, the EPA focused on a 50 kilometer (km)-wide zone around sources of interest because the physical properties of SO₂ result in relatively localized pollutant impacts near an emissions source that drop off with distance. Given the properties of SO₂, the EPA believes that significant impacts in a downwind state are unlikely at distances greater than 50 km from a source and thus, we are focusing our review on areas within 50 km of the state lines. This scale of analysis is consistent with the “urban scale” which is the largest appropriate spatial scale for SO₂ monitors and is useful for assessing SO₂ transport and trends in area-wide air quality.¹²

Oklahoma certified that its 2010 SO₂ SIP meets the transport Prong 1 and 2 infrastructure obligation for the 2010 Primary SO₂ NAAQS and has no sources or activities within Oklahoma contribute significantly to nonattainment or interfere with maintenance, in any other state. The EPA elected to review and assess other available information regarding SO₂ emissions and air quality in Oklahoma to assist in our own evaluation. We independently analyzed such information to determine whether Oklahoma meets the interstate transport requirements described in the CAA.¹³

¹² For the definition of spatial scales for SO₂, see 40 CFR part 58, Appendix D, section 4.4 (“Sulfur Dioxide (SO₂) Design Criteria”). For further discussion on how the EPA applies these definitions with respect to interstate transport of SO₂, see the EPA’s proposed rulemaking on Connecticut’s SO₂ transport SIP. *See* 82 FR 21351, 21352, 21354 (May 8, 2017).

¹³ This proposed approval of Oklahoma SIP submission under CAA section 110(a)(2)(D)(i)(I) is based on the information contained in the administrative record for this action and does not

¹⁰ The Round 4 2010 1-hour SO₂ NAAQS designations action was signed by former EPA Administrator Andrew Wheeler on December 21, 2020, pursuant to a court-ordered deadline of December 31, 2020. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, former Acting Administrator Jane Nishida re-signed the same action on March 10, 2021, for publication in the **Federal Register**.

¹¹ On August 21, 2015 (80 FR 51052), EPA separately promulgated air quality characterization requirements for the 2010 1-hour SO₂ NAAQS in the Data Requirements Rule (DRR). The DRR requires state air agencies to characterize air quality, through air dispersion modeling or monitoring, in areas associated with sources that emitted in 2014 2,000 tons per year (tpy) or more of SO₂, or that have otherwise been listed under the DRR by EPA or state air agencies. In lieu of modeling or monitoring, state air agencies, by specified dates, could elect to impose federally enforceable emissions limitations on those sources restricting their annual SO₂ emissions to less than 2,000 tpy, or provide documentation that the sources have been shut down. EPA used the information generated by implementation of the DRR to help inform Round 4 designations for the 2010 1-hour SO₂ NAAQS.

Consistent with our prior evaluations of other states' SO₂ transport obligations, we conducted a weight of evidence (WOE) analysis evaluating several sources of information, including current air quality data from monitors as well as available emissions and/or source modeling for sources in Oklahoma and in neighboring states within 50 km of the Oklahoma border. A WOE approach can be appropriate in instances, such as this case, to determine whether SO₂ emissions from Oklahoma contribute to nonattainment or maintenance issues in adjoining states. A WOE analysis that is based solely on available data may not be sufficient in all instances for evaluating interstate SO₂ transport, and additional analysis may be necessary. Further, the term "WOE" does not establish the legal or technical meaning for what constitutes significant contribution to nonattainment or interference with maintenance for the 2010 SO₂ NAAQS. Rather, the term refers to the gathering and consideration of a wide range of information, on a case-by-case basis, to make a determination regarding whether a statutory or regulatory requirements met.

In other SO₂ transport actions, the EPA has typically been able to use a WOE analysis to reach a conclusion that there are no SO₂ nonattainment or maintenance issues in the relevant areas of other states, or that no sources in the upwind state are contributing to those issues. If the available evidence indicated, however, that an upwind source, sources, or emissions activities were contributing to an out-of-state SO₂ nonattainment or maintenance problem, then further analysis and a regulatory determination would be necessary concerning what amount of those emissions, if any, constituted "significant contribution" under Prong 1 or Prong 2 of the good neighbor provision.

We find that there is sufficient information to support the EPA's proposed determination that, under baseline conditions and likely future emissions scenarios, no Oklahoma sources are contributing or will

contribute to any out-of-state SO₂ nonattainment or maintenance concerns, and therefore it is not necessary for the purposes of this action to render a determination concerning what amount of emissions would be "significant" and therefore subject to prohibition under the good neighbor provision.¹⁴

III. Oklahoma's SIP Submission and EPA's Analysis

A. State Submission

On January 28, 2015, Oklahoma submitted the 2010 SO₂ NAAQS infrastructure SIP (i-SIP) submittal addressing how the existing Oklahoma SIP provides for the implementation, maintenance and enforcement of the 2010 1-hour SO₂ NAAQS.¹⁵ On December 9, 2016 (81 FR 89008), the EPA approved most elements of the Oklahoma SO₂ i-SIP but took no action on elements of Section 110(a)(2)(D)(i)(I), prongs 1 and 2, regarding the contribution to nonattainment and interfere with maintenance of the 2010 SO₂ NAAQS in other states. On a letter dated May 28, 2021, the EPA received Oklahoma's revised certification of Transport Prong 1 & 2 elements for the 2010 Primary 2010 SO₂ NAAQS under CAA Section 110(a)(2).¹⁶

In its submittal, Oklahoma certified that its 2010 SO₂ SIP meets the transport Prong 1 and 2 infrastructure obligation for the 2010 Primary SO₂ NAAQS and has no sources or activities within Oklahoma contribute significantly to nonattainment or interfere with maintenance, in any other state. Public notice for the Oklahoma submittal was posted on the Oklahoma Department of Environmental Quality (ODEQ) website on April 21, 2021, to allow the opportunity to provide comments and to request a public hearing scheduled May 24, 2021, at ODEQ's offices. No hearing requests or written comments were received during the 30-day comment period.

EPA elected to review and assess other available information, as described below and in more detail in

the TSD for this action, regarding SO₂ emissions and air quality for sources in Oklahoma to assist in our evaluation and to fully assess whether Oklahoma was meeting its CAA good neighbor obligations for the 2010 SO₂ NAAQS.

B. EPA's Evaluation Methodology

For this CAA section 110(a)(2)(D)(i)(I) evaluation of the 2010 SO₂ NAAQS, the EPA conducted a WOE analysis for Prong 1 and Prong 2 separately,¹⁷ evaluating available information such as air quality, emission sources, modeling, and emission trends in Oklahoma and the states that border Oklahoma. To identify which sources and emissions activities in Oklahoma could potentially impact downwind air quality in other states with respect to the 2010 1-hour SO₂ NAAQS, the EPA used information in the EPA's National Emissions Inventory (NEI)¹⁸ and Emissions Inventory System (EIS).¹⁹ The NEI is a comprehensive and detailed estimate of air emissions for criteria pollutants, criteria pollutant precursors, and hazardous air pollutants from air emissions sources, updated every three years using information provided by the states and other information available to the EPA. For analyses, we largely relied on data from the 2020 NEI, because it is the most recently available, complete, and quality assured dataset. However, in evaluating emissions trends, both state-wide and at the facility level, the EPA also considered data from prior NEI reports and EIS queries, as part of the overall WOE analysis.

As shown in Table 1, the majority of SO₂ emissions in Oklahoma originate from point sources. In 2020, total SO₂ emissions from point sources in Oklahoma comprised approximately 79 percent of the total SO₂ emissions in the State. Non-point sources, on road, and non-road emissions sources contribute to a much smaller portion of total SO₂ emissions; these emissions are also more dispersed throughout the State and are therefore unlikely to contribute to high ambient concentrations of SO₂ when compared to point source contributions. Further analysis²⁰ shows

prejudice any other future EPA action that may make other determinations regarding Oklahoma's air quality status and downwind states. Any such future actions, such as area designations under any NAAQS or action on petitions submitted under CAA section 126(b), will be based on their own administrative records and EPA's analyses of information that becomes available at those times. Future available information may include, and is not limited to, monitoring data and modeling analyses conducted pursuant to EPA's Data Requirements Rule (80 FR 51052, August 21, 2015) and information submitted to EPA by states, air agencies, and third-party stakeholders such as citizen groups and industry representatives.

¹⁴ Cf. *Genon Rema v. EPA*, 722 F.3d 513 (3d Cir. 2013) (upholding EPA grant of CAA section 126(b) petition and establishment of direct federal emissions control requirements on SO₂ source in Pennsylvania found to be significantly contributing to nonattainment and interfering with maintenance of the 2010 SO₂ NAAQS in New Jersey).

¹⁵ See fn #13.

¹⁶ On April 2, 2021, the State of Oklahoma submitted the 2010 SO₂ interstate transport SIP without a public notice or an opportunity to request a hearing. ODEQ's revised SO₂ Interstate Transport SIP submittal letter on May 28, 2021, to the EPA, Region 6 serve to withdraw and replace the submittal made by the State of Oklahoma on April 2, 2021.

¹⁷ In *North Carolina v. EPA*, 531 F.3d at 910–911 (D.C. Cir. 2008), the D.C. Circuit explained that the regulating authority must give Prong 2 "independent significance" from Prong 1 by evaluating the impact of upwind state emissions on downwind areas that, while currently in attainment, are at risk of future nonattainment.

¹⁸ EPA's NEI is available at <https://www.epa.gov/air-emissions-inventories/national-emissions-inventory>.

¹⁹ The EIS Gateway was developed to provide only registered EPA, State, local, and Tribal users with access to emission inventory data for sources in their jurisdiction.

²⁰ See EPA's TSD for a more detailed discussion.

that facilities with reported emissions greater than 100 tons per year (tpy) represent approximately less than 2 percent of the total number of Oklahoma SO₂ point sources but are responsible

for 25,889 tons of SO₂ or 94 percent of the total 2020 SO₂ emissions.²¹ Based on this analysis, the EPA focused our WOE analysis on SO₂ emissions from Oklahoma's larger point sources (*i.e.*,

point sources emitting over 100 tpy of SO₂) that are located within 50 km of one or more state borders.

TABLE 1—SUMMARY OF SO₂ DATA FOR OKLAHOMA BY SOURCE CATEGORY

Category	2020 Emissions (tpy)	Percent of total SO ₂ emissions
Point	27,534	79
Nonpoint	7,281	21
On road	149	0
Nonroad	12	0
SO ₂ Emissions Total	34,976	100

As described in this section, the EPA proposes that an assessment of Oklahoma's satisfaction of the Prong 1 and 2 requirements under CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO₂ NAAQS may be reasonably based upon several factors. These factors include evaluation of the predicted downwind impacts projected in previous relevant modeling studies for the source and nearby areas, assessment of Oklahoma's SO₂ point source emissions of more than 100 tpy of SO₂ per facility that are located within approximately 50 km of another state, assessment of other states' point sources emitting more than 100 tpy of SO₂ located within approximately 50 km of Oklahoma, and assessment of federal regulations and SIP-approved regulations affecting Oklahoma's SO₂ sources. The EPA's evaluation is informed by all available data at the time of this rulemaking.²²

1. EPA's Prong 1 Evaluation—Contribute Significantly to Nonattainment

Prong 1 of the “good neighbor” provision requires states' plans to prohibit emissions that will contribute significantly to nonattainment of the NAAQS in another state. The EPA's evaluation²³ of whether Oklahoma has met its Prong 1 transport obligations was accomplished by considering all available information, including the following: SO₂ ambient air quality in Oklahoma and neighboring states; SO₂ emissions trends for Oklahoma and neighboring states; potential ambient impacts of SO₂ emissions from certain facilities²⁴ in Oklahoma on neighboring states; Oklahoma's SIP-approved

regulations specific to SO₂ emissions and permit requirements; and other SIP-approved or federally enforceable regulations which may reduce SO₂ emissions either directly or indirectly.

Based on the EPA's analysis, we propose to determine that there are no SO₂ nonattainment concerns in the relevant areas in other states bordering Oklahoma, and as such the EPA proposes to determine that Oklahoma's SIP satisfies the requirements of Prong 1 of CAA section 110(a)(2)(D)(i)(I). This proposed determination is based on the following considerations:

- There are no monitors within 50 km of the Oklahoma border recording violations of the 2010 SO₂ NAAQS, all these monitors have design values (DV) that are below the 75 ppb standard. Current DVs for Oklahoma's AQS SO₂ monitors within 50 km of another State's border remained below the 2010 1-hour SO₂ NAAQS from 2019–2024, similarly, SO₂ monitors in neighboring states (Arkansas, Texas, Kansas, and Missouri) within 50 km of Oklahoma have 2023 DVs (2021–2023) below the 2010 1-hour SO₂ NAAQS;

- Downward SO₂ emissions trends in Oklahoma and surrounding States (Arkansas, Texas, Kansas, and Missouri), when considered with other factors discussed as part of EPA's WOE analysis, further support that Oklahoma's sources will not significantly contribute to any State's nonattainment of the 2010 1-hour SO₂ NAAQS.

- Source-specific analyses of every Oklahoma source emitting 100 tpy or more and located within 50 km of the state border indicate that the sources do

not contribute to nonattainment in other states. These analyses draw upon available emissions data, monitoring data, air quality modeling, control requirements and/or unit retirement, wind rose data, and other relevant information to assess the likelihood of air quality impacts from these sources to areas in surrounding states. A detailed discussion of each source-specific analysis is contained in Section IV.B.1 of the TSD accompanying this action.

Below, we summarize the principal evidence that provides overall support for the EPA's proposed conclusion that SO₂ emissions from the five Oklahoma sources with annual emissions greater than 100 tpy and located within 50 km of another state are not likely to pose a transport concern.

River Valley Generating Station, Le Flore County

The EPA reviewed SO₂ emissions for River Valley Generating Station (formally, AES Shady Cogeneration Plant), whose emissions have been modeled, for the Round 3 SO₂ designations process, shows compliance with the standard, there are no other sources within Le Flore County that emit at or above 100 tpy, based on 2014–2020 NEI.²⁵ Additionally, the EPA confirmed that there were no other sources in Le Flore County or near its borders that were likely to cause or contribute to a violation of the NAAQS within Le Flore County or other states. The absence of nearby SO₂ sources in neighboring states that could interact with the annual SO₂ emissions emitted from River Valley Generating Station, the distance to any SO₂ sources in

²¹ See Table 8 in the EPA's TSD.

²² EPA notes that the evaluation of other states' satisfaction of section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO₂ NAAQS can be informed by similar factors found in this proposed rulemaking but may not be identical to the approach taken in this or any future rulemaking for Oklahoma, depending on

available information and state-specific circumstances.

²³ A detailed review of the EPA's evaluation of emissions, air monitoring data, other technical information, and rationale for proposed approval of this SIP revision as meeting CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO₂ NAAQS may be found in the TSD.

²⁴ The physical properties of SO₂ result in relatively localized pollutant impacts very near the emissions source. Therefore, the EPA selected a spatial scale with dimensions up to 50 km from point sources.

²⁵ Most recent (2022–2023) NEI data emissions show no other SO₂ emission sources at or above 100 tpy in Le Flore County.

nearby states, modeling results, and air monitoring values make it very unlikely for this source to be a transport concern for its neighboring states.

Hugo Power Station, Choctaw County

The Hugo Power Plant was included in Oklahoma's 2015 modeling for the Round 2 SO₂ designations process.²⁶ The EPA found in our referenced TSD that modeling submitted by the State for the Hugo Power Station showed attainment of the NAAQS and no significant impact upon adjacent or surrounding states. Additionally, the EPA has confirmed that there are no other sources in Choctaw County or near its borders that are likely to cause or contribute to a violation of the SO₂ NAAQS in Choctaw County or nearby adjacent states. The absence of violations from monitoring or modeling, the distance between the Hugo Power Plant and SO₂ sources in Arkansas and Texas, and the predominant wind pattern blowing towards Oklahoma from Texas, suggest that Hugo Power Plant source is not causing any air quality concerns for SO₂ transport in any state.

Cardinal Glass Plant, Bryan County

The Cardinal Glass Plant manufactures flat glass and is a relatively small SO₂ source that emitted between 100–160 tpy in the most recent four years. Given its low emissions in combination with its 17 km distance to Texas, no nearby sources either in Oklahoma or Texas, and the predominant winds in the direction of Oklahoma, we conclude that the Cardinal Gas Plant source is not causing any air quality concerns for SO₂ transport in any state.

Healdton Gas Plant, Carter County

The Healdton Gas Plant, a small SO₂ source of gas extraction in Carter County, Oklahoma, is located approximately 32 km north of the OK-TX border, reported relatively low emissions of 183 and 176 tpy in 2022 and 2023, respectively. Based on the

relatively low emissions of the source, the large distance between the Healdton Gas Plant in Oklahoma and two SO₂ sources in Texas, and the fact that these sources are aligned in directions that are some of the least frequent wind directions (WSW and ENE) such that these emissions would very rarely come together, the EPA proposes to find that it is very unlikely that emissions from Healdton Gas Plant contributes to SO₂ nonattainment or maintenance concerns in Texas.

Continental Carbon Black Production Facility (Continental Carbon), Kay County

Continental Carbon was identified as a DRR source and chose to comply with DRR via modeling in Round 3 of SO₂ designation. The state of Oklahoma provided through modeling an assessment and characterization of air quality impacts from this facility and other nearby sources²⁷ that may have a potential impact in the area where the 2010 SO₂ NAAQS may be exceeded.²⁸ We evaluated the EPA's TSD, which was a review of Oklahoma's submittal, noted that the source was modeled at its 2014 SO₂ emissions of 5,893 tpy, and noted that at a distance of 10 km north of the source that the maximum concentration was approximately 80 g/m³ (NAAQS level at 196 µg/m³). We concluded at that time that none of the sources in Kay County or near its borders were likely to cause or contribute to a violation of the NAAQS.

2. EPA's Prong 2 Evaluation—Interference With Maintenance

Prong 2 of the "good neighbor" provision requires state plans to prohibit emissions that will interfere with maintenance of a NAAQS in another state. The EPA's evaluation of whether Oklahoma has met its Prong 2 transport obligations was accomplished by considering all available information, with a focus on current air quality data, SO₂ emissions trends for Oklahoma and neighboring states, and how existing and future sources of SO₂ are addressed through existing SIP-approved and federally enforceable regulations. This evaluation builds upon the analysis conducted for significant contribution to nonattainment (Prong 1), which evaluated SO₂ ambient air quality in Oklahoma and neighboring states and

potential ambient impacts of SO₂ emissions from certain facilities in Oklahoma on neighboring states.

Based on the EPA's analysis, we propose to find that SO₂ levels near the Oklahoma border in neighboring states do not indicate an inability to maintain the 2010 SO₂ NAAQS that could be attributed in part to sources in Oklahoma, and as such, the EPA proposes to determine that Oklahoma's SIP submittal satisfies the requirements of Prong 2 of CAA section 110(a)(2)(D)(i)(I). This determination is based on the following considerations:

- Current 2021–2023 DVs for monitors in Oklahoma within 50 km of another state's border and in neighboring states (Arkansas, Texas, Kansas, Louisiana, and Missouri) within 50 km of Oklahoma's border are below the standard, indicating that these areas are currently in attainment of the 2010 1-hour SO₂ NAAQS;

- State-wide emissions trends in Oklahoma indicate generally declining SO₂ emissions and consequently declining impacts to the relevant areas;

- Source-specific analyses show that in most cases facility-level emissions are decreasing as a result of emissions unit control technology installation or shut down, indicating that emissions are not anticipated to increase relative to baseline emissions;

- Current Oklahoma statutes, SIP-approved measures, and federal emissions control programs control SO₂ emissions from certain sources with Oklahoma; and

- Oklahoma's SIP-approved PSD, major New Source Review (NSR) regulations and minor source NSR permit programs address future and new modified SO₂ sources above major and minor permitting thresholds with the intent of ensuring that the SO₂ NAAQS will not be exceeded as a result of new facility construction or existing facility modification within the state or surrounding states.

Based on the evaluation outlined in our TSD for this action, the EPA proposes to find that SO₂ emissions from Oklahoma will not interfere with maintenance of the 2010 1-hour SO₂ NAAQS in any other state.

IV. Impact on Areas of Indian Country

Following the U.S. Supreme Court decision in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020), the Governor of the State of Oklahoma requested approval under Section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005: A Legacy for Users, Public Law 109–59, 119 Stat. 1144, 1937 (August 10, 2005) ("SAFETEA"), to administer in certain

²⁶ Summaries of Hugo Power Plant modeling can be found in EPA's "Final Technical Support Document, Oklahoma, Area Designations for the 2010 SO₂ Primary National Ambient Air Quality Standard", located at https://www.epa.gov/sites/default/files/2016-07/documents/r6_ok_final_designation_tsd_06302016.pdf and <https://www.regulations.gov/document/EPA-HQ-OAR-2014-0464-0408>. The TSD containing our detailed review of Oklahoma's modeling submission for Choctaw County can be found in the preliminary determination page at <https://www.epa.gov/sulfur-dioxide-designations/so2-designations-round-2-oklahoma-state-recommendation-and-epa-response> as "EPA Response to Oklahoma Round 2 Recommendations—Attachment (pdf)" (downloadable file titled "ok-epa-tds-r2.pdf"). See p. 25–38 for the Choctaw County review.

²⁷ The state included all SO₂ sources within 50 km with emissions greater than 1 tpy.

²⁸ Detailed modeling information and EPA's assessment for Continental Carbon Black and nearby SO₂ sources in Kay County can be found in the technical support document for the Round 3 SO₂ designation documents: 33_ok_so2_rd3-final.pdf

areas of Indian country (as defined at 18 U.S.C. 1151) the State's environmental regulatory programs that were previously approved by the EPA outside of Indian country. The State's request excluded certain areas of Indian country further described below. In addition, the State only sought approval to the extent that such approval was necessary for the State to administer a program in light of *Oklahoma Dept. of Environmental Quality v. EPA*, 740 F.3d 185 (D.C. Cir. 2014).²⁹

The EPA has approved Oklahoma's SAFETEA request to administer all of the State's EPA-approved environmental regulatory programs in the requested areas of Indian country. As requested by Oklahoma, the EPA's approval under SAFETEA does not include Indian country lands, including rights-of-way running through the same, that: (1) qualify as Indian allotments, the Indian titles to which have not been extinguished, under 18 U.S.C. 1151(c); (2) are held in trust by the United States on behalf of an individual Indian or Tribe; or (3) are owned in fee by a Tribe, if the Tribe (a) acquired that fee title to such land, or an area that included such land, in accordance with a treaty with the United States to which such Tribe was a party, and (b) never allotted the land to a member or citizen of the Tribe (collectively "excluded Indian country lands").

The EPA's approval under SAFETEA expressly provided that to the extent the EPA's prior approvals of Oklahoma's environmental programs excluded Indian country, any such exclusions are superseded for the geographic areas of Indian country covered by the EPA's approval of Oklahoma's SAFETEA request.³⁰ The approval also provided that future revisions or amendments to Oklahoma's approved environmental regulatory programs would extend to the covered areas of Indian country (without any further need for additional requests under SAFETEA).

As explained above, the EPA is proposing to approve the portion of the State SIP submittal from the state of Oklahoma demonstrating that the State

satisfies the interstate transport requirements of section 110(a)(2)(D)(i)(I), for the 2010 1-hour SO₂ NAAQS which will apply statewide in Oklahoma. Consistent with the D.C. Circuit's decision in *ODEQ v. EPA* and with the EPA's SAFETEA approval, these SIP revisions will apply to areas of Indian country as follows: (1) pursuant to the SAFETEA approval, the SIP revisions will apply to all Indian country in the State of Oklahoma other than the excluded Indian country lands as described above; and (2) pursuant to the D.C. Circuit's decision in *ODEQ v. EPA*, the SIP revisions will also apply to any Indian allotments or dependent Indian communities that are located outside of any Indian reservation over which there has been no demonstration of tribal authority.

V. Proposed Action

The EPA is proposing to approve the prong 1 and prong 2 portions of Oklahoma's May 28, 2021 revised certification submittal addressing interstate transport for the 2010 1-hour SO₂ NAAQS. Based on the EPA's WOE analysis, more thoroughly discussed in the TSD, the EPA proposes to determine that emissions from Oklahoma will not contribute significantly to nonattainment in, or interfere with maintenance of, any other state with respect to the 2010 1-hr SO₂ NAAQS. We therefore propose to find that Oklahoma's SIP contains adequate provisions consistent with CAA section 110(a)(2)(D)(i)(I).

VI. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because State Implementation Plan approvals under the CAA are exempt from review under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

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

This proposed approval of the Oklahoma 2010 SO₂ Interstate Transport that requires each state SIP contain adequate provisions prohibiting the interstate transport of air pollution in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of a NAAQS in any other State, will apply, if finalized as proposed, to certain areas of Indian country throughout Oklahoma as discussed in the preamble, and therefore has tribal Implications as specified in as specified in E.O. 13175 (65 FR 67249, November 9, 2000). However, this action will neither impose substantial direct compliance costs on federally recognized Tribal governments, nor preempt tribal law. This action will not impose substantial direct compliance costs on federally recognized Tribal governments because no actions will be required of Tribal governments. This action will also not preempt Tribal law as no Oklahoma tribe implements a regulatory program under the CAA, and thus does not have applicable or related Tribal laws. Consistent with the EPA Policy on Consultation with Indian Tribes (December 7, 2023), the EPA has offered consultation to Tribal governments that may be affected by this action and provided information about this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by

²⁹ In *ODEQ v. EPA*, the D.C. Circuit held that under the CAA, states have the authority to implement a SIP in non-reservation areas of Indian country in the state, unless there has been a demonstration of tribal jurisdiction. Under the D.C. Circuit's decision, the CAA does not provide authority to states to implement SIPs in Indian reservations.

³⁰ The EPA's prior approvals relating to Oklahoma's SIP frequently noted that the SIP was not approved to apply in areas of Indian country (except as explained in the D.C. Circuit's decision in *ODEQ v. EPA*) located in the State. See, e.g., 85 FR 20178, 20180 (April 10, 2020). Such prior expressed limitations are superseded by the EPA's approval of Oklahoma's SAFETEA request.

reference, Sulfur dioxide, Reporting and recordkeeping requirements.

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

Dated: February 3, 2026.

Walter Mason,

Regional Administrator, Region 6.

[FR Doc. 2026–02841 Filed 2–11–26; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2022–0736; FRL–9406–01–R6]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Regional Haze State Implementation Plan for the Second Implementation Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the regional haze state implementation plan (SIP) revision submitted by the State of Oklahoma on August 9, 2022 (Oklahoma's 2022 SIP submission), to satisfy applicable requirements under the Clean Air Act (CAA) and the EPA's Regional Haze Rule (RHR) for the program's second implementation (planning) period. Oklahoma's SIP submission addresses the requirement that states must periodically revise their long-term strategies for making reasonable progress towards the national goal of preventing any future, and remedying any existing, anthropogenic impairment of visibility, including regional haze, in mandatory Class I Federal areas. The SIP submission also addresses other applicable requirements for the second implementation period of the regional haze program. The EPA is taking this action pursuant to the CAA.

DATES: Written comments must be received on or before March 16, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2022–0736 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is

restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.*, CBI).

FOR FURTHER INFORMATION CONTACT: Karolina Ruan Lei, EPA Region 6 Office, Air and Radiation Division, Regional Haze and SO₂ Section, 214–665–7346, ruan-lei.karolina@epa.gov. We encourage the public to submit comments via <https://www.regulations.gov>. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION:

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I. What action is the EPA proposing?

On August 9, 2022, the Oklahoma Secretary of Energy and Environment, the State of Oklahoma designee for submitting documents to the EPA for approval and incorporation into the SIP, submitted a revision to the Oklahoma SIP to address regional haze for the second implementation period. Oklahoma made this SIP submission to satisfy the requirements of the CAA's regional haze program pursuant to CAA sections 169A and 169B and 40 CFR 51.308. The EPA is proposing to find that the Oklahoma regional haze SIP submission for the second implementation period meets the applicable statutory and regulatory requirements and thus proposes to approve Oklahoma's submission into its SIP. Specifically, the EPA is proposing to approve Oklahoma's 2022 SIP submission as satisfying the requirements of:

- (1) 40 CFR 51.308(f)(1): calculations of baseline, current, and natural visibility conditions, progress to date, and the uniform rate of progress (URP);
- (2) 40 CFR 51.308(f)(2): long-term strategy;
- (3) 40 CFR 51.308(f)(3): reasonable progress goals (RPGs);
- (4) 40 CFR 51.308(f)(4): reasonably attributable visibility impairment (RAVI);
- (5) 40 CFR 51.308(f)(5) and 40 CFR 51.308(g): progress report requirements;
- (6) 40 CFR 51.308(f)(6): monitoring strategy and other implementation plan requirements; and
- (7) 40 CFR 51.308(i): Federal Land Manager (FLM) consultation.

II. Background and Requirements for Regional Haze Plans

A detailed history and background of the regional haze program is provided in multiple prior EPA proposal actions.¹ For additional background on the 2017 RHR revisions, please refer to section III of this document. Overview of Visibility Protection Statutory Authority, Regulation, and Implementation of "Protection of Visibility: Amendments

¹ See 90 FR 13516 (March 24, 2025).

to Requirements for State Plans” of the 2017 RHR.² The following is an abbreviated history and background of the regional haze program and 2017 Regional Haze Rule as it applies to the current action.

A. Regional Haze

In the 1977 CAA amendments, Congress created a program for protecting visibility in the nation’s mandatory Class I Federal areas, which include certain national parks and wilderness areas. CAA section 169A. The CAA establishes as a national goal the “prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution.” CAA section 169A(a)(1).

Regional haze is visibility impairment that is produced by a multitude of anthropogenic sources and activities that are located across a broad geographic area and that emit pollutants that impair visibility. Visibility impairing pollutants include fine and coarse particulate matter (PM) (*e.g.*, sulfates, nitrates, organic carbon, elemental carbon, and soil dust) and their precursors (*e.g.*, sulfur dioxide (SO₂), nitrogen oxides (NO_x), and, in some cases, volatile organic compounds (VOC) and ammonia (NH₃)). Fine particle precursors react in the atmosphere to form fine particulate matter (PM_{2.5}), which impairs visibility by scattering and absorbing light. Visibility impairment reduces the perception of clarity and color, as well as visible distance.³

To address regional haze visibility impairment, the 1999 RHR established an iterative planning process that requires both states in which Class I areas are located and states “the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility” in a Class I area to periodically submit SIP revisions to address such impairment.

CAA section 169A(b)(2); see also 40 CFR 51.308(b), (f) (establishing submission dates for iterative regional haze SIP revisions); (64 FR at 35768, July 1, 1999).

On January 10, 2017, the EPA promulgated revisions to the RHR, (82 FR 3078, January 10, 2017), that apply for the second and subsequent implementation periods. The reasonable progress requirements as revised in the 2017 rulemaking (referred to here as the 2017 RHR Revisions) are codified at 40 CFR 51.308(f).

B. Roles of Agencies in Addressing Regional Haze

Because the air pollutants and pollution affecting visibility in Class I areas can be transported over long distances, successful implementation of the regional haze program requires long-term, regional coordination among multiple jurisdictions and agencies that have responsibility for Class I areas and the emissions that impact visibility in those areas. To address regional haze, states need to develop strategies in coordination with one another, considering the effect of emissions from one jurisdiction on the air quality in another. Five regional planning organizations (RPOs), which include representation from state and Tribal governments, the EPA, and FLMs, were developed in the lead-up to the first implementation period to address regional haze. RPOs evaluate technical information to better understand how emissions from State and Tribal land impact Class I areas across the country, pursue the development of regional strategies to reduce emissions of particulate matter and other pollutants leading to regional haze, and help states meet the consultation requirements of the RHR.

The Central Regional Air Planning Association (CenRAP), one of the five RPOs described above, that Oklahoma was a member of during the first planning period, was a collaborative effort of state governments, Tribal governments, and Federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility, and other air quality issues in parts of the Great Plains, Midwest, Southwest, and South Regions of the United States.

After the first planning period SIPs were submitted, the planning was shifted to the Central State Air Resources Agencies (CenSARA). CenSARA is a collaborative effort of state governments established to initiate and coordinate activities associated with the management of Regional Haze and other air quality issues in parts of

the Great Plains, Midwest, Southwest, and South Regions of the United States. Member states include: Arkansas, Iowa, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, and Texas. Unlike CenRAP, CenSARA has solely state members. However, CenSARA does reach out to Tribal and Federal partners. The Federal partners of CenSARA are the EPA, the U.S. National Parks Service (NPS), the U.S. Fish and Wildlife Service (FWS), and the U.S. Forest Service (USFS).

C. Status of Oklahoma’s Regional Haze Plan for the First Implementation Period

Oklahoma submitted its regional haze SIP for the first implementation period to the EPA on February 19, 2010. The EPA partially approved and partially disapproved Oklahoma’s first implementation period regional haze SIP submission on December 28, 2011 (76 FR 81728, December 28, 2011). In that final rule, we disapproved Oklahoma’s SO₂ best available retrofit technology (BART) determinations for the Oklahoma Gas and Electric (OG&E) Sooner Units 1 and 2, the OG&E Muskogee Units 4 and 5, and the American Electric Power/Public Service Company of Oklahoma (AEP/PSO) Northeastern Units 3 and 4 and we disapproved the state’s long-term strategy. To address these deficiencies, the EPA promulgated a Federal Implementation Plan (FIP) that imposed SO₂ BART emission limits for these six units in the same final action. The EPA approved the remaining portions of the 2010 Oklahoma regional haze SIP submission with the exception of the reasonable progress requirements found at 40 CFR 51.308(d)(1), on which we took no action in that final rule. We deferred consideration of the reasonable progress requirements at the time, because in order to properly assess whether Oklahoma had satisfied these requirements, we first needed to evaluate and act upon the first planning period regional haze SIP revision submitted by the State of Texas.

On June 20, 2013, Oklahoma submitted a regional haze SIP revision to replace the FIP’s SO₂ BART requirements for the AEP/PSO Northeastern Units 3 and 4 and to make revisions to the NO_x BART compliance dates for the two units. On March 7, 2014 (79 FR 12944, 12954, March 7, 2014), we approved this SIP revision and concurrently withdrew the FIP’s applicability to these two units. The FIP provisions applicable to the OG&E Muskogee and Sooner plants remain in place.

On January 5, 2016 (81 FR 296, January 5, 2016), we addressed the outstanding portion of Oklahoma’s first

² See 82 FR 3078 (January 10, 2017, located at <https://www.federalregister.gov/documents/2017/01/10/2017-00268/protection-of-visibility-amendments-to-requirements-for-state-plans#h-16>).

³ There are several ways to measure the amount of visibility impairment, *i.e.*, haze. One such measurement is the deciview, which is the principal metric used by the RHR. Under many circumstances, a change in one deciview will be perceived by the human eye to be the same on both clear and hazy days. The deciview is unitless. It is proportional to the logarithm of the atmospheric extinction of light, which is the perceived dimming of light due to its being scattered and absorbed as it passes through the atmosphere. Atmospheric light extinction (b_{ext}) is a metric used for expressing visibility and is measured in inverse megameters (Mm^{-1}). The formula for the deciview is $10 \ln(b_{ext})/10 Mm^{-1}$. 40 CFR 51.301.

planning period SIP related to the reasonable progress requirements under 40 CFR 51.308(d)(1).⁴ Specifically, we disapproved the portion of Oklahoma's 2010 Oklahoma regional haze SIP submission that addressed 40 CFR 51.308(d)(1), with the exception of the minimum progress requirement under 40 CFR 51.308(d)(1)(vi), which we approved.⁵ The disapproval stemmed from consideration of impacts from Texas sources in establishing the reasonable progress goals for Oklahoma's Class I area, Wichita Mountains Wilderness Area (Wichita Mountains). In that same action, we promulgated a FIP for both Texas and Oklahoma to address the identified deficiencies in the Texas and Oklahoma regional haze SIP for the first planning period.⁶

The January 5, 2016, final rule was challenged in the U.S. Court of Appeals for the Fifth Circuit (Fifth Circuit) and was stayed by the court on July 15, 2016.⁷ Considering the stay, the EPA requested a partial voluntary remand of the January 5, 2016, final rule, which was granted by the Fifth Circuit on March 22, 2017.⁸ On July 26, 2023 (88 FR 48152, July 26, 2023), the EPA proposed a rule to address the remanded January 5, 2016, final rule, and proposed to disapprove the same portions of the Texas and Oklahoma SIPs which had been previously disapproved in the January 5, 2016, final rule and amend the FIP portion of the rule.⁹

⁴ The January 5, 2016 (81 FR 296), final rule also addressed the first planning period regional haze requirements in Texas except for BART requirements for electric generating units (EGUs) and partially approved and partially disapproved Texas's March 31, 2009, SIP.

⁵ The disapproved portions included disapproving Oklahoma's 2018 RPGs for Wichita Mountains and other elements related to reasonable progress, including the requirement to adequately consult with other states that may reasonably be anticipated to cause or contribute to visibility impairment at the Wichita Mountains and the requirement to adequately justify RPGs that are less stringent than the URP.

⁶ Specific to Oklahoma, the FIP reset Oklahoma's RPGs based on our finding that the controls we finalized for the Texas FIP also served to cure the defects in these sections of Oklahoma's regional haze SIP as well, thus satisfying the FIP obligation stemming from our disapproval of portions of the Oklahoma SIP.

⁷ *Texas v. EPA*, 829 F.3d 405, 411 (5th Cir. 2016).

⁸ *Texas v. EPA*, Case No. 16–60118, Order (March 22, 2017).

⁹ In certain instances, supplementing and clarifying our rationale for disapproval and, in others, incorporating our original bases for disapproval. The proposed amendments to the FIP portions of the final rule included rescinding the control measures previously promulgated for 15 EGUs in Texas. EPA also proposed to find that no further federal action was needed to remedy those deficiencies.

On September 3, 2024, the EPA filed a motion for voluntary vacatur,¹⁰ and the Fifth Circuit granted the EPA's motion on December 17, 2024, vacating the SIP disapproval and FIP portions of the January 5, 2016, final rule.¹¹

On December 12, 2025 (90 FR 56001), the EPA finalized approval of portions of the Oklahoma regional haze SIP revision submitted on February 19, 2010, that relate to reasonable progress requirements for the first planning period from 2007 through 2018. Specifically, the EPA approved the portion of the 2010 Oklahoma Regional Haze SIP that addressed the requirements of 40 CFR 51.308(d)(1)(i) through (v).¹²

Pursuant to 40 CFR 51.308(g), Oklahoma was also responsible for submitting a five-year progress report as a SIP revision for the first implementation period, which it did on September 28, 2016. The EPA approved the progress report into the Oklahoma SIP on June 28, 2019 (84 FR 30918, June 28, 2019).

D. Oklahoma's Regional Haze Plan for the Second Implementation Period

On August 9, 2022, the Oklahoma Department of Environmental Quality (ODEQ)¹³ submitted a revision to the Oklahoma SIP to address regional haze for the second planning period (2018–2028).¹⁴ Oklahoma made this SIP submission to satisfy the requirements

¹⁰ During remand proceedings, notably while working to respond to the public comments received on the July 26, 2023, proposed rule, the EPA became aware that key documents in the administrative record of the January 5, 2016, final rule were no longer in the EPA's possession. EPA filed motion for voluntary vacatur, acknowledging that the administrative record no longer contained information required by the Federal Rules of Appellate Procedure and the Clean Air Act for judicial review of the EPA's partial SIP disapprovals and FIPs. Respondents' Motion for Voluntary Vacatur, *Texas v. EPA*, Case No. 16–60118 (September 3, 2024).

¹¹ *Texas v. EPA*, Case No. 16–60118, Order (December 17, 2024). Because the EPA's motion for vacatur was specific to the SIP disapprovals and the FIPs and the Fifth Circuit granted this motion, the court vacated the disapproval and FIP portions of the January 5, 2016, final rule, leaving the approvals intact.

¹² In that same final rule (90 FR 56001, December 12, 2025), EPA also approved SIP submittals from Texas dated March 20, 2014, and July 20, 2021, as satisfying applicable requirements under the CAA and RHR, as well as approved portions of the 2009 Texas Regional Haze SIP that relate to reasonable progress requirements for the first planning period. In the related May 23, 2025, proposal (90 FR 22166) for that final rule, EPA formally withdrew the proposed disapprovals for portions of Texas and Oklahoma SIPs included as part of the proposed rule published on July 26, 2023 (88 FR 48152).

¹³ In this document, ODEQ and Oklahoma are used interchangeably.

¹⁴ On January 20, 2026, Oklahoma provided a signed agreement to EPA for one of the facilities as a clarification to the requirements in the SIP.

of the CAA's regional haze program pursuant to CAA sections 169A and 169B and 40 CFR 51.308. Oklahoma's 2022 SIP submission contains the State's evaluation of which measures to include in its long-term strategy to address regional haze visibility impairment for each Class I area within the State and each Class I area outside the State that may be affected by emissions from the State. The State examined the need to implement additional enforceable emission limitations, compliance schedules, and other measures that may be necessary to make reasonable progress since the first implementation period. Specifically, Oklahoma's 2022 SIP submission contains an assessment of visibility progress made at Class I areas since the first implementation period and the State's determinations regarding a long-term strategy to address regional haze visibility impairment at the Class I areas the State identified, including: Oklahoma's selection of sources that may affect visibility in impacted Class I areas; its evaluation of the selected sources to determine what emission reduction measures may be necessary to achieve reasonable progress for the long-term strategy, through consideration of the four statutory factors; and ultimately, Oklahoma's determinations on what measures are necessary for the long-term strategy to address regional haze visibility impairment in Class I areas.

III. Requirements for Regional Haze Plans for the Second Implementation Period

Under the CAA and the EPA's regulations, all 50 states, the District of Columbia, and the U.S. Virgin Islands are required to submit regional haze SIPs satisfying the applicable requirements for the second implementation period of the regional haze program by July 31, 2021. Each state's SIP must contain a long-term strategy for making reasonable progress toward meeting the national goal of remedying any existing and preventing any future anthropogenic visibility impairment in Class I areas. CAA section 169A(b)(2)(B). To this end, 40 CFR 51.308(f) lays out the process by which states determine what constitutes their long-term strategies, with the order of the requirements in 40 CFR 51.308(f)(1) through (3) generally mirroring the order of the steps in the reasonable progress analysis¹⁵ and (f)(4)

¹⁵ The EPA explained in the 2017 RHR Revisions that we were adopting new regulatory language in 40 CFR 51.308(f) that, unlike the structure in

through (6) containing additional, related requirements. Broadly speaking, a state first must identify the Class I areas within the state and determine the Class I areas outside the state in which visibility may be affected by emissions from the state. These are the Class I areas that must be addressed in the state's long-term strategy. See 40 CFR 51.308(f), (f)(2). For each Class I area within its borders, a state must then calculate the baseline (five-year average period of 2000–2004), current, and natural visibility conditions (*i.e.*, visibility conditions without anthropogenic visibility impairment) for that area, as well as the visibility improvement made to date and the URP. The URP is the linear rate of progress needed to attain natural visibility conditions, assuming a starting point of baseline visibility conditions in 2004 and ending with natural conditions in 2064. This linear interpolation is used as a tracking metric to help states assess the amount of progress they are making towards the national visibility goal over time in each Class I area. See 40 CFR 51.308(f)(1). Each state having a Class I area and/or emissions that may affect visibility in a Class I area must then develop a long-term strategy that includes the enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress in such areas. A reasonable progress determination is based on applying the four factors in CAA section 169A(g)(1) to sources of visibility impairing pollutants that the state has selected to assess for controls for the second implementation period. Additionally, as further explained below, the RHR at 40 CFR 51.3108(f)(2)(iv) separately provides five “additional factors”¹⁶ that states must consider in developing their long-term strategies. See 40 CFR 51.308(f)(2). A state evaluates potential emission reduction measures for those selected sources and determines which are necessary to make reasonable progress. Those measures are then incorporated into the state's long-term strategy. After a state has developed its long-term strategy, it then establishes RPGs for each Class I area within its borders by modeling the visibility impacts of all reasonable progress controls at the end of the second implementation period, *i.e.*, in 2028, as well as the impacts of other requirements of the CAA. The

RPGs include reasonable progress controls not only for sources in the state in which the Class I area is located, but also for sources in other states that contribute to visibility impairment in that area. The RPGs are then compared to the baseline visibility conditions and the URP to ensure that progress is being made towards the statutory goal of preventing any future and remedying any existing anthropogenic visibility impairment in Class I areas. 40 CFR 51.308(f)(2) through (3). There are additional requirements in the rule, including FLM consultation, that apply to all visibility protection SIPs and SIP revisions. See *e.g.*, 40 CFR 51.308(i).

While states have discretion to choose any source selection methodology that is reasonable, whatever choices they make should be reasonably explained. To this end, 40 CFR 51.308(f)(2)(i) requires that a state's SIP submission include “a description of the criteria it used to determine which sources or groups of sources it evaluated.” The technical basis for source selection, which may include methods for quantifying potential visibility impacts such as emissions divided by distance metrics, trajectory analyses, residence time analyses, and/or photochemical modeling, must also be appropriately documented, as required by 40 CFR 51.308(f)(2)(iii).

Once a state has selected the set of sources, the next step is to determine the emissions reduction measures for those sources that are necessary to make reasonable progress for the second implementation period.¹⁷ This is accomplished by considering the four factors—“the costs of compliance, the time necessary for compliance, and the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any existing source subject to such requirements.” CAA section 169A(g)(1). The EPA has explained that the four-factor analysis is an assessment of potential emission reduction measures (*i.e.*, control options) for sources; “use of the terms ‘compliance’ and ‘subject to such requirements’ in section 169A(g)(1) strongly indicates that Congress intended the relevant determination to be the requirements with which sources

would have to comply to satisfy the CAA's reasonable progress mandate.” 82 FR at 3091. Thus, for each source it has selected for four-factor analysis,¹⁸ a state must consider a “meaningful set” of technically feasible control options for reducing emissions of visibility impairing pollutants. *Id.* at 3088.

The EPA has also explained that, in addition to the four statutory factors, states have flexibility under the CAA and RHR to reasonably consider visibility benefits as an additional factor alongside the four statutory factors.¹⁹ Ultimately, while states have discretion to reasonably weigh the factors and to determine what level of control is needed, 40 CFR 51.308(f)(2)(i) provides that a state “must include in its implementation plan a description of . . . how the four factors were taken into consideration in selecting the measure for inclusion in its long-term strategy.”

As explained above, 40 CFR 51.308(f)(2)(i) requires states to determine the emission reduction measures for sources that are necessary to make reasonable progress by considering the four factors. Pursuant to 40 CFR 51.308(f)(2), measures that are necessary to make reasonable progress towards the national visibility goal must be included in a state's long-term strategy and in its SIP. If the outcome of a four-factor analysis is that an emissions reduction measure is necessary to make reasonable progress towards remedying existing or preventing future anthropogenic visibility impairment, that measure must be included in the SIP.

The characterization of information on each of the factors is also subject to the documentation requirement in section 51.308(f)(2)(iii). The reasonable progress analysis is a technically complex exercise, and also a flexible one that provides states with bounded discretion to design and implement approaches appropriate to their circumstances. Given this flexibility, 40 CFR 51.308(f)(2)(iii) plays an important function in requiring a state to document the technical basis for its

¹⁸ “Each source” or “particular source” is used here as shorthand. While a source-specific analysis is one way of applying the four factors, neither the statute nor the RHR requires states to evaluate individual sources. Rather, states have “the flexibility to conduct four-factor analyses for specific sources, groups of sources or even entire source categories, depending on state policy preferences and the specific circumstances of each state.” 82 FR at 3088.

¹⁹ See, *e.g.*, *Responses to Comments on Protection of Visibility: Amendments to Requirements for State Plans; Proposed Rule* (81 FR 26942, May 4, 2016), Docket ID No. EPA-HQ-OAR-2015-0531, U.S. Environmental Protection Agency at 186.

51.308(d), “tracked the actual planning sequence.” (82 FR 3078, at 3091, January 10, 2017).

¹⁶ The five “additional factors” for consideration in 40 CFR 51.308(f)(2)(iv) are distinct from the four factors listed in CAA section 169A(g)(1) and 40 CFR 51.308(f)(2)(i) that states must consider and apply to sources in determining reasonable progress.

¹⁷ The CAA provides that, “[i]n determining reasonable progress there shall be taken into consideration” the four statutory factors. CAA section 169A(g)(1). However, in addition to four-factor analyses for selected sources, groups of sources, or source categories, a state may also consider additional emission reduction measures for inclusion in its long-term strategy, *e.g.*, from other newly adopted, on-the-books, or on-the-way rules and measures for sources not selected for four-factor analysis for the second implementation period.

decision making so that the public and the EPA can comprehend and evaluate the information and analysis the state relied upon to determine what emission reduction measures must be in place to make reasonable progress. The technical documentation must include the modeling, monitoring, cost, engineering, and emissions information on which the state relied to determine the measures necessary to make reasonable progress. Additionally, the RHR at 40 CFR 51.308(f)(2)(iv) separately provides five “additional factors”²⁰ that states must consider in developing their long-term strategies: (1) Emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; (2) measures to reduce the impacts of construction activities; (3) source retirement and replacement schedules; (4) basic smoke management practices for prescribed fire used for agricultural and wildland vegetation management purposes and smoke management programs; and (5) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy.

Because the air pollution that causes regional haze crosses state boundaries, 40 CFR 51.308(f)(2)(ii) requires a state to consult with other states that also have emissions that are reasonably anticipated to contribute to visibility impairment in a given Class I area. If a state, pursuant to consultation, agrees that certain measures (e.g., a certain emission limitation) are necessary to make reasonable progress at a Class I area, it must include those measures in its SIP. 40 CFR 51.308(f)(2)(ii)(A). Additionally, the RHR requires that states that contribute to visibility impairment at the same Class I area consider the emission reduction measures the other contributing states have identified as being necessary to make reasonable progress for their own sources. 40 CFR 51.308(f)(2)(ii)(B). If a state has been asked to consider or adopt certain emission reduction measures, but ultimately determines those measures are not necessary to make reasonable progress, that state must document in its SIP the actions taken to resolve the disagreement. 40 CFR 51.308(f)(2)(ii)(C). Under all circumstances, a state must document in its SIP submission all substantive

consultations with other contributing states. 40 CFR 51.308(f)(2)(ii)(C).

A. Reasonable Progress Goals

Reasonable progress goals “measure the progress that is projected to be achieved by the control measures states have determined are necessary to make reasonable progress based on a four-factor analysis.” 82 FR at 3091.

For the second implementation period, the RPGs are set for 2028. Reasonable progress goals are not enforceable targets, 40 CFR 51.308(f)(3)(iii). While states are not legally obligated to achieve the visibility conditions described in their RPGs, 40 CFR 51.308(f)(3)(i) requires that “[t]he long-term strategy and the reasonable progress goals must provide for an improvement in visibility for the most impaired days since the baseline period and ensure no degradation in visibility for the clearest days since the baseline period.”

RPGs may also serve as a metric for assessing the amount of progress a state is making towards the national visibility goal. To support this approach, the RHR requires states with Class I areas to compare the 2028 RPG for the most impaired days to the corresponding point on the URP line (representing visibility conditions in 2028 if visibility were to improve at a linear rate from conditions in the baseline period of 2000–2004 to natural visibility conditions in 2064). If the most impaired days RPG in 2028 is above the URP (i.e., if visibility conditions are improving more slowly than the rate described by the URP), each state that contributes to visibility impairment in the Class I area must demonstrate, based on the four-factor analysis required under 40 CFR 51.308(f)(2)(i), that no additional emission reduction measures would be reasonable to include in its long-term strategy. 40 CFR 51.308(f)(3)(ii). To this end, 40 CFR 51.308(f)(3)(ii) requires that each state contributing to visibility impairment in a Class I area that is projected to improve more slowly than the URP provide “a robust demonstration, including documenting the criteria used to determine which sources or groups [of] sources were evaluated and how the four factors required by paragraph (f)(2)(i) were taken into consideration in selecting the measures for inclusion in its long-term strategy.”

B. Monitoring Strategy and Other State Implementation Plan Requirements

Section 51.308(f)(6) requires states to have certain strategies and elements in place for assessing and reporting on visibility. Individual requirements

under this section apply either to states with Class I areas within their borders, states with no Class I areas but that are reasonably anticipated to cause or contribute to visibility impairment in any Class I area, or both. Compliance with the monitoring strategy requirement may be met through a state’s participation in the Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring network, which is used to measure visibility impairment caused by air pollution at the 156 Class I areas covered by the visibility program. 40 CFR 51.308(f)(6), (f)(6)(i), (f)(6)(iv). All states’ SIPs must provide for procedures by which monitoring data and other information are used to determine the contribution of emissions from within the state to regional haze visibility impairment in affected Class I areas, as well as a statewide inventory documenting such emissions. 40 CFR 51.308(f)(6)(ii), (iii), and (v). All states’ SIPs must also provide for any other elements, including reporting, recordkeeping, and other measures, that are necessary for states to assess and report on visibility. 40 CFR 51.308(f)(6)(vi).

C. Requirements for Periodic Reports Describing Progress Towards the Reasonable Progress Goals

Section 51.308(f)(5) requires a state’s regional haze SIP revision to address the requirements of paragraphs 40 CFR 51.308(g)(1) through (5) so that the plan revision due in 2021 will serve also as a progress report addressing the period since submission of the progress report for the first implementation period. The regional haze progress report requirement is designed to inform the public and the EPA about a state’s implementation of its existing long-term strategy and whether such implementation is in fact resulting in the expected visibility improvement. See 81 FR 26942, 26950 (May 4, 2016), (82 FR at 3119, January 10, 2017). To this end, every state’s SIP revision for the second implementation period is required to assess changes in visibility conditions and describe the status of implementation of all measures included in the state’s long-term strategy, including BART and reasonable progress emission reduction measures from the first implementation period, and the resulting emissions reductions. 40 CFR 51.308(g)(1) and (2).

D. Requirements for State and Federal Land Manager Coordination

CAA section 169A(d) requires that before a state holds a public hearing on a proposed regional haze SIP revision, it

²⁰ The five “additional factors” for consideration in 40 CFR 51.308(f)(2)(iv) are distinct from the four factors listed in CAA section 169A(g)(1) and 40 CFR 51.308(f)(2)(i) that states must consider and apply to sources in determining reasonable progress.

must consult with the appropriate FLM or FLMs; pursuant to that consultation, the state must include a summary of the FLMs' conclusions and recommendations in the notice to the public. Consistent with this statutory requirement, the RHR also requires that states "provide the [FLM] with an opportunity for consultation, in person and at a point early enough in the State's policy analyses of its long-term strategy emission reduction obligation so that information and recommendations provided by the [FLM] can meaningfully inform the State's decisions on the long-term strategy." 40 CFR 51.308(i)(2). For the EPA to evaluate whether FLM consultation meeting the requirements of the RHR has occurred, the SIP submission should include documentation of the timing and content of such consultation. The SIP revision submitted to the EPA must also describe how the state addressed any comments provided by the FLMs. 40 CFR 51.308(i)(3). Finally, a SIP revision must provide procedures for continuing consultation between the state and FLMs regarding the state's visibility protection program, including development and review of SIP revisions, five-year progress reports, and the implementation of other programs having the potential to contribute to impairment of visibility in Class I areas. 40 CFR 51.308(i)(4).

IV. The EPA's Evaluation of Oklahoma's Regional Haze Plan for the Second Implementation Period

In section IV of this document, we describe Oklahoma's 2022 SIP submission and evaluate it against the requirements of the CAA and RHR for the second implementation period of the regional haze program.

A. Identification of Class I Areas

Section 169A(b)(2) of the CAA requires each state in which any Class I area is located or "the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility" in a Class I area to have long-term strategy for making reasonable progress toward the national visibility goal. The RHR implements this statutory requirement in 40 CFR 51.308(f) for the second and subsequent planning periods for regional haze. Section 51.308(f)(2) requires states to submit a long-term strategy that addresses regional haze visibility impairment for each mandatory Class I area within the state and for each mandatory Class I area located outside the state that may be affected by emissions from the state.

To address 40 CFR 51.308(f), Oklahoma identified the one mandatory Class I Federal area within its borders, the Wichita Mountains Wilderness, located in the Wichita Mountains National Wildlife Refuge in Comanche County, in the southeast part of Oklahoma. Wichita Mountains Wilderness is managed by the US Fish and Wildlife Service (FWS).

To work collectively on regional haze SIP development for the second planning period, CenSARA contracted Ramboll-Environ to produce an area of influence (AOI) study for the region (CenSARA 2018 AOI analysis).²¹ The CenSARA 2018 AOI analysis was developed to estimate impacts from individual stationary sources on visibility conditions at Class I areas of interest. Oklahoma relied on this AOI analysis to identify sources within Oklahoma with the potential for impairing visibility at the Wichita Mountains and Class I areas in neighboring states. Oklahoma initially assessed five Class I areas outside the state for potential visibility impacts by Oklahoma sources. Through consultation with neighboring states and Oklahoma's own analysis using the results of the CenSARA 2018 AOI analysis, Oklahoma identified three of those Class I areas outside the state as having potential visibility impacts from Oklahoma emission sources: Caney Creek Wilderness Area and Upper Buffalo Wilderness Area in Arkansas and Hercules-Glades Wilderness Area in Missouri.²²

More information on how Oklahoma used the CenSARA 2018 AOI analysis to identify sources that could potentially impact visibility in Class I areas within and outside Oklahoma and to conduct its four-factor analysis is discussed in section IV.C.1 of this document.

EPA agrees with Oklahoma's conclusions that they properly identified Class I areas within and outside of Oklahoma that may be affected by emissions from within the State due to the following: (1) the State

analyzed its statewide sulfate and nitrate contributions to total visibility impairment at out-of-state Class I areas; (2) none of the Class I areas that Oklahoma sources contribute to have 2028 RPGs on the 20 percent most impaired days above the URP;²³ (3) Oklahoma analyzed its in-state and out-of-state impacts through the AOI analysis; and (4) the State completed consultation with CenSARA States via the RPO processes.

B. Calculations of Baseline, Current, and Natural Visibility Conditions; Progress to Date; and Uniform Rate of Progress for Class I Areas Within the State

Section 51.308(f)(1) requires states to determine the following for "each mandatory Class I Federal area located within the State": baseline visibility conditions for the most impaired and clearest days, natural visibility conditions for the most impaired and clearest days, progress to date for the most impaired and clearest days, the differences between current visibility conditions and natural visibility conditions, and the URP. This section also provides the option for states to propose adjustments to the URP line for a Class I area to account for visibility impacts from anthropogenic sources outside the United States and/or the impacts from wildland prescribed fires that were conducted for certain, specified objectives. 40 CFR 51.308(f)(1)(vi)(B).

In sections 3, 6.1, and 7 of Oklahoma's 2022 SIP submission, Oklahoma determines and presents the baseline, natural, and current visibility conditions for both the 20 percent most anthropogenically impaired days and the 20 percent clearest days for the State's Class I area, Wichita Mountains Wilderness, consistent with the EPA's RHR and guidance, and through the use of IMPROVE monitoring data. Oklahoma calculated baseline visibility based on data from 2002–2004, as the IMPROVE monitoring site at Wichita Mountains Wilderness was not established until 2001. Oklahoma determined that Wichita Mountains Wilderness has, respectively, on the 20 percent clearest days and 20 percent most impaired days: (1) 2000–2004 baseline visibility conditions of 9.92 deciviews and 22.18 deciviews; (2) 2015–2019 current visibility conditions of 8.33 deciviews and 17.56 deciviews; and (3) natural visibility conditions of 4.20 deciviews and 10.19 deciviews.

²¹ See Oklahoma's 2022 SIP submission, appendices B and C, for the complete AOI outputs and the corresponding report on the CenSARA 2018 AOI analysis.

²² See Oklahoma's 2022 SIP submission, p. 46–47. Although table 2–1 of Oklahoma's 2022 SIP submission also initially identified Guadalupe Mountains National Park and Big Bend National Park in Texas "for potential visibility impacts from the transport of pollutants from Oklahoma emission sources," Oklahoma did not identify any sources in Oklahoma as potentially impacting the Texas Class I areas based on Oklahoma's source selection methodology as described in this subsection nor did the Texas Commission on Environmental Quality (TCEQ) communicate to ODEQ that any sources in Oklahoma were reasonably anticipated to impair visibility at Texas Class I areas.

²³ For more information on the RPGs of these three Class I areas outside of Oklahoma, see section IV.D of this document.

This information is also provided in table 1 of this document.

TABLE 1—BASELINE, CURRENT, AND NATURAL VISIBILITY INDEX AT WICHITA MOUNTAINS²⁴

	Average deciview index for 2000–2004 (baseline)	Average deciview index for 2015–2019 (current)	Deciview index for natural conditions (2064)
Clearest Days	9.92	8.65	4.20
Most Impaired Days	22.18	17.58	10.19

In sections 3 and 5.4 of Oklahoma's 2022 SIP submission, Oklahoma discusses the visibility progress in Wichita Mountains Wilderness. The 2015–2019 current visibility conditions for the most impaired days show a 21 percent improvement over the 2000–2004 baseline visibility conditions, with

a 1.27 and 4.6 deciviews improvement from 2000–2004 baseline to 2015–2019 current visibility conditions for the 20 percent clearest and most impaired days respectively. From information provided in Oklahoma's 2022 SIP submission, EPA calculated the difference between 2015–2019 current

visibility and natural conditions, which show a 4.13 and 7.37 deciviews difference for the 20 percent clearest and most impaired days respectively. This information is provided in table 2 of this document.

TABLE 2—VISIBILITY PROGRESS TO DATE AND FUTURE PROGRESS FOR WICHITA MOUNTAINS

	Progress since baseline (2000–2004)–(2014–2018), in deciviews	Progress during last implementation period (2008–2012)–(2014–2018), in deciviews	Difference between current (2014–2018) and natural (2064), in deciviews
Clearest Days	1.27	1.02	4.13
Most Impaired Days	4.6	3.11	7.37

The RHR allows states the option to adjust the 2064 glidepath endpoint to account for both international anthropogenic and certain prescribed fire impacts at Class I areas. EPA's 2018 Visibility Tracking Guidance²⁵ provides recommendations to assist states in satisfying their obligations under 40 CFR 51.308(f)(1); specifically, in developing information on baseline, current, and natural visibility conditions, and in making optional adjustments to the URP to account for the impacts of international anthropogenic emissions and prescribed fires.²⁶

Under 40 CFR 51.308(f)(1)(vi)(B), Oklahoma chose to adjust the URP glidepath for the State's Class I area, Wichita Mountains Wilderness, to account for impacts from anthropogenic sources outside the United States and impacts from wildland prescribed fires.^{27 28} Oklahoma used photochemical modeling conducted by EPA used to

project visibility impairment at Class I areas in 2028 as part of its URP determination.²⁹ At Wichita Mountains, the unadjusted URP for 2028 is 16.06 deciviews. EPA's 2028 modeling provided for adjusted URP values that accounts for contributions of international emissions. Based on baseline, 2064 natural conditions, and EPA's default adjustment, Oklahoma determined the 2028 URP for Wichita Mountains to be 17.36 deciviews for the 20 percent most impaired days.³⁰

The EPA is proposing to find that Oklahoma's regional haze plan meets the requirements of 40 CFR 51.308(f)(1) related to the calculations of baseline, current, and natural visibility conditions; progress to date; and the uniform rate of progress for the second implementation period.

C. Long-Term Strategy

Each state having a Class I area within its borders or emissions that may affect

visibility in any Class I area must develop a long-term strategy for making reasonable progress towards the national visibility goal for each impacted Class I area. CAA section 169A(b)(2)(B). After considering the four statutory factors, all measures that are determined to be necessary to make reasonable progress must be in the long-term strategy. In developing its long-term strategy, a state must also consider the five additional factors in 40 CFR 51.308(f)(2)(iv). As part of its reasonable progress determinations, the state must describe the criteria used to determine which sources or group of sources were evaluated (*i.e.*, subjected to four-factor analysis) for the second implementation period and how the four factors were taken into consideration in selecting the emission reduction measures for inclusion in the long-term strategy. 40 CFR 51.308(f)(2)(iii).

²⁴ EPA notes that table 6–1 of Oklahoma's 2022 SIP submission provides 2015–2019 current visibility values that are inconsistent with other parts of the SIP. The most representative 2015–2019 visibility value from the SIP is used in this document.

²⁵ The 2018 Visibility Tracking Guidance references and relies on parts of the 2003 Tracking Guidance: "Guidance for Tracking Progress Under the Regional Haze Rule," which can be found at <https://www.epa.gov/visibility/guidance-tracking-progress-under-regional-haze-rule>.

²⁶ See 82 FR 3078, p. 3103–3105 (January 10, 2017).

²⁷ Wildland prescribed fires are those conducted with the objective to establish, restore, and/or maintain sustainable and resilient wildland ecosystems, to reduce the risk of catastrophic wildfires, and/or to preserve endangered or threatened species during which appropriate basic smoke management practices were applied. 40 CFR 51.308(f)(1)(vi)(B).

²⁸ See Oklahoma's 2022 SIP submission, p. 50–51.

²⁹ See EPA memorandum, "Availability of Modeling Data and Associated Technical Support

Document for the EPA's Updated 2028 Visibility Air Quality Modeling" ("EPA's 2028 modeling" in this document), dated September 19, 2019, available at <https://www.epa.gov/visibility/technical-support-document-epas-updated-2028-regional-haze-modeling> and the docket for this document.

³⁰ In EPA's 2028 modeling, at Wichita Mountains, 17.36 deciviews is provided as the default adjusted 2028 URP/glidepath, with the minimum and maximum alternate glidepath values being 16.62 and 17.79 deciviews, respectively.

1. Summary of Oklahoma's Long-Term Strategy

a. Source Selection Methodology

Sections 6.2 and 6.3 in Oklahoma's 2022 SIP submission discuss Oklahoma's long-term strategy development as well as source selection methodology. As mentioned in section IV.A of this document, Oklahoma relied on the CenSARA 2018 AOI analysis to identify sources within Oklahoma with the potential for impairing visibility at the Wichita Mountains and Class I areas in neighboring states. This section of this document further discusses Oklahoma's source selection methodology, including how Oklahoma used the CenSARA 2018 AOI analysis in developing its long-term strategy.

In the report documenting the CenSARA 2018 AOI analysis (CenSARA AOI report), it states that "EPA's previous analysis of contributions of individual PM components to total extinction on the 20 percent most anthropogenically impaired days during 2010–2014 showed that sulfate and nitrate are two major PM components that account for a large fraction of the anthropogenic visibility impairment at these Class I areas."³¹ The CenSARA AOI report also states that industrial sources, including electric generating unit (EGU) and other industrial point (non-EGU) sources, are major contributors to both SO₂ and NO_x emissions (precursors of sulfate and nitrate, respectively).³² CenSARA chose to focus the AOI analysis on EGU and non-EGU point sources since these sources comprise major fractions of the SO₂ and NO_x emissions inventory.³³

The Hybrid-Single Particle Lagrangian Integrated Trajectory (HYSPLIT) back-trajectory model was used to generate 72-hour back trajectories for each IMPROVE site (*i.e.*, Class I area) of interest on the 20 percent most impaired days for the five-year period from 2012

to 2016. Based on the five years of individual back trajectories on the most 20 percent most impaired days, trajectory paths were mapped into 36-kilometer (km) by 36-km horizontal grid cells and residence time data were generated for each IMPROVE site. The residence time is the cumulative time that trajectories reside in a specific geographical area (*e.g.*, a grid cell of a modeling domain) and are usually normalized to display percentage of total trajectory time. To define geographical areas with a high probability of influencing visibility (*i.e.*, the area of influence) at each IMPROVE site that has impairment due to sulfate and nitrate, extinction weighted residence time (EWRT) plots were generated separately for sulfate and nitrate. To determine the potential impact from individual point sources, the EWRT values for sulfate and nitrate were combined with facility-level emissions (*Q*) of SO₂ and NO_x (respectively) using emissions data from the 2016 EPA modeling platform and 2028 emissions projections.³⁴ To incorporate the effects of dispersion, deposition and chemical transformation along the path of the trajectories, emissions were inversely weighted by the distance (*d*) between the centers of the grid cell emitting the emissions and the grid cell containing the IMPROVE site. This resulted in EWRT**Q*/*d* values for SO₂ and NO_x (separately) for each stationary source for each IMPROVE site. Oklahoma's methodology for identifying Oklahoma sources that may impact visibility at Wichita Mountains and Class I areas in other states using the results of the CenSARA 2018 AOI analysis is discussed in the paragraphs that follow.

Oklahoma's 2022 SIP submission noted that implementation of BART determinations for the first planning

period continued beyond 2016, which was used as the baseline emissions year for conducting the AOI study. This means that some BART emission reductions that took place after 2016 are not reflected in the emissions inventory used in the AOI study. In identifying sources for analysis, Oklahoma chose to use emissions from the same year for every source to avoid potential misrepresentation of effects of emission controls. Oklahoma also noted that due to the substantial variation in weather conditions among years, the use of an inventory for a different, more recent year than the year of the meteorological analysis in the CenSARA 2018 AOI analysis would introduce uncertainty and indefensible inconsistencies. However, based on suggestions from EPA during early SIP development, Oklahoma decided to remove some sources and their corresponding emissions from the source selection calculations. These eliminations were done in an effort to not skew the source selection criteria towards sources that had already achieved significant, known reductions that were not reflected in the 2016 emissions data.³⁵

In evaluating individual source contribution to visibility impairment, Oklahoma considered NO_x and SO₂ emissions separately instead of aggregating contributions from each pollutant for a total source contribution. Visibility impairment at the Wichita Mountains is dominated by NO_x in winter conditions and SO₂ in the majority of the remainder of the year. To justify considering source contribution to visibility impairment due to NO_x and SO₂ emissions separately, the SIP submittal stated that there is the possibility that controlling one, but not both pollutants, is cost effective and also noted that conducting four-factor analyses is resource intensive.

³¹ See Oklahoma's 2022 SIP submission, appendix B: *Ramboll-Environ Area-of-Influence Report*, p. 5. In this proposal, we refer to this document as the CenSARA AOI report.

³² See CenSARA AOI report, p. 3, in Oklahoma's 2022 SIP submission, appendix B.

³³ *Id.* at 5.

³⁴ For more information, see the EPA memorandum, "Availability of Modeling Data and Associated Technical Support Document for the EPA's Updated 2028 Visibility Air Quality Modeling" ("EPA's 2028 modeling" in this document), dated September 19, 2019, available at <https://www.epa.gov/visibility/technical-support-document-epas-updated-2028-regional-haze-modeling> and the docket for this document.

³⁵ The sources whose emissions contributions were removed are documented in appendix D of Oklahoma's 2022 SIP submission. The sources include Big Brown Steam Electric Station, Sandow Steam Electric Station and the Monticello Steam Electric Station located in Texas; and OG&E Muskogee Generating Station and OG&E Sooner Generating Station in Oklahoma.

After analyzing the results of the CenSARA 2018 AOI analysis and removing emissions from sources with known large reductions from its source selection calculations, Oklahoma applied a “Q/d” threshold of 5.0 tons per km (tons/km) or greater (for SO₂ and NO_x separately) to screen out small sources in Oklahoma from further analysis.³⁶ Oklahoma’s 2022 SIP submission stated that while using EWRT’s is useful for identifying large geographic areas likely to contain sources of visibility impairing emissions, photochemical modeling has suggested that EWRT tends to over-emphasize small sources of emissions located close to Class I areas. Because the AOI analysis goes back only 72 hours, it does not analyze long-range transport or emissions in more distant areas. Visibility-degrading fine particulate matter commonly travels in

the atmosphere for two weeks or longer after emission. The SIP submittal stated that in order to help alleviate this over-emphasis on small sources, Oklahoma opted to consider a “Q/d,” or emissions mass divided by distance, threshold of 5.0 tons/km for eliminating small sources from further analysis. Oklahoma then applied an individual source contribution threshold (*i.e.*, percent EWRT*Q/d) of 0.5 percent or greater for sulfate and nitrate separately. Oklahoma stated in its SIP submittal that given the successful reduction in visibility impairment over the last decade, 0.5 percent is an appropriate threshold for identifying sources of the greatest importance for further analysis.

Additionally, some point sources identified as having the potential to impact a Class I area based on Oklahoma’s source selection methodology described in the preceding paragraphs were eliminated from further

consideration if their emissions are impacted by participation in the Cross State Air Pollution Rule (CSAPR) or upon consideration of the impact of emission reductions due to BART requirements not fully implemented during the first planning period. Oklahoma chose to defer focus on those sources until a later regional haze planning period to allow the full benefits and implementation of BART and CSAPR to mature.

Using the methodology described in the previous paragraphs, Oklahoma identified twelve sources for further analysis.³⁷ Tables 6–2 and 6–3 of Oklahoma’s 2022 SIP submission contain the sources that Oklahoma evaluated for possible four-factor analysis, and the final sources selected for evaluation are listed in sections 6.4.1 and 6.4.2 of its SIP. These twelve sources are also listed in table 3.

TABLE 3—OKLAHOMA SOURCES SUBJECT TO FOUR-FACTOR ANALYSIS IN OKLAHOMA’S 2022 SIP SUBMISSION

Oklahoma source subject to four-factor analysis	Location	Type of source
1. Oxbow Calcining LLC—Kremlin Calcined Coke Plant	Garfield County	SO ₂
2. Western Farmers Electric Cooperative (Western Farmers)—Hugo Electric Generating Plant.	Choctaw County	SO ₂
3. Grand River Dam Authority (GRDA)—Grand River Energy Center (GREC)	Mayes County	SO ₂
4. Holcim US Inc.—Ada Portland Cement Production Plant	Pontotoc County	SO ₂
5. Continental Carbon Co.—Carbon Black Production Facility	Kay County	SO ₂
6. Oklahoma Gas and Electric Company (OG&E)—Horseshoe Lake Generating Station ...	Oklahoma County	NO _x
7. OG&E—Mustang Generating Station	Canadian County	NO _x
8. Mustang Gas Products—Binger Gas Plant	Caddo County	NO _x
9. ONEOK Field Services—Lindsay Booster Station	Garvin County	NO _x
10. ONEOK Field Services—Maysville Gas Plant	Garvin County	NO _x
11. Panhandle Eastern Pipeline Co.—Cashion Compressor Station	Kingfisher County	NO _x
12. DCP Operating Co.—Chitwood Gas Plant	Grady County	NO _x

b. Four-Factor Analysis

Sections 6.4.1 and 6.4.2. of Oklahoma’s 2022 SIP submission discuss the State’s four-factor analysis of the selected Oklahoma sources in more detail. Oklahoma requested and received information from the owners or operators of the twelve sources (seven sources of NO_x emissions and five sources of SO₂ emissions) listed in table 3. Sources were instructed by Oklahoma to provide additional information regarding the status of their units and to perform a four-factor analysis for their selected pollutant. Information and four-factor analyses submitted by the Oklahoma sources are found in appendix E of Oklahoma’s 2022 SIP submission. To address comments received on Oklahoma’s draft 2022 SIP revision, Oklahoma requested and received additional information from

sources prior to submission of the final package to EPA. When developing its long-term strategy, Oklahoma considered the four factors (*i.e.*, the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of the source), taking into account the information and analyses received from the sources. A summary of Oklahoma’s four-factor analysis results is provided in table 6–4 of Oklahoma’s 2022 SIP submission. EPA further discusses and evaluates Oklahoma’s four-factor analysis results and determination of controls of its selected sources in sections IV.C.2.b.i through xii of this document.

More discussion on Oklahoma’s cost threshold selections as part of the control scenarios in its four-factor

analyses are found in section 6.8 of Oklahoma’s 2022 SIP. Oklahoma determined the cost-of-control thresholds in dollars per ton of emissions saved to be \$1,400 to \$2,000 per ton and \$5,000 per ton for NO_x and SO₂ respectively. Oklahoma looked to the Cross-State Air Pollution Rule (CSAPR) to inform the selection of an appropriate cost threshold for NO_x controls. For SO₂ controls, Oklahoma also notes that during discussions with CenSARA, other RPOs, and states, \$5,000 per ton has been widely used as a reasonable cost threshold. Control options were determined by Oklahoma to be cost prohibitive in most instances.

For NO_x, Oklahoma found that only the Mustang Gas Binger Gas Plant’s two units were within Oklahoma’s NO_x cost threshold. Mustang Gas Binger Gas Plant has already installed appropriate

³⁶ Oklahoma selected and applied a “Q/d” threshold of 5.0 tons per km (tons/km) to its dataset to screen out small sources in Oklahoma from

consideration in a four-factor analysis, where “Q” is the facility-level 2016 annual tons of emissions

of NO_x or SO₂ and “d” is the distance of the facility from the Class I area of interest in km.

³⁷ See Oklahoma’s 2022 SIP submission, p. 37–44.

controls on one of its units, and Mustang Gas committed to installing and operating additional controls at the remaining unit to meet updated NO_x emission limits (9.00 grams NO_x per horsepower-hour and 104.29 tons NO_x per year). Mustang Gas agreed to a Regional Haze Agreement with Oklahoma as the enforceable mechanism for installing and operating controls at the remaining unit upon EPA's approval of Oklahoma's 2022 SIP submission.³⁸ Oklahoma also discusses the already completed removal and replacement of eight engines at the ONEOK Lindsay Booster Station and removal of seven engines at the ONEOK Maysville Gas Plant, with a commitment from ONEOK to remove the remaining six Maysville Gas Plant engines. ONEOK agreed to a Regional Haze Agreement with Oklahoma as the enforceable mechanism for removing the remaining natural gas-fueled engines by December 31, 2028.³⁹ These measures at the ONEOK facilities precluded the need for further analysis or selection of further controls at these sites.⁴⁰

For SO₂, Oklahoma found that estimated SO₂ control costs calculated varied greatly but were all found to be in excess of Oklahoma's SO₂ cost threshold. Oklahoma provides in its 2022 SIP submission that, given technical and cost considerations, the analyses conducted were reasonable, and its plan does not impose a requirement to install further SO₂ controls on its selected sources or on any other sources during this planning period. Oklahoma also concluded that even without additional control measures, EPA's 2028 modeling projects further visibility improvement at Wichita Mountains.

Additional discussion and summary of Oklahoma's long-term strategy is provided in section 6.9 of Oklahoma's 2022 SIP submission. Oklahoma states that due to the exceptional visibility progress from the first planning period, and the cost prohibitive control options in the current, second planning period, Oklahoma's 2022 SIP submission only relies on existing air program rules and regulations in addition to controls as part of its long-term strategy for the second planning period. As provided in section IV.C.3 of this document and

sections 6.9.1, 6.9.2, and 6.9.3 of Oklahoma's 2022 SIP submission, Oklahoma also relies on other factors as part of its long-term strategy, including ongoing air pollution control programs, measures for smoke management and reducing impacts from construction activities. Ongoing air pollution control programs include Oklahoma's major source and minor facility permitting program and enforcement program, Federal new source performance standards (NSPS), programs approved in Oklahoma's SIP designed to address National Ambient Air Quality Standards (NAAQS) requirements, and other Federal rules.

2. The EPA's Rationale and Evaluation of Oklahoma's Long-Term Strategy

In this section of this document, we evaluate Oklahoma's determinations of the measures necessary to make reasonable progress (*i.e.*, its long-term strategy) against the requirements of the CAA and RHR for the second implementation period of the regional haze program and describe our rationale for proposing approval. Considering the four statutory factors and the projected 2028 visibility conditions for Class I areas in Oklahoma and those influenced by emissions from Oklahoma sources, which are below the URP, the EPA finds that Oklahoma reasonably determined the emission reduction measures that are necessary to make reasonable progress for the second planning period. As detailed further in this section, the EPA proposes to approve Oklahoma's long-term strategy under 40 CFR 51.308(f)(2).

a. The EPA's Rationale for Proposing Approval

In this proposed action, we note that it is the Agency's policy, as announced in our recent approval of the West Virginia Regional Haze SIP,⁴¹ that where visibility conditions for a Class I area impacted by a State are below the 2028 URP and the State has also evaluated potential control measures by considering the four statutory factors, the State will have presumptively demonstrated reasonable progress for the second planning period for that area. We acknowledge that this reflects a change in policy as to how the URP should be used in the evaluation of regional haze second planning period SIPs. However, we find that this policy better aligns with the purpose of the

statute and RHR, which is achieving "reasonable" progress, not maximal progress, toward Congress's natural visibility goal. We explain the background and our rationale on this change in policy further in this section.

In developing the regulations required by CAA section 169A(b), the EPA established the concept of the uniform rate of progress (URP) for each Class I area. The URP is determined by drawing a straight line from the measured 2000–2004 baseline conditions (in deciviews) for the 20% most impaired days at each Class I area to the estimated natural conditions (in deciviews) for the 20% most impaired days in 2064. From this calculation, a URP value can be calculated for each year between 2004 and 2064. The EPA developed the URP to address the diverse concerns of Eastern and Western states and account for the varying levels of visibility impairment in Class I areas around the country while ensuring an equitable approach nationwide. For each Class I area, states must calculate the URP for the end of each planning period (*e.g.*, in 2028 for the second planning period).⁴² 40 CFR 51.308(f)(1)(vi)(A). States may also adjust the URP to account for impacts from anthropogenic sources outside the United States and/or impacts from certain wildland prescribed fires. 40 CFR 51.308(f)(1)(vi). Then, for each Class I area, states must compare the reasonable progress goal (RPG) for the 20% most impaired days to the URP for the end of the planning period. If the RPG is above the URP, then an additional "robust demonstration" requirement is triggered for each state that contributes to that Class I area. 40 CFR 51.308(f)(3)(ii).

The EPA has the discretion and authority to change policy. In *FCC v. Fox Television Stations, Inc.*, the U.S. Supreme Court plainly stated that an agency is free to change a prior policy and "need not demonstrate . . . that the reasons for the new policy are better than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better." 566 U.S.

⁴² We note that RPGs are a regulatory construct that we developed to address the statutory mandate in CAA section 169B(e)(1), which required our regulations to include "criteria for measuring 'reasonable progress' toward the national goal." Under 40 CFR 51.308(f)(3)(ii), RPGs measure the progress that is projected to be achieved by the control measures a state has determined are necessary to make reasonable progress. Consistent with the 1999 RHR, the RPGs are unenforceable, though they create a benchmark that allows for analytical comparisons to the URP and mid-implementation-period course corrections if necessary. 82 FR 3091–3092 (January 10, 2017).

³⁸ See Oklahoma's 2022 SIP submission, section 6.4.2.3, section 6.9, and the Mustang Gas Regional Haze Agreement, Case No. 26–008, effective 1/15/2026.

³⁹ See Oklahoma's 2022 SIP submission, appendix F: *ONEOK Regional Haze Agreement*, Case No. 22–085, effective 5/6/2022.

⁴⁰ See Oklahoma's 2022 SIP submission, sections 6.4.2.4 and 6.4.2.5.

⁴¹ See EPA's final action for West Virginia's regional haze SIP at 90 FR 29737 (July 7, 2025), and our notice of proposed rulemaking at 90 FR 16478, 16483 (April 18, 2025) which describes the policy. See also EPA's notice of proposed rulemaking for South Dakota at 90 FR 20425 (May 14, 2025).

502, 515 (2009) (referencing *Motor Vehicle Mfrs. Ass'n of United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983)). See also *Perez v. Mortgage Bankers Assn.*, 135 S. Ct. 1199 (2015). The EPA believes that its recently adopted policy aligns with the purpose of the statute and RHR, which is achieving “reasonable” progress, not maximal progress, toward Congress’ natural visibility goal.

In the 2017 RHR Revisions, the EPA addressed the role of the URP as it relates to a state’s development of its second planning period SIP. 82 FR 3078 (January 10, 2017). Specifically, in response to comments suggesting that the URP should be considered a “safe harbor” that relieve states of any obligation to consider the four statutory factors, the EPA explained that the URP was not intended to be such a safe harbor. *Id.* at 3099. “Some commenters stated a desire for corresponding rule text dealing with situations where RPGs are equal to (“on”) or better than (“below”) the URP or glidepath. Several commenters stated that the URP or glidepath should be a ‘safe harbor,’ opining that states should be permitted to analyze whether projected visibility conditions for the end of the implementation period will be on or below the glidepath based on on-the-books or on-the-way control measures, and that in such cases a four-factor analysis should not be required.” *Id.*

Other 2017 RHR comments indicated a similar approach, such as “a somewhat narrower entrance to a ‘safe harbor,’” by suggesting that if current visibility conditions are already below the end-of-planning-period point on the URP line, a four-factor analysis should not be required.” *Id.* The EPA stated in its response that we did not agree with either of these recommendations. “The CAA requires that each SIP revision contain long-term strategies for making reasonable progress, and that in determining reasonable progress states must consider the four statutory factors. Treating the URP as a safe harbor would be inconsistent with the statutory requirement that states assess the potential to make further reasonable progress towards natural visibility goal in every implementation period.” *Id.*

However, so long as a state considers the four factors, the presumption that a Class I area below the URP is achieving reasonable progress is consistent with the CAA and RHR. Indeed, we believe this policy also recognizes the considerable improvements in visibility impairment that have been made by a wide variety of State and Federal programs in recent decades. In sum, Oklahoma selected a number of sources,

evaluated emissions control measures, and considered the four statutory factors. In addition, visibility conditions at all Class I areas to which Oklahoma contributes are below the URP. In light of these facts, the EPA agrees with Oklahoma’s conclusion that no additional measures are necessary to make reasonable progress during the second planning period and is proposing to approve the state’s SIP submittal. The EPA’s determinations are described in more detail in the following section.

b. The EPA’s Evaluation of Oklahoma’s Long-Term Strategy

Applying the new policy as described in the previous section in our evaluation of Oklahoma’s SIP and as further detailed in the paragraphs that follow, the EPA proposes to agree that the long-term strategy outlined in Oklahoma’s 2022 SIP submission is adequate to achieve reasonable progress towards natural visibility at Class I areas impacted by emissions from Oklahoma sources. The following paragraphs contain a summary of the four factor analysis and EPA’s evaluation of each source evaluated by Oklahoma for further controls as part of Oklahoma’s long-term strategy.

i. Oxbow Calcining—Kremlin Calcined Coke Plant (SO₂)

Oxbow Calcining’s Kremlin Calcined Coke Plant, a petroleum coke calcining plant located in Garfield County, was identified for further analysis by Oklahoma for the evaluation of controls for SO₂ emissions. The Oxbow Kremlin Plant utilizes three kilns in the calcining process and reported emissions of 12,663 tons of SO₂ in 2016. Oxbow considered three emissions reduction options for each of the kilns at the plant: wet flue gas desulfurization (WFGD), dry flue gas desulfurization (DFGD), and dry sorbent injection (DSI). As provided in Oxbow’s response to Oklahoma’s information collection request, WFGD, DFGD, and DSI would have a potential control efficiency of 94%, 92%, and 40% SO₂ removal, respectively. Oklahoma stated in its SIP that Oxbow was unable to verify whether these particular control systems have been used successfully on petroleum coke calcining kilns at other locations but still evaluated each kiln for these controls. Oxbow also stated that there was a high-level of uncertainty about the availability of water that would be required to operate any of the controls,

which added to the potential technical infeasibility of the control options.⁴³

In Oxbow’s response to Oklahoma, Oxbow provided two different cost calculations on potential controls depending on the two water supply scenarios: the construction of a separate pipeline to the Kremlin Plant from the City of Enid and obtaining water via trucks. For the time necessary for compliance, Oxbow proposed a minimum of five years for implementing either the WFGD option or the DFGD option and two years for the DSI option and included an implementation schedule for equipment design, procurement, fabrication, construction, and commissioning. For the remaining useful life, Oxbow stated that, for the purposes of the control cost assessment, an industry standard 20-year remaining useful life is used, which is consistent with the EPA Air Pollution Control Cost Manual (EPA Control Cost Manual).⁴⁴ Oxbow stated that it has no plans to shut down any of the kilns, and there are no enforceable limitations on the remaining useful life of the kilns. In consideration of the energy and non-air quality environmental impacts of compliance, Oxbow also stated that all of the control options provided would require additional energy for operation and would result in various non-air quality environmental impacts primarily related to additional water usage, wastewater management, and solid waste management.⁴⁵

Oxbow used a 10% interest rate to calculate the annualized capital costs of each control scenario for each kiln based on confidential company-specific capital market information. Oxbow’s calculated cost effectiveness of controls, in dollars per ton of SO₂ removed, ranged from \$6,574 to \$25,049 for the City of Enid water supply scenario, and \$12,707 to \$42,258 for the trucked-in water supply scenario. Oxbow’s cost estimates of its trucked-in water supply scenario were almost twice as much as the City of Enid water supply scenario. All cost estimates at Oxbow’s Kremlin Plant were higher than Oklahoma’s cost threshold of \$5,000 per ton of SO₂ removed, with the lowest cost control estimate at the Oxbow Kremlin Plant being WFGD for Kiln 1, at \$6,574, using the City of Enid water supply scenario. Oxbow concluded and Oklahoma concurred that none of the control options were economically viable due to

⁴³ See Oklahoma’s 2022 SIP submission, section 6.4.1.1, p. 39–40, and appendix E.

⁴⁴ See <https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/cost-reports-and-guidance-air-pollution#cost%20manual>.

⁴⁵ See Oklahoma’s 2022 SIP submission, section 6.4.1.1, p. 39–40, and appendix E.

the cost and the technical uncertainty of the control technologies and determined that no additional controls are reasonable during the second planning period.⁴⁶

EPA is proposing to find that the State's determination that no measures for the Oxbow Kremlin Plant are necessary for reasonable progress is reasonable and meets regional haze requirements for the second planning period. In Oklahoma's 2022 SIP submission, Oklahoma adequately considered the four statutory factors on the selected control technologies for the three kilns at the Oxbow Kremlin Plant and concluded that no measures are necessary to make reasonable progress for the second planning period at the plant. In addition, the projected 2028 visibility conditions at Wichita Mountains to which the Oxbow Kremlin Plant contributes is below its 2028 URP values. The EPA is proposing to find that Oklahoma demonstrated that it is making reasonable progress for the second planning period without requiring any control measures for Oxbow Calcining's Kremlin Calcined Coke Plant.

ii. Western Farmers—Hugo Electric Generating Plant (SO₂)

Western Farmers Electric Cooperative's Hugo Electric Generating Plant is located in Choctaw County and was also identified for analysis for potential SO₂ controls. The Western Farmers Hugo Plant has one coal-fired boiler used to generate electricity and reported 7,275 tons of SO₂ emissions in 2016. As provided in Western Farmer's response to Oklahoma's information collection request, Western Farmers stated that 2018–2019 data for the facility was more representative of future operations at the facility and provided updated data with a baseline emission rate of 3,211 tons SO₂ per year. Three emissions reduction options were considered for the boiler at the plant: WFGD, DFGD, and DSI. Based on the data provided by Western Farmers in its response to Oklahoma, WFGD, DFGD, and DSI would have an estimated control efficiency of 91%, 87%, and 13% SO₂ removal, respectively.⁴⁷

Western Farmers considered the four factors in its response to Oklahoma. For time necessary for compliance, Western Farmers estimated five years for implementing either WFGD or DFGD, citing consistency with EPA's March 2011 Technical Support Document for the Oklahoma Regional Haze SIP and

FIP ("2011 EPA Oklahoma Regional Haze SIP TSD"),⁴⁸ and 3.5 years for DSI, citing consistency with the October 2012 Northeastern Regional Haze Settlement Agreement.⁴⁹ Western Farmers stated that it has no plans to shut down or cease burning coal at its boiler, and therefore, a remaining useful life of 30 years is assumed based on information presented in the 2011 EPA Oklahoma Regional Haze SIP TSD. For energy and non-air quality impacts, Western Farmers stated that the control options would require increased power usage, generate solid waste that would need to be managed, require increased freshwater usage, and/or generate large volumes of wastewater that would need to be managed. Western Farmers used a 7% interest rate to calculate the annualized capital costs of each control scenario for the boiler. According to Western Farmers, estimated cost effectiveness in dollars per ton of SO₂ removed for WFGD, DFGD, and DSI for the boiler are \$8,462, \$8,203, and \$41,003, respectively. Based on the results, Western Farmers concluded that there is no economically viable control option for the unit. In response to EPA and FLM comments received on Oklahoma's draft 2022 SIP submission, Oklahoma recalculated Western Farmer's estimated cost effectiveness for DFGD using a lower interest rate (3.25% versus the original 7% that Western Farmers used) and higher control efficiencies (87% to 99% versus 87%) and determined the lowest estimate to be \$6,002 per ton of SO₂ removed. The Hugo Generating Plant's cost estimates from Western Farmers and Oklahoma are higher than Oklahoma's determined cost threshold for SO₂. Based on these estimates, Oklahoma concurred with Western Farmer's determination that no additional controls are required during the second planning period for the Hugo Generating Plant as controls would not be cost-effective.⁵⁰

EPA is proposing to find that the State's determination that no measures for the Western Farmers Hugo Generating Plant are necessary for reasonable progress is reasonable and meets regional haze requirements for the second planning period. In Oklahoma's 2022 SIP submission, Oklahoma adequately considered the four statutory

factors on the selected control technologies for the boiler at the Western Farmers Hugo Generating Plant and concluded that no measures are necessary to make reasonable progress for the second planning period at the plant. In addition, the projected 2028 visibility conditions at all Class I areas to which the Western Farmers Hugo Generating Plant contributes (Wichita Mountains in Oklahoma, Caney Creek and Upper Buffalo in Arkansas, and Hercules-Glades in Missouri) are below their respective 2028 URP values. The EPA is proposing to find that Oklahoma demonstrated that it is making reasonable progress for the second planning period without requiring any control measures for Western Farmers Electric Cooperative's Hugo Electric Generating Plant.

iii. Grand River Dam Authority (GRDA)—Grand River Energy Center (SO₂)

GRDA's Grand River Energy Center is located in Mayes County and was identified for analysis for potential SO₂ controls. The GRDA Grand River Energy Center has one coal-fired boiler (Unit 2) that reported 629 tons of SO₂ emissions in 2016 and is equipped with a spray dryer absorber (SDA) designed for a removal efficiency of 85%. Unit 1, which previously emitted 8,358 tons of SO₂ emissions in 2016, was converted to operate on natural gas and was not considered for further analysis by Oklahoma. As provided in GRDA's response to Oklahoma's information collection request, GRDA considered the following five options for Unit 2: coal washing, circulating dry scrubbing (CDS), DSI, a new SDA, and WFGD. Coal washing and DSI were evaluated with the current SDA online, while CDS, new SDA and WFGD were evaluated with the existing SDA decommissioned. Based on the data provided by GRDA in its response to Oklahoma, coal washing, and DSI were estimated to be capable of removing an additional 10% and 50%, respectively, of SO₂ emissions with the current SDA online. CDS, new SDA, and WFGD control options would have an estimated control efficiency of 94%, 94%, and 96% SO₂ removal, respectively.⁵¹

GRDA considered the four factors in its response to Oklahoma. For time necessary for compliance, GRDA estimated implementation times of 1.2 years, 2.5 years, 5.3 years, 5.6 years, and 5.5 years for the coal washing, CDS, DSI, new SDA, and WFGD control options,

⁴⁶ *Id.*

⁴⁷ See Oklahoma's 2022 SIP submission, section 6.4.1.2, p. 40–41, and appendix E.

⁴⁸ EPA Technical Support Document for the Oklahoma Regional Haze State Implementation Plan and Federal Implementation Plan ("2011 EPA Oklahoma Regional Haze SIP TSD"), March 2011.

⁴⁹ Settlement Agreement between PSO, the Oklahoma Secretary of Environment, the ODEQ, the EPA, and the Sierra Club, executed on or about October 17, 2012, available in the docket for this action.

⁵⁰ See Oklahoma's 2022 SIP submission, section 6.4.1.2, p. 40–41, and appendix E.

⁵¹ See Oklahoma's 2022 SIP submission, section 6.4.1.3, p. 41–42, and appendix E.

respectively, applying timeframes for conceptual engineering, permitting, detailed engineering/procurement, construction, outage time, and startup and testing. GRDA utilized a different remaining useful life value from the EPA Control Cost Manual as it anticipates Unit 2 operating through 2029, stating that while any new system may be able to operate for 30 years, its operating lifetime will be limited by the facility's operations. GRDA considered several different energy and non-air quality impacts for all control options, which included increased energy demand, increases in some of the monitored parameters, impacts from mining and transporting the reagent required, increased water consumption, and increased waste generation. According to GRDA, estimated cost effectiveness in dollars per ton of SO₂ removed for coal washing, CDS, DSI, SDA, and WFGD for the boiler are \$126,796, \$21,187, \$143,321, \$176,851 and \$140,109, respectively. Based on the results, GRDA concluded that the control options that are technically feasible for reducing SO₂ emissions at Unit 2 range in estimated costs from \$21,000 to \$177,000 per ton of SO₂ removed, with the estimated total amount of SO₂ removed ranging from 37 to 294 tons per year. GRDA therefore concluded and Oklahoma concurred that there are no economically viable control options for the unit as the cost estimates are higher than Oklahoma's determined cost threshold for SO₂.⁵² Oklahoma also performed some additional cost calculation for DSI, the lowest cost control option identified by GRDA, utilizing a remaining useful life of the equipment of 30 years. The state found that the installation of DSI would still not be considered cost-effective at a cost of approximately \$12,000/ton.

EPA is proposing to find that the State's determination that no measures for the GRDA Grand River Energy Center are necessary for reasonable progress is reasonable and meets regional haze requirements for the second planning period. In Oklahoma's 2022 SIP submission, Oklahoma adequately considered the four statutory factors on the selected control technologies for the Unit 2 boiler at the GRDA Grand River Energy Center and concluded that no measures are necessary to make reasonable progress for the second planning period at the facility. In addition, the projected 2028 visibility conditions at all Class I areas to which the GRDA Grand River Energy Center contributes (Wichita Mountains in Oklahoma, Caney Creek and Upper

Buffalo in Arkansas, and Hercules-Glades in Missouri) are below their respective 2028 URP values. The EPA is proposing to find that Oklahoma demonstrated that it is making reasonable progress for the second planning period without requiring any control measures for GRDA's Grand River Energy Center.

iv. Holcim—Ada Portland Cement Production Plant (SO₂)

Holcim's Ada Portland Cement Production Plant is located in Pontotoc County and was selected by Oklahoma for further evaluation of SO₂ controls. The Holcim Ada Plant had two kilns used in the production process and reported 2,303 tons of SO₂ emissions in 2016. In Holcim's response to Oklahoma's information collection request, Holcim stated that the two kilns that were in operation in 2016 were dismantled and replaced with a new kiln in 2017, with the new kiln emitting far less SO₂ emissions. Holcim stated that if more recent emissions data was used, the Ada plant would have fallen below Oklahoma's selection criteria for the evaluation of SO₂ controls. According to Oklahoma, the new kiln at Holcim's Ada Plant emits an estimated 154 tons of SO₂ per year. Using the data provided by Oklahoma, EPA calculated that the Holcim Ada Plant's SO₂ emissions have reduced by approximately 93% since the installation of the new kiln. Due to the kiln replacement and a significant decrease of SO₂ emissions at the Holcim Ada Plant, Oklahoma did not analyze the Ada Plant further for SO₂ emission reductions.^{53 54}

EPA is proposing to find that the State's determination for the Holcim Ada Plant that no measures are necessary for reasonable progress is reasonable and meets regional haze requirements for the second planning period. In Oklahoma's 2022 SIP submission, Oklahoma reviewed more recent facility information at the Holcim Ada Plant and concluded that no measures are necessary to make reasonable progress for the second planning period at the plant due to the replacement of the two kilns with a new kiln. Additionally, the projected 2028

visibility conditions at Wichita Mountains to which the Holcim Ada Plant contributes is below its 2028 URP values. The EPA is proposing to find that Oklahoma demonstrated that it is making reasonable progress for the second planning period without requiring any control measures for Holcim's Ada Portland Cement Production Plant.

v. Continental Carbon—Carbon Black Production Facility (SO₂)

Continental Carbon's Carbon Black Production Facility is located in Ponca City, Kay County and was selected by Oklahoma for further evaluation of SO₂ controls. The Continental Carbon Facility reported 2,712 tons of SO₂ in 2016, which were primarily emitted from four carbon black production units controlled by three thermal oxidizers. Continental Carbon is subject to a federally enforceable consent decree with EPA, entered on May 7, 2015, and amended on May 25, 2018, which require the installation of controls for NO_x and SO₂ emissions and meet the consent decree-specified emission limits by April 1, 2021, at the Ponca City facility.⁵⁵ According to Continental Carbon in its responses to Oklahoma's information collection requests, the previous SO₂ control system utilizing the thermal oxidizers for the carbon black production units was replaced with a dry scrubber system utilizing scrubbers on two waste gas boilers. Continental Carbon performed an analysis based on the consent decree requirements to install the dry scrubber system. Using the original thermal oxidizer control system as the baseline, which were permitted to emit 5,257 pounds per hour (lb/hr) of SO₂, Continental Carbon anticipated an approximate SO₂ emission reduction of 95% from the installation of the dry scrubber system, which will have an approximate emission rate of 272 lb/hr, with an approximate reduction of 15,800 tons of SO₂ emission per year at the facility. Continental Carbon stated that it expected the dry scrubbers to be operational by the first quarter of 2021, which coincides with its consent decree deadline of April 1, 2021, and for the new SO₂ control system to have a life expectancy of 20 to 25 years. Continental Carbon submitted details of cost of energy, waste disposal, regulatory requirement, etc., incurred with implementation of the control measure, as well as the costs of

⁵³ See Oklahoma's 2022 SIP submission, section 6.4.1.4, p. 42, and appendix E.

⁵⁴ More recent emissions data at the Holcim Ada Plant showed that the facility emitted 81 tons of SO₂ in 2020 and 94 tons of SO₂ in 2023. See the EPA 2020 National Emission Inventory data at: <https://www.epa.gov/air-emissions-inventories/2020-national-emissions-inventory-nei-data>, and ODEQ's 2023 Oklahoma Annual Point Source Emission Summary at <https://oklahoma.gov/deq/divisions/air-quality/emissions-inventory/state-emissions-totals-infographics.html>.

⁵⁵ Consent Decree between Continental Carbon Company and EPA, entered May 7, 2015, and amended May 25, 2018, Case No. 5:15-cv-00290-F, available in the docket for this action.

⁵² *Id.*

implementing the measure separately as confidential business information. Recent emissions data show an approximate 92% reduction of reported SO₂ emissions at the facility from 2016 to 2023, reflecting the operation of the scrubber system.⁵⁶ Oklahoma stated in its SIP that it concurs with Continental Carbon's determination that no further reductions in SO₂ emission, apart from the dry scrubber system installed at the facility, can be cost-effectively achieved.⁵⁷

EPA is proposing to find that the State's determination for the Continental Carbon Facility that no measures are necessary for reasonable progress is reasonable and meets regional haze requirements for the second planning period. In Oklahoma's 2022 SIP submission, Oklahoma reviewed recent facility information, consent decree requirements, and the analysis from the Continental Carbon Facility, considering potential cost of controls, remaining useful life, time necessary for compliance, and energy and non-air quality impacts, and concluded that no measures are necessary to make reasonable progress for the second planning period at the facility. Additionally, the projected 2028 visibility conditions at Wichita Mountains to which the Continental Carbon Facility contributes is below its 2028 URP values. The EPA is proposing to find that Oklahoma demonstrated that it is making reasonable progress for the second planning period without requiring any control measures for Continental Carbon's Carbon Black Production Facility.

vi. OG&E—Horseshoe Lake Generating Station (NO_x)

OG&E's Horseshoe Lake Generating Station, an electric generating station located in Oklahoma County, was selected by Oklahoma for further evaluation of NO_x controls. The OG&E Horseshoe Lake Station utilizes five electric generating units consisting of three boilers and two turbines and reported 852 tons of NO_x emissions in 2016. Three emissions reduction options were considered for the boilers at the station: selective catalytic reduction (SCR), selective non-catalytic reduction (SNCR) (only feasible for two of the boilers), and a combination of combustion technologies, *i.e.*, low-NO_x

Burners (LNB), overfire air (OFA), and flue gas recirculation (FGR), together referred to as "LNB–OFA–FGR", while only SCR was considered for the turbines. As provided in OG&E's response to Oklahoma's information collection request, SCR, SNCR, and LNB–OFA–FGR would have potential control efficiencies, depending on the unit, of 90–92%, 30–41%, and 12–41% NO_x removal, respectively.⁵⁸

OG&E considered the four factors in its response to Oklahoma. For the time necessary for compliance, OG&E estimated a minimum of four years for implementing SCR and a minimum of two years for implementing either SNCR or LNB+OFA+FGR at the Horseshoe Lake Station, stating that implementing controls at multiple units would also increase time needed. OG&E stated that there are no enforceable limitations on the remaining useful life on any of the units but explained that due to the age of the boilers, which have been operating 52 to 62 years, that it expects those units to operate for 20 years at most. Due to this reasoning, OG&E utilized a remaining useful life of 20 years for the boilers and 30 years for the turbines. OG&E considered several different energy and non-air quality impacts for all control options, which included increased energy demand, a new waste stream that must be managed, and increased emissions from unreacted ammonia to the atmosphere, which may negate some of the calculated visibility improvements from the anticipated NO_x reductions. OG&E used a 7% interest rate to calculate the annualized capital costs of each control scenario applicable for each unit. According to OG&E, estimated cost effectiveness in dollars per ton of NO_x removed for SCR, SNCR, and LNB–OFA–FGR for the boilers range from \$21,537–\$26,873, \$24,528–\$36,107, and \$14,179–\$129,391, respectively, while estimated cost effectiveness for the turbines for SCR are \$110,920. OG&E's cost estimates for Horseshoe Lake Station are higher than Oklahoma's determined cost threshold for NO_x. Based on these estimates, Oklahoma concurred with OG&E's determination that no additional controls are required during the second planning period for the Horseshoe Lake Station as controls would not be cost-effective.⁵⁹ Oklahoma also noted in its 2022 SIP submission that the facility is likely to reduce overall emissions as the unit is subject to CSAPR NO_x requirements.

EPA is proposing to find that the State's determination that no measures for the OG&E Horseshoe Lake Station are necessary for reasonable progress is reasonable and meets regional haze requirements for the second planning period. In Oklahoma's 2022 SIP submission, Oklahoma adequately considered the four statutory factors on the selected control technologies for the boilers and turbines at the OG&E Horseshoe Lake Station and concluded that no measures are necessary to make reasonable progress for the second planning period at the facility. In addition, the projected 2028 visibility conditions at Wichita Mountains to which the OG&E Horseshoe Lake Station contributes is below its 2028 URP values. The EPA is proposing to find that Oklahoma demonstrated that it is making reasonable progress for the second planning period without requiring any control measures for OG&E's Horseshoe Lake Generating Station.

vii. OG&E—Mustang Generating Station (NO_x)

OG&E's Mustang Generating Station, an electric generating station located in Canadian County, was selected by Oklahoma for further evaluation of NO_x controls. The OG&E Mustang Station utilized two natural gas fueled electric generating units and reported 747 tons of NO_x emissions in 2016. These units at Mustang Station retired on December 31, 2017, as demonstrated in Oklahoma Operating Permit No. 2018–0555–TVR3, issued August 15, 2018, and subsequent operating permit modifications and renewals. Recent emissions data at the facility showed that the OG&E Mustang Station, after replacing the older units with more modern natural gas fired turbines, reported 229 tons of NO_x in 2023, a 69% reduction in NO_x emissions compared to 2016 emissions.⁶⁰ Due to the unit retirements at the OG&E Mustang Station, Oklahoma did not analyze the facility further for NO_x emission reductions.⁶¹

EPA is proposing to find that the State's determination for the OG&E Mustang Station that no measures are necessary for reasonable progress is reasonable and meets regional haze requirements for the second planning period. In Oklahoma's 2022 SIP submission, Oklahoma reviewed more

⁵⁶ Recent emissions data at the Continental Carbon Plant showed that the facility emitted 214 tons of SO₂ in 2023. See ODEQ's 2023 Oklahoma Annual Point Source Emission Summary at <https://oklahoma.gov/deq/divisions/air-quality/emissions-inventory/state-emissions-totals-infographics.html>.

⁵⁷ See Oklahoma's 2022 SIP submission, section 6.4.1.5, p. 42, and appendix E.

⁵⁸ See Oklahoma's 2022 SIP submission, section 6.4.2.1, p. 42, and appendix E.

⁵⁹ *Id.*

⁶⁰ See EPA Clean Air Markets Program Data at <https://campd.epa.gov/> and ODEQ's 2023 Oklahoma Annual Point Source Emission Summary at <https://oklahoma.gov/deq/divisions/air-quality/emissions-inventory/state-emissions-totals-infographics.html>.

⁶¹ See Oklahoma's 2022 SIP submission, section 6.4.2.2, p. 43, and appendix E.

recent facility information at the OG&E Mustang Station and concluded that no measures are necessary to make reasonable progress for the second planning period at the facility. Additionally, the projected 2028 visibility conditions at Wichita Mountains to which the OG&E Mustang Station contributes is below its 2028 URP values. The EPA is proposing to find that Oklahoma demonstrated that it is making reasonable progress for the second planning period without requiring any control measures for OG&E's Mustang Generating Station.

viii. Mustang Gas—Binger Gas Plant (NO_x)

Mustang Gas's Binger Gas Plant, located in Caddo County, was selected by Oklahoma for further evaluation of NO_x controls. The Mustang Gas Binger Plant utilizes four natural gas fueled engines, three of which emitted the majority of the 658 tons of NO_x reported at the plant in 2016. As provided in Mustang Gas's response to Oklahoma's information collection request, three of the engines already operate with air fuel ratio controllers (AFRC) installed, and two of the engines operate with non-selective catalytic reduction (NSCR) installed, and therefore only NSCR was considered for the remaining two engines. Mustang Gas expects a potential NO_x control efficiency of 90%, as this has already been demonstrated based on recent testing in comparison to the uncontrolled manufactured specifications for these engines.⁶²

Mustang Gas considered the four factors in its response to Oklahoma. Mustang Gas estimated two years for implementing NSCR at the units, accounting for the budget, design, procurement, authorization, and installation of the control systems. Mustang Gas also estimated a remaining useful life of 20 years for the NSCR equipment, based on default values from the EPA Control Cost Manual, but also noted the need to change the catalyst beds approximately every two years based on operational hours and best engineering practices. For energy and non-air quality impacts, Mustang Gas stated the use of NSCR on the engines would require increased energy consumption as well as periodic replacement and disposal of the catalyst. According to Mustang Gas, estimated cost effectiveness in dollars per ton of NO_x removed for NSCR at the two engines would cost \$24.00 and \$24.67, which was considered cost effective. Mustang Gas and Oklahoma

concurred that the use of NSCR with good combustion practices was the most efficient control application for the two engines at the plant that do not already have NSCR installed, and further controls beyond installation of NSCR are not necessary. Mustang Gas completed installation of NSCR at one of the engines and committed to installing NSCR at the other engine, planning to have it operational by a year after Oklahoma's 2022 SIP submission is approved by EPA. Consistent with this requirement in the SIP, Mustang Gas signed an agreement with ODEQ on January 15, 2026, ("Mustang Gas Regional Haze Agreement"), which stated that Mustang Gas will install NSCR at the remaining engine within one year after EPA's approval of Oklahoma's 2022 SIP submission.⁶³ As stated in the Mustang Gas Regional Haze Agreement and as Oklahoma stated in its SIP, Mustang Gas Binger Plant engine's controls will be added to the facility's permit and include updated NO_x emission limits (9.00 grams NO_x per horsepower-hour and 104.29 tons NO_x per year) as well as the provided testing, monitoring, reporting and recordkeeping requirements.⁶⁴

EPA is proposing to find that the State's determination for the Mustang Gas Binger Plant is reasonable and meets regional haze requirements for the second planning period. In Oklahoma's 2022 SIP submission, Oklahoma adequately considered the four statutory factors on the selected control technologies for the engines at the Mustang Gas Binger Plant to come to its conclusion to require NSCR at the remaining engine that already does not have NSCR installed. EPA is proposing to find that Oklahoma's determination of requiring installation of NSCR at the remaining engine as part of Oklahoma's long-term strategy for the second planning period is reasonable and demonstrates reasonable progress for the second planning period. EPA is proposing to approve the Mustang Gas Regional Haze Agreement, Case No. 26–008, as a source-specific SIP requirement for the Binger Gas Plant.

ix. ONEOK—Lindsay Booster Station (NO_x)

ONEOK's Lindsay Booster Station in Garvin County was selected by

Oklahoma for further evaluation of NO_x controls. The ONEOK Lindsay Station utilized eight natural gas fueled compression engines which emitted the majority of the 928 tons of NO_x reported at the station in 2016. ONEOK removed and replaced the eight natural gas fueled engines with electric compression units, as demonstrated under General Permit for Oil and Gas General Facilities Authorization to Operate No. 2019–0758–O, issued on May 5, 2020, and Lindsay Station is no longer considered a title V source. Recent emissions data at the facility showed that the ONEOK Lindsay Station reported 8 tons of NO_x in 2023, a 99% reduction in NO_x emissions compared to 2016 emissions.⁶⁵ Due to the unit replacements at the ONEOK Lindsay Station, Oklahoma did not analyze the facility further for NO_x emission reductions.⁶⁶

EPA is proposing to find that the State's determination for the ONEOK Lindsay Station that no measures are necessary for reasonable progress is reasonable and meets regional haze requirements for the second planning period. In Oklahoma's 2022 SIP submission, Oklahoma reviewed more recent facility information at the ONEOK Lindsay Station and concluded that no measures are necessary to make reasonable progress for the second planning period at the facility. As the ONEOK Lindsay Station's previous natural gas fueled compression engines have been replaced with electric compression engines, the NO_x emissions at the facility have significantly decreased. The EPA is proposing to find that Oklahoma demonstrated that it is making reasonable progress for the second planning period without requiring any control measures for ONEOK's Lindsay Booster Station.

x. ONEOK—Maysville Gas Plant (NO_x)

ONEOK's Maysville Gas Plant in Garvin County was selected by Oklahoma for further evaluation of NO_x controls. The ONEOK Maysville Plant utilized thirteen natural gas fueled compression engines which emitted the majority of the 1,093 tons of NO_x reported at the plant in 2016. ONEOK retired seven of the thirteen natural gas fueled engines and plans to retire the remaining six engines before the end of the second planning period. These older engines have been used for natural gas

⁶² See Oklahoma's 2022 SIP submission, section 6.4.2.3, p. 43, and appendix E.

⁶³ Regional Haze Agreement between Mustang Gas Products, L.L.C., Binger Gas Plant and Oklahoma Department of Environmental Quality Air Quality Division, Case No. 26–008, effective January 15, 2026, received by EPA on January 20, 2026, available in Oklahoma's 2022 SIP submission.

⁶⁴ See Oklahoma's 2022 SIP submission, section 6.4.2.3, p. 43, section 6.9, p. 51, appendix E, and the Mustang Gas Regional Haze Agreement.

⁶⁵ See ODEQ's 2023 Oklahoma Annual Point Source Emission Summary at <https://oklahoma.gov/deq/divisions/air-quality/emissions-inventory/state-emissions-totals-infographics.html>.

⁶⁶ See Oklahoma's 2022 SIP submission, section 6.4.2.4, p. 43.

compression and are planned to be or have already been replaced with electric compression in lieu of natural gas as part of the gas plant's operations. ONEOK signed an agreement with ODEQ on May 6, 2022, ("ONEOK Regional Haze Agreement"), which stated that ONEOK will remove from service the remaining six engines and incorporate the removal into its permits for the Maysville Plant by December 31, 2028, in lieu of performing a four-factor analysis.⁶⁷ Due to the engines that have already been removed and engines planned to be removed as part of the ONEOK Regional Haze Agreement at the ONEOK Maysville Gas Plant, Oklahoma did not analyze the facility further for NO_x emission reductions.⁶⁸

EPA is proposing to find that the State's determination for the ONEOK's Maysville Gas Plant is reasonable and meets regional haze requirements for the second planning period. In Oklahoma's 2022 SIP submission, Oklahoma submitted as part of the SIP submission, the enforceable mechanism the ONEOK Regional Haze Agreement, which requires the removal of the remaining six engines at the Maysville Plant by the end of the second planning period. EPA is proposing to find that removal of the remaining engines at the ONEOK's Maysville Gas Plant as part of Oklahoma's long-term strategy for the second planning period is reasonable and demonstrates reasonable progress for the second planning period. EPA is proposing to approve the ONEOK Regional Haze Agreement, Case No. 22–085, as a source-specific SIP requirement for the Maysville Gas Plant.

xi. Panhandle Eastern Pipeline—Cashion Compressor Station (NO_x)

Panhandle Eastern Pipeline's Cashion Compressor Station was selected by Oklahoma for further evaluation of NO_x controls. The Panhandle Eastern Cashion Station utilized four natural gas fueled compression engines and reported 759 tons of NO_x emissions in 2016. In Panhandle Eastern's response to Oklahoma's information collection request, Panhandle Eastern stated that emissions were previously reported using the facility's potential to emit, which were overly conservative and not representative of actual emissions at the

facility,⁶⁹ and provided updated facility data and calculations, including engine testing data that demonstrated more accurate actual emissions from the engines. According to Panhandle Eastern, based on the engine testing data conducted using its Federal Energy Regulatory Commission limited horsepower (instead of the permitted horsepower rating and permit factors which were previously used), NO_x emissions from the two engines are 200 tons per year at maximum, and if these values had been used instead of its previously reported values, the Cashion Station would have fallen below Oklahoma's selection criteria for the evaluation of NO_x controls.⁷⁰ In its submitted analysis, Panhandle Eastern evaluated potential control scenarios for its four engines but due to the potential for technical difficulties in applying and operating control devices and technology on these engines, the analysis concluded that adding controls was infeasible.⁷¹

EPA is proposing to find that the State's determination for the Panhandle Eastern Cashion Station that no measures are necessary for reasonable progress is reasonable and meets regional haze requirements for the second planning period. In Oklahoma's 2022 SIP submission, Oklahoma reviewed more recent facility information at the Panhandle Eastern Cashion Station, including consideration that had the actual emissions data been used when selecting sources for four-factor analysis the facility would not have been identified for additional analysis in the source-selection process, and concluded that no measures are necessary to make reasonable progress for the second planning period at the station. Additionally, the projected 2028 visibility conditions at Wichita Mountains to which the Panhandle Eastern Cashion Station could contribute to is below its 2028 URP values. The EPA is proposing to find that Oklahoma demonstrated that it is making reasonable progress for the second planning period without requiring any control measures for Panhandle Eastern Pipeline's Cashion Compressor Station.

xii. DCP Operating—Chitwood Gas Plant (NO_x)

DCP Operating's Chitwood Gas Plant in Grady County was selected by Oklahoma for further evaluation of NO_x controls. According to the Oklahoma's 2022 SIP submission, the DCP Chitwood Plant utilizes eight natural gas fueled engines that emitted the majority of the 766 tons of NO_x reported at the plant in 2016. As provided in DCP's response to Oklahoma's information collection request, as the engines already operate with good combustion practices, DCP considered SCR and clean burn technology (CBT) as potential controls. DCP provided two separate CBT options, one that reduced emissions to 6 grams per horsepower-hour (CBT–6g) and one that reduced emissions to 1 gram per horsepower-hour (CBT–1g) and deemed SCR as only technically feasible in conjunction with CBT as it would help stabilize the outlet emissions and combustion. DCP anticipated that the addition of SCR to CBT–6g would have a similar emissions reduction as CBT–1g, although spacing limitations for the addition of SCR controls on these existing units may still make this option not technically feasible. The three control scenarios that DCP evaluated were CBT–6g, CBT–1g, and SCR in conjunction with CBT–1g (SCR–CBT) with estimated control efficiencies ranging from 46–57%, 91–93%, and 91–93% for each control scenario, respectively.⁷²

DCP considered the four factors in its response to Oklahoma. DCP estimated a minimum of five years would be needed for implementing all of the controls, taking into account the need to stagger the implementation of controls for multiple engines so that only one engine is down at a time. DCP stated that it has no plans to retire the affected units aside from one at the Chitwood Plant and therefore a remaining useful life value of 30 years is assumed for SCR and CBT based on guidance in the EPA Control Cost Manual. For energy and non-air quality impacts, DCP stated that SCR would lead to increased electricity demand, a new solid waste stream that must be managed, require storage of large amounts of ammonia or urea, and increased emissions from unreacted ammonia to the atmosphere, which may negate some of the calculated visibility improvements from the anticipated NO_x reductions. DCP used a 7% interest rate to calculate the annualized capital costs of each control scenario for each engine. According to DCP, estimated cost

⁶⁷ Regional Haze Agreement between ONEOK Field Services, L.L.C., Maysville Gas Plant and Oklahoma Department of Environmental Quality Air Quality Division, Case No. 22–085 May 6, 2022, available in Oklahoma's 2022 SIP submission, appendix F.

⁶⁸ See Oklahoma's 2022 SIP submission, section 6.4.2.5, p. 43–44, and appendix F.

⁶⁹ Oklahoma and Panhandle Eastern state that the previous emissions reported were not based on the Federal Energy Regulatory Commission limited horsepower, the permitted maximum operating hours allowed, or on portable emission analyzer engine test data.

⁷⁰ The Q/d would have been calculated as 3.2 tons per year per km compared to the selection threshold of 5.

⁷¹ See Oklahoma's 2022 SIP submission, section 6.4.2.6, p. 44, and appendix E.

⁷² See Oklahoma's 2022 SIP submission, section 6.4.2.7, p. 44–45, and appendix E.

effectiveness in dollars per ton of NO_x removed for CBT–6g, CBT–1g, and SCR–CBT for the engines range from \$4,366–\$20,186, \$3,250–\$15,917, and \$3,293–\$16,909. In response to comments received on Oklahoma’s draft 2022 SIP submission, Oklahoma recalculated DCP’s estimated cost effectiveness using a lower interest rate (3.25% versus the original 7% that DCP used) and determined the lowest estimate to be \$2,400 per ton of NO_x removed. DCP’s and Oklahoma’s cost estimates for the Chitwood Plant are higher than Oklahoma’s determined cost threshold for NO_x. Oklahoma concurred with DCP’s determination that no additional controls are required during the second planning period for the Chitwood Plant as controls would not be cost-effective.⁷³

EPA is proposing to find that the State’s determination that no measures for the DCP Chitwood Plant are necessary for reasonable progress is reasonable and meets regional haze requirements for the second planning period. In Oklahoma’s 2022 SIP submission, Oklahoma considered the four statutory factors on the selected control technologies for the boiler at the DCP Chitwood Plant and concluded that no measures are necessary to make reasonable progress for the second planning period at the plant. In addition, the projected 2028 visibility conditions at Wichita Mountains to which the DCP Chitwood Plant contributes is below its 2028 URP values. The EPA is proposing to find that Oklahoma demonstrated that it is making reasonable progress for the second planning period without requiring any control measures for DCP Operating’s Chitwood Gas Plant.

xiii. Conclusion

Under 40 CFR 51.308(f)(2)(iii), the state must describe the criteria used to determine which sources were evaluated for the second implementation period and how the four factors were taken into consideration in selecting the emission reduction measures for inclusion in the long-term strategy as part of its reasonable progress determinations. As discussed in sections IV.C.1.a and b as well as sections IV.C.2.b.i through xii of this document, Oklahoma provided its source selection methodology in detail, selected twelve sources (five NO_x sources and seven SO₂ sources) for evaluation based on its methodology, and performed a four-factor analysis on the selected sources. Oklahoma considered the four factors when

evaluating emission reduction measures for inclusion in its long-term strategy. A summary of Oklahoma’s four-factor analysis results is provided in table 6–4 of Oklahoma’s 2022 SIP submission. The measures Oklahoma determined to be necessary for reasonable progress are part of its long-term strategy. As discussed in further detail in section IV.C.1.b and sections IV.C.2.b.vi through xii of this document, Oklahoma’s long-term strategy includes source-specific NO_x control measures, which include a commitment to remove the remaining engines at ONEOK Maysville Gas Plant and installation of additional controls at the Mustang Gas Binger Gas Plant. As required under 40 CFR 51.308(f)(2)(iv) and discussed in section IV.C.3 of this document, Oklahoma considered the five additional factors when developing Oklahoma’s long-term strategy. Other parts of Oklahoma’s long-term term strategy include ongoing air pollution control programs, measures for smoke management, and reducing impacts from construction activities.

See section IV.B of this document for a discussion of current visibility conditions as well as URP for the second planning period in Oklahoma’s Class I area, Wichita Mountains. See section IV.D of this document for Oklahoma’s 2028 RPGs and comparison to visibility conditions and the URP at Wichita Mountains as well as the RPGs and URPs of Class I areas potentially affected by Oklahoma sources. EPA’s 2028 modeling shows that the 2028 projections for the 20 percent most impaired days (16.93 deciviews) are less than the URP (17.36 deciviews)⁷⁴ at Wichita Mountains.

Because (1) Oklahoma considered the four statutory factors in the assessment of the potential for additional controls to make reasonable progress and (2) the projected 2028 visibility conditions for Class I areas influenced by emissions from Oklahoma sources are all below the URP, the EPA finds that Oklahoma has demonstrated that it has made reasonable progress towards the national visibility goal for the second planning period. Therefore, we are proposing to approve Oklahoma’s 2022 SIP submission as meeting the CAA and regulatory requirement to make reasonable progress towards the national visibility goal, including requirements under CAA section 169A(g)(1) and 40 CFR 51.308(f)(2)(i).

3. Other Long-Term Strategy Requirements (40 CFR 51.308(f)(2)(ii) Through (iv))

States must meet the additional requirements specified in 40 CFR 51.308(f)(2)(ii) through (iv) when developing their long-term strategies. 40 CFR 51.308(f)(2)(ii) requires states to consult with other states that have emissions that are reasonably anticipated to contribute to visibility impairment in Class I areas to develop coordinated emission management strategies. Section 8.1: *Direct State-to-State Consultation* of Oklahoma’s 2022 SIP submission, which also refers back to section 6.5: *State consultation for sources identified with potential contribution* and 6.6: *Class I areas potentially impacted by Oklahoma sources* of the SIP, describes the State’s consultation with other states throughout the development of its regional haze plan. Oklahoma is a member of CenSARA and participated in CenSARA led monthly conference calls with representatives of member states, FLMs, and other organizations from 2019 through 2022. Oklahoma participated in this process as part of ongoing consultation between states and federal partners, including FLMs. Oklahoma separately consulted directly with Texas, Arkansas, Missouri, Louisiana, and Nebraska regarding sources in those states identified with potential contributions to visibility impairment at Wichita Mountains, and any Oklahoma sources identified with potential contributions to visibility impairment to Class I areas in those states.⁷⁵ Using the same methodology described in Section IV.C.1.a, Oklahoma identified 19 sources outside Oklahoma that are reasonably anticipated to contribute to visibility impairment at Wichita Mountains. Table 6–5 of Oklahoma’s 2022 SIP submission summarizes the sources that Oklahoma requested each state to consider for further analysis and the outcome of any analysis provided by the states. Table 6–6 of Oklahoma’s 2022 SIP submission summarizes the Oklahoma sources identified for potential impacts in Class I areas in other states (Caney Creek Wilderness Area and Upper Buffalo Wilderness Area in Arkansas and Hercules-Glades Wilderness Area in Missouri) and the result of the Oklahoma’s consideration of those sources. EPA is proposing to find that DEQ has satisfied the consultation requirement of 40 CFR 51.308(f)(2)(ii) in its 2022 Planning Period II SIP. No

⁷³ *Id.*

⁷⁴ After adjusting for wildland fires and international contributions.

⁷⁵ See Oklahoma’s 2022 SIP submission, appendix A for details of the consultation process.

states disagreed with the Oklahoma proposed measures necessary for reasonable progress for the second implementation period and no other measures were identified or agreed upon by the other states for Oklahoma to include in its SIP.

40 CFR 51.308(f)(2)(iii) requires states to document the technical basis, including modeling, monitoring, costs, engineering, and emissions information, on which the state is relying to determine the emission reduction measures that are necessary to make reasonable progress in each mandatory Class I area it impacts. The State may meet this requirement by relying on technical analyses developed by an RPO, as long as the process has been approved by all State participants. Section 51.308(f)(2)(iii) also requires that the emission information considered to determine the measures that are necessary to make reasonable progress include information on emissions for the most recent year for which the State has submitted triennial emissions data to the EPA (or a more recent year), with a 12-month exemption period for newly submitted data. Sections 3: *Visibility Monitoring*, 4: *Emission Trends*, and 6: *2018–2028: Planning Period 2* of Oklahoma's 2022 SIP submission describe the technical information on which the State relied. The State relied on IMPROVE monitoring data, National Emissions Inventory data, as well as EPA and CenSARA technical information, modeling, and analysis to support development of its long-term strategy. All documentation that the State is relying on to determine the emission reduction measures necessary to make reasonable progress were included in the SIP submission in the various appendices. Oklahoma included an AOI analysis performed by Ramboll for the CenSARA states in its 2022 SIP submission to identify sources within Oklahoma with the potential for impairing visibility at the Wichita Mountains and Class I areas in neighboring states.⁷⁶ Oklahoma evaluated four-factor analysis reports from the sources brought forward for potential controls analysis which included cost and emission reduction calculations.⁷⁷ Under Sections 4: *Emission Trends*, Oklahoma included point, non-point, non-road, on-road, and biogenic statewide emissions for VOC, NO_x, PM, NH₃ and SO₂ for the years

2002, 2011, and 2017. Oklahoma included 2017 emissions information as the 2020 National Emissions Inventory (NEI) data had not been released by EPA yet at the time the report was generated. The EPA is proposing to find that Oklahoma has satisfied the requirements of 40 CFR 51.308(f)(2)(iii) in its 2022 SIP submission. Based on the documentation provided by the State, Oklahoma has demonstrated the technical bases and emission information on which it is relying to determine the emission reductions measures that are necessary to make reasonable progress for its long-term strategy for the second planning period.

40 CFR 51.308(f)(2)(iv) specifies five additional factors states must consider in developing their long-term strategies. As mentioned, the five additional factors for consideration in section 51.308(f)(2)(iv) are distinct from the four factors listed in CAA section 169A(g)(1) and 40 CFR 51.308(f)(2)(i) that states must consider and apply to sources in determining reasonable progress. The five additional factors are: (1) emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment; (2) measures to mitigate the impacts of construction activities; (3) source retirement and replacement schedules; (4) basic smoke management practices for prescribed fire used for agricultural and wildland vegetation management purposes and smoke management programs; and (5) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. The following sections from Oklahoma's 2022 SIP submission describes each of the five additional factors: section 6.9. *Long-term strategy*, section 6.9.1: *Ongoing air pollution control programs*, section 6.9.3: *Construction Activities*, section 6.7: *Facility Closures and Unit Shutdowns*, 6.9.2: *Smoke Management*, and section 4: *Emission Trends*.

40 CFR 51.308(f)(2)(iv)(A) requires states to consider emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment. Section 6.9.1 of Oklahoma's 2022 SIP submission discusses Oklahoma's ongoing air pollution control programs as part of its long-term strategy. These ongoing air pollution control programs include Oklahoma's major source and minor facility permitting program and enforcement program, implementation of federal rules such as the NSPS containing emission and equipment standards, and programs approved in

Oklahoma's SIP designed to address National Ambient Air Quality Standards (NAAQS) requirements. In addition, Oklahoma states that a number of Oklahoma emission sources are subject to the CSAPR and other federal rules that reduce emissions.

40 CFR 51.308(f)(2)(iv)(B) requires states to consider measures to mitigate the impacts of construction activities. Section 6.9.3 of Oklahoma's 2022 SIP submission discusses how Oklahoma addresses this requirement. Oklahoma states that it implements State regulations at Oklahoma Administrative Code (OAC) Title 252, Chapter 100, Subchapter 29 (OAC 252:100–29), *Control of fugitive dust*, to minimize air quality degradation from windblown dust from regulated activities such as construction activities that may stir fugitive dust that reasonably may impair visibility. The provisions of OAC 252:100–29 are approved into Oklahoma's SIP and are part of Oklahoma's long-term strategy.

40 CFR 51.308(f)(2)(iv)(C) requires states to consider source retirement and replacement schedules. Section 6.7 of Oklahoma's 2022 SIP submission discusses facility closures and unit shutdowns. Oklahoma states that multiple Oklahoma facilities have made major changes to their operations, resulting in considerable emission reductions. This information is provided in sections 6.4 and 6.9 in its SIP. In addition, Texas facilities such as Big Brown and Monticello coal-fired power plants, which previously reported emissions of 20,000 tons of SO₂ per year, have since closed and Sandow, another power plant, shut down two of its coal-fired units. These facilities were significant contributors to visibility impairment at the Wichita Mountains. As discussed in section 6.4 of its 2020 SIP submission, Oklahoma took into account as part of its four-factor analysis and long-term strategy considerations Oklahoma facilities that have planned or have already retired or replaced older units. These facilities, also discussed in section IV.C.2.b of this document, include Holcim's Ada Portland Cement Production Plant, Continental Carbon's Carbon Black Production Facility, OG&E's Mustang Generating Station, ONEOK's Lindsay Booster Station, and ONEOK's Maysville Gas Plant. Oklahoma notes that these developments have resulted in visibility improvements.

40 CFR 51.308(f)(2)(iv)(D) requires states to consider basic smoke management practices for prescribed fire used for agricultural and wildland vegetation management purposes, and smoke management programs. Section

⁷⁶ See Oklahoma's 2022 SIP submission, appendices B through D, for the AOI analyses and source selection methodology.

⁷⁷ See Oklahoma's 2022 SIP submission, appendix E for the four-factor analyses.

6.9.2 of Oklahoma's 2022 SIP submission discusses how Oklahoma addresses this requirement. Oklahoma states that in coordination with Oklahoma Department of Agriculture, Food, and Forestry it has adopted and updated in 2021 a smoke management plan to minimize air-quality effects of smoke from prescribed burning.⁷⁸

40 CFR 51.308(f)(2)(iv)(E) requires states to consider the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. Oklahoma utilized photochemical modeling to project visibility in Wichita Mountains in 2028 which took into account estimated projected source sector contributions. Oklahoma compared photochemical modeling conducted by EPA, the Western Regional Air Partnership (WRAP) contracted with Ramboll-Environ, and the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) contracted with the Eastern Research Group (ERG) for the 20 percent most impaired days at Wichita Mountains. Oklahoma took its URP for the second planning period from EPA's 2028 modeling projections. Oklahoma states in its SIP that the URP line illustrates the progress Oklahoma has made and continues to make. See sections IV.B and IV.D of this document for a discussion of Oklahoma's URP and RPG.

The EPA is proposing to find that Oklahoma has met the requirements of

40 CFR 51.308(f)(2)(iv) in its 2022 SIP submission by reasonably considering the five "additional factors" in developing its long-term strategy for the second implementation period. Oklahoma adequately considered emission reductions due to ongoing air pollution control programs; measures to mitigate impacts of construction activities; source retirements and replacement schedules; smoke management practices and programs; and anticipated visibility conditions in 2028 resulting from implementation of its long-term strategy.

After reviewing Oklahoma's 2022 SIP chapters addressing 40 CFR 51.308(f)(2)(ii) through (iv), the EPA finds that Oklahoma has satisfied the long-term strategy requirements of 40 CFR 51.308(f)(2)(ii) through (iv).

D. Reasonable Progress Goals

Section 51.308(f)(3) contains the requirements pertaining to RPGs for each Class I area. Section 51.308(f)(3)(i) requires a state in which a Class I area is located to establish RPGs—one each for the most impaired and clearest days—reflecting the visibility conditions that will be achieved at the end of the implementation period as a result of the emission limitations, compliance schedules and other measures required under paragraph (f)(2) to be in states' long-term strategies, as well as implementation of other CAA requirements. The long-term strategies as reflected by the RPGs must provide for an improvement in visibility on the most impaired days relative to the

baseline period and ensure no degradation on the clearest days relative to the baseline period. Section 51.308(f)(3)(ii) applies in circumstances in which a Class I area's RPG for the most impaired days represents a slower rate of visibility improvement than the uniform rate of progress calculated under 40 CFR 51.308(f)(1)(vi). Under 40 CFR 51.308(f)(3)(ii)(A), if the state in which a mandatory Class I area is located establishes an RPG for the most impaired days that provides for a slower rate of visibility improvement than the URP, the state must demonstrate that there are no additional emission reduction measures for anthropogenic sources or groups of sources in the state that would be reasonable to include in its long-term strategy. Section 51.308(f)(3)(ii)(B) requires that if a state contains sources that are reasonably anticipated to contribute to visibility impairment in a Class I area in *another* state, and the RPG for the most impaired days in that Class I area is above the URP, the upwind state must provide the same demonstration.

Oklahoma discusses how its SIP meets reasonable progress goal requirements in section 7 of its 2022 SIP submission. Oklahoma developed reasonable progress goals for Wichita Mountains for the 20 percent most impaired days and 20 percent clearest days based on EPA's 2028 modeling for regional haze.⁷⁹ This information, taken from table 7–1 and other sections of Oklahoma's 2022 SIP submission, is provided in table 4.

TABLE 4—VISIBILITY CONDITIONS AND METRICS FOR WICHITA MOUNTAINS

Metric	20% Clearest days (deciviews)	20% Most impaired days (deciviews)
Baseline (2000–2004)	9.92	22.18
Current (2015–2019)	8.65	17.58
2028 Reasonable Progress Goal (RPG)	8.14	16.93
2028 Uniform Rate of Progress (URP) .....	.....	* 17.36
Natural Conditions (2064)	4.20	* 10.19

* Adjusted for wildland prescribed fires and international contributions.

As discussed in section IV.B of this document, Oklahoma determined the URP for Wichita Mountains for the 20 percent most impaired days in 2028 to be 17.36 deciviews after adjusting for contributions from international emissions and wildland prescribed fires. Oklahoma's 2028 RPG for Wichita Mountains for the 20 percent most impaired days (16.93 deciviews) is 0.43 deciviews less than its URP for the 20 percent most impaired days (17.36

deciviews). Oklahoma's RPG, taken from 2028 future projections on EPA's 2028 modeling, is based on ambient IMPROVE data from 2014–2017 and incorporates Oklahoma's long-term strategy described in its 2022 SIP submission. In addition, Oklahoma's RPGs provide for an improvement in visibility for the 20 percent most impaired days since the 2000–2004 baseline period and demonstrate that there is no degradation in visibility for

the 20 percent clearest days since the baseline period.

As Oklahoma's RPG is below the glidepath value (URP), the demonstration requirement under section 51.308(f)(3)(ii)(A) is not triggered. For the three Class I areas outside the State identified as having potential visibility impacts from Oklahoma emission sources, Caney Creek Wilderness Area and Upper Buffalo Wilderness Area in Arkansas

⁷⁸ See Oklahoma's 2022 SIP submission, appendix G, "Oklahoma Smoke Management Plan".

See also <https://www.deq.ok.gov/air-quality-division/smoke-management/>.

⁷⁹ See Oklahoma's 2022 SIP submission, p. 50–53.

and Hercules-Glades Wilderness Area in Missouri, all three of these Class I areas had 2028 RPGs below their respective URPs.⁸⁰ Therefore, the demonstration

requirement under section 51.308(f)(3)(ii)(B) is also not triggered. We also note that EPA's 2028 modeling projected 2028 visibility to be lower

than the 2028 unadjusted glidepath for the 20 percent most impaired days for all three out-of-state Class I areas. This information is provided in table 5.

TABLE 5—VISIBILITY PROJECTIONS FOR CLASS I AREAS OUTSIDE OF OKLAHOMA POTENTIALLY IMPACTED BY OKLAHOMA SOURCES

Class I area name	State	State's RPG for the 20% most impaired days (deciviews)	State's 2028 Uniform Rate of Progress (URP) (deciviews)	EPA's 2028 modeling—2028 projected 20% most impaired days (deciviews)	EPA's 2028 modeling—2028 unadjusted glidepath 20% most impaired days (deciviews)
Caney Creek Wilderness	Arkansas	16.31	18.90	16.97	18.18
Upper Buffalo Wilderness	Arkansas	16.49	19.26	16.92	18.32
Hercules-Glades Wilderness	Missouri	17.44	18.82	17.44	18.82

Based on the information in this section of this document, EPA proposes to find that Oklahoma has satisfied the applicable requirements of 40 CFR 51.308(f)(3) relating to RPGs.

E. Reasonably Attributable Visibility Impairment

The RHR contains a requirement at 40 CFR 51.308(f)(4) related to any additional monitoring that may be needed to address visibility impairment in Class I areas from a single source or a small group of sources. This is called “reasonably attributable visibility impairment,”⁸¹ also known as RAVI. Under this provision, if the EPA or the FLM of an affected Class I area has advised a state that additional monitoring is needed to assess RAVI, the state must include in its SIP revision for the second implementation period an appropriate strategy for evaluating such impairment. The EPA has not advised the State to that effect; nor did the State indicate that FLMs for Wichita Mountains identified any RAVI from Oklahoma sources. For this reason, the EPA proposes to approve the portions of Oklahoma's 2022 SIP submission relating to 40 CFR 51.308(f)(4).

F. Monitoring Strategy and Other State Implementation Plan Requirements

Section 51.308(f)(6) specifies that each comprehensive revision of a state's regional haze SIP must contain or provide for certain elements, including monitoring strategies, emissions inventories, and any reporting, recordkeeping and other measures needed to assess and report on

visibility. A main requirement of this section is for states with Class I areas to submit monitoring strategies for measuring, characterizing, and reporting on visibility impairment. Compliance with this requirement may be met through participation in the IMPROVE network.

Under 40 CFR 51.308(f)(6)(i), States must provide for the establishment of additional monitoring sites or equipment needed to assess whether reasonable progress goals to address regional haze for all mandatory Class I Federal areas within the state are being achieved. For states with Class I areas (including Oklahoma), section 51.308(f)(6)(ii) requires SIPs to provide for procedures by which monitoring data and other information are used in determining the contribution of emissions from within the state to regional haze visibility impairment at mandatory Class I Federal areas both within and outside the state. Section 51.308(f)(6)(iii) does not apply to Oklahoma, as it has a Class I area. Section 51.308(f)(6)(iv) requires the SIP to provide for the reporting of all visibility monitoring data to the Administrator at least annually for each Class I area in the state. Section 51.308(f)(6)(v) requires SIPs to provide for a statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment, including emissions for the most recent year for which data are available. Section 51.308(f)(6)(v) also requires states to include estimates of future projected emissions. Finally, 40 CFR

51.308(f)(6)(vi) requires the SIP to provide for any other elements, including reporting, recordkeeping, and other measures, that are necessary for states to assess and report on visibility.

Oklahoma discusses its monitoring strategy and its participation in the IMPROVE network in section 3: *Visibility Monitoring* of its 2022 SIP submission. The IMPROVE monitor in Wichita Mountains was established in 2001 and addresses RHR monitoring requirements for Oklahoma. Oklahoma's monitoring strategy continues to rely upon participation in the IMPROVE network, and it relies on IMPROVE monitor data to assess visibility conditions and reasonable progress in Wichita Mountains, the Class I area in Oklahoma.⁸² The IMPROVE monitoring data, including data at Wichita Mountains, is provided directly to the EPA and is available at EPA's Air Quality System (AQS) database.

In section 6.2 of its 2022 SIP submission, Oklahoma describes the procedures used to determine the contribution of in-State emissions to Class I areas inside and outside Oklahoma using the IMPROVE monitoring data and other information.⁸³ In addition, while discussing emission trends in section 4 of its 2022 SIP submission, the State also provided 2002, 2011 and 2017 emission inventory summaries for the following pollutants: VOC, NO_x, PM, NH₃ and SO₂.⁸⁴ Oklahoma used projected emissions data (from EPA and RPOs' model projections) as part of its procedure in establishing RPGs for Wichita Mountains.⁸⁵

⁸⁰ See Arkansas's August 8, 2022, Regional Haze 2nd Planning Period submittal in docket EPA–R06–OAR–2022–0735 and Missouri's August 26, 2022, Regional Haze 2nd Planning Period submittal in docket EPA–R07–OAR–2024–0286.

⁸¹ The EPA's visibility protection regulations define “reasonably attributable visibility

impairment” as “visibility impairment that is caused by the emission of air pollutants from one, or a small number of sources.” 40 CFR 51.301.

⁸² See Oklahoma's 2022 SIP submission, p. 7–8.

⁸³ See Oklahoma's 2022 SIP submission, p. 29–35; appendix B.

⁸⁴ See Oklahoma's 2022 SIP submission, p. 17–22. According to the SIP, at the time ODEQ's report was generated, 2017 was still the most recent complete National Emissions Inventory (NEI) data year available as the 2020 NEI data had not been released by EPA yet.

⁸⁵ See Oklahoma's 2022 SIP submission, p. 50–51.

The EPA finds that Oklahoma has met the requirements of 40 CFR 51.308(f)(6), including through its continued participation in the IMPROVE network and CenSARA RPO and its ongoing compliance with the Air Emissions Reporting Requirements (AERR). There is no indication that further SIP elements are necessary at this time for Oklahoma to assess and report on visibility. Therefore, the EPA proposes to approve the monitoring strategy and other state implementation plan elements of Oklahoma's 2022 SIP submission as meeting the requirements of 40 CFR 51.308(f)(6).

G. Requirements for Periodic Reports Describing Progress Towards the Reasonable Progress Goals

Section 51.308(f)(5) requires that periodic comprehensive revisions of states' regional haze plans also address the progress report requirements of 40 CFR 51.308(g)(1) through (5). The purpose of these requirements is to evaluate progress towards the applicable RPGs for each Class I area within the state and each Class I area outside the state that may be affected by emissions from within that state. Sections 51.308(g)(1) and (2) apply to all states and require a description of the status of implementation of all measures included in a state's first implementation period regional haze plan and a summary of the emission reductions achieved through implementation of those measures. Section 51.308(g)(3) applies only to states with Class I areas within their borders and requires such states to assess current visibility conditions, changes in visibility relative to baseline (2000–2004) visibility conditions, and changes in visibility conditions relative to the period addressed in the first implementation period progress report. Section 51.308(g)(4) applies to all states and requires an analysis tracking changes in emissions of pollutants contributing to visibility impairment from all sources and sectors since the period addressed by the first implementation period progress report. This provision further specifies the year or years through which the analysis must extend depending on the type of source and the platform through which its emission information is reported. Finally, 40 CFR 51.308(g)(5), which also applies to all states, requires an assessment of any significant changes in anthropogenic emissions within or outside the state that have occurred since the period addressed by the first implementation period progress report, including whether such changes were anticipated and whether they have

limited or impeded expected progress towards reducing emissions and improving visibility.

In its 2022 SIP submission, Oklahoma included the elements of the periodic progress report specified in 40 CFR 51.308(f)(5) and 40 CFR 51.308(g)(1)–(5). Oklahoma's 2022 SIP submission describes the status of measures of the long-term strategy from the first implementation period as well as a summary of the emission reductions achieved through implementation of those measures to address the requirements found in 40 CFR 51.308(g)(1) and (2). The status of control measure implementation for the first planning period can be found in section 5.2: *Status of control measure implementation* and section 5.3: *BART-subject Units of Oklahoma's 2022 SIP submission*, with the status of each facility listed in section 5.3. Section 5.3.7: *Summary of Planning Period 1 Emission Reductions*, table 5–8: *SO₂ Emission reductions achieved from Planning Period 1 control measures*, and 5–9: *NO_x Emission reductions achieved from Planning Period 1 control measures* in Oklahoma's 2022 SIP submission contain a summary of the emission reductions from implementation of control measures as of the end of the first implementation period.

Section 51.308(g)(3) requires that for each Class I area within the State, the State must assess the following visibility conditions and changes, with values for most impaired, least impaired and/or clearest days as applicable expressed in terms of five-year averages of these annual values. Oklahoma's 2022 SIP submission includes a summary of visibility conditions for Wichita Mountains in section 5.4: *Visibility conditions and progress*, with a full analysis of visibility conditions available in section 3: *Visibility Monitoring*.

Pursuant to 40 CFR 51.308(g)(4), Oklahoma evaluated emission trends for reasonable progress and presented that information in section 5.5: *Changes in impairment contribution* and Figure 5–1: *Changes in SO₂ and NO_x emissions from 2002–2017* in its 2022 SIP submission. Oklahoma addresses 40 CFR 51.308(g)(5), in section 5.6: *Significant changes in anthropogenic emissions impeding progress* in its 2022 SIP submission. Oklahoma states in its 2022 SIP submission that emissions of all major contributors to visibility impairment at Wichita Mountains have decreased and notes that the reductions in anthropogenic emissions, especially for SO₂, were greater than anticipated.

Because Oklahoma's 2022 SIP submission addresses the requirements of 40 CFR 51.308(g)(1) through (5), the EPA proposes to find that Oklahoma has met the progress report requirements of 40 CFR 51.308(f)(5).

H. Requirements for State and Federal Land Manager Coordination

Section 169A(d) of the CAA requires states to consult with FLMs before holding the public hearing on a proposed regional haze SIP, and to include a summary of the FLMs' conclusions and recommendations in the notice to the public. In addition, the 40 CFR 51.308(i)(2)'s FLM consultation provision requires a state to provide FLMs with an opportunity for consultation that is early enough in the state's policy analyses of its emission reduction obligation so that information and recommendations provided by the FLMs' can meaningfully inform the state's decisions on its long-term strategy. If the consultation has taken place at least 120 days before a public hearing or public comment period, the opportunity for consultation will be deemed early enough. Regardless, the opportunity for consultation must be provided at least sixty days before a public hearing or public comment period at the state level. Section 51.308(i)(2) also lists two substantive topics on which FLMs must be provided an opportunity to discuss with states: assessment of visibility impairment in any Class I area and recommendations on the development and implementation of strategies to address visibility impairment. Section 51.308(i)(3) requires states, in developing their implementation plans, to include a description of how they addressed FLMs' comments.

In section 8 of Oklahoma's 2022 SIP submission, Oklahoma described how it met FLM consultation requirements and provided a list of all the communications that were part of Oklahoma's state and FLM consultation process. As stated earlier in this notice, Oklahoma is a member of CenSARA. CenSARA hosted monthly conference calls with representatives of member states, FLMs, and other organizations from 2019 through 2022. Oklahoma participated in this process as part of ongoing consultation between states and federal partners, including FLMs, including consultation prior to the public hearing for Oklahoma's 2022 SIP submission on July 1, 2022. In addition to the CenSARA conference calls, ODEQ invited FLMs from the Fish and Wildlife Service (FWS), National Park Service (NPS), and U.S. Department of Agriculture Forest Service (FS) to

participate in conference calls specifically for outlining Oklahoma's planning and progress to address its regional haze requirements.⁸⁶

On September 30, 2021, Oklahoma sent draft copies of the Oklahoma Regional Haze 2nd Planning Period SIP to FWS, NPS, and FS for the start of the official consultation period required by 40 CFR 51.308(i)(2), with comments requested by November 30, 2021. In addition, a virtual meeting was held between Oklahoma and the FLMs on November 22, 2021, to discuss the FLMs' comments on the draft SIP. Oklahoma received comments from one FLM, FS, on the draft SIP, and in its response, Oklahoma made changes where appropriate that were incorporated into the final SIP. Both the FLM comments and Oklahoma response were included as part of the official submittal.⁸⁷

In its comments, FS was generally supportive of Oklahoma's approach on its consideration of NO_x and SO₂ sources, the selection threshold, and the assessment of the facilities' modeled impact on FS Class I areas. However, FS had concerns about the four-factor analysis for Hugo Generating Station and the implicit cost-effectiveness threshold used by Oklahoma for the second planning period, stating that using the same threshold used in the first planning period was inappropriate and a higher threshold should be utilized. FS additionally requested a more detailed assessment of the facility based on different factors that they felt could increase the feasibility of control adoption. FS also requested assurance that Oklahoma would continue to recognize the ecological role of prescribed fires and adjust the glidepath for the inclusion of those emissions accordingly. In its response, Oklahoma stated that they disagreed that new sources identified in the second planning period should automatically have a higher cost-effectiveness threshold. In response to FS's comments, Oklahoma coordinated with the Hugo Generating Station to provide additional assessments of the factors that FS suggested. Oklahoma found that its original assessment of the Hugo Generating Station in the draft SIP remained a reasonable conclusion but updated the SIP to reflect the additional evaluation conducted. Oklahoma additionally added language that FS

requested on the use of prescribed fires into the SIP.⁸⁸

Oklahoma held the public comment period for its draft Oklahoma Regional Haze 2nd Planning Period SIP from June 1, 2022, through July 1, 2022, and held a public hearing for the SIP on July 1, 2022. Oklahoma published notice of the SIP proposal and details of the public hearing on its website and sent notifications to those that requested public notice opportunities. The published notice also contained a summary of the conclusions and recommendations of the FLMs and how Oklahoma addressed them. No additional comments were received by the FLMs during Oklahoma's public comment period. EPA proposes to find that the requirements of CAA section 169A(d) were met, as EPA determined that opportunity for FLM consultation was provided at least 60 days before the public notice or hearing date, with the public notice containing the FLM's conclusions and recommendations during the consultation process.⁸⁹

To address 40 CFR 51.308(i)(4) requirements, Oklahoma provided assurance in the SIP that it would keep the FLMs aware of future updates to its regional haze SIP and progress reports through direct correspondence and through CenSARA.

Compliance with 40 CFR 51.308(i) is dependent on compliance with 40 CFR 51.308(f)(2)'s long-term strategy provisions and 40 CFR 51.308(f)(3)'s reasonable progress goals provisions. Because the EPA is proposing to approve Oklahoma's long-term strategy under section 51.308(f)(2) and the reasonable progress goals under section 51.308(f)(3), and based on its assessment of the Oklahoma's 2022 SIP submission provided in this section, the EPA proposes to find that Oklahoma has satisfied the requirements under 40 CFR 51.308(i) to consult with the FLMs on its regional haze SIP for the second implementation period.

V. Proposed Action

The EPA is proposing approval of Oklahoma's 2022 SIP submission addressing the requirements of the second implementation period of the RHR. Specifically, the EPA is proposing approval of Oklahoma's 2022 SIP submission relating to:

(1) 40 CFR 51.308(f)(1): calculations of baseline, current, and natural visibility conditions, progress to date, and the uniform rate of progress (URP);

(2) 40 CFR 51.308(f)(2): long-term strategy;

(3) 40 CFR 51.308(f)(3): reasonable progress goals (RPGs);

(4) 40 CFR 51.308(f)(4): reasonably attributable visibility impairment (RAVI);

(5) 40 CFR 51.308(f)(5) and 40 CFR 51.308(g): progress report requirements;

(6) 40 CFR 51.308(f)(6): monitoring strategy and other implementation plan requirements; and

(7) 40 CFR 51.308(i): FLM consultation.

The EPA is proposing to approve as part of Oklahoma's 2022 SIP submission source-specific requirements for (1) the ONEOK Maysville Gas Plant as described in the accompanying Regional Haze Agreement between ONEOK and ODEQ, Case No. 22–085, dated May 6, 2022, and (2) the Mustang Gas Binger Plant as described in the accompanying Regional Haze Agreement between Mustang Gas and ODEQ, Case No. 26–008, dated January 16, 2026. The ONEOK Regional Haze Agreement is the enforceable mechanism for retiring ONEOK Maysville Gas Plant's remaining six older, inefficient natural gas-fueled engines by December 31, 2028. The Mustang Gas Regional Haze Agreement is the enforceable mechanism for the operation of NO_x controls on its remaining natural gas engine within one year after EPA approval of Oklahoma's 2022 SIP submission. The EPA is proposing to approve all requirements set forth in the ONEOK Regional Haze Agreement and Mustang Gas Regional Haze Agreement as source-specific revisions to be incorporated into the Oklahoma SIP.

VI. Incorporation by Reference

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to the Oklahoma source-specific requirements as described in section V of this preamble, Proposed Action. We have made, and will continue to make, these documents generally available electronically through www.regulations.gov (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. Impact on Areas of Indian Country

Following the U.S. Supreme Court decision in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020), the Governor of the State of Oklahoma requested approval under section 10211(a) of the Safe, Accountable, Flexible, Efficient

⁸⁶ See Oklahoma's 2022 SIP submission, section 8: *Consultation process during SIP development* and appendix A: *Consultation Process and Documentation*.

⁸⁷ See Oklahoma's 2022 SIP submission, section 8 and appendix H: *Federal Land Manager Comments and Responses*.

⁸⁸ *Id.*

⁸⁹ See Oklahoma's 2022 SIP submission, section 8 and appendix L: *Public Notice and Hearing Documentation*.

Transportation Equity Act of 2005: A Legacy for Users, Public Law 109–59, 119 Stat. 1144, 1937 (August 10, 2005) (“SAFETEA”), to administer in certain areas of Indian country (as defined at 18 U.S.C. 1151) the State’s environmental regulatory programs that were previously approved by the EPA outside of Indian country. The State’s request excluded certain areas of Indian country further described below. In addition, the State only sought approval to the extent that such approval was necessary for the State to administer a program in light of *Oklahoma Dept. of Environmental Quality v. EPA*, 740 F.3d 185 (D.C. Cir. 2014).⁹⁰

The EPA has approved Oklahoma’s SAFETEA request to administer all of the State’s EPA-approved environmental regulatory programs in the requested areas of Indian country. As requested by Oklahoma, EPA’s approval under SAFETEA does not include Indian country lands, including rights-of-way running through the same, that: (1) qualify as Indian allotments, the Indian titles to which have not been extinguished, under 18 U.S.C. 1151(c); (2) are held in trust by the United States on behalf of an individual Indian or Tribe; or (3) are owned in fee by a Tribe, if the Tribe (a) acquired that fee title to such land, or an area that included such land, in accordance with a treaty with the United States to which such Tribe was a party, and (b) never allotted the land to a member or citizen of the Tribe (collectively “excluded Indian country lands”).

The EPA’s approval under SAFETEA expressly provided that to the extent the EPA’s prior approvals of Oklahoma’s environmental programs excluded Indian country, any such exclusions are superseded for the geographic areas of Indian country covered by the EPA’s approval of Oklahoma’s SAFETEA request.⁹¹ The approval also provided that future revisions or amendments to Oklahoma’s approved environmental regulatory programs would extend to the covered areas of Indian country

(without any further need for additional requests under SAFETEA).

As explained above, the EPA is proposing to approve the 2022 Oklahoma Regional Haze SIP for meeting requirements under 40 CFR 51.308(f)(1) through (6), (g), and (i) and which will apply statewide. Consistent with the D.C. Circuit’s decision in *ODEQ v. EPA* and with the EPA’s SAFETEA approval, these SIP revisions will apply to areas of Indian country as follows: (1) pursuant to the SAFETEA approval, the SIP revisions will apply to all Indian country in the State of Oklahoma other than the excluded Indian country lands as described above; and (2) pursuant to the D.C. Circuit’s decision in *ODEQ v. EPA*, the SIP revisions will also apply to any Indian allotments or dependent Indian communities that are located outside of any Indian reservation and over which there has been no demonstration of tribal authority.

VIII. Statutory and Executive Order Reviews

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

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because State Implementation Plan approvals under the CAA are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

This proposed approval of the 2022 Oklahoma Regional Haze SIP that addressed the requirements of 40 CFR 51.308(f)(1) through (6), (g), and (i), and will apply, if finalized as proposed, to certain areas of Indian country throughout Oklahoma as discussed in the preamble, and therefore has Tribal implications as specified in E.O. 13175 (65 FR 67249, November 9, 2000). However, this action will neither impose substantial direct compliance costs on federally recognized Tribal governments, nor preempt tribal law. This action will not impose substantial direct compliance costs on federally recognized Tribal governments because no actions will be required of Tribal governments. This action will also not preempt Tribal law as no Oklahoma tribe implements a regulatory program under the CAA, and thus does not have applicable or related Tribal laws. Consistent with the EPA Policy on Consultation with Indian Tribes (December 7, 2023), the EPA has offered consultation to Tribal governments that may be affected by this action and provided information about this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: February 3, 2026.

Walter Mason,

Regional Administrator, Region 6.

[FR Doc. 2026–02843 Filed 2–11–26; 8:45 am]

BILLING CODE 6560–50–P

⁹⁰ In *ODEQ v. EPA*, the D.C. Circuit held that under the CAA, states have the authority to implement a SIP in non-reservation areas of Indian country in the state, unless there has been a demonstration of tribal jurisdiction. Under the D.C. Circuit’s decision, the CAA does not provide authority to states to implement SIPs in Indian reservations.

⁹¹ The EPA’s prior approvals relating to Oklahoma’s SIP frequently noted that the SIP was not approved to apply in areas of Indian country (except as explained in the D.C. Circuit’s decision in *ODEQ v. EPA*) located in the State. *See, e.g.*, 84 FR 30918, June 28, 2019. Such prior expressed limitations are superseded by the EPA’s approval of Oklahoma’s SAFETEA request.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2025–0043; FRL–11453–01–R3]

Partial Approval and Promulgation of State Plan for Designated Facilities and Pollutants; West Virginia; Control of Emissions From Existing Commercial and Industrial Solid Waste Incineration (CISWI) Units, Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to partially approve revisions to the state plan for designated facilities and pollutants applicable to existing Commercial and Industrial Solid Waste Incineration (CISWI) units in the State of West Virginia (“West Virginia”). This proposed action will partially approve West Virginia’s revisions to its state plan to include rules implementing the EPA’s amended emission guidelines for CISWI units developed under sections 111(d) and 129 of the Clean Air Act (CAA). The EPA is proposing to approve the state plan in part and to amend the agency regulations in accordance with the requirements of the CAA.

DATES: Written comments must be received on or before March 16, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2025–0043 at www.regulations.gov, or via email to talley.david@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT:

Krystal Stankunas, Permits Branch (3AD10), Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F. Kennedy Blvd., Philadelphia, Pennsylvania 19103 at (215) 814–5271 or by email at stankunas.krystal@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The CAA section 129 requires the EPA to promulgate performance standards and emission guidelines pursuant to CAA section 111(d) for all categories of existing solid waste incineration units, including CISWI units to control certain pollutants (particulate matter, opacity (as applicable), carbon monoxide, dioxins/furans, sulfur dioxide, nitrogen oxides, hydrogen chloride, lead, mercury, and cadmium). State regulatory agencies implement the emission guidelines and compliance times using a state plan developed under CAA sections 111(d) and 129. Section 111(d) of the CAA establishes general requirements and procedures on state plan submittals for the control of designated pollutants. The regulations at 40 Code of Federal Regulations (CFR) part 60, subpart B sets forth the procedures for adoption and submittal of the state plan. Section 129(b)(2) of the CAA mandates that all state plan requirements be at least as protective as the promulgated emission guidelines. The state plan requirements implementing the emission guidelines become federally enforceable upon approval by the EPA. Such plan includes fixed final compliance dates, fixed compliance schedules, and title V permitting requirements for all affected sources. Section 129(b)(2) of the CAA also requires that state plans be submitted to the EPA within one year after the EPA’s promulgation of the emission guidelines and compliance times. Under CAA section 129(b)(3), if a state does not submit an approvable state plan within two years after the promulgation of the emission guidelines, the Federal plan applies in that state until the state has an approved state plan.

On December 1, 2000, the EPA promulgated new source performance standards (NSPS) and emission guidelines to reduce air pollution from CISWI units, which are codified at 40 CFR part 60, subparts CCCC and DDDD,

respectively. *See* 65 FR 75338. EPA finalized emission limitations for CISWI units and definitions for Non-Hazardous Secondary Materials (NHSM) that are Solid Waste, both under the same publication (February 7, 2013, 78 FR 9112). This 2013 document reflects the EPA’s revisions to the CISWI rule originally published at 76 FR 15704 on March 21, 2011, resulting from the EPA’s reconsideration of certain issues after further public comments. The 2013 document also included final amendments to the NHSM rule. The definition of solid waste in the NHSM rule determines whether a particular incinerator is covered under another incinerator rule. Subsequently, the EPA received petitions to further reconsider certain provisions of the 2013 NSPS and emission guidelines for CISWI units. On January 21, 2015, the EPA granted reconsideration on four specific issues, and it finalized reconsideration of those issues on June 23, 2016. *See* 81 FR 40956. On April 16, 2019, 84 FR 15846, the EPA clarified and corrected the June 23, 2016 CISWI rules regarding: (1) an alternative equivalent emission limit for mercury (Hg) for waste-burning kilns, (2) timing of initial test and initial performance evaluation, (3) extension of electronic data reporting requirement, (4) non-delegated authorities, (5) demonstrating initial and continuous compliance when using a continuous emissions monitoring system (CEMS), (6) continuous opacity monitoring requirements, (7) other CEMS requirements, (8) clarification about reduced testing requirements, (9) deviation reporting requirements for continuous monitoring data, and (10) clarification of air curtain incinerator requirements (ACI), as well as corrections to typographical errors. On October 7, 2020, 85 FR 63394. EPA updated regulations for source testing of emissions, which included revisions to 40 CFR part 60 subpart DDDD. The regulations at 40 CFR part 60, subpart DDDD sets forth the emission guidelines for existing CISWIs which include the model rule.¹

On December 11, 2024 (89 FR 100092), EPA published the Federal plan for existing CISWI units. The CISWI Federal plan applies to those states that do not have an approved state plan for existing CISWIs in place by January 10, 2025. *See* 89 FR 100092 at 100095. Furthermore, if a state plan is partially approved,² the Federal plan

¹ 40 CFR 60.2560 explains that the model rule provisions are the portion of the emission guidelines that address regulatory requirements applicable to existing CISWIs.

² EPA may partially approve a state plan per 40 CFR 60.27(c).

applies to affected CISWI units in lieu of the remaining portions of the state plan until the state has a fully approved state plan. *See* 89 FR 100092 at 100095.

The EPA approved the initial West Virginia CISWI plan, and related state rule, (WV title 45, Code of State Rules, chapter 18 (WV45CSR18)), effective June 10, 2003 (68 FR 17738, April 11, 2003). The state plan approval is codified in 40 CFR part 62, subpart XX. On May 11, 2009, the West Virginia Department of Environmental Protection (WVDEP) submitted to the EPA a formal 111(d)/129 state plan revision for CISWI units as part of an effort to streamline and consolidate applicable CAA section 129 incinerator regulatory requirements under one state rule, WV45CSR18. This revision and related state rule were approved by the EPA effective October 2, 2009 (74 FR 38344, August 3, 2009).

On May 1, 2023, WVDEP submitted to the EPA a plan revision request³ in response to amendments to the existing CISWI emission guidelines at 40 CFR part 60, subpart DDDD, Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units (84 FR 15846, April 16, 2019) and amendments to Test Methods and Performance Specifications for Air Emission Sources which included revisions to 40 CFR part 60 subpart DDDD (85 FR 63394, October 7, 2020). The state rule revision to WV45CSR18 adopted language equivalent to that of the model rule⁴ in order to meet the emission guidelines criteria and became effective on April 1, 2022.⁵ As discussed in more detail in the next section, it was discovered that along with an inconsistent assumption of authority reserved to the EPA Administrator at WV45CSR18 section 9.6.l. and a few errors found in WV45CSR18 section 9.13.b and table 45–18M, that sections 9.7.g.2 and 9.7.j.2 had not accounted for the amendments to the EPA Method 23–Determination of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans from Stationary Sources which included

revisions to 40 CFR part 60 subpart DDDD (88 FR 16732, March 20, 2023).

II. Analysis of State Submittal

The emission guidelines and compliance times are codified in 40 CFR part 60, subpart DDDD. Federal regulations require that state plans must contain specific information and the legal mechanisms necessary to implement the emission guidelines and compliance times. Under 40 CFR 60.2515 and CAA section 129(b), the specific requirements are as follows:

- Inventory of affected CISWI units, including those that have ceased operation but have not been dismantled.
- Inventory of emissions from affected CISWI units in West Virginia.⁶
- Compliance schedules for each affected CISWI unit with a final compliance date no later than February 7, 2018 or three (3) years after the effective date of state plan approval, whichever is earlier.
- Emission limitations, operator training and qualification requirements, a waste management plan, and operating limits for affected CISWI units that are at least as protective as the emission guidelines contained in subpart DDDD.
- Performance testing, recordkeeping, and reporting requirements.
- Certification that the hearing on the state plan was held, a list of witnesses and organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission.
- Provision for State progress reports to EPA.
- Identification of enforceable State mechanisms selected for implementing the emission guidelines of subpart DDDD.
- Demonstration of West Virginia's legal authority to carry out the CAA sections 111(d) and 129 state plan.

West Virginia's May 1, 2023 state plan revision established operating and emission limits for existing CISWI units and provided mechanisms for the implementation and enforcement of those limits. West Virginia adopted the emission limits, testing, monitoring, reporting and recordkeeping requirements, and other aspects of the model rule for existing CISWI units. The state plan revision addressed

increments of progress, operator training, initial and continuous compliance requirements, title V requirements, and ACI requirements. The state plan revision also included definitions and a waste management plan from the model rule. The EPA is proposing to approve West Virginia rule WV45CSR18 sections 2 (specifically 2.1–2.13, 2.16, 2.18, 2.19–2.27), 9, and 13.3 and tables 45CSR18E through 18M as containing the applicable requirements that are as protective as 40 CFR part 60, subpart DDDD with the exception of provisions discussed below.

Certain provisions of WV45CSR18 are not as protective as the emission guidelines. Three of these provisions cause the state plan to be less stringent as a result of errors found in West Virginia's regulations or as a result of the intervening amendment to the emission guidelines described above in section I of this preamble. For these three provisions in the state plan revision which the EPA is not proposing to include in the approval, the corresponding Federal plan provisions will apply until West Virginia submits and the EPA approves a fully approvable state plan. 40 CFR 60.2525(b).

There is a fourth provision which is inconsistent with certain requirements of 40 CFR part 60, subpart DDDD. This provision could be read to give authority that is reserved to the EPA Administrator to WVDEP's Secretary instead. WVDEP has addressed this inconsistency via a commitment letter dated December 10, 2024 which is discussed below, and thus the provision in question is included in the proposed partial approval.

First, West Virginia's rule 45CSR18–9 (specifically 45CSR18–9.7.g.2 and 9.7.j.2), effective April 1, 2022, did not address the EPA's updates published on and effective March 20, 2023 to 40 CFR part 60 appendix A–7 Method 23 and 40 CFR 60.2690(g) of subpart DDDD: “In 40 CFR part 60, subpart DDDD, we are revising 40 CFR 60.2690(g)(2) and (j)(2) to realign the requirement for identifying isomers to the reorganized section 11.4.2.4⁷ in the revisions of Method 23.” (88 FR 16732 at 16740, March 20, 2023). In quantifying isomers for dioxins/furans performance testing, the prior model rule language specifically cited “identification criteria 2, 3, 4, and 5 in section 5.2.3.5 of

³ On December 10, 2024, WVDEP also submitted a commitment letter as a supplement to the state's May 1, 2023 plan revision request. This letter is included in the docket and discussed below.

⁴ In fact, the language of West Virginia's CISWI regulations is nearly the same as the language of the model rule.

⁵ The version of WV45CSR18 that the state submitted to the EPA on May 1, 2023 also includes rules related to other incinerator categories such as large municipal waste combustors, small municipal waste combustion units, hospital/medical/infectious waste incinerators, other solid waste incineration units, and sewage sludge incineration units. The portions of WV45CSR18 related to these categories are outside the scope of this proposed approval which is limited to the state plan for existing CISWIs.

⁶ The EPA's June 2003 approval of West Virginia's CISWI plan identified E.I. Du Pont de Nemours and Company, Washington Works (“DuPont”) located in Wood County, West Virginia as the state's only existing CISWI source. West Virginia's May 1, 2023 submittal of its state plan revision continues to identify the same facility as operating the only CISWI unit, only now it is known as The Chemours Company FC, LLC, Washington Works.

⁷ The preamble's reference to section 11.4.2.4 of the March 20, 2023 version of Method 23 is likely a typographical error as the isomer identification requirements are located at section 11.4.3.4 of Method 23 as correctly referenced in 40 CFR 60.2690(g)(2) and (j)(2).

Method 23,” a section which the revised Method 23 no longer contains. Because West Virginia’s rule copies the prior 40 CFR 60.2690(g)(2) and (j)(2) model rule language verbatim and now references particular identification criteria in a nonexistent section of Method 23,⁸ it is no longer as protective as the emission guidelines, and therefore inadequate to address the specifically referenced conditions related to test methods for dioxins/furans. Therefore, the EPA is excluding from its proposed approval 45CSR18–9.7.g and j in their entirety because sections 9.7.g.1–.4 and j.1–.3 set forth interrelated steps in the required testing procedures which either directly or indirectly reference sections 9.7.g.2 and j.2. 40 CFR 62.14615a(g) and (j) of the Federal CISWI plan will apply instead as these counterparts reference the correct sections of Method 23.⁹

Second, 45CSR18–9.13.b is not as protective as the emission guidelines because it does not require certain types of ACIs to meet the minimum requirements. 45CSR18–9.13.b states that ACIs that burn only 100% wood waste, 100% clean lumber, or a 100% mixture of only wood waste, clean lumber and/or yard waste are only required to meet a limited set of requirements. 45CSR18–9.13.b corresponds to 40 CFR 60.2810(b) in the CISWI emission guidelines. Among the more limited set of requirements¹⁰ specified in 40 CFR 60.2810(b) are the ACI provisions of 40 CFR 60.2810 through 60.2870. 45CSR18–9.13 corresponds to 40 CFR 60.2810 through 60.2870. To be as protective as 40 CFR 60.2810(b), the more limited set of requirements that apply to the types of ACIs listed at 45CSR18–9.13.b should include the ACI requirements specified at 45CSR18–9.13 which include opacity standards, compliance schedules, and associated monitoring, recordkeeping, and reporting requirements. However, 45CSR18–9.13.b instead only points to increments of progress/final compliance

deadlines by mistakenly referencing 45CSR18–9.3 instead of section 9.13. Therefore, 45CSR18–9.13.b does not require the ACIs that burn these types of fuel to meet requirements at 45CSR18–9.13 such as the opacity standard and is thus less protective than the emission guidelines. The EPA is excluding from its proposed approval 45CSR18–9.13.b, and the corresponding language of the Federal CISWI plan, 40 CFR 62.14740a(b), will apply instead. Since 40 CFR 62.14740a(b) references 40 CFR 62.14770a (title V) and 40 CFR 62.14740a through 62.14765a (ACI requirements—opacity limitations), these conditions of the Federal plan will also apply for these types of ACIs.

Third, there is an error in footnote c of table 45–18M. Footnote c of table 45–18M allows the use of CEMS, or for mercury, an integrated sorbent trap monitoring system in lieu of performance testing for compliance with emission limitations applicable to small, remote incinerators so long as the owner or operator complies with the CEMS or integrated sorbent trap monitoring requirements applicable per references to certain existing CISWI monitoring requirements. Specifically, footnote c of table 45–18M cross references “9.10.a through 9.10.5”; however, 9.10.5 does not exist. The corresponding emission guidelines footnote 3 at table 9 to subpart DDDD of Part 60 references the monitoring and parameter requirements of 40 CFR 60.2730. The regulations at 40 CFR 60.2730’s monitoring and parameter requirements correspond to 45CSR18–9.10.a through –9.10.t.¹¹ To match all requirements that correspond to 40 CFR 60.2730 which is referenced in the emission guidelines at footnote 3 of Table 9 to subpart DDDD of Part 60, footnote c of Table 45–18M should reference 9.10.t instead of the nonexistent 9.10.5.¹² This means that it is unclear what requirements, other than 9.10.a, footnote c of Table 45–18M is cross-referencing as applicable—this makes this footnote less protective than the footnote in the emission guidelines. The EPA is excluding from its proposed approval footnote c of Table 45–18M to eliminate any confusion about which sections are being referenced and thus any confusion about what monitoring and parameter requirements owners and operators must follow in lieu of performance testing for small, remote incinerators. The Federal plan’s footnote 2 at Table 7 to subpart IIIa of Part 62

(and the Federal plan CFR provisions referenced therein, 40 CFR 62.14640a, 62.14665a, and 62.14640a(u)) applies instead to the “Averaging time” and “Performance test methods” columns of Table 45–18M if CEMS, or for mercury, an integrated sorbent trap monitoring system is used in lieu of performance testing for small, remote incinerators.

Fourth, 45CSR18–9.6.l is inconsistent with restrictions on the delegation of authority in the emission guidelines. 45 CSR18–9.6.l requires owners or operators to submit petitions to the WVDEP Secretary for specific operating limits if the owner or operator uses an air pollution control device other than a wet scrubber, activated carbon injection, selective noncatalytic reduction, fabric filter, an electrostatic precipitator or a dry scrubber or the limitation of emissions in some other manner, including mass balances, to comply with certain emission limitations. 45CSR18–9.6.l could be interpreted to designate authority to the state to determine specific operating limits to be established during the initial performance test and continuously monitored thereafter. 45CSR18–9.6.l corresponds to 40 CFR 60.2680 which gives the EPA Administrator the authority over such petitions. Moreover, 40 CFR 60.2542(e) states that this authority at 40 CFR 60.2680, among other authorities, should not be delegated to a state agency. 45CSR18–9.6.l is also inconsistent with 9.14.e,¹³ which states that, “[t]he requirements in subdivision 9.6.l of this rule,” remain under the authority of the EPA Administrator and not the WVDEP Secretary. The EPA has reviewed West Virginia’s commitment letter of December 10, 2024, and is proposing to find that the commitment letter and 45CSR18–9.14.e together address the inconsistency. The letter acknowledges the inconsistency between 45CSR18–9.6.l and the Federal provisions at 40 CFR 60.2542(e), 60.2680, and inconsistency with the state plan provision at 45CSR18–9.14.e. WVDEP has also committed to forwarding any 45CSR18–9.6.l petitions it receives to the Director of the Air and Radiation Division and the Director of the Enforcement & Compliance Assurance Division at U.S. EPA Region III within ten business days of receipt without taking any further action or making any determination on petitions submitted under 45CSR18–9.6.l.

There is one error in 45CSR18–9.13.e. for which the EPA will not be proposing

⁸ 45CSR18–9.7.g.1 refers to 45CSR16 which by reference cites the 40 CFR part 60 test methods in effect as of June 1, 2023. That version of 40 CFR part 60 includes the version of Method 23 that contains no section 5.2.3.5 with identification criteria for dioxins/furans.

⁹ Tables 45–18F and 45–18J through –18M contain emission limits for dioxins/furans and list as the corresponding compliance method performance testing based on Method 23 at 40 CFR part 60, appendix A–7. The limits and performance test methods in those tables are proposed to be approved as the version of Method 23 incorporated by reference in West Virginia’s regulations at 45CSR16 is the version that includes section 11.4.3.4 which is referenced at 40 CFR 60.2690(g) and (j) of the emission guidelines as well as 40 CFR 62.14615a(g) and (j) of the Federal plan.

¹⁰ The more limited requirements referenced in 40 CFR 60.2810(b) also includes 40 CFR 60.2805 which requires title V permits for ACI units.

¹¹ 45CSR18–9.10.u, the last subsection of –9.10, corresponds to 40 CFR 60.2735.

¹² The other footnotes c to Tables 45–18J through 45–18L all correctly reference 45CSR18–9.10.a through –9.10.t in West Virginia’s state plan revision.

¹³ The language of 45CSR18–9.14.e corresponds to the restrictions on delegation of authority in 40 CFR 60.2542(e).

exclusion from approval. 45CSR18–9.13.e corresponds to 40 CFR 60.2825 of the emission guidelines. 45CSR18–9.13.e applies to existing ACIs and describes requirements for the notification of achievement of increments of progress. The introductory language to 45CSR18–9.13.e references –9.3.e.1 through –9.3.e.3 instead of –9.13.e.1 through –9.13.e.3 but then lists after the colon the specific requirements of 45CSR18–9.13.e.1 through –9.13.e.3 directly below the introductory language as the information that should be included in the notification of achievement. Also, while there is a 45CSR18–9.3.e, there is no –9.3.e.1 through –9.3.e.3. Nonetheless, from the context and 45CSR18–9.13.e’s punctuation, the notification of achievement requirements for increments of progress are sufficiently clear. Therefore, the incorrect reference does not make West Virginia’s state plan less protective than the emission guidelines. Furthermore, the statutory deadlines for the increments of progress for which notification of achievements would be required have already passed. According to the increments of progress and compliance schedules listed in Table 45–18E, which is referenced in 45CSR18–9.13.d, existing ACIs should have submitted a final control plan by February 7, 2016 and achieved final compliance by February 7, 2018 if construction commenced on or before June 4, 2010. See 42 U.S.C. 7429(b)(2). Any notifications of achievement required under 45CSR18–9.13.e. should have already occurred, and more importantly, final compliance should already have occurred. In addition, the Federal plan does not contain increments of progress as a compliance pathway, and thus there is no notification of achievement provision in the ACI requirements at 40 CFR 62.14740a through 62.14765a that correspond to the ACI requirements in the emission guidelines at 40 CFR 60.2810 through 60.2870. 89 FR 100092 at 100098, 100127 (December 11, 2024). This error is discussed here only for clarity and completeness—EPA is proposing to approve 45CSR18–9.13.e. Nonetheless, if West Virginia intends to submit revisions to the state plan in the future, EPA recommends that West Virginia correct 45CSR18–9.13.e along with any other errors identified in this proposed rulemaking.

The EPA proposes to find that West Virginia’s state plan revision meets the criteria of 40 CFR part 60, subpart B except for the excluded provisions discussed above. The state provided

evidence that it complied with the public notice and hearing requirements of 40 CFR 60.23. The state plan addressed emission standards and compliance schedules per 40 CFR 60.24 with the exceptions of the provisions proposed to be excluded as discussed above. West Virginia has the legal authority to carry out the state plan per 40 CFR 60.26. The state plan revision also included an emission inventory, source surveillance requirements, and reporting requirements per 40 CFR 60.25. A more detailed discussion on the rationale and basis for this proposed partial approval is set forth in the technical support document (TSD) located in the rulemaking docket.

III. Proposed Action

The EPA is proposing to partially approve West Virginia’s 111(d)/129 state plan for existing CISWI units to the extent that the provisions of the state plan are as protective as 40 CFR part 60, subpart DDDD as discussed above and are submitted in accordance with the requirements for adoption and submittal of state plans for designated facilities in 40 CFR part 60, subpart B. The EPA is excluding from this proposed approval the provisions of the state plan that are not as protective as 40 CFR part 60, subpart DDDD and do not meet certain criteria in 40 CFR part 60, subpart B—specifically, 45CSR18–9.7.g and j, 45CSR18–9.13.b, and footnote c of Table 45–18M. Additionally, the EPA is proposing to amend 40 CFR part 62, subpart XX to reflect this action. This partial approval action is based on the rationale previously discussed in this document and explained in further detail in the TSD that may be found in the docket for this action. The scope of the proposed partial approval of the CAA section 111(d)/129 state plan is limited to the provisions of 40 CFR part 60 for existing CISWI units, as referenced in the emission guidelines at subpart DDDD. Pursuant to 40 CFR 60.2542, the EPA Administrator continues to retain authority per EPA regulations at 40 CFR 60.2542(a) through (i).

IV. Incorporation by Reference

In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the WVDEP rules at 45CSR18 sections 2 (specific provisions), 9, and 13.3, and tables 45CSR18E through 18M regarding requirements for existing CISWI units that are proposed for approval as the state plan except for certain provisions as discussed in section II of this document. The EPA has made, and will continue to make, these materials

generally available through the docket for this action, EPA–R03–OAR–2025–0043, at www.regulations.gov and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

In reviewing 111d/129 state plan submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA and applicable Federal regulations. Accordingly, this action merely proposes to approve state law (*i.e.*, most of the state plan for existing CISWIs) as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. In a few instances, this action proposes to exclude from approval state law as not meeting Federal requirements, the effect of which would be to allow already promulgated Federal plan to operate in lieu of a handful of excluded state provisions.

A. Executive Order 12866: Regulatory Planning and Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

This action is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because EPA is merely approving state law, and there are no small entities in West Virginia regulated under the existing CISWI regulations.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and does not

significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999) because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

This action does not concern an environmental health risk or safety risk subject to Executive Order 13045 (62 FR 19885, April 23, 1997).

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This action is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Commercial and industrial solid waste units, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Amy Van Blarcom-Lackey,

Regional Administrator, Region III.

[FR Doc. 2026-02830 Filed 2-11-26; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[WC Docket Nos. 13–97, 07–243, 20–67; FCC 25–86; FR ID 330316]

Numbering Policies for Modern Communications

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes rules regarding direct access to numbers by providers of interconnected Voice over internet Protocol (VoIP) services. The Commission takes this action in furtherance of Congress' directive in the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act to examine ways to reduce access to telephone numbers by potential perpetrators of illegal robocalls. These proposals aim to safeguard U.S. numbering resources and consumers, protect national security interests, promote public safety, and ensure compliance with other important Commission rules.

DATES: Comments are due on or before March 16, 2026. Reply Comments are due on or before April 13, 2026. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public and other interest parties on or before April 13, 2026.

ADDRESSES: You may submit comments, identified by WC Docket Nos. 13–97, 07–243, 20–67, by any of the following methods:

- *Electronic Filers.* Comments may be filed electronically using the Commission's website by accessing the Electronic Comment Filing System (ECFS): <https://www.fcc.gov/ecfs>.

- *Paper Filers.* Parties who choose to file by paper must file an original and one copy of each filing.

- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. *All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.*

- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the Commission's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes

must be disposed of before entering the building.

- Commercial courier deliveries (any not send by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

- *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

- *Availability of Documents.*

Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

For additional information on submitting comments and the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. Send a copy of your comment on the proposed information collection to PRA@fcc.gov or contact Nicole Ongele at Nicole.Ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT:

Jordan Reth, Attorney Advisor, Competition Policy Division, Wireline Competition Bureau at Jordan.Reth@fcc.gov or (202) 418–1418. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to PRA@fcc.gov or contact Nicole Ongele at Nicole.Ongele@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Third Further Notice of Proposed Rulemaking (Third FNPRM)* in WC Docket Nos. 13–97, 07–243, 20–67, adopted on December 18, 2025, and released on December 19, 2025. The complete text of this document is available for download at <https://docs.fcc.gov/public/attachments/FCC-25-86A1.pdf>. To request materials in accessible formats for people with disabilities (e.g., Braille, large print, electronic files, audio format, etc.), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”

Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible impact of the proposed rules contained in the *Third FNPRM* on small entities. The IRFA is set forth in Appendix C, <https://www.fcc.gov/document/wcb-updates-numbering-requirements-providers>.

Paperwork Reduction Act. This *Third FNPRM* may contain proposed new and revised information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements described in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Providing Accountability Through Transparency Act. The Providing Accountability Through Transparency Act, Public Law 118–9, requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. The required summary of this document will be available at <https://www.fcc.gov/proposed-rulemakings>.

Ex Parte Rules. The proceeding this *Third FNPRM* initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments

can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

Synopsis

In this *Third FNPRM*, we refresh the record on reclaiming numbering resources that were obtained directly from the Numbering Administrators by interconnected VoIP providers that subsequently had their authorizations revoked or terminated. We also seek comment on whether the Commission should restrict VoIP numbering authorizations or reevaluate direct access authorizations for entities that appear on the Commission’s Covered List or have “covered” equipment in their networks, pursuant to 47 CFR 1.50002 and the List of Equipment and Services Covered by section 2 of the Secure and Trusted Communications Networks Act of 2019, Public Law 116–124. Finally, we seek comment on other restrictions or protections we should consider for VoIP numbering authorizations or numbering resources.

Third Further Notice of Proposed Rulemaking

By this *Third FNPRM*, we seek comment on ways we can continue to leverage VoIP numbering authorizations and access to numbers in the fight against illegal robocalling and unacceptable national security threats.

First, we seek to refresh the record on the feasibility and impacts of reclaiming numbering resources obtained directly from the Numbering Administrators by interconnected VoIP providers when the Commission has revoked or terminated their VoIP numbering authorization or when the provider is no longer providing services due to bankruptcy or other critical circumstances. What are the costs and benefits of such action? Would the disruptions to end-users outweigh the potential benefits? What are the possible ways to mitigate impacts on end-users and consumers?

We also seek comment on the potential process the Commission might use to reclaim numbers and on ways to operationally facilitate numbering resource reclamation, particularly for numbers assigned to end-users. Would porting numbers to a designated alternative provider and establishing a numbering partner to maintain service to existing customers be a viable solution and what would that entail? “Numbering partner” refers to the carrier partner from where an interconnected VoIP provider obtains numbering resources. Are there alternatives to number reclamation that would be less disruptive but also provide adequate safeguards to numbering resources as well as meaningful enforcement mechanisms? We seek comment on related conclusions in the NANC’s 2024 report, which analyzed similar questions related to number reclamation pursuant to the *Second Report and Order*.

We also seek comment on whether the Commission should restrict VoIP numbering authorizations or reevaluate existing authorizations for certain entities that may threaten national security, for example, entities identified on the Commission’s Covered List (generally, entities whose equipment and/or services have been deemed to pose an unacceptable risk to the national security of the United States or to the security and safety of United States persons, as well as those entities’ affiliates and subsidiaries). As the Commission has previously explained, “[e]ntities ‘identified on the Covered List’ generally includes entities named on the Covered List and such entities’ affiliates and subsidiaries.” Another example would be entities who have had their international and/or domestic section 214 authorizations revoked on national security or law enforcement grounds. Should such entities be denied VoIP numbering authorizations? If we were to adopt these further restrictions, should we limit the prohibition to entities whose services, rather than equipment, is identified on the Covered List, or whose domestic or international section 214 authority (or that of its affiliate or subsidiary) has been denied or revoked on national security or law enforcement grounds? As we recently reiterated, “communications equipment and services on the FCC’s Covered List have been determined to pose unacceptable risks to the national security of the United States and its citizens.” What are the potential benefits of such a restriction for both reducing illegal robocalls and strengthening the security of the

nation's networks? Are there any harms or unintended impacts that would outweigh the benefits? What are the consequences of this restriction on providers and consumers?

Lastly, we also seek comment on whether the Commission should restrict a VoIP numbering authorization or reevaluate an existing authorization should it discover "covered" equipment in the interconnected VoIP provider's network. What are the potential costs and benefits of such a proposal? Should there be a time period considered for reporting "covered" equipment in a network before any potential restrictions on VoIP numbering authorizations take effect? Should the Commission adopt an additional certification requirement regarding the use of "covered" equipment or services by applicants and existing authorization holders? Should existing authorization holders (that is, those granted prior to the effective date of the contemplated certification requirement) be required to make these certifications? Should the Commission consider prohibiting providers with a VoIP numbering authorization from providing service to entities with "covered" equipment in their networks in order to avoid entities with "covered" equipment gaining indirect access to numbering resources through resale or other arrangements? Are there circumstances or situations that should be taken into consideration? Would such a proposal create any unintended consequences? Are there any reporting and transparency impacts that might outweigh our proposal? Would this have impacts that are not technology-neutral or disproportionately impact interconnected VoIP providers and/or small providers? Would there be any unintended consequences for technology transitions, implementation of STIR/SHAKEN Caller ID authentications, or other Commission priorities? Finally, are there other proposals that we should consider regarding national security protections and direct access to numbering resources?

Ordering Clauses

Accordingly, *it is ordered* that pursuant to sections 1, 3, 4, 201–205, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201–205, 251, 303(r), and section 6(a) of the TRACED Act, Public Law 116–105, 6(a)(1)–(2), 133 Stat. 3274, 3277 (2019), 47 U.S.C. 227b–1, the *Third FNPRM* hereby *is adopted*.

It is further ordered that the Commission's Office of the Secretary, SHALL SEND a copy of this *Third FNPRM*, including the Initial Regulatory

Flexibility Analyses, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the *Third FNPRM* assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *Third FNPRM*. The Commission will send a copy of the *Third FNPRM*, including this IRFA, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy. In addition, the *Third FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

In the *Third FNPRM*, the Commission continues to strengthen our direct access rules to protect consumers and our nation's communication networks from bad actors that would misuse our finite numbering resources. As bad actors continue to seek new and creative methods for exploiting consumers and causing harm, we must think outside of the box to bolster our safeguards against those who engage in illegal robocalling, fraud, and abuse. We seek comment on ways we can continue to leverage the VoIP numbering authorization and access to numbers in the fight against illegal robocalling and unacceptable national security threats. Specifically, we first refresh the record as to whether the Commission should reclaim numbering resources obtained directly from the Numbering Administrators by interconnected VoIP providers whose VoIP numbering authorizations were subsequently revoked or terminated. We also seek comment on prohibiting entities identified on the Covered List (*i.e.* named entities and their affiliates and subsidiaries) from obtaining a VoIP numbering authorization. Additionally, we seek comment on whether we should extend this prohibition to third party entities that supply, receive services from, carry traffic for, or interconnect with entities identified on the Covered List. Moreover, we seek comment on whether we should limit the prohibition to entities identified on

the Covered List whose international section 214 authority (or that of its affiliate or subsidiary) was denied or revoked on national security grounds. The Commission recently reiterated, "communications equipment and services on the FCC's Covered List have been determined to pose unacceptable risks to the national security of the United States and its citizens." We also request comment on the potential benefits of such a restriction for both reducing illegal robocalls and security of the nation's networks. Additionally, we seek comment on the harms or unintended impacts of such a restriction, and whether they would outweigh the benefits. Further, we seek comment on the consequences of such a restriction on providers and consumers.

The Commission seeks comment on whether to restrict a VoIP numbering authorization or reevaluate an existing authorization if "covered" equipment is discovered in the interconnected VoIP provider's network. We request comment on the potential costs and benefits and whether there should be a time period for reporting Covered List equipment in a network before any potential restrictions on VoIP numbering authorizations take effect. Additionally, the Commission seeks comment on adopting an additional certification requirement regarding the use of Covered List equipment or services by applicants for the VoIP numbering authorization and if there are circumstances or situations that should be taken into consideration. Moreover, we seek comment on any unintended consequences, reporting and transparency impacts, and impacts that are not technology-neutral or disproportionate for interconnected VoIP providers and/or small providers. Further, we seek comment on any unintended consequences for technology transitions, implementation of STIR/SHAKEN Caller ID authentications, or other Commission priorities. Finally, we request comment on any other proposals that we should consider regarding national security protections and direct access to numbering resources.

Legal Basis

The proposed action is authorized pursuant to sections 1, 3, 4, 201–205, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154, 201–205, 251, 303(r), and section 6(a) of the TRACED Act, Public Law 116–105, section 6(a)(1)–(2), 133 Stat. 3274, 3277 (2019), 47 U.S.C. 227b–1.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act (SBA). A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations

relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, “small organizations” are not-for-profit enterprises that are independently owned and operated and not dominant their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, “small governmental jurisdictions” are defined

as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

The rules proposed in the *Third FNPRM* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the proposed rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the industries identified below.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard	Total firms	Total small firms	% small firms
Wired Telecommunications Carriers	517111	1,500 employees	3,403	3,027	88.95
Wireless Telecommunications Carriers (except Satellite)	517112	1,500 employees	1,184	1,081	91.30
Telecommunications Resellers	517121	1,500 employees	955	847	88.69
Satellite Telecommunications	517410	\$44 million	332	195	58.73
All Other Telecommunications	517810	\$40 million	1,673	1,007	60.19

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal service monitoring report telecommunications service provider data (data as of December 2023)	SBA size standard (1,500 employees)		
Affected entity	Total # FCC Form 499A filers	Small firms	% Small entities
Cable/Coax CLEC	67	62	92.54
Competitive Local Exchange Carriers (CLECs)	3,729	3,576	95.90
Incumbent Local Exchange Carriers (Incumbent LECs)	1,175	917	78.04
Interexchange Carriers (IXCs)	113	95	84.07
Local Exchange Carriers (LECs)	4,904	4,493	91.62
Local Resellers	222	217	97.75
Other Toll Carriers	74	71	95.95
Prepaid Card Providers	47	47	100.00
Toll Resellers	411	398	96.84
Wired Telecommunications Carriers	4,682	4,276	91.33
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13

Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the

requirements and the type of professional skills necessary for preparation of the report or record.

In the *Third FNPRM*, the Commission seeks comment on proposals that, if adopted, will affect all interconnected VoIP providers seeking a VoIP numbering authorization with the Commission, including those that may be small entities. Specifically, in the *Third FNPRM*, we seek comment on

proposals to impose additional certifications requirements with respect to Covered List entities or covered equipment in networks for applicants and existing authorization holders. As detailed in section A, these include prohibiting entities identified on the Covered List from obtaining a VoIP numbering authorization, and whether we should extend this prohibition to third party entities that supply, receive

services from, carry traffic for, or interconnect with entities identified on the Covered List. These proposals may create new or additional reporting or recordkeeping and/or other compliance obligations on small entities, if adopted. We anticipate the information we receive in comments including, where requested, cost and benefit analyses, will help the Commission further identify and evaluate relevant compliance matters for small entities, including compliance costs such as whether small entities will have to hire professionals, and other burdens that may result from the inquiries we make in the *Third FNPRM*.

Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: “(1) the establishment of differing compliance or reporting requirements or timetables

that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”

In the *Third FNPRM*, the Commission continues to strengthen our direct access rules to protect consumers and our nation’s communication networks from bad actors that would misuse our finite numbering resources, including for illegal robocalling or unacceptable national security threats. While doing so, the Commission seeks comment on a number of proposals related to the VoIP numbering authorization and prohibiting direct access to numbering resources for entities on the Covered List or those that have covered equipment in their interconnected VoIP service networks. These include alternatives to revoking VoIP authorization that may mitigate disruption to end-users and consumers, including porting numbers to a designated alternative provider and

establishing a numbering partner to maintain service to existing customers.

In evaluating the proposals in the *Third FNPRM*, the Commission will fully consider the economic impact on small entities as it evaluates the comments filed, including comments related to costs and benefits. Alternative proposals and approaches from commenters will further develop the record and could help the Commission further minimize the economic impact on small entities. The Commission’s evaluation of the comments filed in this proceeding will shape the final conclusions it reaches, the final alternatives it considers, and the actions it ultimately takes to minimize any significant economic impact that may occur on small entities from the final rules.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

13. None.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2026–02858 Filed 2–11–26; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 91, No. 29

Thursday, February 12, 2026

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 COMMERCE

International Trade Administration

[A-552-801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony With the Final Results of New Shipper Review; and Notice of Amended Final Results

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

SUMMARY: On January 8, 2026, the U.S. Court of International Trade (CIT) issued its final judgment in *Catfish Farmers of Am., et al. v. United States*, Court No. 24-00126, sustaining the U.S. Department of Commerce (Commerce)'s remand results pertaining to the new shipper review of the antidumping duty (AD) order on certain frozen fish fillets from the Socialist Republic of Vietnam (Vietnam) covering the period of review (POR) August 1, 2022, through January 31, 2023. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results in the new shipper review, and that Commerce is amending the final results with respect to Co May Import-Export Company Limited (Co May).

DATES: Applicable January 18, 2026.

FOR FURTHER INFORMATION CONTACT:

Javier Barrientos, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2243.

SUPPLEMENTARY INFORMATION:

Background

On June 25, 2024, Commerce published the *Final Results*.¹ In the

Final Results, Commerce determined that, based on the factors listed in section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), and the totality of the circumstances surrounding Co May's sale of subject merchandise during the POR, the sale underlying this new shipper review was *bona fide*.² With respect to one statutory factor—i.e., “whether the subject merchandise involved in such sales was resold in the United States at a profit”—we found that Co May's customer resold the merchandise at a profit.³ As part of this decision, we (1) did not treat the customer's AD cash deposit as an expense when considering whether the resale was profitable, and (2) determined that the relationship between the customer and its own downstream customers did not undermine our determination regarding profitability, despite the record being unclear regarding the potential affiliation between these parties. In the *Final Results*, Commerce calculated an individual weighted-average dumping margin of \$0.00 per kilogram for Co May.⁴

The petitioners⁵ appealed the *Final Results*. On June 5, 2025, the CIT remanded two aspects of Commerce's *Final Results*. First, the Court remanded for further explanation Commerce's treatment of AD cash deposits in evaluating the profitability of the resale (i.e., Co May's customer's resale to downstream customers).⁶ Second, the CIT remanded Commerce's determination regarding the significance of the relationship between Co May's customer and its resale customers, and ordered Commerce to provide further explanation as to how profitability should be determined when the unaffiliated U.S. customer is closely

affiliated with its downstream customers.⁷

In its remand redetermination, issued on November 17, 2025, Commerce reconsidered its *Final Results* pursuant to the CIT's *Remand Opinion and Order*, and provided additional discussion regarding: (1) its treatment of AD cash deposits in determining resale profitability under the circumstances of this case; and (2) Co May's reporting regarding the relationship between its U.S. customer and the downstream customers as part of its resale profitability analysis.⁸ In light of these considerations, Commerce revisited its finding that Co May's single sale was resold at a profit. Further, Commerce also reconsidered its broader *bona fide* analysis and, instead, found that Co May's sale was not *bona fide*.⁹ Commerce stated that, if this finding is affirmed, Commerce would rescind this new shipper review.¹⁰ On January 8, 2026, the CIT sustained Commerce's final remand redetermination.¹¹

Timken Notice

In its decision in *Timken*,¹² as clarified by *Diamond Sawblades*,¹³ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT's January 8, 2026, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

⁷ *Id.* at 15.

⁸ See *Final Results of Redetermination Pursuant to Court Remand, Catfish Farmers of America, et al. v. United States*, Ct. No. 24-00126, Slip Op. 25-70 (CIT June 5, 2025), Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, dated November 17, 2025.

⁹ *Id.*

¹⁰ *Id.*

¹¹ See *Catfish Farmers of Am., et al. v. United States*, Court No. 24-00126, Slip Op. 26-2 (January 8, 2026).

¹² See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹³ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty New Shipper Review; 2022-2023*, 89 FR 53043

(June 25, 2024) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

² See *Final Results* IDM at Comment 1.

³ *Id.*

⁴ *Id.*

⁵ The petitioners are the Catfish Farmers of America, America's Catch, Inc., Alabama Catfish, LLC d/b/a Harvest Select Catfish, Inc., Consolidated Catfish Companies, LLC d/b/a Country Select Catfish, Delta Pride Catfish, Inc., Guidry's Catfish, Inc., Heartland Catfish Company, Magnolia Processing, Inc. d/b/a Pride of the Pond, and Simmons Farm Raised Catfish, Inc. (collectively, the petitioners).

⁶ See *Catfish Farmers of America, et al. v. United States*, Ct. No. 24-00126; Slip Op. 25-70 (CIT June 5, 2025) (*Remand Opinion and Order*) at 14.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Co May as follows: (1) we now find that Co May's sale was not *bona fide*, and (2) we are, accordingly, rescinding the 2022–2023 new shipper review.

Cash Deposit Requirements

Because we are rescinding this new shipper review, Co May is no longer eligible for separate rate consideration. Accordingly, Commerce is treating Co May as part of the Vietnam-wide entity and is revising the cash deposit rate for Co May. As such, the Vietnam-wide entity rate of \$2.39 per kilogram will now apply to Co May. Commerce will issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP).

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: were exported by Co May, and were entered, or withdrawn from warehouse, for consumption during the period August 1, 2022, through January 31, 2023. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise exported by Co May in accordance with 19 CFR 351.212(b). We will instruct CBP to assess duties on all appropriate entries covered by this review at the Vietnam-wide rate of \$2.39 per kilogram.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: February 6, 2026.

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. 2026–02783 Filed 2–11–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–842]

Certain Uncoated Paper From Brazil: Rescission of Antidumping Duty Administrative Review; 2024–2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on certain uncoated paper (uncoated paper) from Brazil covering the period of review (POR) March 1, 2024, through February 28, 2025. We are rescinding this administrative review with respect to Suzano S.A. (Suzano) because all review requests for the company have been withdrawn. Additionally, we are rescinding this administrative review with respect to Sylvamo do Brasil Ltda. and Sylvamo Exports Ltda. (collectively, Sylvamo), as it had no reviewable entries of subject merchandise during the POR.

DATES: Applicable February 12, 2026.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer, 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) 482–3860.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 2016, Commerce published in the *Federal Register* the *Order* on uncoated paper from Brazil.¹ On March 4, 2025, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the *Order* for the POR.² On March 31, 2025, Domtar Corporation (the petitioner) and Suzano S.A. (Suzano) submitted timely requests that Commerce conduct an administrative review.³ On April 28, 2025, Commerce published in the *Federal Register* a notice of initiation of an administrative

¹ See *Certain Uncoated Paper from Australia, Brazil, Indonesia, the People's Republic of China, and Portugal: Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders*, 81 FR 11174 (March 3, 2016) (*Order*).

² See *Antidumping and Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 90 FR 11155 (March 4, 2025).

³ See Petitioner's Letters, "Request for Administrative Review," dated March 31, 2025; see also Suzano's Letter, "Request for Administrative Review," dated March 31, 2025.

review with respect to imports of uncoated paper from Brazil in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).⁴

On June 5, 2025, Commerce placed on the record U.S. Customs and Border Protection (CBP) entry data for the companies subject to the review.⁵ On June 12, 2025, Sylvamo filed comments on these entries stating that none of the shipments were attributable to Sylvamo.⁶

On July 28, 2025, Suzano withdrew its request for a review of itself.⁷ Also on July 28, 2025, the petitioner withdrew its review request with respect to Suzano.⁸ On January 9, 2026, Commerce issued a notice of intent to rescind the 2024–2025 administrative review with respect to Sylvamo and invited interested parties to comment.⁹ No party filed comments in opposition and Sylvamo filed comments in agreement with the Notice of Intent to Rescind.¹⁰

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.¹¹ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.¹² Accordingly the deadline for the preliminary results of this review is now February 9, 2026.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 17568, 17572 (April 28, 2025).

⁵ See Memorandum, "Release of Customs and Border Protection Data," dated June 5, 2025.

⁶ See Sylvamo's Letter, "Comments on US Customs and Border Protection Data and Request for Rescission of Administrative Review," dated June 12, 2025.

⁷ See Suzano's Letter, "Withdrawal of Request for Administrative Review," dated July 28, 2025.

⁸ See Petitioner's Letter, "Partial Withdrawal of Request for Administrative Review," dated July 28, 2025.

⁹ See Memorandum, "Notice of Intent to Rescind Review," dated January 9, 2026 (Notice of Intent to Rescind).

¹⁰ See Sylvamo's Letter, "Comments on Notice of Intent to Rescind Review," dated January 16, 2026.

¹¹ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

¹² See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. As noted above, on July 28, 2025, the petitioner and Suzano both withdrew their request for review regarding Suzano. Because the request for review of Suzano was timely withdrawn from the petitioner and Suzano, and because no other party requested a review of Suzano, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review for the company.

Additionally, pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an AD order when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.¹³ Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD assessment rate for the review period.¹⁴ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the newly calculated AD assessment rate.¹⁵

As noted above, there were no entries of subject merchandise for Sylvamo during the POR. Accordingly, in the absence of suspended entries of subject merchandise during the POR, we are hereby rescinding this administrative review of the company, in accordance with 19 CFR 351.213(d)(3).

Cash Deposit Requirements

As Commerce has proceeded to a final rescission of this administrative review, no cash deposit rates will change. Accordingly, the current cash deposit requirements shall remain in effect until further notice.

Assessment Rates

Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in the United States, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

¹³ See, e.g., *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023).

¹⁴ See 19 CFR 351.212(b)(1).

¹⁵ See 19 CFR 351.213(d)(3).

Administrative Protective Order (APO)

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

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: February 9, 2026.

/S/Scot Fullerton,

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–02781 Filed 2–11–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–871]

Finished Carbon Steel Flanges From India: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that producers and/or exporters subject to this administrative review made sales of subject merchandise at less than normal value (NV) during the period of review (POR) August 1, 2023, through July 31, 2024. Interested parties are invited to comment on these preliminary results.

DATES: Applicable February 12, 2026.

FOR FURTHER INFORMATION CONTACT: Theodora Mattei, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; (202) 482–4834.

SUPPLEMENTARY INFORMATION:

Background

On August 24, 2017, Commerce published in the **Federal Register** the

antidumping duty order on finished carbon steel flanges from India.¹ On August 1, 2024, Commerce published a notice of opportunity to request an administrative review of the *Order*.² On September 20, 2024, Commerce initiated an administrative review of the antidumping duty order on finished carbon steel flanges from India, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).³ On November 15, 2024, Commerce selected Norma Group⁴ and R.N. Gupta & Co., Ltd. (RNG) as mandatory respondents in this administrative review.⁵

On December 9, 2024, Commerce tolled certain deadlines in this administrative proceeding by 90 days.⁶ On July 17, 2025, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), Commerce extended the time period for issuing these preliminary results by 112 days, until no later than November 21, 2025. Additionally, due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days,⁷ and due to a backlog of documents that were electronically filed via Enforcement and Compliance's

¹ See *Finished Carbon Steel Flanges from India and Italy: Antidumping Duty Orders*, 82 FR 40136 (August 24, 2017) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 62714 (August 1, 2024).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 77079 (September 20, 2024).

⁴ In prior segments of this proceeding, we determined that Norma (India) Limited, USK Exports Private Limited, Uma Shanker Khandelwal & Co., and Bansidhar Chiranjilal were affiliated and should be treated as a single entity (Norma Group). See, e.g., *Finished Carbon Steel Flanges from India: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 82 FR 9719 (February 8, 2017), and accompanying Preliminary Decision Memorandum, at 4–5, unchanged in *Finished Carbon Steel Flanges from India: Final Determination of Sales at Less Than Fair Value*, 82 FR 29483 (June 29, 2017). In this review, Norma (India) Limited and its affiliated entities have affirmed that the factual basis on which Commerce made its prior determinations has not changed. See Norma Group's Letter, "Response to Section A of Anti-Dumping duty Original Questionnaire," dated January 21, 2025; see also Norma Group's Letter, "1st Supplemental Response Section A, C and D of Anti-Dumping duty Questionnaire," dated August 11, 2025. Therefore, Commerce continues to treat these four companies as a single entity.

⁵ See Memorandum, "Respondent Selection," dated November 15, 2024 (Respondent Selection Memorandum).

⁶ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated December 9, 2024.

⁷ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 17, 2025.

Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁸ Accordingly, the deadline for these preliminary results is now January 28, 2026.

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁹ A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via 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 Order

The merchandise covered by the Order is finished carbon steel flanges. For a complete description of the scope of the Order, see the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Act. Export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, see the Preliminary Decision Memorandum.

Rate for Non-Selected Companies

The Act and Commerce’s regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally “an amount equal to the weighted average of the estimated

weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.”

In this administrative review, we preliminarily calculated weighted-average dumping margins for Norma Group and RNG that are not zero, *de minimis* (i.e., less than 0.5 percent), or determined entirely on the basis of facts available. Accordingly, consistent with guidance in section 735(c)(5)(A) of the Act, Commerce is preliminarily assigning to the companies not individually examined a margin of 2.35 percent, which is the weighted average of the dumping margins calculated for Norma Group and RNG based on publicly ranged U.S. sales values.¹⁰ The companies not selected for individual examination are listed in Appendix II.

Preliminary Results of Review

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist for the period August 1, 2023, through July 31, 2024:

Producer/exporter	Weighted-average dumping margin (percent)
R.N. Gupta & Company Limited	2.65
Norma (India) Limited/USK Exports Private Limited/Uma Shanker Khandelwal & Co./Bansidhar Chiranjilal	1.88
Non-Selected Companies ¹¹	2.35

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results 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).

Public Comment

Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of publication of this notice. 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) table of contents listing each issue; and (2) a table of authorities.¹³ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we 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 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

⁸ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.
⁹ See Memorandum, “Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Finished Carbon Steel Flanges from India: 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

¹⁰ See Memorandum, “Calculation of Margin for Respondents Not Selected for Individual Examination,” dated concurrently with this notice.
¹¹ See Appendix II for a list of companies not selected for individual examination.
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 Procedures*).
¹³ See 19 CFR 351.309(c)(2) and 351.309(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.
¹⁵ See *APO and Service Final Rule*.

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.

Assessment Rates

Upon completion of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If the weighted-average dumping margin for a mandatory respondent is not zero or *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1).¹⁶ If the weighted-average dumping margin is zero or *de minimis* in the final results of review, or if an importer-specific assessment rate is zero or *de minimis*, Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹⁷ For entries of subject merchandise during the period of review produced by the respondents for which they did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries pursuant to the reseller policy, *i.e.*, the assessment rate for such entries will be the all-others rate established in the investigation if there is no rate for the intermediate company(ies) involved in the transaction.¹⁸

For the companies which were not selected for individual examination, we intend to assign an antidumping duty assessment rate equal to the weighted-average dumping margin determined for the non-examined companies in the final results of review.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication). The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future cash deposits of estimated antidumping duties, where applicable.¹⁹

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for companies subject to this review will be equal to the company-specific weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by a company not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the producer is, then the cash deposit rate will be the rate established in the most recently completed segment of the proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 8.91 percent, the all-others rate established in the less-than-fair-value investigation.²⁰ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review

period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of countervailing duties.

Notification to Interested Parties

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

Dated: January 28, 2026.

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

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
- V. Munish Forge Private Corporate Name Change
- VI. Currency Conversion
- VII. Recommendation

Appendix II

List of Companies Not Selected for Individual Examination

1. Balkrishna Steel Forge Pvt. Ltd.
2. BFN Forgings Private Limited
3. Cetus Engineering Private Limited
4. Echjay Industries Pvt. Ltd
5. Jai Auto Pvt. Ltd.
6. Munish Forge Private Limited²¹

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–830]

Carbon and Certain Alloy Steel Wire Rod From Mexico: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2023–2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily

²¹ As noted in the Preliminary Decision Memorandum, this company filed a letter notifying Commerce of its name change. However, Commerce requires additional time to issue its determination as to whether “Munish Forge Limited” is the successor in interest to “Munish Forge Private Limited.”

¹⁶ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

¹⁷ *Id.*, 77 FR at 8102–03; see also 19 CFR 351.106(c)(2).

¹⁸ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹⁹ See section 751(a)(2)(C) of the Act.

²⁰ See *Order*, 82 FR at 40138.

determines that sales of carbon and certain alloy steel wire rod (wire rod) from Mexico were made at less than normal value during the period of review (POR), October 1, 2023, through September 30, 2024. Additionally, Commerce is rescinding this administrative review with respect to seven companies. We invite interested parties to comment on these preliminary results.

DATES: Applicable February 12, 2026.

FOR FURTHER INFORMATION CONTACT: Matthew Palmer, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1678.

SUPPLEMENTARY INFORMATION:

Background

On October 29, 2002, Commerce published the antidumping duty order on wire rod from Mexico in the **Federal Register**.¹ On October 1, 2024, we published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order*.² On November 14, 2024, pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), Commerce initiated an administrative review of the *Order*.³ On wire rod from Mexico covering the following nine⁴ exporters/producers: ArcelorMittal Mexico S.A. de C.V. (AMM); Comercializadora Eloro S.A. (Comercializadora Eloro); Deacero S.A. de C.V./Deacero S.A.P.I. de C.V.

¹ See *Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine*, 67 FR 65945 (October 29, 2002) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 68098 (October 3, 2023).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 89955, 89958 (November 14, 2024) (*Initiation Notice*).

⁴ We note that the *Initiation Notice* shows that we initiated on eleven companies, which otherwise includes two entities that were collapsed in a prior proceeding and includes two additional entities with a minor spelling variation. See *Initiation Notice*; Memorandum, “Administrative Review of Antidumping Duty Order on Carbon and Certain Alloy Steel Wire Rod from Mexico; 2023–2024: Respondent Selection,” dated December 23, 2024 (Respondent Selection Memorandum); see also *Carbon and Certain Alloy Steel Wire Rod from Mexico: Final Results and Partial Rescission of the Antidumping Duty Administrative Review; 2022–2023*, 90 FR 36421 (August 4, 2025) (showing that in the prior administrative review, Commerce found TA 2000 to be the successor-in-interest to Talleres y Aceros S.A. de C.V. (Talleres y Aceros). As a respondent, and consistent with our prior determination, we continue to treat TA 2000 and Talleres y Aceros as one entity and therefore find that, for this proceeding, Commerce initiated on nine companies).

(Deacero); Deacero Summit S.A.P.I. de C.V. (Deacero Summit); Grupo Villacero S.A. de C.V. (Villacero); Ingeteknos Estructurales S.A. (Ingeteknos); Optimatiks S.A. de C.V. (Optimatiks); TA 2000 S.A. de C.V. (TA 2000); and Ternium Mexico S.A. de C.V. (Ternium).

On December 9, 2024, Commerce tolled the deadline to issue the preliminary results in this administrative review by 90 days to October 1, 2025.⁵ On September 30, 2025, pursuant to section 751(a)(3)(A) of the Act, Commerce extended the time period for issuing the preliminary results of this review by an additional 30 days, until October 31, 2025.⁶ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁷ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁸ On December 29, 2025, Commerce extended the time period for issuing the preliminary results of this review by an additional 30 days.⁹ Accordingly, the deadline for these preliminary results is now February 6, 2026.

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.¹⁰ A list of topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete

⁵ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated December 9, 2024.

⁶ See Memorandum, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated September 30, 2025.

⁷ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁸ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁹ See Memorandum, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated December 29, 2025.

¹⁰ See Memorandum, “Decision Memorandum for the Preliminary Results and Partial Rescission of the Administrative Review of the Antidumping Duty Order on Carbon and Certain Alloy Steel Wire Rod from Mexico; 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The merchandise subject to the *Order* is wire rod, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter. A full description of the scope of the *Order* is contained in the Preliminary Decision Memorandum.

Partial Rescission of Review

As noted above, we initiated this review with respect to nine companies.¹¹ During the course of the review, we selected two mandatory respondents, Deacero and Deacero Summit.¹² Thus, there are seven companies upon which this review was requested, and which were not selected for individual examination: (1) AMM; (2) Comercializadora Eloro; (3) Villacero; (4) Ingeteknos; (5) Ternium; (6) Optimatiks; (7) and TA 2000.

Pursuant to 19 CFR 351.213(d)(3), Commerce will rescind an administrative review when there are no reviewable suspended entries. Based on analysis of the U.S. Customs and Border Protection (CBP) information, seven companies listed in the *Initiation Notice* had no entries of subject merchandise during the POR, specifically: AMM; Comercializadora Eloro; Villacero; Ingeteknos; Optimatiks; TA 2000; and Ternium. On March 12, 2025, Commerce notified parties of its intent to rescind this administrative review with respect to the above-referenced seven companies that had no reviewable suspended entries during the POR.¹³ On March 24, 2025, Commerce received a request for clarification on our Intent to Rescind Memorandum from Deacero.¹⁴ On March 26, 2025, we notified parties of our intent to continue this administrative review with respect to Deacero and Deacero Summit, pursuant to 19 CFR 351.302(d).¹⁵ As a result, we are rescinding this review, in part, with respect to a total of seven companies, which are referenced above.¹⁶

¹¹ See *Initiation Notice*.

¹² See Respondent Selection Memorandum.

¹³ See Commerce’s Letter, “Notice of Intent to Rescind Review, In Part,” dated March 12, 2025 (Intent to Rescind Memorandum).

¹⁴ See Deacero’s Letter, “Second Request for Clarification and Extension Request for Supplemental,” dated March 24, 2025.

¹⁵ See Memorandum, “Request for Extension of Deadline for Deacero S.A.P.I. de C.V. and Deacero Summit S.A.P.I. de C.V. to Submit its Response to Commerce’s Supplemental Questionnaire,” dated March 26, 2025.

¹⁶ *Id.* (we note that TA 2000 and Talleres y Aceros are treated as one entity).

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act. Constructed export price was calculated in accordance with section 772(b) of the Act. Normal value was calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following estimated weighted-average dumping margin exists for the POR:¹⁷

Producer/ exporter	Weighted- average dumping margin (percent)
Deacero S.A.P.I. de C.V./ Deacero Summit S.A.P.I. de C.V.	15.97

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in these preliminary results 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 the **Federal Register**, in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 21 days after the date of publication of this notice.¹⁸ Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.¹⁹ Parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and, (2) a table of authorities.²⁰

¹⁷ Commerce preliminarily determines that Deacero and Deacero Summit are a single entity. See Preliminary Decision Memorandum; see also Memorandum, "Preliminary Affiliation and Collapsing Memorandum," dated concurrently with this notice.

¹⁸ Commerce is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for the filing of case briefs. See 19 CFR 351.309(c)(1)(ii).

¹⁹ 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 Procedures*).

²⁰ See 19 CFR 351.309(c)(2) and (d)(2).

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.²¹ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public 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).²²

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS and received successfully in its entirety by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.²³ Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing at a time and location to be determined.²⁴ Parties should confirm by telephone the date, time, and location of the hearing no fewer than two days before the scheduled date. Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5:00 p.m. Eastern Time on the due date.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.²⁵ If a respondent's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-

specific assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).²⁶ Where the respondent did not report entered value, we calculated a per-unit assessment rate for each importer by dividing the total amount of dumping calculated for the examined sales made to that importer by the total quantity associated with those sales. To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also calculated an importer-specific *ad valorem* ratio based on estimated entered values. If a respondent's weighted-average dumping margin or an importer-specific assessment rate is zero or *de minimis* in the final results of review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in accordance with the *Final Modification for Reviews*.²⁷

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by each respondent which did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate in the original less-than-fair-value (LTFV) investigation (*i.e.*, 20.11 percent)²⁸ if there is no rate for the intermediate company(ies) involved in the transaction.

The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.²⁹ We intend to issue assessment instructions to CBP no earlier than 41 days after the date of publication of the final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a).

For the companies for which this administrative review is rescinded, antidumping duties shall be assessed at a rate equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in

²⁶ In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

²⁷ See *Final Modification for Reviews*, 77 FR at 8103; see also 19 CFR 351.106(c)(2).

²⁸ See *Order*, 67 FR at 65947.

²⁹ See section 751(a)(2)(C) of the Act.

²¹ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

²² See *APO and Service Procedures*.

²³ See 19 CFR 351.310(c).

²⁴ See 19 CFR 351.310.

²⁵ See 19 CFR 351.212(b).

accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions for the seven companies listed in the “Partial Rescission of Review” section of this notice, above, to CBP no earlier than 41 days after the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 356.8(a).

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective upon publication of the notice of final results of this administrative review for all shipments of wire rod from Mexico entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) the cash deposit rate for the firms listed above will be equal to the dumping margins established in the final results of this review, except if the ultimate rates are *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rates will be zero; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the producer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 20.11 percent, the all-others rate established in the LTFV investigation.³⁰ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless the deadline is extended, we intend to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case and rebuttal briefs, within 120 days of publication of these preliminary results in the **Federal Register**.³¹

Notification to Importers

This notice also serves as a preliminary reminder to importers of

their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, 19 CFR 351.213(h)(2), and 19 CFR 351.221(b)(4).

Dated: February 6, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Rescission of Review, in Part
- V. Affiliation And Single Entity Treatment
- VI. Discussion of Methodology
- VII. Currency Conversion
- VIII. Recommendation

[FR Doc. 2026–02850 Filed 2–11–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–837, A–533–824]

Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan and India: Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders on polyethylene terephthalate film, sheet, and strip (PET Film) from Taiwan and India would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the “Final Results of Sunset Reviews” section of this notice.

DATES: Applicable February 12, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade

Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2178.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2002, Commerce published the *Orders* in the **Federal Register**.¹ On August 1, 2025, Commerce published the notice of initiation of these fourth sunset reviews of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(c).²

On August 18, 2025, Commerce received a timely and complete notice of intent to participate in these sunset reviews from the domestic interested parties³ within the deadline specified in the 19 CFR 351.218(d)(1)(i).⁴ The domestic interested parties claimed the interested party status within the meaning of section 771(9)(C) of the Act as U.S. producers of the domestic like product.⁵ On August 22, 2025, Commerce notified the U.S.

International Trade Commission (ITC) that it had received notices of intent to participate from the domestic interested parties.⁶

On August 29, 2025, pursuant to 19 CFR 351.218(d)(3)(i), the domestic interested parties filed timely and adequate substantive responses.⁷

¹ See *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan*, 67 FR 44174, (July 1, 2002); see also *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 67 FR 44175 (July 1, 2002) (collectively, *Orders*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 36139 (August 1, 2025).

³ The domestic interested parties are Mitsubishi Chemical America, Inc.—Polyester Film Division (Mitsubishi) and Microworks America, Inc. (Microworks).

⁴ See Microwork’s Letter, “Polyethylene Terephthalate (PET) Film, Sheet, and Strip From Taiwan: Notice of Intent to Participate in Sunset Review,” dated August 15, 2025; Mitsubishi’s Letter, “Polyethylene Terephthalate (PET) Film, Sheet, and Strip From Taiwan: Notice of Intent to Participate in Sunset Review,” dated August 18, 2025; Microwork’s Letter, “Polyethylene Terephthalate (PET) Film, Sheet, and Strip From India: Notice of Intent to Participate in Sunset Review,” dated August 15, 2025; and Mitsubishi’s Letter, “Polyethylene Terephthalate (PET) Film, Sheet, and Strip From India: Notice of Intent to Participate in Sunset Review,” dated August 18, 2025.

⁵ *Id.*

⁶ See Commerce’s Letter, “Sunset Reviews Initiated on August 1, 2025,” dated August 22, 2025.

⁷ See Domestic Interested Parties’ Letter, “Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Substantive Response to the Notice of Initiation,” dated August 29, 2025; and Domestic Interested Parties’ Letter, “Polyethylene

³⁰ See *Order*, 67 FR at 65947.

³¹ See section 751(a)(3)(A) of the Act; and 19 CFR 351.213(h).

Commerce did not receive a substantive response from any respondent interested party. On September 23, 2025, Commerce notified the ITC that it did not receive substantive response from any respondent interested parties.⁸ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting expedited (120-day) sunset reviews of the *Orders*.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁹ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.¹⁰ Accordingly, the deadline for these final results are now February 5, 2026.

Scope of the Orders

The product covered by these *Orders* is PET film from Taiwan and India. For the full description of the scope of the *Orders*, see the Issues and Decisions Memorandum.¹¹

Analysis of Comments Received

A complete discussion of all issues raised in these sunset reviews, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Orders* and the magnitude of the margins likely to prevail if the *Orders* were to be revoked, is provided in the Issues and Decision Memorandum.¹² A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to

Terephthalate (PET) Film, Sheet, and Strip from India: Substantive Response to the Notice of Initiation," dated August 29, 2025.

⁸ See Commerce's Letter, "Sunset Review Initiated on August 1, 2025," dated September 23, 2025.

⁹ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

¹⁰ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

¹¹ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders on Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan and India," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

¹² *Id.*

registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be directly accessed at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Reviews

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 8.99 percent for Taiwan and 24.10 percent for India.

Notification Regarding Administrative Protective Order (APO)

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

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

Dated: February 5, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. History of the *Orders*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins of Dumping Likely to Prevail
- VII. Final Results of Sunset Reviews
- VIII. Recommendation
- IX.

[FR Doc. 2026-02851 Filed 2-11-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-906]

Sodium Nitrite From India: Final Results of Antidumping Duty Administrative Review; 2022-2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Deepak Nitrite Limited (Deepak) did not make sales of subject merchandise at less than normal value during the period of review (POR) from August 17, 2022, through January 31, 2024.

DATES: Applicable February 12, 2026.

FOR FURTHER INFORMATION CONTACT: Joy Zhang, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1168.

SUPPLEMENTARY INFORMATION:

Background

On June 4, 2025, Commerce published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty (AD) order on sodium nitrite from India.¹ On July 18, 2025, Commerce issued a post-preliminary analysis in this administrative review and invited interested parties to comment.² On September 24, 2025, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce extended the time period for issuing the final results of this review by an additional 60 days, until December 1, 2025.³

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁴ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized

¹ See *Sodium Nitrite From India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2022-2024*, 90 FR 23673 (June 4, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, "Post-Preliminary Analysis for the Administrative Review of Sodium Nitrite from India; 2022-2024," dated July 18, 2025; see also Memorandum, "Briefing Schedule for Post-Preliminary Results," dated July 21, 2025.

³ See Memorandum, "Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated September 24, 2025.

⁴ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁵ Accordingly, the deadline for these final results is now February 9, 2026.

For a complete description of the events that occurred since the *Preliminary Results* and Post-Preliminary Analysis, see the Issues and Decision Memorandum. A full discussion of the issues raised by parties for these final results are discussed in the Issues and Decision Memorandum.⁶ The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order⁷

The product covered by the scope of the *Order* is sodium nitrite from India. For a complete description of the scope of the *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached in the appendix to this notice.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, we made certain changes to Deepak's weighted-average dumping margin calculations. For a discussion of these changes, see the Issues and Decision Memorandum.

Final Results of Administrative Review

We determine that the following estimated weighted-average dumping margin exists for the period August 17, 2022, through January 31, 2024:

Producer or exporter	Weighted-average dumping margin (percent)
Deepak Nitrite Limited	0.00

Disclosure

Commerce intends to disclose the calculations and analysis performed in connection with the final results of this administrative review to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the publication date of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Because the weighted-average dumping margin for Deepak is zero, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties in accordance with the *Final Modification for Reviews*.⁸ For entries of subject merchandise during the POR produced by Deepak for which it did not know that the merchandise was destined to the United States, we will instruct CBP to liquidate those entries at the all-others rate established in the original less-than-fair-value (LTFV) investigation of 42.76 percent,⁹ if there is no rate for the intermediate company(ies) involved in the transaction.¹⁰

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).¹¹

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review in the **Federal Register**, as provided for by section 751(a)(2) of the Act: (1) the cash deposit rate for companies subject to this review will be the rates established in these final results of the review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer is, then the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 42.76 percent, the all-others rate established in the LTFV investigation.¹² These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties has occurred and the subsequent assessment of double antidumping duties and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification Regarding Administrative Protective Order (APO)

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

⁵ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁶ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Sodium Nitrite from India; 2022–2024," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁷ See *Sodium Nitrite from India: Antidumping Duty and Countervailing Duty Orders*, 88 FR 12313 (February 27, 2023) (*Order*).

⁸ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*) at 8103; see also 19 CFR 351.106(c)(2).

⁹ See *Order*, 88 FR at 12314.

¹⁰ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹¹ See 19 CFR 351.212(c)(2).

¹² See *Order*, 88 FR at 12314.

Notification to Interested Parties

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

Dated: February 9, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix**List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the *Preliminary Results*
- V. Discussion of the Issue
 - Comment: Whether to Disallow Deepak's By-Product Offset for Sodium Nitrite
- VI. Recommendation

[FR Doc. 2026-02828 Filed 2-11-26; 8:45 am]

BILLING CODE 3510-DS-P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**Limitation of Duty-Free Imports of Apparel Articles Assembled in Haiti Under the Caribbean Basin Economic Recovery Act**

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Notification of annual quantitative limit on imports of certain apparel from Haiti.

SUMMARY: The Caribbean Basin Economic Recovery Act, as amended, provides duty-free treatment for certain apparel articles imported directly from Haiti. One of the preferences is known as the "value-added" provision, which provides preferential tariff treatment for apparel that meets a minimum threshold percentage of value added in Haiti, certain other beneficiary and free trade agreement countries, and/or the United States. The provision is subject to a quantitative limitation, which is a percentage of total apparel imports into the United States for the previous 12-month period for which data are available. For the period from February 3, 2026 through December 19, 2026, the quantity of imports eligible for preferential treatment under the value-added provision is 267,063,493 square meters equivalent. This quantitative limitation was calculated by prorating imports on a monthly basis to account for the lapse in authorization for this treatment from December 20, 2025 to February 2, 2026.

DATES: The new limitation applies to imports entered on or after February 3, 2026.

FOR FURTHER INFORMATION CONTACT: Kayla Johnson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-2532.

SUPPLEMENTARY INFORMATION:

Background: Section 213A(b)(1)(B) of CBERA, as amended (19 U.S.C. 2703a(b)(1)(B)), outlines the requirements for certain apparel articles imported directly from Haiti to qualify for duty-free treatment under a "value-added" provision. In order to qualify for duty-free treatment under this provision, apparel articles must be wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns, as long as the sum of the cost or value of materials produced in Haiti, one or more other beneficiary countries or parties to a free trade agreement with the United States, the United States, or any combination thereof, plus the direct costs of processing operations performed in Haiti or one or more beneficiary countries, or any combination thereof, is not less than an applicable percentage of the declared customs value of such apparel articles. Pursuant to CBERA, as amended, the applicable percentage for the period February 3, 2026 through December 19, 2026, is 60 percent. Proclamation 8114 provides that preferential treatment is limited to amounts published in the **Federal Register** by the Committee for the Implementation of Textile Agreements.

Duty-free treatment under the value-added provision is subject to a quantitative limitation. CBERA, as amended, provides that the quantitative limitation will be recalculated for each period after the initial applicable 1-year period. Section 213A(b)(1)(C) of CBERA, as amended (19 U.S.C. 2703a(b)(1)(C)), requires that, for the period beginning on February 3, 2026, the quantitative limitation for qualifying apparel imported from Haiti under the value-added provision will be not more than 1.25 percent of the aggregate square meter equivalent of all apparel articles imported into the United States in the most recent 12-month period for which data are available. For the period beginning on February 3, 2026 and ending on December 19, 2026, CITA calculated the quantitative limitation by prorating imports on a monthly basis to account for the lapse in authorization of this treatment from December 20, 2025 to February 2, 2026. Per Section 5020(c) of the Consolidated Appropriations Act,

2026, qualifying apparel imported during the lapse in authorization (from December 20, 2025 to February 2, 2026) is eligible for such preferential treatment upon an appropriate request for liquidation or reliquidation to United States Customs and Border Protection. The aggregate square meters equivalent of all apparel articles imported into the United States is derived from the set of Harmonized System lines listed in the Annex to the World Trade Organization Agreement on Textiles and Clothing ("ATC"), and the conversion factors for units of measure into square meter equivalents used by the United States in implementing the ATC. For purposes of this notice, the most recent 12-month period for which data are available is the 12-month period ending on November 30, 2025.

Therefore, for the period beginning on February 3, 2026 and extending through December 19, 2026, the quantity of imports eligible for preferential treatment under the value-added provision is 267,063,493 square meters equivalent. Apparel articles entered in excess of these quantities will be subject to otherwise applicable tariffs.

Authority: Section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a) (CBERA), Presidential Proc. No. 8114, 72 FR 13655 (March 22, 2007), and No. 8596, 75 FR 68153 (November 4, 2010).

Joshua Kroon,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2026-02832 Filed 2-11-26; 8:45 am]

BILLING CODE P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**Limitations of Duty-Free Imports of Apparel Articles Assembled in Beneficiary Sub-Saharan African Countries From Regional and Third-Country Fabric**

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Publishing the new quantitative limit on duty-free benefits for certain apparel assembled in Sub-Saharan Africa.

DATES: The new limitations became effective February 3, 2026.

FOR FURTHER INFORMATION CONTACT: Thomas Newberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202)-482-7578.

SUPPLEMENTARY INFORMATION:

Authority: Title I, Section 112(b)(3) of the Trade and Development Act of 2000 (TDA 2000), Public Law (P.L.) 106–200, as amended by Division B, Title XXI, section 3108 of the Trade Act of 2002, P.L. 107–210; Section 7(b)(2) of the AGOA Acceleration Act of 2004, P.L. 108–274; Division D, Title VI, section 6002 of the Tax Relief and Health Care Act of 2006 (TRHCA 2006), P.L. 109–432, and section 1 of The African Growth and Opportunity Amendments (P.L. 112–163), August 10, 2012; Presidential Proclamation 7350 of October 2, 2000 (65 FR 59321); Presidential Proclamation 7626 of November 13, 2002 (67 FR 69459); Title I, Section 103(b)(2) and (3) of the Trade Preferences Extension Act of 2015, P.L. 114–27, June 29, 2015; and Division I, Section 5019 of the Consolidated Appropriations Act, 2026 (P.L. 119–75).

Title I of TDA 2000 provides for duty- and quota-free treatment for certain textile and apparel articles imported from designated beneficiary sub-Saharan African countries. Section 112(b)(3) of TDA 2000 provides duty-free treatment for apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries, subject to quantitative limitations. This preferential treatment is also available for apparel articles assembled in one or more lesser-developed beneficiary sub-Saharan African countries, regardless of the country of origin of the fabric used to make such articles, subject to quantitative limitation. P.L. 119–75 extended preferential treatment under these programs through December 31, 2026.

The Consolidated Appropriations Act, 2026 provides that the quantitative limitation will be an amount not to exceed seven percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available. *See* Section 112(b)(3)(A)(ii)(I) of TDA 2000, as amended by Section 5019(a)(1)(B)(ii) of the Consolidated Appropriations Act, 2026. Of this overall amount, apparel imported during the same period under the special rule for lesser-developed countries is limited to an amount not to exceed 3.5 percent of all apparel articles imported into the United States in the preceding 12-month period for which data are available. *See* Section

112(b)(3)(B)(ii)(II) of TDA 2000, as amended by Section 5019(a)(1)(B)(iii) of the Consolidated Appropriations Act, 2026. CITA calculated these quantitative limitations by prorating imports on a monthly basis to account for the lapse in authorization for this treatment from October 1, 2025 to February 2, 2026. Per Section 5019(a)(2) of the Consolidated Appropriations Act, 2026, qualifying apparel imported during the lapse in authorization (from October 1, 2025 to February 2, 2026) is eligible for such preferential treatment upon an appropriate request for liquidation or reliquidation to United States Customs and Border Protection. Presidential Proclamation 7350 of October 2, 2000 directed CITA to publish the aggregate quantity of imports allowed during each 12-month period in the **Federal Register**.

For the period beginning on February 3, 2026, and extending through September 30, 2026, the aggregate quantity of imports eligible for preferential treatment under these provisions is 1,046,888,893 square meters equivalent. Of this amount, 523,444,446 square meters equivalent is available to apparel articles imported under the special rule for lesser-developed countries. Apparel articles entered in excess of these quantities will be subject to otherwise applicable tariffs.

These quantities are calculated using the aggregate square meter equivalents of all apparel articles imported into the United States, derived from the set of Harmonized System lines listed in the Annex to the World Trade Organization Agreement on Textiles and Clothing (ATC), and the conversion factors for units of measure into square meter equivalents used by the United States in implementing the ATC.

Joshua Kroon,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2026–02852 Filed 2–11–26; 8:45 am]

BILLING CODE P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List

that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete product(s) previously furnished by such agencies.

DATES: Comments must be received on or before: March 14, 2026.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

In accordance with 41 CFR 51–2.4(b), Government personnel within the contracting activity have identified the product listed below as a requirement not applicable to other Federal entities and has requested the Committee consider granting a purchase or distribution preference if the product is added to the Procurement List. *See* 71 FR 69536 (Dec. 1, 2006). If the Committee grants this request, the product will not be available through the U.S. AbilityOne Commission's Commercial Distribution Program. The Committee will consider this request along with relevant comments received from interested parties.

The following product(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product(s)

NSN(s)—Product Name(s)

1095–01–619–0636—Knife, Combat, Drop Point, Automatic

1095–01–609–1271—Knife, Combat, Drop Point, Black

Authorized Source of Supply: DePaul Industries, Portland, OR

Mandatory For: DEPT OF DEFENSE

Contracting Activity: DEPT OF DEFENSE, DLA LAND AND MARITIME

The following product(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s)

7520–01–431–6243—Punch Head Replacement, 13/32", Beige

7520–01–431–6245—Punch Head Replacement, 13/32", Black

7520–01–431–6248—Punch Head Replacement, 13/32", Gray

7520–01–431–6250—Punch Head Replacement, 9/32", Black

Mandatory For: Total Government Requirement

Contracting Activity: GENERAL SERVICES ADMINISTRATION, GSA/FAS ADMIN SVCS ACQUISITION BR(2)

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2026-02820 Filed 2-11-26; 8:45 am]

BILLING CODE 6353-01-P

DEPARTMENT OF EDUCATION

[Docket ID ED-2025-OS-0680]

Final Priority and Definitions— Secretary's Supplemental Priority and Definitions on Meaningful Learning Opportunities

AGENCY: U.S. Department of Education.

ACTION: Final priority and definitions.

SUMMARY: The Department of Education (Department) announces a final priority and definitions for use in currently authorized discretionary grant programs or programs that may be authorized in the future. The Secretary may choose to use the entire priority for a grant program or a particular competition or use one or more of the priority's component parts. This priority and definitions augment the initial set of three Secretary's Supplemental Priorities on Evidence-Based Literacy, Educational Choice, and Returning Education to the States published as final priorities on September 9, 2025 (90 FR 43514), and the additional proposed Secretary's Supplemental Priorities on Artificial Intelligence, published as a proposed priority on July 21, 2025 (90 FR 34203); Career Pathways and Workforce Readiness, published as a proposed priority on September 25, 2025 (90 FR 46111); and Promoting Patriotic Education, published as a proposed priority on September 17, 2025 (90 FR 44788).

DATES: The final priority and definitions are effective March 16, 2026.

FOR FURTHER INFORMATION CONTACT:

Zachary Rogers, U.S. Department of Education, 400 Maryland Avenue SW, Room 7W213, Washington, DC 20202-6450. Telephone: (202) 260-1144.

Email: SSP@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 September 25, 2025, the Department published a notice of a proposed supplemental priority and definitions (NPP) in the **Federal Register** (90 FR 46114). This final priority and

definitions may be used across the Department's discretionary grant programs.

Summary of the Major Provisions of This Regulatory Action: Through this regulatory action, we establish one supplemental priority and associated definitions. Each major provision is discussed in the *Public Comment* section of this document.

The NPP contained background information and our reasons for proposing the priority and definitions. The Department describes the differences between the proposed priority and definitions and those established as final in this notice of final priority and definitions (NFP), as discussed in the *Analysis of Comments and Changes* section in this document.

Program Authority: 20 U.S.C. 1221e-3, 3474.

Public Comment: In response to our invitation in the NPP, the Department received comments from more than 40 commenters on the proposed priority 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 priority or definitions.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority and definitions since publication of the NPP follows.

General Comments

Comments: The majority of commenters responding to the NPP were supportive of the proposed priority and definitions, including the broader focus of the priority on meaningful learning opportunities and the importance of prioritizing work related to mathematics and other subject areas outlined in the NPP. Many commenters further identified specific areas of support, such as for the focus on High-Quality Instructional Materials (HQIM), Strategic Staffing, High-Impact Tutoring, Competency-Based Education, Career-Connected Learning, and Innovative Assessment models.

Discussion: The Department appreciates the support from commenters and the discussion around the potential benefits of specific components of the priority.

Changes: None.

Comments: A few commenters discussed the benefit of meaningful learning opportunities, specifically for students with disabilities and the importance of emphasizing accessibility throughout the priority and definitions.

One commenter noted how students with disabilities benefit from experiential learning, assistive technology, and reasonably accommodated learning in all settings and subject areas. A few commenters emphasized the importance of accessibility, with some encouraging that the instructional materials and assessments contemplated throughout the priority should meet Universal Design for Learning (UDL) principles. One of these commenters noted that innovations discussed in the priority must be aligned with the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 requirements.

Discussion: The Department agrees that it is important for applicants to consider the needs of students with disabilities as they respond to this grant priority and appreciate the thoughtful feedback from commenters about the best strategies for doing so. While the student groups that are the focus of this priority would be determined based on the underlying program authority, the language of the priority is designed to provide a flexible framework that can inform and support ongoing and future efforts to improve access to meaningful learning opportunities for all students, including those with disabilities. This includes promoting evidence-based practices that can be aligned with programs aimed at serving students with disabilities.

We note that projects funded through discretionary grants using this priority must already adhere to the accessibility requirements in the IDEA, the Americans with Disabilities Act of 1990 (ADA), the Age Discrimination Act of 1975, and section 504 of the Rehabilitation Act of 1973, where applicable. Therefore, the Department declines to add accessibility requirements to the priority as they would be duplicative of existing law.

Changes: None.

Comments: Several commenters recommended that the Department issue guidance or provide technical assistance to applicants and grantees responding to or implementing the priority. Commenters noted that guidance could discuss how the elements of the priority interrelate and how states can strategically focus efforts to maximize outcomes. One commenter suggested guidance specifically around part (b)(iii) related to coherence and alignment across multi-tiered systems of support.

Discussion: While we appreciate the suggestion from commenters, we decline to specify guidance regarding the priority in this document. While the Department typically provides pre-

application technical assistance related to each grant competition, it is important to allow applicants the flexibility to propose project activities that best meet their local needs, based on the best available evidence appropriate for their context, rather than dictating strategies from the high-level perspective of the federal government.

Changes: None.

Comments: One commenter shared concerns regarding the Department's compliance with the Regulatory Flexibility Act (RFA), Paperwork Reduction Act (PRA), and information collection requirements. The commenter argued that the priority and definitions is economically significant and may involve additional information collection requirements that must be addressed in the NFP. The commenter requested that the Department withdraw the RFA certification and publish an Initial Regulatory Flexibility Analysis (IRFA), reevaluate the significance of the priority and definitions; and provide an assessment of costs, benefits, and alternatives, identify any new or expanded information collection requirements, and initiate PRA clearance.

Discussion: The Regulatory Impact Analysis section of the NPP explains that this priority is not economically significant and that "application submission and participation in competitive grant programs that might use this proposed priority and definitions is voluntary. We believe, based on the Department's administrative experience, that entities preparing an application would not need to expend more resources than they otherwise would have in the absence of this proposed priority. Therefore, any potential costs to applicants would be de minimis." PRA clearance requirements would be determined if this priority is used in a grant competition, specifically in relation to the program's grant application package.

Changes: None.

Comments: One commenter urged the Department to fully fund supports under IDEA, noting the importance of these programs in providing access for students with disabilities and the opportunity that greater funding would provide to ensure additional resources are available for investing in inclusive, meaningful learning opportunities for all learners.

Discussion: The Department appreciates the commenter's advocacy for programs funded under IDEA and shares in celebrating the importance of these programs in ensuring education access for students with disabilities.

Comments about funding levels for specific programs are outside the scope of this notice.

Changes: None.

Priority

Comments: Several commenters discussed the importance of educators to the success of the priority, with commenters highlighting such topics as the importance of sufficient recruitment efforts, the need for high-quality educator preparation and professional development, the opportunities in educating teachers on how to use and teach with artificial intelligence (AI), and the potential impact of elevating educator voice in program design and implementation. One commenter specifically discussed the importance of preparing and supporting Science, Technology, Engineering and Mathematics (STEM) educators.

Discussion: The Department appreciates the commenters' points about the important role of educators in providing meaningful learning opportunities to all students. We note that the priority includes several opportunities for applicants to propose projects focused on educators, if it is within the authority of the program authorization where the priority is used.

Changes: None.

Comments: Several commenters discussed the focus in the priority on the use of evidence. Commenters provided suggestions on how the Department could further prioritize or encourage the use of evidence such as through the use of logic models or continuous improvement cycles, leveraging Institute of Education Sciences (IES) practices guides, conducting formative and summative evaluations, and employing third-party evaluators and rigorous evaluation metrics. A few commenters also recommended issuing guidance to provide further clarity for the field on what investments would meet the priority or meet the definition of "evidence-based" and what types of conditions need to be present on the ground to support successful implementation. Additionally, one commenter recommended that the Department clarify whether proposed projects must meet evidence levels at the point of application or build evidence through evaluation activities and what evaluation components are required.

Discussion: The Department appreciates the commenters' interest in evidence-based practices. The Education Department General Administrative Regulations (EDGAR) provide the Department with the

authority to add various components including evidence priorities, logic model requirements, and selection criteria related to evaluations and continuous improvement across Department programs. The Department will consider those decisions and their connection to the priority as appropriate based on the context of each competition where this priority may be used. We also clarify that, in a grant competition where this priority is used, activities would be reviewed for whether they meet the priority.

Applicants may propose additional activities for which they would like to build evidence, if those activities are within the authority of the program authorization, or certain competitions may have additional evidence-building requirements based on program statute or competition-specific requirements.

Changes: None.

Comments: One commenter recommended that the Department amend the priority to add an additional component on projects to "support the research, development, dissemination, and evaluation of meaningful learning opportunities."

Discussion: The Department appreciates the suggestion but notes that we do not define meaningful learning opportunities to support flexibility for implementation in multiple contexts. We believe this suggestion is therefore overly broad to include as a separate component of the priority. We do note, however, that if it is within the authority of the program authorization where the priority is used, applicants may propose activities related to research in response to more specific components of the priority included in a competition for a given program. As such, we do not believe the addition is required.

Changes: None.

Comments: One commenter suggested that the Department should revise the references to evidence tiers throughout the priority to allow evidence that demonstrates a rationale.

Discussion: The Department intentionally chose to focus on higher tiers of evidence to ensure that projects are leveraging the best possible evidence available to maximize student impact. The Department does agree with the importance of supporting innovation, however, and clarifies that projects can propose to implement additional evidence-based practices that demonstrate a rationale requirement in their project. In a grant competition where this priority is used, activities would be reviewed for whether they meet the priority. Applicants may propose additional activities for which

they would like to build evidence, if those activities are allowable within the program authorization.

Changes: None.

Comments: One commenter recommended that the Department clarify that evidence-based interventions must demonstrate efficacy across the full range of achievement levels or include plans to evaluate impacts for advanced learners.

Discussion: The Department developed this priority to be applicable across a number of grant programs and settings, and we decline this suggestion to ensure that the priority remains flexible to be adapted in settings where this level of specificity may not be applicable or advised.

Changes: None.

Comments: Multiple commenters provided suggestions on how meaningful learning opportunities should be prioritized for or tailored to specific student populations, such as rural, urban, and low-income students, students of color, multilingual students, and students with disabilities. Additionally, a commenter recommended the Department should issue guidance for grantees, particularly for what investments are recommended to best serve these populations of students. A few commenters advocated for the priority to incorporate a focus on cultural and linguistic relevance and diversity of materials, arguing that these factors are shown in research to support improved student outcomes. A few commenters recommended that applicants be required to demonstrate how projects would serve various specific populations, including one commenter that identified high-potential students from underrepresented groups, such as rural students and students with disabilities. Another commenter recommended that the priority require grantees to monitor for differential impacts on subgroups of students.

Discussion: The Department appreciates the commenters' input and the emphasis on the importance of providing meaningful learning opportunities across many populations. The priority has been developed to provide a flexible framework that can be adopted into multiple discretionary grant programs. The Department will ensure that all projects funded adhere to Federal civil rights laws. The student groups that are the focus of this priority would be determined based on the underlying program authority. We also note that, relevant to rural students, the Department already has a priority available under EDGAR (34 CFR 75.227) to prioritize rural areas, if appropriate

for a given grant competition. As such, the Department does not need to include a focus on rural areas in this priority because the authority already exists.

Changes: None.

Comments: A few commenters discussed the importance of afterschool and summer learning programs in promoting meaningful learning opportunities, with some commenters focusing on these programs' specific importance for promoting STEM learning. These commenters encouraged the Department to incorporate these programs into the priority and provided specific suggestions on ways to do so. Specifically, two commenters recommended adding a new component under (a)(i) focused on strategies to provide students an opportunity to participate in hands-on, engaging math activities through afterschool and summer learning programs and amending (a)(vi) under new school day schedules to include scheduling innovations focused on expanding access to quality afterschool programs that partner with community-based organizations. Both also recommended amending (c)(ii) to add a reference to leveraging afterschool and summer learning programs to advance career-connected and work-based learning. One commenter recommended incorporating out-of-school-time educators, including those who do not work directly in school-day classrooms, into professional development opportunities throughout the priority, outlining specific suggestions to incorporate these educators throughout part (a) of the priority, and modifying part (b)(iv) of the priority on high-impact tutoring to include tutoring programs that happen during afterschool programs. Finally, another commenter also recommended that the Department recognize additional entities including afterschool providers and other similar partners as eligible collaborators under this priority.

Discussion: The Department agrees that efforts to increase access to meaningful learning opportunities may occur outside of the regular school day. If it is allowable within the program authorization where the priority is used, applicants may propose services that are provided outside of the regular school day as part of their projects. The Department declines to include priority language that would prioritize out-of-school-time activities over core instruction. Additionally, the Department clarifies that eligible entities and partnership requirements vary by program and therefore declines to specify whether specific entities may

be engaged as applicants or partners in this priority.

Changes: None.

Comments: A few commenters shared concerns regarding the Department's ability to carry out the priority or support grantees, arguing that the strategies in the priority are not consistent with the Department's 2025 Reduction in Force, grant or contract cancellations, or proposed budgets. One commenter specifically shared support for the Regional Educational Laboratories and What Works Clearinghouse and advocated for the Department to continue to prioritize dissemination, research, and implementation of effective instructional practices.

Discussion: As we work to realize the Department's final mission and return education to the States, it is crucial that Federal dollars are directed toward addressing the most urgent needs of students and families. This includes prioritizing meaningful learning opportunities for students informed by the best available evidence, ensuring that Federal resources are spent on strategies that have proven effective in improving student outcomes. Comments about issues such as the Reduction in Force and funding for specific programs are outside of the scope of this notice.

Changes: None.

Comments: Many commenters supported the focus on mathematics in part (a)(i) of the priority, with several commenters noting the importance of this focus in complementing the Department's earlier priority on Evidence-Based Literacy. One commenter discussed the importance of math instruction in balancing conceptual understanding, procedural fluency, and real-world application. Another noted the potential for AI to support strong math instruction and encouraged the Department to work with evidence-based commercial AI tools to understand how they can strengthen core math instruction and to inform the Department's review of grant applications including such deliverables. One commenter suggested that the priority should also explicitly elevate the subjects of science and engineering to promote STEM learning and careers beyond mathematics.

Discussion: The Department appreciates the commenters' support for improving mathematics instruction and the discussion of effective strategies and implementation considerations. The Department agrees that AI presents significant opportunities and notes that applicants may propose activities that leverage AI in response to this priority, if permitted in the programs authorizing

statute. Relating to the introduction of science and engineering to this part of the priority, the Department has intentionally chosen to focus on mathematics, given the foundational importance of this subject area to student success and to address the depth of the need illustrated by recent National Assessment of Educational Progress results. We also clarify that additional STEM fields are identified in parts (a)(ii) and (a)(iii) of the priority.

Changes: None.

Comments: One commenter discussed the importance of new teachers entering the field with skills and experience already aligned to a specific state's math instruction priorities. The commenter suggested revising part (a)(i)(1) on statewide mathematics plans to focus on aligning instruction, including pre-service preparation and clinical practices for math teachers, to evidence-based practices. This commenter also recommended to further support preservice alignment with HQIM adoption goals by revising part (a)(i)(2) on HQIM adoption by including language to support partnerships between districts and educator preparation programs (EPPs) to ensure new teachers are equipped to implement HQIM.

Discussion: We note that, if it is within the authority of the program authorization where the priority is used, applicants may propose to include activities related to aligning educator preparation to statewide mathematics plans. However, to ensure that the priority is structured in a way to provide greater flexibility to applicants to develop comprehensive statewide plans responsive to their local needs, we decline to specify this alignment strategy in the priority.

Changes: None.

Commenters: In response to the proposed focus in (a)(i)(1) of supporting statewide mathematics plans and evidence-based professional development in (a)(i)(6), one commenter recommended to amend the priority to encourage applicants to use evidence that is based on meta-analyses that incorporate multiple research studies, where possible, to encourage states not to overly rely on single studies.

Discussion: The Department appreciates the feedback regarding the available evidence. We note that, if they otherwise meet the requirements for strong, moderate, or promising evidence, meta-analyses may be used by applicants. We believe it is important for the Department to be consistent in defining evidence-based practices across Department priorities, regulations, and

statutes, and therefore decline to make this change specifically in this priority.

Changes: None.

Comments: A few commenters discussed the inclusion of automatic enrollment policies in part (a)(i)(3) in the priority. One commenter highlighted the potential of high-quality virtual and blended learning programs to support the higher demand for advanced mathematics courses. Another commenter advocated for concerted efforts to improve early identification and intervention, arguing that policies like automatic enrollment cannot be successful if students do not have the foundational skills to succeed. Another commenter advocated for additional research into the long-term impacts of innovative policies such as automatic enrollment.

Discussion: We appreciate the support for automatic enrollment policies outlined in the priority and the considerations identified by commenters. We clarify, as noted above, that if permitted in the program's authorizing statute, applicants may propose activities related to research to build evidence on the effectiveness of these practices.

Changes: None.

Comments: Under (a)(i)(4), which is focused on early identification and support, one commenter recommended that the Department offer funding to develop research-validated screening tools and assessments for states, including training teachers in data-based decision-making and other strategies to provide struggling learners access to grade-level content.

Discussion: The Department thanks the commenter for these points. We note that the priority does include several components that allow applicants to propose project activities related to these topics so long as they are permitted in the program's authorizing statute.

Changes: None.

Comments: A few commenters discussed the focus on evidence-based professional development in mathematics for educators in part (a)(i)(6). One commenter recommended clarifying that professional development as envisioned by the priority may be connected to specific curriculum or focused more broadly on supporting teachers' pedagogical learning on how to teach mathematics. Another commenter recommended that pre-service preparation pipelines be included in elements of the priority focused on professional development and recommended adding to part (a)(i)(6) components for the development for teacher-educators,

including mathematics methods faculty, clinical supervisors, and cooperating teachers.

Discussion: The Department thanks the commenters for these suggestions. We note for clarity that part (a)(i)(6) does not specify the precise focus of evidence-based professional development that may be proposed and notes that applicants can propose activities related to the approaches suggested by the commenter if permitted in the program's authorizing statute. We also clarify that part (a)(i)(7) addresses pre-service training directly and that neither part specifies the recipients of such development or training. Further, we confirm that applicants could propose strategies related to teacher-educators as permitted in the program's authorizing statute.

Changes: None.

Comments: A few commenters responded to the focus on preservice training in part (a)(i)(7). One commenter recommended that the Department clarify whether the references to "explicit and systematic teaching strategies" and "programming to build subject matter expertise" within the priority are intended to be separate priority areas or interrelated components of preservice training. The commenter further suggested that the priority should not be limited to pre-service training but be expanded to also apply to ongoing professional learning. Another commenter recommended revising (a)(i)(7) to more explicitly connect to evidence-based teaching strategies and practice implementing HQIM. Finally, another commenter suggested that teacher preparation programs in this part focus on high-leverage practices for struggling learners, particularly for general education candidates who may receive less training on this skill than those focusing on special education.

Discussion: The Department thanks the commenters for these considerations regarding the most effective approaches to pre-service training. We clarify that the priority is written to allow applicants to focus on explicit and systematic teaching strategies for mathematics or building subject matter expertise for mathematics to provide applicants the flexibility to focus on one of these elements, or both, depending on local need. We also note that part (a)(i)(6) specifically addresses professional development for educators, which may support ongoing learning. Finally, we also agree that applicants could propose activities related to pre-service training focused on supporting general education candidates in

supporting struggling learners or broadly supporting educator candidates with practice related to HQIM implementation, if permitted in the programs authorizing statute.

Changes: None.

Comments: A few commenters discussed the importance of other educator roles to the priorities, namely school leaders and paraprofessionals. Specifically, commenters cited the importance of effective building-level leadership to implementation of the strategies outlined in the priorities and the opportunity to support the educator pipeline through effective paraprofessional advancement. One commenter suggested revisions to (a)(i)(6) and (a)(iii) to include various types of educators, including paraprofessionals, principals, and other school leaders, in addition to teachers. The revisions recommended also include changes to reflect that some staff roles may support the management and implementation of math curriculum. The commenter also recommended incorporating a reference to supporting school leaders and paraprofessional advancement in (a)(iv) on strategic staffing and adding new components under parts (b) and (c) on preparation of principals and other school leaders to implement the elements of the priority in those parts. Another commenter supported adding a new component focused on building the leadership capacity of school leaders as a standalone component of the priority.

Discussion: The Department appreciates the discussion from commenters on the many educational roles that impact student access to meaningful learning opportunities. We agree that paraprofessionals and school leaders are critical to school operations and classroom instruction, and we concur with the recommendation to include such roles within part (a)(i)(6) on professional development and (a)(v) on strategic staffing initiatives. Concerning part (a)(iii) on training related to HQIM implementation, we believe the priority already allows the inclusion of these additional roles and that no changes are necessary.

Changes: We have amended (a)(1)(6) to clarify that professional development in mathematics may include paraprofessionals and other licensed educators and may include support for school leaders on implementation of mathematics instruction. We have also amended (a)(v) to expand the priority to focus on paraprofessionals in addition to teacher roles and to include support for principals and other school leaders in implementing strategic staffing models. We have also amended the

definition of strategic staffing to clarify that the professional educators referenced in the definition may include paraprofessionals and other licensed educators.

Comments: Many commenters shared support for the Department's focus on expanding access to HQIM under (a)(ii) and (a)(iii). One commenter noted the importance of integrating targeted interventions with HQIM implementation. A few commenters provided feedback on supporting states, districts, and educators with implementation, through strategies such as providing additional technical assistance, encouraging districts and institutions to partner with education solution providers, and providing guidance for teacher training, supports, ongoing professional development, and planning time to implement HQIM well. Several commenters discussed the importance of accessibility for students with disabilities as noted in the general discussion above. One of these commenters noted a specific concern that not all HQIM are accessible or designed with UDL principles in mind and recommended that the priority explicitly require that they be accessible and validated for students with learning disabilities. Another commenter discussed the importance of educator preparation programs (EPPs) to the goal of strengthening mathematics instruction and recommended revising part (a)(iii) to include pre-service teachers as eligible recipients of specific training on the subject of HQIM implementation by creating a new component under (a). This new component would focus on building partnerships between EPPs and districts to align preservice preparation to district improvement efforts.

Discussion: We appreciate the discussion from commenters on the importance of access to HQIM and the suggested consideration for applicants and grantees related to implementation of these strategies. While we agree that educator preparation partnerships may be valuable in local education efforts, we do not believe a priority specific to this is necessary. If it is within the authority of the program authorization where the priority is used, applicants may propose to include such partnerships as part of their projects.

Changes: None.

Comments: Several commenters supported the inclusion of competency-based instructional models in part (a)(iv) of the priority. Commenters discussed several ways these models can be strengthened, including recommendations to prioritize interdisciplinary and hands-on learning,

to name project-based learning alongside competency models to support workforce readiness, to explicitly name a focus on skill acquisition in the priority, and to highlight the potential of AI to expand the pathways through which students can master learning objectives. One commenter cautioned that competency-based models in this part, as well as strategic staffing and scheduling innovations, must align with IDEA and Section 504 requirements.

Discussion: We thank the commenters for the supportive comments. We agree that many of these approaches may be effective approaches to competency-based education and we note that, if these strategies are within the authority of the program authorization where this priority is used, applicants may propose to include them as part of their projects. Therefore, we do not believe changes to the priority are necessary.

Changes: None.

Comments: Several commenters provided feedback on the inclusion of strategic staffing in part (a)(v) of the priority. A few commenters discussed the importance of time for educators to collaborate, analyze student learning, and engage families and communities. Another commenter discussed the opportunities that strategic staffing could provide to advance personalized learning. An additional commenter discussed the role of district offices in enabling systemic improvement and urged the Department to amend (a)(v) on strategic staffing to include language allowing for a focus on district-level systemic leadership development and organizational design. Another commenter argued that the priority could be more impactful if it explicitly discussed the opportunity to leverage strong educators in the mentoring and development of in-service and pre-service educators. The commenter also recommended creating two additional components under (a)(v). Specifically, they suggest one focus on creating collaborative structure for teachers and coaches to work in partnership with staff in EPPs on clinical experiences for pre-service candidates and that the second prioritize projects that demonstrate a blending of and cohesion between resources across federal and state funding streams.

A few commenters also provided feedback on the proposed definition of Strategic Staffing connected to this priority. One commenter recommended expanding the proposed definition to clarify that teacher residents, apprentices, candidates, and tutors may be considered in the model where two or more educators share responsibility

for students. Another commenter recommended that the definition be clarified further to support consistent implementation.

Discussion: The Department appreciates the thoughtful discussion from commenters related to strategic staffing initiatives. We agree that school districts may be critical to implementation of strategic staffing strategies and that additional educator roles such as tutors, apprentices, and candidates can provide great value to students. However, we believe the priority and related definition will be most effective if we remain focused on the educators most closely connected to core instruction for students, including school leaders and paraprofessionals. Pre-service preparation is addressed directly under part (a) of the priority and applicants can propose activities related to these suggestions, if permitted in program statute. We also note that applicants may propose additional activities that leverage educators such as tutors, residents, apprentices, and candidates, in addition to licensed educators, if it is permitted in the program's authorizing statute. We do not believe other changes to the priority or definition are necessary.

Changes: None.

Comments: One commenter discussed their support of the inclusion of (a)(vi) on planning or implementing a new school day schedule, noting the opportunities to build in time for high dosage tutoring and other learning opportunities for students, as well as opportunities for educators to collaborate and engage in professional learning. The commenter recommended revising this component to incorporate specific language related to educator collaboration and learning, including support from an instructional coach or administrator. Another commenter recommended that the reference to "meaningful" learning be replaced with "coherent" learning to emphasize the opportunity to leverage schedule changes to support collaboration between teachers and intervention specialists.

Discussion: We thank the commenters for their feedback and agree that the considerations may be appropriate areas of focus for applicants if within the authority of the program authorization; therefore, we do not believe changes to the priority are necessary. We also decline to change the focus from meaningful to coherent learning as we believe that meaningful learning includes instruction that is aligned and coherent. We prefer to maintain a consistent focus on meaningful learning opportunities throughout the priority.

Changes: None.

Commenter: One commenter recommended combining parts (a) and (b) of the priority on strengthening core instruction and expanding high-quality interventions and accelerations to better emphasize the importance of coherence across core classroom instruction and personalized interventions. The commenter provided several specific revisions to combine the strategies under each section to build cohesion across training, core instruction, and personalized interventions.

Discussion: We thank the commenter for the suggestions and agree with the commenter on the importance of coherence across instruction, interventions, and accelerations. However, we decline to revise the priority to combine parts (a) and (b) to preserve flexibility to adapt the priority and its component parts based on the discretionary grant program in which the priority may be used. We also note that such flexibility may allow applicants to propose activities to address multiple parts of the priority to address coherence, as suggested by the commenter, if permitted by the program's authorizing statute.

Changes: None.

Comments: Several commenters supported the Department's focus on students across the learning spectrum and discussed ways the priority could advance accelerated learning. A few commenters noted their support for strategies to support struggling learners with concurrent interventions while continuing to provide access to grade level content, rather than requiring remediation prior to moving on in sequence. One commenter noted several suggested requirements to ensure that interventions funded under part (b) of the priority are validated for students with disabilities and align with Individualized Education Program (IEP) requirements.

Another commenter discussed opportunities for the priority to strengthen educator capacity to support gifted and talented learners and recommended that the Department require or encourage grantees under the priority to include professional learning components that support teachers with differentiation for all learners; to demonstrate how EPPs or ongoing professional development continue to build these skills; and include evaluation metrics around how well teachers meet diverse learning needs.

Several commenters suggested that the Department include additional, standalone components to the priority connected to these topics. One commenter recommended that the

Department add a priority component for applicants who demonstrate success in expanding access to advanced coursework, broadening the identification of gifted and talented learners, and embedding acceleration or enrichment opportunities within HQIM. Another commenter suggested inclusion of a component focused on building cross-sector community partnerships to advance STEM learning and career preparedness.

Discussion: The Department appreciates the commenters' support and recommendations to ensure the priority supports all learners and advances accelerated learning. We clarify applicants may propose activities related to the suggestions from commenters, as permitted in the program's authorizing statute. Related to evaluation metrics, the Department declines the suggestion to ensure that the priority remains flexible to be adapted in multiple settings where this level of specificity may not be applicable or advised. We also reiterate that all activities funded under this priority must adhere to existing laws and nothing in this priority changes requirements related to student IEPs.

Changes: None.

Comments: Several commenters supported the focus on personalized learning in the priority. One commenter recommended that the Department consider how this priority can be used to support innovative learning models that combine multiple learning modalities, tools, and resources to enable schools to provide personalized learning. Another commenter discussed the importance of using technology to personalize instruction, citing evidence of success of certain virtual and hybrid models.

Discussion: We thank the commenters for their feedback and agree that the considerations may be appropriate areas of focus for applicants proposing activities related to personalized learning that are permissible under the priority, if allowable under the program's authorizing statute. Therefore, we do not believe changes to the priority are necessary.

Changes: None.

Comments: A few commenters discussed the focus on high impact tutoring under part (b)(iv). One commenter discussed the potential impact of AI to enable high-dosage tutoring strategies to scale but emphasized the importance of ensuring that AI-powered tutoring tools have demonstrated clear, evidence-based learning gains and are grounded in research. Another commenter noted the importance of fidelity to evidence-based

practices for these models to be effective. One commenter recommended that part (b)(iv) on high-impact tutoring be revised to add language encouraging projects or proposals that use aspiring teachers as tutors.

Discussion: We appreciate the feedback from commenters about the supports and strategies to enable successful high-impact tutoring programs. We also appreciate the commenter's suggestion to encourage the use of aspiring teachers as tutors. We note that, if it is allowable within the program authorization where the priority is used, applicants may propose to include these activities as part of their projects.

Changes: None.

Comments: A few commenters shared support for the reference to outcomes-based contracting and grantmaking in part (b)(iv) and (v). One commenter discussed the alignment of outcomes-based contracting to the standards of evidence in the priority and its importance to the delivery of high-impact tutoring. The commenter also suggested that the Department ensure that any implementation of outcomes-based contracting outlined in the priority includes technical assistance for districts developing contracts, clear guidance on data collection and outcome measurement, support for continuous improvement structures, and protection against unintended consequences through mutual accountability provisions. Another commenter noted the opportunity this focus could have to promote a broader understanding of success if outcomes measured go beyond standardized assessment results to incorporate other indicators.

Discussion: We thank the commenters for their suggestions on how grantees may best leverage outcomes-based contracting and grantmaking to support meaningful learning opportunities. We agree that these considerations may be appropriate areas of focus for applicants proposing activities related to this area, but we do not believe it is necessary to name the specific supports as these should be determined based on local experience and need. Therefore, we do not believe changes to the priority are necessary.

Changes: None.

Comments: A few commenters discussed the focus in the priority on support for career-connected learning under part (c) of the priority and the ways in which the priority is aligned to practices in the field. One commenter noted the importance of programs that develop employability skills, not just specific technical skills, into workforce

development programs. Another commenter encouraged the department to prioritize proposals that leverage multiple strategies under the priority and build on existing Career and Technical Education (CTE) infrastructure for developing integrated learning experiences. This commenter discussed programs funded through Perkins V programs as exemplars of the way that CTE naturally supports meaningful learning opportunities and encouraged the Department to seek increased appropriations for Perkins V programs, as well as provide greater weight to applications that incorporate the rigorous accountability measures used in several Perkins V programs.

Discussion: We appreciate the commenters' support for career-connected learning and CTE programs and appreciate the examples of existing programs that align with the priority. We agree that applicants responding to this priority may propose projects that focus on both employability and technical skills, if authorized under the program's authorizing statute. Comments about funding and accountability measures are outside the scope of this priority. The Department will hold grantees accountable to requirements associated with the program(s) they are receiving funds to administer.

Changes: None.

Comments: Many commenters supported the focus in the priority on advancing innovative assessment models. A few of these commenters advocated for the development and use of balanced assessment systems that incorporate ongoing, formative, comprehensive assessments beyond standardized, summative assessments and that measure learning, growth, and competencies such as critical thinking, collaboration and communication through authentic and performance-based approaches. Commenters highlighted several opportunities for innovation and greater impact, such as for cross-state collaboration to improve scalability and generalizability, assessments designed by educators in collaboration with stakeholders, and the potential for timely and actionable feedback to educators, families, and students. Other commenters discussed the potential benefits of AI-powered assessments. Another commenter recommended that the Department further clarify expectations for alignment between competency-based instruction and assessment, include implementation and evaluation studies of innovative assessments, and support states with effective implementation of

the technical and operational demands of these strategies.

While most commenters supported the focus on innovative assessment, a few shared concerns or considerations for successful implementation. One commenter cautioned that the use of adaptive technology for assessments should not come at the expense of student privacy, civil rights, or transparency. Another commenter noted that the Department should specify expectations for technical quality, fairness, and accessibility and expand the language on adaptive technologies to highlight the potential to improve accessibility for students with disabilities, support linguistic diversity, and increase engagement. This commenter also suggested emphasizing the importance of early identification and ongoing monitoring with a clear methodology for using assessment data to inform interventions, accelerations, and placements. Other commenters noted that grantees under this priority should be required to demonstrate that assessments have been validated either across diverse student populations or specifically with students with disabilities.

Finally, an additional commenter suggested revising the priority under (d)(v) to ensure that innovative assessment models span multiple grade levels and also include an explicit reference to developing innovative accountability systems.

Discussion: The Department appreciates the commenters' supportive feedback on the opportunities presented by innovative assessment models and the feedback on the best strategies to develop and implement these models. We agree with many of these suggestions and note that the focus in the priority on timely and useful information, early identification and ongoing support, and assessments that accurately and fairly measure learning and progress directly addresses several of these ideas. We also note that part (d)(v) focuses on research activities and could include studies on implementation, if permissible under the program's authorizing statute. We discuss the department's approach to guidance and technical assistance elsewhere in this notice.

We appreciate the important considerations raised by commenters around implementation of innovative assessment models. We believe that the focus in the priority on assessment models that fairly and accurately measure all student's learning and progress captures the importance of validating assessments across various groups served by the applicant. We also

reiterate that all projects funded through discretionary grants using the priority must already adhere to the accessibility requirements in the IDEA, the ADA, the Age Discrimination Act of 1975, and Section 504 the Rehabilitation Act of 1973, as well as requirements in the Elementary and Secondary Education Act, and civil rights and other laws, where applicable, and does not believe that changes are necessary.

Finally, while we note that applicants may propose innovative assessment models that span multiple grade levels, if permissible based on the program's authorizing statute, we do not believe it is appropriate to require all grantees to include this component in their projects. We also clarify that this priority does not alter any accountability requirements at the program or state level, and the Department will hold grantees accountable to requirements associated with the program(s) they are receiving funds to administer.

Changes: None.

Comments: A few commenters noted the connection to the Competitive Grants for State Assessment (CGSA) program and advocated for the Department to continue to support this program as a resource for states in assessment innovation. Another commenter noted the connection to the Innovative Assessment Demonstration Authority (IADA) and recommended the Department clarify the relationship to this priority.

Discussion: We appreciate the commenters' support of CGSA, and the discussion related to the connection with IADA. The Department is actively working to improve these programs and support state and local partners with implementation related to assessment. We appreciate the commenters' discussion of these programs. Comments about funding levels for specific programs are outside the scope of this notice.

Changes: None.

Comments: Several commenters shared their support for the focus on parent and family engagement in part (e), with one commenter highlighting existing tools available to support parents. Another commenter shared support for this element of the priority and noted many parents need additional opportunities, including family literacy services, to better support their child's academic growth at home and advocated for supports funded under the priority to extend beyond basic resources for families. One commenter recommended that parent-facing resources be written in plain language, available in multiple formats, and

aligned with evidence-based strategies for supporting students with disabilities in reading and math.

One commenter noted their overall support for the priority but shared concerns with component (e), noting their opposition of supporting homeschooling with federal funds. The commenter instead recommended that the Department focus on students in low socio-economic status rural and urban school districts, groups they argued are most in need of support to access meaningful learning opportunities.

Discussion: The Department appreciates the commenters' advocacy for the central role of parents and families in learning. We agree parental and family involvement is crucial in improving education. We also agree that supporting families in providing meaningful at-home learning may include appropriate family literacy programs. We also clarify that while this priority could support projects focused on home-based education programs, it also could support a wide variety of strategies to engage families in their children's education. Finally, while this priority does not specifically highlight communication strategies for families, applicants may propose activities that ensure information is accessible and understandable to all families.

Changes: None.

Comments: One commenter recommended adding a component under part (e) to focus on engaging parents through workshops on financial literacy, health and wellness, and other focus areas designed to help them prepare students for careers in STEM fields.

Discussion: We appreciate this suggestion but clarify that the Department intends for the priority to remain focused on support related to core academic areas. However, applicants may propose additional activities aligned to these suggestions, if permitted in the program's authorizing statute.

Changes: None.

Comments: One commenter discussed meaningful learning in early education and recommended that the Department emphasize developmental appropriateness within the priority to ensure that strategies designed in alignment with the priority focus on ways of teaching and learning that are tailored to the age and developmental stage of the students being served. The commenter specifically discussed the importance of thematic, play-based, integrated learning for young learners and shared a recommended framework from the National Academies of

Science, Engineering, and Medicine focused on early childhood learning.

Discussion: We agree with the commenter on the importance of meaningful learning opportunities in early learning settings. We emphasize that the priority is intended to be applicable across a variety of settings and therefore decline to make edits specific to early childhood. If it is within the authority of the program authorization where the priority is used, applicants may propose to design projects with a focus on early learning.

Changes: None.

Comments: One commenter suggested that applicants be required to submit sustainability plans as a part of grant applications to ensure projects endure beyond initial funding.

Discussion: We appreciate the commenter's focus on project sustainability. We note several existing EDGAR selection criteria that can be used to evaluate applications in any grant competition and focus on adequacy of resources and sustainability beyond initial grant funding, and we may use those as appropriate for the purpose of the program.

Changes: None.

Comments: One commenter shared a proposal related to a specific financial literacy product that uses pop culture to engage students. The commenter urged the Department to form a committee to implement pop culture-based financial literacy materials across K–12 schools.

Discussion: We appreciate the commenter's interest in promoting financial literacy but note that the Department does not endorse specific products.

Changes: None.

Comments: One commenter discussed the important role that Tribally Controlled Colleges and Universities (TCCUs) play in higher education and the strategies and programs in place at TCCUs that support access to meaningful learning, in alignment with the focus of the priority. The commenter recommended that the Department incorporate an option into the priority to prioritize funding to build capacity within TCCUs and invest in evidence-based professional development and expand access to HQIM and work-based learning opportunities. The commenter discussed a public-private partnership program to help improve student persistence, retention, and financial management skills and requested that the Department provide renewed funding for the program.

Discussion: We appreciate the commenter's discussion around the important role of Tribally Controlled Colleges and Universities and the

examples provided of successful programs aligning to the priority. We clarify that comments focused on funding are outside the scope of this notice. While the priority does not focus on specific types of higher education institutions, we note that the Department does operate discretionary grant programs that serve TCCUs and this priority can be used in those programs, if permissible under their authorizing statute.

Changes: None.

Comments: One commenter shared concern about the priority having a disproportionate burden on small entities. The commenter recommended that the Department pursue several strategies to support small entities in accessing grants under this priority, including adopting flexibilities for small entities to meet application requirements, providing clear, objective criteria for meeting the priority and definitions, and allowing phased implementation timelines. The commenter also recommended that the priority should be optional in competitions primarily serving small or rural Local Education Agencies. A few commenters suggested that the Department provide technical assistance to smaller districts or entities to support fair competition for grant funding.

Discussion: The Department appreciates the commenter's feedback around the need to support small entities. Notices Inviting Applications (NIAs) establish the type of priority being used in a grant competition. Additionally, this NFP does not establish application requirements or selection criteria. Each NIA will establish the clear and objective criteria used to evaluate applications for funding, as well as identify any application requirements for that specific competition. The Department may adapt the priority based on the context of each grant program in which it is used, including considering factors such as the number of small entities that may be expected to apply. Finally, we note that the ability to establish phased implementation may vary based on each program's authorizing statute.

Changes: None.

Definitions

Comments: Several commenters provided feedback on the Department's proposed definition of HQIM to make the definition clearer or to increase its impact. Suggestions included to amend the definition to emphasize the importance of student's understanding of the goals of learning and criteria for success, to reference evidence-based,

standards-aligned, and culturally sustaining resources that reflect students' and communities' lived experiences, to include evidence-based instructional guidance for differentiation, enrichment, and acceleration, to use the term "research-validated" instead of "evidence-based", to include personalized interventions and to incorporate references to evidence-based instructional and assessment practices to reinforce coherence between curriculum, instruction, and evaluation. As noted in the general discussion summary above, a few commenters noted that it was important for HQIM to be accessible and compliant with student data privacy regulations. One recommended modifying the definition to explicitly promote accessibility for students with learning disabilities through Universal Design for Learning principles.

Discussion: The Department appreciates the commenters' suggestions on the definition for HQIM. We note that the definition currently includes a focus on providing evidence-based instructional strategies and implementation supports, embedded formative assessments, a coherent scope and sequence, and other components to promote a comprehensive package of instructional tools. However, we agree with the commenters on the importance of these topics and have amended the definition to reinforce the focus on evidence-based materials, differentiation, coherence, and clear goals for learning and criteria for success for students. Beyond this, we do not believe it is appropriate for the Department to define the types of content that should be included and instead believe these decisions should be made by those closest to local needs, supported by the best available evidence for that context. We also decline to amend the reference to "evidence-based" to maintain consistency across the notice and to other Department programs and regulations but clarifies that the Department can define a minimum evidence-level requirement in individual competitions to focus on higher levels of evidence, if appropriate. Additional discussion related to accessibility and privacy requirements is included in general comment summaries above.

Changes: We have amended the HQIM definition to include additional references to evidence, coherence, differentiation, and learning goals for students.

Comments: One commenter supported the Department's definitions of computer science and AI and discussed the importance of using AI

tools ethically, transparently, and effectively and recommended the Department support AI literacy initiatives and PD to support educators to teach with and about AI. Another commenter argued that the Department's definition of computer science should be framed within a broader goal or ensuring every student develops computational thinking and data-literacy skills across all subjects.

Discussion: We thank the commenters for their discussions related to the computer science definition and the connection to AI tools. We appreciate the suggestion to broaden the definition but decline to make changes. We believe it is important for the definition to remain focused on the defining elements and foundational skills of computer science to ensure projects focused in this area reflect these key components.

Changes: None.

Comments: Several commenters suggested adopting additional definitions to complement or clarify the priority, including definitions for: meaningful learning opportunities; outcomes-based contracting or grantmaking; high ability/gifted and talented learners; competency-based education; and strong core instruction.

Discussion: The Department appreciates the suggestions from commenters for additional definitions. We intend for the priority to be applicable across a variety of grant programs and settings and so we decline to adopt additional definitions to preserve flexibility within the priority.

Changes: None.

Final Priority

The Department establishes the following priority for use in any Department discretionary grant program.

Priority:

Projects or proposals that are designed to do one or more of the following:

(a) Strengthen core instruction through one or more of the following:

(i) Improving mathematics instruction to promote student achievement through one or more of the following priority areas:

(1) Assisting states in developing comprehensive statewide plans to raise mathematics achievement that align with mathematics instruction based on strong, moderate, or promising evidence (as defined in 34 CFR 77.1);

(2) Selecting, adopting, or implementing high-quality instructional materials in mathematics;

(3) Developing and implementing pathways to accelerate conceptual understanding of mathematics or

advanced mathematics coursework, including strategies like automatic enrollment that encourage participation in such pathways;

(4) Developing and implementing strategies that provide opportunities for the early identification and support for students struggling with foundational and developmental mathematics concepts;

(5) Developing and implementing strategies for the identification of gifted and talented students, including strategies for students to access higher grade-level and/or advanced placement in mathematics;

(6) Offering high-quality professional development based on strong, moderate, or promising evidence (as defined in 34 CFR 77.1) in mathematics for educators, which may include teachers, paraprofessionals, and other licensed educators or support for principals and other school leaders on managing the implementation of high-quality mathematics instruction; or

(7) Integrating explicit and systematic teaching strategies for mathematics or programming to build subject matter expertise for mathematics into preservice training for general or special education educators.

(ii) Providing or expanding access to high-quality instructional materials in one or more of the following subjects:

(1) A science, technology, engineering, or mathematics (STEM) discipline, including computer science;

(2) English Language Arts; or

(3) Social Studies.

(iii) Providing or expanding access to training on implementing high-quality instructional materials in one or more of the following subjects:

(1) A STEM discipline, including computer science;

(2) English Language Arts; or

(3) Social Studies.

(iv) Creating competency-based instructional models that provide timely and actionable insights for students, families, and educators.

(v) Creating and supporting principals and other school leaders in implementing strategic staffing models, instructional leadership roles, or developing models for teacher and paraprofessional advancement that incentivize high-performing educators with opportunities and leverage their time, resources, and talent in innovative ways to better support student learning and achievement.

(vi) Planning or implementing a new school day schedule to allow more opportunities for meaningful learning.

(b) Expand high-quality interventions or accelerated learning supports for students based on strong, moderate, or

promising evidence (as defined in 34 CFR 77.1) aimed at improving student outcomes through one or more of the following priority areas:

(i) Providing remedial or accelerated learning opportunities focused on individualized, differentiated, and scaffolded supports for students to access grade-level (or above grade-level) content;

(ii) Identifying and implementing strategies for delivering effective personalized supports to all students;

(iii) Supporting states in defining, implementing, or improving statewide tiered educational frameworks that meet the varied needs of students;

(iv) Implementing, expanding, or scaling high-impact tutoring programs that occur during the regular school day, are aligned with practices to accelerate student learning in literacy and mathematics, and which include innovative delivery models or approaches, that may include outcomes-based contracting, artificial intelligence (AI), technology-enabled platforms, or strategic partnerships and staffing; or

(v) Leveraging outcomes-based contracting or grantmaking.

(c) Provide career-connected learning through one or more of the following priority areas:

(i) Providing career and academic advising and mentorship opportunities for all students;

(ii) Integrating career-connected and work-based learning into K–12 education, including approaches to help all students connect core academic instruction with real-world career skills and foster career awareness, exploration, and preparation throughout their education journey; or

(iii) Supporting vocational rehabilitation for students with disabilities (pre-employment transition services and transition services); or

(iv) Supporting States in developing, piloting, or scaling statewide plans for career-connected learning.

(d) Advance innovative assessment models through one or more of the following priority areas:

(i) Supporting the development, implementation, and scaling of new or innovative assessment models that accurately and fairly measure all student's learning and progress, including competency- and mastery-based assessments;

(ii) Supporting the development, implementation, and scaling of assessment models that provide timely and useful information to educators, students, and families to address student learning needs;

(iii) Encouraging the use of adaptive technologies for assessments;

(iv) Developing a clear methodology for early identification and subsequent ongoing support of students at-risk, students with disabilities, or gifted and talented students; or

(v) Supporting states to re-envision state assessment systems through research activities, planning, piloting, and/or scaling new or innovative assessment models.

(e) Support families in providing meaningful at-home learning, which can include providing resources, educational materials, and access to learning platforms to support student learning needs.

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 competition notice. 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 Definitions

The Secretary establishes the following definitions for use in any Department discretionary grant program in which the final priority is used.

Computer science means the study of computers and algorithmic processes, including their principles, their hardware and software designs, theories, computational thinking, coding, analytics, applications, and Artificial Intelligence (AI).

Computer science often includes computer programming or coding as a tool to create software, including applications, games, websites, and tools to manage or manipulate data; or development and management of computer hardware and the other electronics related to sharing, securing, and using digital information. The expanding field of computer science

emphasizes computational thinking and interdisciplinary problem-solving to equip students with the skills and abilities necessary to apply computation to the digital world.

Computer science does not involve using computers for everyday tasks, such as browsing the internet or using tools like word processors, spreadsheets, or presentation software. Instead, it focuses on creating and developing technology, not just utilizing it.

High-quality instructional materials (HQIM) means evidence-based, standards-aligned, content-rich instructional tools that provide a coherent scope and sequence for grade-level academic content. HQIM provide a full suite of resources for teachers, students, and families—including lesson plans, instructional units, embedded formative assessments to support a cohesive relationship between curriculum, instruction, and evaluation. HQIM utilize evidence-based instructional strategies, including guidance for differentiation, enrichment, and acceleration, and provide implementation supports for educators to ensure the learning needs of all students are met. HQIM clearly communicate the goals of learning and criteria for success for students.

Strategic Staffing means a team-based approach to school staffing that replaces the traditional one-teacher, one-classroom model. In this model, at least two professional educators, which can include paraprofessionals and other licensed educators, share responsibility for a common roster of students during the same blocks of time in the school day. Teamed educators have differentiated roles and distributed expertise, allowing for flexible student grouping, more effective use of instructional time, and expanded career entry and advancement opportunities.

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 priority 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 priority and definitions would impose no or minimal costs on entities that receive discretionary grant award funds from the Department. Additionally, the benefits of implementing the priority and definitions outweigh any associated costs, to the extent these de minimis costs even exist, because the priority and definitions would result in higher quality grant application submissions. Application submission and participation in competitive grant programs that might use the priority and definitions is voluntary. We believe, based on the Department’s administrative experience, that entities preparing an application would not need to expend more resources than they otherwise would have in the absence of the priority and definitions. Because the costs of carrying out activities would be paid for with program funds, the costs of implementation would not be a burden for any eligible applicants that earn a grant award, including small entities.

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 substantial economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a

government overseeing a population below 50,000.

Paperwork Reduction Act: The priority and definitions do not contain information collection requirements or affect currently approved data collections.

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. You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov.

Linda McMahon,

Secretary of Education.

[FR Doc. 2026–02854 Filed 2–11–26; 8:45 am]

BILLING CODE 4000–01–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 and Accounting Request filings:

Filings Instituting Proceedings

Docket Numbers: AC26–24–000.

Applicants: Entergy New Orleans, LLC.

Description: Entergy New Orleans, LLC submits proposed post-transaction accounting entries to clear Account 102 re sale of its gas distribution business to Delta New Orleans Gas Company, LLC.

Filed Date: 1/30/26.

Accession Number: 20260130–5423.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: RP26–472–000.

Applicants: Northern Natural Gas Company.

Description: § 4(d) Rate Filing: 20260206 Negotiated Rate Filing to be effective 2/7/2026.

Filed Date: 2/6/26.

Accession Number: 20260206–5107.

Comment Date: 5 p.m. ET 2/18/26.
Docket Numbers: RP26–473–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 2.9.26 Negotiated Rates—Trafigura Trading LLC H–8150–89 to be effective 2/7/2026.

Filed Date: 2/9/26.
Accession Number: 20260209–5028.
Comment Date: 5 p.m. ET 2/23/26.
Docket Numbers: RP26–474–000.
Applicants: Kinder Morgan Illinois Pipeline LLC.

Description: Compliance filing: Penalty Revenue Annual Report for 2025 to be effective N/A.

Filed Date: 2/9/26.
Accession Number: 20260209–5052.
Comment Date: 5 p.m. ET 2/23/26.

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/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: February 9, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–02849 Filed 2–11–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER26–1182–001.

Applicants: Old Gold Energy Center, LLC.

Description: Notice of Non-Material Change in Status of Old Gold Energy Center, LLC.

Filed Date: 1/30/26.

Accession Number: 20260130–5564.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER26–1293–000.

Applicants: Duke Energy Florida, LLC.

Description: Tariff Amendment: DEF—Cancellations of RS Nos. 355, 356 and 357 to be effective 4/11/2026.

Filed Date: 2/6/26.

Accession Number: 20260206–5168.

Comment Date: 5 p.m. ET 2/27/26.

Docket Numbers: ER26–1294–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2026–02–06 Tariff Amendment to Support the Implementation of DAME/EDAM to be effective 12/31/9998.

Filed Date: 2/6/26.

Accession Number: 20260206–5169.

Comment Date: 5 p.m. ET 2/27/26.

Docket Numbers: ER26–1295–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4620 Bison Grid GIA to be effective 1/29/2026.

Filed Date: 2/9/26.

Accession Number: 20260209–5027.

Comment Date: 5 p.m. ET 3/2/26.

Docket Numbers: ER26–1296–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4621 Ironclad Grid GIA to be effective 1/29/2026.

Filed Date: 2/9/26.

Accession Number: 20260209–5030.

Comment Date: 5 p.m. ET 3/2/26.

Docket Numbers: ER26–1297–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Attachments AE and AF Regarding the Market Monitor Dispute Process to be effective 4/11/2026.

Filed Date: 2/9/26.

Accession Number: 20260209–5031.

Comment Date: 5 p.m. ET 3/2/26.

Docket Numbers: ER26–1298–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii): ISO–NE/NEPOOL; Rev. Regarding Calculation of Load Weights Used in Zonal Prices to be effective 4/10/2026.

Filed Date: 2/9/26.

Accession Number: 20260209–5036.

Comment Date: 5 p.m. ET 3/2/26.

Docket Numbers: ER26–1299–000.

Applicants: Louisville Gas and Electric Company.

Description: Tariff Amendment: Notice of Termination of Joint Service Agreement FERC No. 26 to be effective 1/20/2026.

Filed Date: 2/9/26.

Accession Number: 20260209–5042.

Comment Date: 5 p.m. ET 3/2/26.

Docket Numbers: ER26–1300–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original GIA SA No. 7832; Project Identifier No. AF1–294/AF2–115/AG1–021 to be effective 4/11/2026.

Filed Date: 2/9/26.

Accession Number: 20260209–5065.

Comment Date: 5 p.m. ET 3/2/26.

Docket Numbers: ER26–1301–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Clarify Use of FSE Transfer Points and WAPA–CRSP Resource Hubs to be effective 4/1/2026.

Filed Date: 2/9/26.

Accession Number: 20260209–5077.

Comment Date: 5 p.m. ET 3/2/26.

Docket Numbers: ER26–1302–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: GIA, SA No. 7824; AE1–196/AG2–477 and Notice of Cancellation of SA No. 7824 to be effective 1/8/2026.

Filed Date: 2/9/26.

Accession Number: 20260209–5092.

Comment Date: 5 p.m. ET 3/2/26.

Docket Numbers: ER26–1303–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: 8 Original NUCRAs, SA Nos. 7827, 7828, 7829, 7830, 7831, 7852, 7856, 7857 to be effective 4/11/2026.

Filed Date: 2/9/26.

Accession Number: 20260209–5124.

Comment Date: 5 p.m. ET 3/2/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or OPP@ferc.gov.

Dated: February 9, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-02848 Filed 2-11-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26-148-000.

Applicants: Crowned Ridge Energy Storage I, LLC.

Description: Crowned Ridge Energy Storage I, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 2/6/26.

Accession Number: 20260206-5095.

Comment Date: 5 p.m. ET 2/27/26.

Docket Numbers: EG26-149-000.

Applicants: Empire Offshore Wind LLC.

Description: Empire Offshore Wind LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 2/9/26.

Accession Number: 20260209-5123.

Comment Date: 5 p.m. ET 3/2/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-1484-036; ER13-1069-025; ER12-2381-022.

Applicants: MP2 Energy NE LLC, MP2 Energy LLC, Shell Energy North America (US), L.P.

Description: Notice of Non-Material Change in Status of Shell Energy North America (US), L.P., et al.

Filed Date: 1/30/26.

Accession Number: 20260130-5565.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER10-2527-013; ER23-842-004; ER24-3146-001; ER24-3148-001; ER10-2532-021; ER23-1497-004; ER24-3149-001; ER20-1610-006;

ER23-1595-006; ER10-2535-015; ER23-843-004.

Applicants: Oak Trail Solar, LLC, Mendota Hills, LLC, LRE Energy Services, LLC, Lone Tree Wind, LLC, Hoosier Line Energy, LLC, GSG Wind, LLC, Crescent Ridge LLC, Blackford Wind Energy, LLC, Blackford Solar Energy, LLC, Big Plain Solar, LLC, Allegheny Ridge Wind Farm, LLC.

Description: Notice of Change in Status of Allegheny Ridge Wind Farm, LLC, et al.

Filed Date: 1/30/26.

Accession Number: 20260130-5575.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER10-2995-011.

Applicants: Juniper Canyon Wind Power LLC.

Description: Notice of Change in Status of Juniper Canyon Wind Power LLC.

Filed Date: 1/30/26.

Accession Number: 20260130-5580.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER10-3050-016;

ER10-3053-016.

Applicants: Whitewater Hill Wind Partners, LLC, Cabazon Wind Partners, LLC.

Description: Notice of Non-Material Change in Status of Cabazon Wind Partners, LLC, et al.

Filed Date: 1/30/26.

Accession Number: 20260130-5579.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER12-1437-004.

Applicants: Eagle Point Power Generation LLC.

Description: Refund Report: Eagle Point Refund Report to be effective N/A.

Filed Date: 2/5/26.

Accession Number: 20260205-5145.

Comment Date: 5 p.m. ET 2/26/26.

Docket Numbers: ER17-1931-016;

ER17-1930-016; ER17-1932-016; ER14-594-027; ER20-649-013; ER14-867-013; ER14-868-014; ER23-645-004; ER22-2474-007.

Applicants: Top Hat Wind Energy LLC, Wagon Wheel Wind Project, LLC, AEP Retail Energy Partners, AEP Energy, Inc., AEP Energy Partners, Inc., Ohio Power Company, Southwestern Electric Power Company, Public Service Company of Oklahoma, AEP Texas Inc. *Description:* Triennial Market Power Analysis for Southwest Power Pool Region of AEP Texas Inc., et al.

Filed Date: 1/30/26.

Accession Number: 20260130-5572.

Comment Date: 5 p.m. ET 3/31/26.

Docket Numbers: ER19-1741-003;

ER17-1603-004; ER17-1037-006; ER17-2245-005.

Applicants: Moffett Solar 1, LLC, Innovative Solar 37, LLC, Dominion

Energy Generation Marketing, Inc., Dominion Energy South Carolina, Inc.

Description: Notice of Change in Status and Supplement to 06/30/2023, Triennial Market Power Analysis for Southeast Region of Dominion Energy South Carolina, Inc., et al.

Filed Date: 1/30/26.

Accession Number: 20260130-5562.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER21-2445-006; ER23-2716-004; ER25-561-002; ER25-562-002; ER16-2226-006.

Applicants: McHenry Battery Storage, LLC, Winfield Solar I, LLC, Crossover Wind LLC, Moraine Sands Wind Power, LLC, Glacier Sands Wind Power, LLC.

Description: Notice of Non-Material Change in Status of Glacier Sands Wind Power, LLC, et al.

Filed Date: 1/30/26.

Accession Number: 20260130-5567.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER22-2474-006.

Applicants: Top Hat Wind Energy LLC.

Description: Notice of Change in Status of Top Hat Wind Energy LLC.

Filed Date: 1/30/26.

Accession Number: 20260130-5571.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER23-2440-006.

Applicants: McFarland Solar B, LLC.

Description: Notice of Change in Status of McFarland Solar B, LLC.

Filed Date: 1/30/26.

Accession Number: 20260130-5568.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER24-1901-001.

Applicants: Yum Yum Solar LLC.

Description: Notice of Non-Material Change in Status of Yum Yum Solar LLC.

Filed Date: 1/30/26.

Accession Number: 20260130-5560.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER24-2459-001.

Applicants: Tenaska Virginia Partners, L.P.

Description: Refund Report: Refund Report to be effective N/A.

Filed Date: 2/9/26.

Accession Number: 20260209-5044.

Comment Date: 5 p.m. ET 3/2/26.

Docket Numbers: ER25-895-004.

Applicants: BOCA bn, LLC.

Description: Notice of Change in Status of BOCA bn, LLC.

Filed Date: 1/30/26.

Accession Number: 20260130-5566.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER25-2277-001.

Applicants: West Camp Wind Farm, LLC.

Description: Notice of Change in Status of West Camp Wind Farm, LLC.

Filed Date: 1/30/26.

Accession Number: 20260130–5569.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER25–2600–002.

Applicants: Midcontinent

Independent System Operator, Inc.,
Duke Energy Indiana, LLC.

Description: Compliance filing: Duke Energy Indiana, LLC submits tariff filing per 35: 2026–02–09_Compliance for DEI Template RE Procurement Subsidiary to be effective 2/23/2026.

Filed Date: 2/9/26.

Accession Number: 20260209–5096.

Comment Date: 5 p.m. ET 3/2/26.

Docket Numbers: ER25–2940–001.

Applicants: Solar DG NM Amalia, LLC.

Description: Notice of Non-Material Change in Status of Solar DG NM Amalia, LLC.

Filed Date: 1/30/26.

Accession Number: 20260130–5576.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER25–3475–005;
ER10–1292–019; ER10–1319–021;
ER10–1276–021; ER10–1353–021;
ER18–1183–014; ER18–1184–014;
ER10–1303–019; ER25–3172–003;
ER10–1287–020; ER24–3028–003;
ER24–3029–003; ER23–1411–006.

Applicants: Newport Solar LLC, Livingston Generating Station, LLC, Kalamazoo Generating Station, LLC, Grayling Generation Station Limited Partnership, Genesee Solar Energy, LLC, Genesee Power Station Limited Partnership, Delta Solar Power II, LLC, Delta Solar Power I, LLC, Dearborn Industrial Generation, L.L.C., Consumers Energy Company, CMS Generation Michigan Power, LLC, CMS Energy Resource Management Company, Branch Solar, LLC.

Description: Notice of Non-Material Change in Status of Branch Solar, LLC, et al.

Filed Date: 1/30/26.

Accession Number: 20260130–5561.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER26–8–002; ER24–2663–006; ER26–9–001; ER20–1980–017; ER20–2049–016; ER24–2664–006; ER25–1438–007; ER10–1852–124; ER25–3265–002; ER11–4462–119; ER16–1509–009; ER17–838–093; ER10–1951–096.

Applicants: NextEra Energy Services Massachusetts, LLC, NextEra Energy Marketing, LLC, New Wave Energy Corp, NEPM II, LLC, Jackalope Wind, LLC, Florida Power & Light Company, Dominguez Grid, LLC, Cedar Springs Wind IV, LLC, Cedar Springs Wind III, LLC, Cedar Springs Wind, LLC, Cedar Springs Energy Storage IV, LLC, Anticline Wind, LLC, Anticline Energy Storage, LLC.

Description: Notice of Non-Material Change in Status of Anticline Energy Storage, LLC, et al.

Filed Date: 1/30/26.

Accession Number: 20260130–5563.

Comment Date: 5 p.m. ET 2/20/26.

Docket Numbers: ER26–240–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2026–02–09_SA 4578 OMU–LGE–KY IA Sub Certificate of Concurrence to be effective 12/31/9998.

Filed Date: 2/9/26.

Accession Number: 20260209–5130.

Comment Date: 5 p.m. ET 3/2/26.

Docket Numbers: ER26–518–001.

Applicants: Southern California Edison Company.

Description: Tariff Amendment: SCE Response to FERC Deficiency re Rosa Storage Unexecuted LA (TOT1147/SA372) to be effective 11/15/2025.

Filed Date: 2/9/26.

Accession Number: 20260209–5049.

Comment Date: 5 p.m. ET 3/2/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

Dated: February 9, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–02847 Filed 2–11–26; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–OAR–2023–0411; FRL–13176–01–R9]

Clean Air Act Tribal Minor New Source Review Permit Issued to Lupton Plant Property, LLC and Lupton Petroleum Products Inc., for the Lupton Facility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: This document announces that the U.S. Environmental Protection Agency (EPA), Region 9, made a final decision to issue, in accordance with the Clean Air Act (CAA), a Tribal Minor New Source Review (NSR) permit to Lupton Plant Property, LLC/Lupton Petroleum Products Inc. for the Lupton Facility under the CAA's Tribal Minor NSR Program. This permit authorizes the modification and operation of an existing transmix processing and bulk petroleum storage facility in Lupton, Arizona.

DATES: The EPA's final decision for the Lupton Facility was issued on November 14, 2025, and became effective December 17, 2025. Pursuant to section 307(b)(1) of the Clean Air Act, judicial review of this final agency decision, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the Ninth Circuit by April 13, 2026.

ADDRESSES: The EPA established a docket for this action under Docket ID No. EPA–R09–OAR–2023–0411. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the docket index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>. Please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information about accessing docket materials for this action.

FOR FURTHER INFORMATION CONTACT: Po-Chieh Ting, EPA Region 9, (415) 972–3191, ting.pochieh@epa.gov. The EPA's final permit decision, the Technical Support Document for this action, and all other supporting information are available through <https://www.regulations.gov>.

www.regulations.gov under Docket ID No. EPA-R09-OAR-2023-0411.

SUPPLEMENTARY INFORMATION:

Notice of Final Action

On November 14, 2025, the EPA issued a final decision to issue a permit, Permit No. C-2025-6, to Lupton Plant Property, LLC, a limited liability corporation incorporated in Idaho with its principal place of business in Idaho Falls, Idaho, and Lupton Petroleum Products Inc., a general business corporation incorporated in Idaho with its principal place of business in Idaho Falls, Idaho. This permit pertains to the modification and operation of the Lupton Facility ("Source"), an existing transmix processing and bulk petroleum storage facility, located partially on Navajo Nation Reservation in Lupton, Arizona. The EPA issued the permit pursuant to the provisions of CAA sections 110(a) and 301(d) and the EPA's Tribal Minor NSR Program at 40 CFR 49.151-49.164. The EPA based its decision on its determination that the Source met the applicability criteria and submitted all required content in the permit application under the EPA's Tribal Minor NSR Program. Notice of the final decision was provided on November 17, 2025, pursuant to 40 CFR 49.159(a). In accordance with 40 CFR 49.159(d)(1), permit decisions may be appealed under the permit appeal procedures of 40 CFR 124.19. In accordance with 40 CFR 124.19, within 30 days after service of notice of the final permit decision, any person who filed comments on the draft permit or participated in a public hearing on the draft permit may file a petition to the EPA's Environmental Appeal Board (EAB) for review. Additionally, any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition the EAB for administrative review of any permit conditions set forth in the final permit decision, but only to the extent that those final permit conditions reflect changes from the proposed draft permit. The EPA received one comment filed on the draft permit during the public comment period. The EPA did not hold, or receive a request for, a public hearing on the draft permit. In the EPA's permit issued in its final permit decision, the EPA responded to public comments received but did not change the final permit conditions from those of the proposed draft permit. The EAB did not receive a petition to review any condition in the permit decision under 40 CFR 124.19. Therefore, pursuant to 40 CFR 49.159(a), this

permit became effective on December 17, 2025.

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

Dated: February 2, 2026.

Anita Lee,

Acting Director, Air and Radiation Division, Region IX.

[FR Doc. 2026-02834 Filed 2-11-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-13159-01-OA]

Request for Nominations of Candidates to the National Environmental Education Advisory Council

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice request for nominations.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations of environmental education professionals from a range of qualified candidates to be considered for appointment to the National Environmental Education Advisory Council (NEEAC). Appointments will be announced by the EPA Administrator.

DATES: Nominations should be submitted no later than March 16, 2026

FOR FURTHER INFORMATION CONTACT: For information about the chartered NEEAC membership, appointment process, and schedule, please contact Carissa Cyran, Designated Federal Officer (DFO) by email at neeac@epa.gov or telephone at 202-566-1353.

SUPPLEMENTARY INFORMATION:

Background: The National Environmental Education Act (Act) requires that the NEEAC be comprised of eleven (11) members appointed by the Administrator of the EPA. Members represent a balance of perspectives, professional qualifications, and experience. The Act specifies that members must represent the following sectors: *primary and secondary education* (one of whom shall be a classroom teacher), two members; *colleges and universities*, two members; *business and industry*, two members; *non-profit organizations*, two members; *state departments of education and natural resources*, two members; and one member to represent *senior Americans*.

The EPA is looking for background and experience that would contribute to the diversity of professional perspectives on the NEEAC with a balanced geographic representation from across the Nation. While not

necessary, it may be beneficial for Council members to possess expertise using environmental education to promote the responsible stewardship of natural resources and collaborative public and private conservation efforts that support outdoor recreation, and the management of America's wildlife population. Each member of the Council shall hold office for a three-year term as Special Government Employees who will provide independent expert advice to the agency. The anticipated time commitment may vary between 20 and 50 hours per month. Members will serve on the NEEAC in a voluntary capacity without compensation. However, members will be provided with per diem and travel expense coverage for in-person meeting attendance, contingent upon available funding. Additional information about the NEEAC is available at <https://www.epa.gov/education/national-environmental-education-advisory-council-neeac>.

Expertise Sought for the NEEAC: The NEEAC provides environmental education advice to the EPA Administrator on matters related to activities, functions, and policies of the agency under the National Environmental Education Act of 1990. EPA invites nominations of individuals to serve on the NEEAC with demonstrated experience or knowledge in environmental education.

While not required, certain supplemental skills and experiences will be considered valuable for these eleven (11) committee member positions, including: integrating environmental education into state and/or local education programs; building capacity for environmental education at the state, local, and/or Tribal jurisdictions; fostering cross-sector (public and private) partnerships to enhance environmental education and promote economic growth; leveraging resources to support these initiatives; designing and implementing environmental education research focused on protecting natural resources; developing robust evaluation methodologies; and providing professional development for teachers and other education professionals. Candidates with these skills will have the opportunity to share their knowledge and expertise.

How To Submit Nominations: Any interested person or organization may nominate qualified persons to be considered for appointment on the NEEAC. Individuals may self-nominate. Nominations will only be considered when submitted in electronic format to neeac@epa.gov.

All nominations must include the following information: (1) contact information including name, address, phone, and email address; (2) a curriculum vitae or resume (no more than five pages); (3) please include the specific area of expertise in environmental education and the sector represented (primary or secondary education (please identify if you are a classroom teacher); colleges or universities; business and industry; non-profit organizations; state departments of education; state department of natural resources; senior Americans) the applicant is applying for in the subject line of your submission; and, (4) one-page essay on the applicant's philosophy on the value that environmental education adds to expanding conservation practices and fostering economic growth through outdoor recreation and wildlife management.

Candidates invited to serve will be asked to submit the "Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency" (EPA Form 3110-48). This confidential form allows EPA to determine whether there is a statutory conflict between that person's public responsibilities as a Special Government Employee and private interests and activities, or the appearance of a loss of impartiality, as defined by Federal regulation. The form may be viewed and downloaded through the "Ethics Requirements for Advisors" link at <https://www.epa.gov/sap/confidential-financial-disclosure-form-environmental-protection-agency-special-government>. This form should not be submitted as part of the nomination.

Authority: National Environmental Education Act (NEEA) 20 U.S.C. 5508(b).

Dated: January 27, 2026.

Carissa Cyran,

EPA Designated Federal Officer, National Environmental Education Advisory Council.

[FR Doc. 2026-02867 Filed 2-11-26; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 330324]

SES Performance Review Board

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: As required by the Civil Service Reform Act of 1978 (Pub. L. 95-454), Chairman Brendan Carr has appointed the following executive to the Senior Executive Service (SES) Performance Review Board (PRB):

Daniel Daly

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2026-02856 Filed 2-11-26; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Thursday, March 5, 2026.

PLACE: The meeting will be held via remote means and/or in the Richard V. Backley Hearing Room, Room 511, 1331 Pennsylvania Avenue NW, Suite 504 North, Washington, DC 20004.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The Commission will conduct a meeting closed to the public to consider: *Cecil Matney, Jr. v. Rockwell Mining, LLC*, Docket No. WEVA 2023-0126 (Issues include whether the Judge erred in sustaining a complaint, brought pursuant to 30 U.S.C. 815(c)(3), based on the operator's alleged violations of 30 CFR part 90).

Commissioners will attend the meeting. Commission staff members who provide technological support and other Commission staff may also be present as necessary. This meeting is closed to the public pursuant to 5 U.S.C. 552b(c)(10) on the basis of the Commission's consideration or disposition of a "particular case of formal agency adjudication."

CONTACT PERSON FOR MORE INFORMATION: Rory P. Smith (202)525-8649/(202) 708-9300 for TDD Relay/1-800-877-8339 for toll free.

Phone Number for Listening to Meeting: 1-(866) 236-7472. Passcode: 678-100.

(Authority: 5 U.S.C. 552b)

Dated: February 10, 2026.

Rory P. Smith,

Attorney-Advisor.

[FR Doc. 2026-02808 Filed 2-10-26; 11:15 am]

BILLING CODE 6735-01-P

FEDERAL TRADE COMMISSION

[Docket No. 9437]

Express Scripts, Inc., et al.; Analysis of Agreement Containing Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair methods of competition. The attached Analysis of Agreement Containing Consent Order to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 16, 2026.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write: "Express Scripts; Docket No. 9437" on your comment and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H-144 (Annex I), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Armine Black (202-326-2502), Health Care Division, Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis of Proposed Agreement Containing Consent Orders to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC website at this web address: <https://www.ftc.gov/news-events/commission-actions>.

The public is invited to submit comments on this document. For the Commission to consider your comment, we must receive it on or before March 16, 2026. Write “Express Scripts; Docket No. 9437” on your comment. Your comment—including your name and your State—will be placed on the public record of this proceeding, including, to the extent practicable, on the <https://www.regulations.gov> website.

Because of the agency’s heightened security screening, postal mail addressed to the Commission will be delayed. We strongly encourage you to submit your comments online through the <https://www.regulations.gov> website. If you prefer to file your comment on paper, write “Express Scripts; Docket No. 9437” on your comment and on the envelope, and mail your comment by overnight service to: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex I), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public

record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on <https://www.regulations.gov>—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at <https://www.ftc.gov> to read this document and the news release describing this matter. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments it receives on or before March 16, 2026. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Analysis of Agreement Containing Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an Agreement Containing Consent Order (“Consent Agreement”) from Express Scripts, Inc., Evernorth Health, Inc., Medco Health Services, Inc., and Ascent Health Services LLC (collectively, “ESI” or “ESI Respondents”). If and when the Commission issues the Decision and Order as final, the Consent Agreement settles (1) charges in *In the Matter of Caremark Rx, Zinc Health Services, et al.* (“Insulin Litigation”) that ESI violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45 (“Section 5”), by anticompetitively and unfairly creating a system of competition that artificially prioritizes inflated rebates, and (2) the separate Commission investigation (“PBM Investigation”) into ESI’s business practices seeking to determine whether ESI unlawfully harmed pharmacy or PBM competition.¹

¹ Under the Consent Agreement, the Commission and ESI agree that the Consent Agreement is a global settlement that resolves the Commission’s current concerns about ESI’s business practices to the extent reflected in the Decision and Order. The release in the order excludes certain types of claims from its scope. For example, the release does not bar the Commission from bringing claims regarding business practices that ESI adopts after the Consent Agreement was signed or that were unknown to the Commission at the time, and it does not bar the Commission from bringing claims in the event it

Express Scripts is one of the nation’s largest pharmacy benefit managers (“PBM”). Positioned at the center of the intricate and opaque pharmaceutical distribution chain, it wields significant influence over which drugs patients can access and at what prices. Express Scripts administers PBM services on behalf of its plan sponsor clients, including employers that provide commercial insurance to their members. It creates drug formularies (lists of preferred drugs) as well as preferred pharmacy networks where members can go to fill their prescriptions. The Insulin Litigation alleges that ESI Respondents created a competition system that prioritizes the size of rebates over drugs’ net price in winning clients, pushed insulin manufacturers to compete for preferred formulary coverage based on the size of rebates rather than net price, and shifted the cost of artificially inflated list prices to vulnerable patients. The PBM Investigation seeks to determine whether ESI violated Section 5 by requiring its clients’ members to use its affiliated pharmacies or coercing unaffiliated pharmacies to accept unfavorable contractual terms.

The purpose of the Consent Agreement is to protect the public from ESI’s anticompetitive conduct and deter others from engaging in similar anticompetitive conduct. Under the terms of the Proposed Decision and Order (“Proposed Order”), ESI will: (1) cease to discriminate against low-WAC² versions of a drug on its standard formularies; (2) provide a standard offering to its plan sponsors that ensures that members will pay no higher than a drug’s net cost; (3) provide full access to its Patient Assurance Program’s insulin benefits to all members when a plan sponsor adopts a formulary that includes an insulin product covered by the Patient Assurance Program unless the plan sponsor opts out in writing; (4) provide a standard offering to all plan sponsors that allows the plan sponsor to transition off rebate guarantees and spread pricing; (5) delink, for its standard offering, drug manufacturers’ compensation to ESI from list prices; (6) increase transparency for plan sponsors; (7) include certain terms in its standard offering to retail community pharmacies; (8) promote the standard offerings to plan sponsors and retail community pharmacies; and (9) reshore its group purchasing organization

becomes aware of any agreement between ESI and its competitors.

² WAC, or wholesale acquisition cost, is the list price for a drug set by pharmaceutical manufacturers for wholesalers and direct purchasers.

(“GPO”) Ascent from Switzerland to the United States.

The Consent Agreement has been placed on the public record for 30 days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the comments received and decide whether it should withdraw, modify, or finalize the Proposed Order. The purpose of this analysis is to facilitate public comment on the Consent Agreement and Proposed Order to aid the Commission in determining whether it should make the Proposed Order final. This analysis is not an official interpretation of the Proposed Order or the Agreement Containing Consent Order and does not modify its terms.

II. Insulin Litigation

In September 2024, the FTC sued the three largest PBMs—Express Scripts, Caremark, and Optum—and their affiliated GPOs. The Complaint alleges that ESI Respondents have engaged in anticompetitive and unfair rebating practices that artificially inflated the list price of insulin drugs, impaired patients’ access to lower list price products, and shifted the cost of high insulin list prices to vulnerable patients.

The Complaint alleges that ESI created a system of competition that prioritizes rebates over patient affordability. ESI has placed high-list price, high-rebate versions of insulin on its standard commercial formularies and excluded low-list price, low-rebate versions of the same drugs, even when the two versions had comparable net prices. This system benefits ESI, which keeps a portion of the inflated rebates and uses the rest to attract plan sponsor clients, while withholding drug-level price information from clients that would have allowed them to make more informed decisions about patients’ share of drug cost. According to the Complaint, the inflated list prices hurt patients whose out-of-pocket payments are tied to the list price of the drug, such as patients in their deductible phase and those with coinsurance. While patients pay inflated prices, ESI is enriched by the rebates tied to each filled prescription.

The Complaint alleges unfair methods of competition and unfair acts or practices under Section 5 of the FTC Act.

III. PBM Investigation

In fall 2023, the FTC opened an investigation to determine whether certain business practices of the three largest PBMs, including Express Scripts,

violate the laws enforced by the FTC by unlawfully harming competition for pharmacy services. Prior to and since opening the investigation, Staff has received comments from pharmacies, patients, and other market participants about ESI’s business practices. The comments contend, among other allegations, that ESI uses its dominance to impose oppressive terms on unaffiliated pharmacies who need to join the PBMs’ pharmacy networks, including reimbursement rates that make it uneconomical for unaffiliated pharmacies to dispense medications. In December 2023, the FTC issued a civil investigative demand to Express Scripts’ parent company, The Cigna Group (“Cigna”), to investigate these concerns. That investigation has been ongoing.

IV. Proposed Order

The Proposed Order, which lasts ten years from the Implementation Date, contains the following provisions:

Section I generally requires ESI to place low-WAC versions of high-WAC drugs on its four standard commercial formularies at no disadvantage to the high-WAC version. The provision includes exceptions to this requirement if (1) the low-WAC version is higher net cost than the high-WAC version, or (2) the drug manufacturer is unable to supply the low-WAC version “in sufficient quantities to meet expected demand.” This provision addresses allegations that ESI placed high-WAC versions of drugs on its standard commercial formularies and excluded low-WAC versions of the same drug, despite both versions having comparable net prices. According to the Insulin Complaint, this practice increased out-of-pocket costs to patients whose payments are based on list price (e.g., because the patient is in the deductible stage of their insurance or owes coinsurance calculated as a percentage of list price).

Section II contains several terms designed to protect patients from excessive out-of-pocket expenses. Specifically, Section II requires ESI to develop a “standard offering” to all plan sponsors that:

- Limits member out-of-pocket costs to be no higher than a drug’s net cost;
- Prohibits member out-of-pocket costs from being tied to list price or any other benchmark higher than a drug’s net cost; and
- Provides full access to ESI’s programs that reduce out-of-pocket costs for members.

These provisions, collectively, would reduce out-of-pocket costs for those plans that adopt the standard offering, including by ensuring consumers

generally benefit from the proportional amount of any rebate in coinsurance and deductible policies. In addition to providing the above options in its standard offering to all plan sponsors, Section II also requires all of Cigna’s fully insured health plans to adopt the above protections on patient out-of-pocket expenses.

Under the “meeting competition” provision in Section XI, ESI would retain the flexibility to respond to specific client requests by offering customized services that do not comply with the “standard offering.” The plan sponsors may ultimately adopt a customized plan after being served with a notice of the standard offering and acknowledging receipt in writing. This “meeting competition” exemption does not apply to the requirements that Cigna fully insured health plans adopt the patient protections in Section II.

Section III ensures that ESI’s standard offering, in the event of certain legislative or regulatory changes, will attribute patient payments made through the TrumpRx platform towards patient deductibles and out-of-pocket cost maximum amounts. Section IV generally requires that ESI provide full access to its Patient Assurance Program to all members when a plan sponsor adopts a formulary that includes an insulin product covered by the Patient Assurance Program unless the plan sponsor opts out in writing. This provision offers further protections to insulin patients against high out-of-pocket costs.

Section V addresses allegations that ESI’s use of rebates to compete for plan sponsor business—particularly where those rebates are not passed through to patients at the point of sale—can result in excessive patient out-of-pocket expenses. Specifically, Section V requires ESI’s “standard offering” to plan sponsors to:

- Enable members to receive the benefit of any rebate or discounts at the point of sale, without charging a fee other than its actual cost to pre-fund any rebate, if applicable;
- Not provide to plan sponsors rebate guarantees or other guarantees of pre-determined amounts of compensation; and
- Not employ spread pricing (the practice of a PBM charging a plan sponsor a different amount for the purchase of a drug than the PBM reimburses the pharmacy).

The terms of Section V are subject to the “meeting competition” exemption detailed in Section XI of the Proposed Order.

Section VI addresses allegations that ESI benefits from placing higher list

price products on its formularies by charging fees to manufacturers that are based on list price. Specifically, Section VI provides that compensation received by ESI from drug manufacturers related to ESI's "standard offering" to plan sponsors will not be based, directly or indirectly, on a drug's list price.

Section VII addresses allegations that ESI obscures net price information from plan sponsors. Specifically, Section VII increases transparency for plan sponsors by requiring ESI to provide as part of its standard offering an annual report disclosing each drug's costs and pharmacy claim-level reporting, as well as any compensation paid to consultants or brokers in connection with ESI's provision of pharmacy benefit services.

Section VIII addresses ESI's pharmacy reimbursement practices. Section VIII requires ESI to develop a standard offering to retail community pharmacies (defined as a pharmacy business with three or fewer retail stores) that will:

- Compensate retail community pharmacies based on the actual cost of acquiring prescription drugs plus a dispensing fee;
- Make additional payments for all non-dispensing services performed by a retail community pharmacy; and
- Not exclude any retail community pharmacy willing to agree to the terms and conditions for participation from its standard offering to retail community pharmacies.

Section IX provides that ESI will advertise its standard offerings; clearly and conspicuously disclose their existence and availability in material created to advertise, market, or otherwise promote its products to plan sponsors and retail community pharmacies; not disparage its standard offerings; and not require or coerce plan sponsors or retail community pharmacies to adopt terms that differ from its standard offerings. Section X provides that ESI will move its GPO, Ascent, from Switzerland to the United States.

Section XI provides that nothing in Sections II, III, IV, V, and VIII shall prevent ESI from responding to a written request for terms other than the standard offering from a plan sponsor or retail community pharmacy. With respect to plan sponsors, if ESI and a plan sponsor agree to terms other than the standard offering, ESI must then obtain a written acknowledgement that the plan sponsor has received, read, and understood the explanation of benefits of the standard offering attached as Exhibit A to the Decision and Order. Cigna's fully-insured health plans are excluded from Section XI's "meeting competition" exception.

Section XII appoints a monitor for a term beginning shortly after the Order issues and ending three years after the Implementation Date (defined as no later than January 1, 2027). The monitor has the authority to observe ESI's compliance with the obligations set forth in the Proposed Order, to act in consultation with, and make inquiries on behalf of, the Commission or its Staff, and to make annual reports to the Commission.

Sections XIII, XIV, and XV contain provisions designed to ensure the effectiveness of the relief, including: obtaining information from ESI that it is complying with the Order; requiring ESI to submit compliance reports; and requiring ESI to notify the Commission of certain changes in its corporate structure. Section XVI provides that ESI will cooperate with the ongoing Insulin Litigation, including by providing a certain number of witnesses for depositions and for trial.

The purpose of this analysis is to facilitate public comment on the Consent Agreement and proposed Order to aid the Commission in determining whether it should make the proposed Order final. This analysis is not an official interpretation of the proposed Order and does not modify its terms in any way.

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2026-02844 Filed 2-11-26; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2025-N-0435]

Jeremy Spencer Brown: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Jeremy Spencer Brown for a period of 5 years from importing or offering for import any drug into the United States. FDA bases this order on a finding that Mr. Brown was convicted of one felony count under Federal law for introduction of unapproved drugs into interstate commerce with intent to defraud or mislead. The factual basis supporting Mr. Brown's conviction, as

described below, is conduct relating to the importation into the United States of a drug or controlled substance. Mr. Brown was given notice of the proposed debarment and was given an opportunity to request a hearing to show why he should not be debarred. As of May 21, 2025 (30 days after receipt of the notice), Mr. Brown had not responded. Mr. Brown's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable February 12, 2026.

ADDRESSES: Any application by Mr. Brown for termination of debarment under section 306(d)(1) of the FD&C Act (21 U.S.C. 335a(d)(1)) may be submitted at any time as follows:

Electronic Submissions

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. An application submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your application will be made public, you are solely responsible for ensuring that your application 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 application, that information will be posted on <https://www.regulations.gov>.

- If you want to submit an application with confidential information that you do not wish to be made available to the public, submit the application as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

- **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 a written/paper application submitted to the Dockets Management Staff, FDA will post your application, as well as any attachments, except for information submitted, marked, and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All applications must include the Docket No. FDA-2025-N-0435. Received applications 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 an application with confidential information that you do not wish to be made publicly available, submit your application 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 your application. 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. Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket, 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 between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500. Publicly available submissions may be seen in the docket.

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Field Enforcement, Office of Field Regulatory Operations, Office of Inspections and Investigations, Food and Drug Administration, 240–402–8743, or debarments@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(D) of the FD&C Act permits debarment of an individual from importing or offering for import any drug into the United States if FDA finds, as required by section 306(b)(3)(C) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any drug or controlled substance.

On February 3, 2025, Mr. Brown was convicted as defined in section 306(l)(1) of the FD&C Act, in the U.S. District Court for the District of Vermont, when the court accepted his plea of guilty and entered judgment against him for the felony offense of introduction of unapproved drugs into interstate commerce with intent to defraud or mislead in violation of 21 U.S.C. 331(d), 333(a)(2), and 355(a) (sections 301(d), 303(a)(2), and 505(a) of the FD&C Act). The underlying facts supporting the conviction are as follows:

As contained in the Information and in the Plea Agreement from his case, Mr. Brown was the owner and operator of the company Warrior Labz SARMs and its multiple websites. Beginning in March 2019 and until December 2023, Mr. Brown owned and operated Warrior Labz SARMs and the website [warriorlabzarms](http://warriorlabzarms.com) (the “Original SARMs Site”), which offered certain drugs for sale. In January 2023, Mr. Brown created the website warriorlabzvip.com (the “VIP SARMs Site”), which required customers to create a username and password.

Through his company’s websites, Mr. Brown offered for sale drugs such as numerous selective androgen receptor modulators (“SARMs”), including Cardarine, Ostarine, Ligandrol, and YK–11. Mr. Brown also offered for sale through his company’s websites Viagra–Max Sildenafil and Cialis–Max Tadalafil, which were unapproved versions of the prescription drugs Viagra and Cialis. In addition, Mr. Brown also offered for sale an unapproved version of drug products containing semaglutide, the active pharmaceutical ingredient in the FDA approved prescription drugs Ozempic, Wegovy, and Rybelsus. None of the drugs Mr. Brown sold through his website was approved by FDA. Mr. Brown included on his websites disclaimers that he knew were false and misleading, including falsely stating the drugs offered for sale were for “research purposes only” and “not for human consumption.”

Mr. Brown obtained the bulk of the drugs he sold through his websites from China. Mr. Brown did not ask his Chinese suppliers about the shipping or storage conditions of the drugs he obtained from them, nor did he use a lab or other method to verify the contents of the drugs he received from China. However, on one of Mr. Brown’s company’s websites, he included assertions on the Original SARMs site that he used only the highest quality pharmaceutical grade ingredients and U.S. manufacturing practices; Mr. Brown knew that these assertions were false. In addition, the labeling on the

drugs Mr. Brown sold through his website falsely stated that the drugs were made in the United States; Mr. Brown also knew that these claims were false.

On June 12, 2023, Mr. Brown received a Warning Letter from FDA. The Warning Letter stated that FDA had reviewed the Original SARMs Site and determined that the products the site offered for sale, including Ostarine and Ligandrol, were unapproved new drugs sold in violation of the FD&C Act. The Warning Letter also stated that even though the products were marketed “for research purpose only” and “not for human consumption,” evidence from his company’s website established the products were in fact intended for human use. The Warning Letter advised Mr. Brown that FDA had safety concerns about products containing SARMs, including possible life-threatening reactions and the potential to increase the risk of heart attack and stroke. The Warning Letter stated that Mr. Brown was responsible for investigating the cause of any violations, preventing their reoccurrence, preventing the occurrence of other violations, and ensuring Mr. Brown’s company complied with all requirements of Federal law, including FDA regulations.

Despite reading and fully understanding the Warning Letter FDA sent Mr. Brown, he continued operating the Original SARMs website, but he no longer listed Viagra–Max Sildenafil, Cialis–Max Tadalafil, and semaglutide for sale. However, Mr. Brown continued offering SARMs through the Original SARMs site but removed certain claims about the product from the site. Mr. Brown also continued operating his VIP SARMs site in the same manner as before he received the Warning Letter, including by continuing to offer for sale SARMs alongside claims that they were intended to affect the structure and/or function of the human body, except that he began directing customers of the Original SARMs website to his VIP SARMs site. In response to FDA’s Warning Letter, Mr. Brown stated that he had taken corrective actions to address the violations. Mr. Brown knew that this statement was misleading.

Between March 2023 and December 2023, Mr. Brown made numerous sales to an FDA undercover investigator posing as a customer of the SARMs websites. FDA laboratories tested the products obtained. Many tested positive for substances not listed on the Warrior Labz SARMs product labels; some were found not to contain the ingredients listed on those labels. For instance, of the substances received from an August

2023 undercover purchase, one drug was labeled as containing Ostarine and another as containing Ligandrol though neither contained Ligandrol, and both contained Ostarine and a substance not included on the label, Clomiphene. Clomiphene is an unapproved version of a prescription drug approved by FDA to treat infertility in women by inducing ovulation.

Between March 2019 and December 2023, Mr. Brown received at least \$1,183,985.60 from sales of unapproved new drugs through his websites.

FDA sent Mr. Brown, by certified mail, on April 16, 2025, a notice proposing to debar him for a 5-year period from importing or offering for import any drug into the United States. The proposal was based on a finding under section 306(b)(3)(C) of the FD&C Act that Mr. Brown's felony conviction under Federal law for introduction of unapproved drugs into interstate commerce with intent to defraud or mislead in violation of 21 U.S.C. 331(d), 333(a)(2), and 355(a) (sections 301(d), 303(a)(2), and 505(a) of the FD&C Act), was for conduct relating to the importation of any drug or controlled substance into the United States because Mr. Brown illegally imported and introduced misbranded prescription drug products into interstate commerce. In proposing a debarment period, FDA weighed the considerations set forth in section 306(c)(3) of the FD&C Act that the Agency considered applicable to Mr. Brown's offense and concluded that the offense warranted the imposition of a 5-year period of debarment.

The proposal informed Mr. Brown of the proposed debarment and offered him an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Brown received the proposal and notice of opportunity for a hearing on April 21, 2025. Mr. Brown failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Division of Field Enforcement Director, Office of Inspections and Investigations, under section 306(b)(3)(C) of the FD&C Act, under authority delegated to the Director, Division of Enforcement, finds that Mr. Jeremy Spencer Brown has been convicted of a felony under Federal law for conduct relating to the

importation into the United States of any drug or controlled substance. FDA finds that the offense should be accorded a debarment period of 5 years as provided by section 306(c)(2)(A)(iii) of the FD&C Act.

As a result of the foregoing finding, Mr. Brown is debarred for a period of 5 years from importing or offering for import any drug into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of any drug by, with the assistance of, or at the direction of Mr. Brown is a prohibited act.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-02786 Filed 2-11-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2012-D-1197]

Certification Process for Designated Medical Gases; Draft Guidance for Industry; Availability; Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing the availability of a draft guidance for industry entitled "Certification Process for Designated Medical Gases." This guidance explains how FDA administers the certification process and describes the annual reporting requirements for designated medical gases (DMGs). Specifically, the guidance discusses what products qualify as DMGs, who must submit a certification request, what information must be submitted, and how FDA will evaluate and act on the request. This draft guidance is being issued to reflect new and revised regulations in several areas to reduce the regulatory burden, as appropriate, for the medical gas industry. This draft guidance revises and replaces the draft guidance of the same name issued in November 2015, which was withdrawn on December 18, 2025.

DATES: Submit either electronic or written comments on the draft guidance by April 13, 2026 to ensure that the

Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

Submit electronic or written comments on the proposed collection of information in the draft guidance by April 13, 2026.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2012-D-1197 for "Certification Process for Designated Medical Gases." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

• **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002 or Policy and Regulations Staff, Center for Veterinary Medicine, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

With regard to the draft guidance: Ashley Boam, Center for Drug

Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 4192, Silver Spring, MD 20993-0002, 301-796-6341, CDER-Quality-Policy@fda.hhs.gov or Scott Fontana, Center for Veterinary Medicine, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-0656, AskCVM@fda.hhs.gov.

With regard to the proposed collection of information: Anne Taylor, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 240-402-5683, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled “Certification Process for Designated Medical Gases.” This guidance revises and replaces the draft guidance of the same name (80 FR 73771, November 25, 2015) which made recommendations intended to help persons interested in requesting certification of a DMG under the process established by the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112-144). The 2015 draft guidance was withdrawn on December 18, 2025.

FDASIA added sections 575, 576, and 577 to the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360ddd, 360ddd-1, and 360ddd-2), which created a certification process for DMGs. Specifically, section 575 of the FD&C Act provides that oxygen, nitrogen, nitrous oxide, carbon dioxide, helium, medical air, and carbon monoxide are DMGs. Section 576 of the FD&C Act permits any person to request certification of a medical gas for certain indications and describes when FDA will grant or deny these requests.

On June 18, 2024, FDA issued a final rule (89 FR 51738) that established requirements more specifically tailored to medical gases to better address the unique characteristics of these drugs. The final rule was intended to reduce the regulatory burden, as appropriate, for the medical gas industry. This deregulatory effort addressed several areas in which either new regulations were needed or existing regulations required revision because they were not well-suited for medical gases. One area where new regulations were established was the certification of DMGs. Regulations that implement and clarify the certification process for DMGs described in section 576 of the FD&C Act are set forth in 21 CFR part 230.

FDA is issuing this revised draft guidance to align with the regulations

for certification of DMGs that became effective on December 18, 2025, in accordance with the final rule. Revisions to the guidance include adding additional sections related to what information must be submitted, changes to a granted certification, annual reports, and withdrawal or revocation of approval. We also revised the discussion on labeling to align with the revised regulations in 21 CFR 201.161 and made editorial revisions to improve readability. We removed the attached certification request form; Form FDA 3864 and instructions for completing the form are now located at <https://www.fda.gov/about-fda/reports-manuals-forms/forms>.

This draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on “Certification Process for Designated Medical Gases.” It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

As we develop final guidance on this topic, FDA will consider comments on costs or cost savings the guidance may generate, relevant for Executive Order 14192.

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the

validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Cover Letter for Certification Requests; OMB Control Number 0910–0906—Revision

This information collection helps support implementation of regulatory requirements that govern certification of DMGs. We have issued regulations in 21 CFR part 230, Certification and Postmarketing Reporting for Designated Medical Gases, setting forth applicable standards and procedures that include associated reporting and recordkeeping requirements.

We are revising the information collection to support the use of cover letters in connection with the certification process for certification requests, amendments, and supplements. As we noted in our May 23, 2022, proposed rule regarding

certification of DMGs (87 FR 31302), we recommend that the applicant include a cover letter describing the purpose of the certification request submission (e.g., original certification, amendment to supply additional information requested by FDA). The draft guidance for industry entitled “Certification Process for Designated Medical Gases” describes the recommended use of a cover letter when submitting certification requests. The draft guidance document is available for download at <https://www.regulations.gov/search?filter=FDA-2012-D-1197>.

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. We maintain a searchable guidance database on our website at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents> that utilizes topic-specific search terms. We intend to finalize the guidance document upon OMB approval of the attendant information collection.

The use of cover letters can assist stakeholders in more efficiently

communicating requests for certification, amendments, or supplements. For example, in accordance with 21 CFR 230.70(a), if the original information submitted in connection with a certification request becomes incomplete or inaccurate at any time after the request has been deemed granted, the applicant must submit a supplement that includes a new certification request with updated information. As explained in section VII of the draft guidance, Changes to a Granted Certification, we recommend that an applicant also submit a cover letter with a new Form FDA 3864 clearly explaining the purpose of the submission and highlighting the updated information. We will use the context and information provided in the cover letters as we process certification requests.

Description of Respondents:

Respondents to this information collection are entities who manufacture, process, pack, label, or distribute certain medical gases.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN¹

Certification process for designated medical gases draft guidance for industry; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Cover letter for certification request, amendment, or supplement	9	1	9	1	9

¹ There are no capital costs or operating and maintenance costs associated with this information collection.

We base our estimates on the number of certification request, amendment, and supplement respondents estimated in table 5 of the final rule entitled “Current Good Manufacturing Practice, Certification, Postmarketing Safety Reporting, and Labeling Requirements for Certain Medical Gases” published June 18, 2024 (89 FR 51738 at 51764). We assume all respondents submitting certification requests, amendments, or supplements will also submit a cover letter. We anticipate that respondents will be able to leverage information across the certification request, amendment, or supplement for use in the cover letter and estimate that it will take a respondent one hour to prepare and submit a cover letter.

This draft guidance also refers to previously approved FDA collections of information found in FDA regulations. The collections of information in 21 CFR part 230 relating to DMG certification requirements, certification requests using Form FDA 3864, and

annual reporting using Form FDA 5025, as well as the collections of information in 21 CFR part 213 relating to current good manufacturing practice requirements for medical gases, including recordkeeping under 21 CFR 213.82 associated with receipt and storage of incoming DMGs, have been approved under OMB control number 0910–0906. The collections of information in 21 CFR 201.161 and 201.328 relating to labeling requirements for medical gas containers have been approved under OMB control number 0910–0572. The collections of information in 21 CFR part 207 relating to registration of producers of drugs and listing of drugs in commercial distribution have been approved under OMB control number 0910–0045. The collections of information in 21 CFR part 314 relating to new drug applications, including hearing procedures under 21 CFR 314.200, have been approved under OMB control number 0910–0001. The collections of

information in 21 CFR part 514 relating to new animal drug applications, including hearing procedures under 21 CFR 514.200, have been approved under OMB control number 0910–0032.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, <https://www.fda.gov/animal-veterinary/guidance-regulations/guidance-industry>, <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, or <https://www.regulations.gov>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–02789 Filed 2–11–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-N-0826]

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments—United States (U.S.) 2026–2027 Influenza Vaccine Strain Composition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Vaccines and Related Biological Products Advisory Committee (the Committee). The general function of the Committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on March 12, 2026, from 9 a.m. to 3:30 p.m. Eastern Time.

ADDRESSES: All meeting participants will be heard, viewed, captioned, and recorded for this advisory committee meeting via an online teleconferencing and/or video conferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm>.

The online web conference meeting will be available at the following link on the day of the meeting at: <https://youtube.com/live/WKw0WEik5y4?feature=share>.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA-2026-N-0826. The docket will close on March 11, 2026. 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 March 11, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before March 3, 2026, will be provided to the Committee. Comments received after that date and on March 11, 2026, will be taken into consideration by FDA. In

the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2026-N-0826 for "Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments—United States (U.S.) 2026–2027 Influenza Vaccine Strain Composition". Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at

<https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information 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 the information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT:

Cicely Reese; Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 1232, Silver Spring, MD 20993–0002, 301–796–9025, email: CBERVRBPAC@fda.hhs.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last-minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check

FDA's website at <https://www.fda.gov/AdvisoryCommittees/default.htm> and scroll down to the appropriate advisory committee meeting link or call the advisory committee information line to learn about possible modifications before the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing and/or video conferencing platform. On March 12, 2026, the Committee will meet in open session to discuss and make recommendations on the strain composition of influenza virus vaccines for use in United States during the 2026–2027 influenza season.

FDA intends to make background material available to the public no later than two (2) business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference and/or video conference meeting will be available at <https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm>. Scroll down to the appropriate advisory committee meeting link.

The meeting will include slide presentations with audio and video components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. All electronic and written submissions to the Docket (see **ADDRESSES**) on or before March 3, 2026, will be provided to the Committee. Oral presentations from the public will be scheduled between approximately 9:30 a.m. and 10:30 a.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, along with the names, email addresses, and direct contact phone numbers of proposed participants, and an indication of the approximate time requested to make their presentation on or before 12 p.m. Eastern Time on March 2, 2026. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled

open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by 6 p.m. Eastern Time on March 4, 2026.

For press inquiries, please contact the HHS Press Room at www.hhs.gov/press-room/index.html or 202–690–6343. FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Cicely Reese at CBERVBPAC@fda.hhs.gov (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. 1001 *et seq.*). This meeting notice also serves as notice that, pursuant to 21 CFR 10.19, the requirements in 21 CFR 14.22(b), (f), and (g) relating to the location of advisory committee meetings are hereby waived to allow for this meeting to take place using an online meeting platform. This waiver is in the interest of allowing greater transparency and opportunities for public participation, in addition to convenience for advisory committee members, speakers, and guest speakers. The conditions for issuance of a waiver under 21 CFR 10.19 are met.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–02787 Filed 2–11–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training: Immunology and Infectious Diseases D.

Date: March 13, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Hailey P. Weerts, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (240) 220–1725, hailey.weerts@nih.gov.

Name of Committee: Applied Therapeutics for Cancer Integrated Review Group; Mechanisms of Cancer Therapeutics A Study Section.

Date: March 17, 2026.

Time: 8:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Careen K. Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–3504, tothct@csr.nih.gov.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Imaging Technology for Neuroscience Study Section.

Date: March 17–18, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Rachel A. Kane, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 496–0221, kanera@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel;

Fellowships: Cell Biology, Developmental Biology, and Bioengineering.

Date: March 17–18, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Khalida Shamim, Ph.D., Scientific Review Officer, The Center for Scientific Review, The National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD

20892, (301) 480-5013, khalida.shamim@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-23-145: Maximizing Investigator's Research Award Review.

Date: March 17-18, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Anita Szajek, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 900M, Bethesda, MD 20892, (301) 867-5309, anita.szajek@nih.gov.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Regulation, Learning and Ethology Study Section.

Date: March 17, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Sara Louise Hargrave, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 3170, Bethesda, MD 20892, (301) 443-7193, hargravesl@mail.nih.gov.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genomics, Computational Biology and Technology Study Section.

Date: March 17, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Methode Bacanamwo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2200, Bethesda, MD 20892, (301) 827-7088, methode.bacanamwo@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA-DC-25-005: In Vivo High-Resolution Imaging for Inner Ear Visualization.

Date: March 17, 2026.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Debanjan Goswami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Office 810-G, Bethesda, MD 20892, (301) 451-1587, debanjan.goswami@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine;

93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 9, 2026.

Sterlyn H. Gibson,

Program Specialist, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-02846 Filed 2-11-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-HQ-OCI-2025-0209; FVWF97820900000-XXX-FF09W13000 and FVWF54200900000-XXX-FF09W13000; OMB Control Number 1018-0088]

Agency Information Collection Activities; National Survey of Fishing, Hunting, and Wildlife Watching

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), we, the U.S. Fish and Wildlife Service (Service), are proposing to revise a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before April 13, 2026.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (please reference OMB Control No. 1018-0088 in the subject line of your comment):

- *Internet (preferred):* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-HQ-OCI-2025-0209.
- *U.S. Mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W); Falls Church, VA 22041-3803.

FOR FURTHER INFORMATION CONTACT:

Madonna L. Baucum, Service Information Collection Clearance Officer, by email at Info_Coll@fws.gov, or by telephone at (703) 358-2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may

also view the ICR at <https://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act (PRA; 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320, all information collections require approval under the PRA. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again inviting 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 might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. 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 publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The information collected for the National Survey of Fishing, Hunting and Wildlife-Associated

Recreation (FHWAR, or National Survey) assists the Service in administering the Wildlife and Sport Fish Restoration grant programs. The FHWAR, conducted about every 5 years since 1955, is a comprehensive survey of anglers, hunters, and wildlife watchers and includes information on their participation and how much they spend on these activities in the United States. The FHWAR provides up-to-date information on the uses and demands for wildlife-related recreation resources and a basis for developing and evaluating programs and projects to meet existing and future needs.

We collect the information in conjunction with carrying out our responsibilities under the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777–777m) and the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669–669l). Under these Acts, we provide approximately \$1 billion in grants annually to States for projects that support sport fish and wildlife management and restoration, including:

- Improvement of fish and wildlife habitats,
- Fishing and boating access,
- Fish stocking, and
- Hunting and fishing opportunities.

We also provide grants for aquatic education and hunter education, maintenance of completed projects, and research into problems affecting fish and wildlife resources. These projects help to ensure that the American people have adequate opportunities for fish and wildlife recreation. We conduct the survey about every 5 years. The 2027 FHWAR survey will be the 15th conducted since 1955. We coordinate the survey at the States' request, which is made through the Association of Fish and Wildlife Agencies. We will contract with a data collector to collect the information using internet, telephone, or mail-in paper-and-pencil instrument (PAPI).

Respondents are invited to take the survey with a mailed letter. The data collector will select a sample of sportspersons and wildlife watchers from a household screen and conduct three detailed interviews during the survey year. The survey collects information on the number of days of participation, and expenditures for trips and equipment. Information on the characteristics of participants includes age, income, sex, education, race, and State of residence. The Freshwater/Saltwater Ratio Questionnaire is designed to get freshwater and saltwater fishing data for coastal States. The Service's Wildlife and Sportfish Restoration Program is required to divide fishing management funds

according to the ratio of freshwater and saltwater anglers in each coastal State.

Federal and State agencies use information from the survey to make policy decisions related to fish and wildlife restoration and management. Participation patterns and trend information help identify present and future needs and demands. Land management agencies use the data on expenditures and participation to assess the value of wildlife-related recreational uses of natural resources. Wildlife-related recreation expenditure information is used to estimate the impact on the economy and to support the dedication of tax revenues for fish and wildlife restoration programs.

Proposed Revisions

1. *Change in Title of Information Collection*—With the submission, the Service is proposing to change the title of the information collection from “National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (FHWAR)” to “National Survey of Fishing, Hunting, and Wildlife Watching (FHWV).” The Service considers the wildlife-associated recreation reference to be dated and misleading, prompting the Service's intention to change the title of the Survey. The new title more accurately reflects the activities covered by the Survey, which will aid communication efforts.

2. *Revisions to the Survey Instruments*—The prior, previously approved questionnaire for the 2027 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (Survey) was based on the 2022 effort. Proposed revisions are intended to improve the quality, clarity, and utility of the information to be collected. Several of the revisions described below involve reinstating questions that were part of the Survey prior to 2022. The 2022 questionnaire was dramatically reduced in scope from the 2016 and 2011 efforts. Some of the questions that were eliminated significantly reduced the utility of the Survey. The Survey is composed of four different questionnaires (screen, fishing, hunting, and wildlife-watching) with each intended for different portions of the U.S. population. The changes to each are as follows:

A. *Screen*—The revisions to this questionnaire are as follows:

- The questionnaire already asks respondents about whether they participate in target or sport shooting. To this a follow-up question is added about how many days respondents participated in target or sport shooting (if answered “yes”).

- The questionnaire already asks respondents about whether they participate in archery. To this a follow-up question is added about how many days respondents participated in archery (if answered “yes”).
- The questionnaire already asks respondents whether they participate in motorized boating. Respondents are now also asked whether they participate in non-motorized boating.
- The questionnaire already asks respondents about whether they are likely to participate in wildlife watching around-the-home and away-from-home. For each activity, around-the-home and away-from-home, the revision adds two questions: one about whether 2026 was the first year of participation, and, if the respondent reports that it was not, a question about participation from 2022 to 2025.
- A question about the marital status of respondents is eliminated.
- Finally, a question is added to evaluate the public's approval of legalized hunting.

B. *Hunting*—We propose the following revisions to this questionnaire:

- Add a question about whether a respondent hunts with firearm, bow and arrow, or both firearm and bow and arrow. This information was collected in Surveys prior to 2022, and it will be added back in.
- A follow-up question is added about how many days one participates with bow and arrow.
- To improve accuracy of estimates, two new questions are added to about participation in hunting, which are used together to determine prior years participation: one asks whether 2027 was the first year of participation and if not, a follow up question asks about participation from 2022 through 2026. Prior year participation is already asked on the Screen, and these questions are added to the Hunting questionnaire to capture the information from respondents who did not complete a Screen.
- A question that is also on the Screen regarding participation in target shooting will be added to the hunter questionnaire to capture this information from respondents who do not complete the Screen.
- Add a question about how much more a person would be willing to spend to go on hunting trips.
- Add a question that asks respondents to identify species pursued on big game hunting trips. This information was collected in Surveys prior to 2022, and it will be reincorporated.

- Add a question that asks respondents to identify species pursued on migratory bird hunting trips. This information was collected in Surveys prior to 2022, and it will be reincorporated.
- Add a question that asks respondents to identify species pursued on small game hunting trips. This information was collected in Surveys prior to 2022, and it will be reincorporated.
- To enhance the quality of estimates, for each major purchase category like recreational vehicles, land leasing and ownership, a question is added to determine if someone would have still purchased the item if they could not have used it for hunting.
- Eliminate four questions related to land co-ownership and co-leasing and the number of acres owned or leased for the purposes of hunting.
- Two new questions are added about participation in around-the-home wildlife watching among hunters, which are used together to determine prior year participation: one asks whether 2027 was the first year of participation and if not, a follow up question asks about participation from 2022 through 2026. These questions are added to the Hunting questionnaire to capture the information from respondents who did not complete a Screen.
- Two new questions are added about participation in away-from-home wildlife watching among hunters, which are used together to determine prior year participation: one asks whether 2027 was the first year of participation and if not, a follow up question asks about participation from 2022 through 2026. These questions are added to the Hunting questionnaire to capture the information from respondents who did not complete a Screen.
- Two new questions are added that are used together to determine prior years participation of fishing among hunters: one asks whether 2027 was the first year of participation and if not, a follow up question asks about participation from 2022 through 2026. Prior year participation is already asked on the Screen, and these questions are added to capture the information from respondents who did not complete a Screen.
- The Screen contains a question about target shooting that will be added to the hunting questionnaire to capture this information from respondents who do not complete the Screen.

C. Fishing—We propose the following revisions to this questionnaire:

- A principal purpose of the Survey is to estimate the freshwater and

saltwater fishing participation for all coastal states. To improve these estimates, two questions are added about freshwater and saltwater fishing participation in coastal states and one question is added about fishing for finfish or shellfish among saltwater anglers.

- Two questions are added about participation in fishing, which are used together to determine prior years participation: one asks whether 2027 was the first year of participation and if not, a follow up question asks about participation from 2022 through 2026. Prior year participation is already asked on the Screen, and these questions are added to capture the information from respondents who did not complete a Screen.
- Add a question to determine how much more a person would be willing to spend to go on fishing trips.
- Add a question that asks respondents to identify species pursued on freshwater fishing trips. This information was collected in Surveys prior to 2022, and it will be reincorporated.
- Add a question that asks respondents to identify species pursued on saltwater fishing trips. This information was collected in Surveys prior to 2022, and it will be reincorporated.
- To enhance the quality of estimates, for each major purchase category like recreational vehicles, land leasing and ownership, a question is added to determine if someone would have still purchased the item if they could not have used it for fishing.
- Four questions related to land co-ownership and co-leasing and the number of acres owned or leased were eliminated.
- Two questions are added about participation in around-the-home wildlife watching among anglers, which are used together to determine prior year participation: one asks whether 2027 was the first year of participation and if not, a follow up question asks about participation from 2022 through 2026.
- Two questions are added about participation in away-from-home wildlife watching among anglers, which are used together to determine prior year participation: one asks whether 2027 was the first year of participation and if not, a follow up question asks about participation from 2022 through 2026.
- Two questions are added that are used together to determine prior years participation in hunting among anglers: one asks whether 2027 was the first year of participation and if

not, a follow up question asks about participation from 2022 through 2026. Prior year participation is already asked on the Screen, and these questions are added to the Fishing questionnaire to capture the information from respondents who did not complete a Screen.

- The Screen contains a question about target shooting that will be added to the fishing questionnaire to capture this information from respondents who do not complete the Screen.

D. Wildlife Watching—We propose the following revisions to this questionnaire:

- There are currently four questions related to bird watching on the questionnaire. For the 2022 collection, these questions were only on the last wave (wave three) of questionnaires. These questions will be included in waves one and two as well.
- For those participating in bird watching activities, a follow-up question is added regarding the types of birds viewed. This information was collected in Surveys prior to 2022, and it will be reincorporated.
- Two questions are added about participation in around-the-home wildlife watching, which are used together to determine prior year participation: one asks whether 2027 was the first year of participation and if not, a follow up question asks about participation from 2022 through 2026.
- Two questions are added about participation in away-from-home wildlife watching, which are used together to determine prior year participation: one asks whether 2027 was the first year of participation and if not, a follow up question asks about participation from 2022 through 2026.
- Add a question about how much more a person would be willing to spend to go on wildlife watching trips.
- The Screen contains a question about target shooting that will be added to the wildlife watching questionnaire to capture this information from respondents who do not complete the Screen.
- Two questions are added that are used together to determine prior years participation in fishing among wildlife watchers: one asks whether 2027 was the first year of participation and if not, a follow up question asks about participation from 2022 through 2026. Prior year participation is already asked on the Screen, and these questions are added to the wildlife-watching questionnaire to capture the information from respondents who did not complete a Screen.

- Two questions are added that are used together to determine prior years participation in hunting among wildlife watchers: one asks whether 2027 was the first year of participation and if not, a follow up question asks about participation from 2022 through 2026. Prior year participation is already asked on the Screen, and these questions are added to the wildlife-watching questionnaire to capture the information from respondents who did not complete a Screen.
- To enhance the quality of estimates, for each major purchase category like

recreational vehicles, land leasing and ownership, a question is added to determine if someone would have still purchased the item if they could not have used it for hunting.

- Four questions related to the number of acres owned or leased, and co-ownership or leasing among partners are eliminated.

The public may request copies of any form or document contained in this information collection by sending a request to the Service Information Collection Clearance Officer in **ADDRESSES**, above.

Title of Collection: National Survey of Fishing, Hunting, and Wildlife-Associated Watching (FHWV).

OMB Control Number: 1018-0088.

Form Number: None.

Type of Review: Revision of a currently approved information collection.

Respondents/Affected Public: Individuals/households.

Respondent's Obligation: Voluntary.

Frequency of Collection: We estimate the next full survey will be conducted in 2027, or possibly 2028.

Total Estimated Annual Nonhour Burden Cost: None.

Activity	Estimated number of household responses	Median completion time per response (minutes)	Estimated burden hours *
Screener Survey:			
Screener: Web	48,540	13	10,517
Screener: Phone	4,100	22	1,503
Screener: PAPI	360	15	90
Wave 1 Survey:			
Wave Questionnaires: Web	18,238	13	3,952
Wave Questionnaires: Phone	3,848	22	1,411
Wave Questionnaires: PAPI	214	15	54
Wave 2 Survey:			
Wave Questionnaires: Web	16,599	13	3,596
Wave Questionnaires: Phone	3,784	22	1,387
Wave Questionnaires: PAPI	117	15	29
Wave 3 Survey:			
Wave Questionnaires: Web	73,238	14	17,089
Wave Questionnaires: Phone	1,600	25	667
Wave Questionnaires: PAPI	162	17	46
Wave 3 Coastal Freshwater/Saltwater Ratio Questionnaire	13,500	3	675
Pre-test/Cognitive Interviews	9	70	11
Grand Total	184,309	.....	41,026

* Rounded.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2026-02831 Filed 2-11-26; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-ES-2025-N033;
FXES11130800000-267-FF08E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct scientific research to promote conservation or other activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before March 16, 2026.

ADDRESSES: *Document availability and comment submission:* Use one of the following methods to request documents or submit comments. All requests and comments should specify the applicant name(s) and application

number(s) (e.g., Smith, ES-012345 or Jones, PER0001234).

• *Email:* permitsR8ES@fws.gov.

• *U.S. Mail:* Tiffany Heitz, Regional Recovery Permit Coordinator, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W-2606, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT:

Tiffany Heitz, via phone at 916-978-5569, or via email at permitsR8ES@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: 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, 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 species that are listed as endangered or threatened under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of listed wildlife species unless a Federal permit is issued that allows such activity. The ESA's definition of "take" of wildlife species includes such activities as pursuing, harassing, trapping, capturing, or collecting, in addition to hunting, shooting, harming, wounding, or killing, or attempting to engage in any such contact.

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 of listed wildlife species and removal and reduction to possession of listed plant species from an area of federal jurisdiction. Our regulations implementing section 10(a)(1)(A) for these permits are found in the Code of Federal Regulations 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 permit requests in Table 1 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 these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

TABLE 1—PERMIT APPLICATIONS RECEIVED

Application No.	Applicant; city, state	Species	Location	Take activity	Permit action
PER8717669	Mello Dee Hrdlicka; Riverside, California.	San Bernardino Merriam's kangaroo rat (<i>Dipodomys merriami parvus</i>).	CA	Survey, capture, handle, and release.	New.
98536C	Stillwater Sciences; Berkeley, California.	Tidewater goby (<i>Eucyclogobius newberryi</i>), Foothill yellow-legged frog (<i>Rana boylei</i>) South Coast and South Sierra distinct population segments (DPS), California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS.	CA	Survey, capture, handle, photograph, swab, release, and collect voucher specimens.	Renew.
PER18916640	Christopher Scanlon; Sacramento, California.	Foothill yellow-legged frog (<i>Rana boylei</i>) South Coast and South Sierra DPS.	CA	Survey, capture, handle, swab, and release.	New.
007907	U.S. Geological Survey; Klamath Falls, Oregon.	Shortnose sucker (<i>Chasmistes brevirostris</i>) and Lost River sucker (<i>Deltistes luxatus</i>).	CA, NV, OR	Survey, capture, handle, mark (including the use of fin clips, external tags, internal and external radio telemetry transmitters, PIT tags, and coded wire tags), release, collect specimens, collect gametes, and use enclosures.	Renew and Amend.
PER0045140	Utah State University; Logan, Utah.	Cui-ui (<i>Chasmistes cujus</i>)	NV	Survey, capture, handle, mark, sacrifice, tissue sample, and collect.	Renew.
108507	U.S. Fish and Wildlife Service Pacific Southwest Region; Sacramento, California.	All endangered species in the Pacific Southwest Region.	CA, NV, OR	Purposeful take in the form of all activities that further the U.S. Fish and Wildlife Service's mission to conserve wildlife, plants, and the ecosystems upon which they depend.	Renew and Amend.
.....	Vanessa Danielson; Fair Oaks, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, capture, handle, release, collect adult vouchers, and collect branchiopod resting eggs.	New.
56732D	Jasmine Bakker; Santee, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>).	CA	Survey by pursuit	Renew.
PER20359209	Mimi Dietderich; Concord, California.	California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS.	CA	Survey, capture, handle, swab, mark, relocate, and release.	New.
PER22004298	Cherie Yang; Bakersfield, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	New.
148554	Amber Heredia; Santa Ana, California.	Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	AZ, CA, NV	Survey using recorded vocalization.	Renew.
30659A	Creekside Center for Earth Observation; Menlo Park, California.	Mission blue butterfly (<i>Icaricia icarioides missionensis</i>).	CA	Survey by pursuit, collect, and translocate.	Renew.

TABLE 1—PERMIT APPLICATIONS RECEIVED—Continued

Application No.	Applicant; city, state	Species	Location	Take activity	Permit action
89994B	Daria Snider; Sacramento, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
68514D	Adam DeLuna; Santa Ana, California.	Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	CA, NV	Survey using recorded vocalization.	Renew.
60680D	California Army National Guard; North Highlands, California.	Santa Cruz tarplant (<i>Holocarpha macradenia</i>).	CA	Remove and reduce to possession.	Renew.
50899B	Nicholas Bonzey; Sacramento, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
PER20703037	Jeffrey Wells; Fallbrook, California.	Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>), Least Bell's vireo (<i>Vireo bellii pusillus</i>), and Arroyo toad (<i>Anaxyrus canorus</i>).	CA	Survey using recorded vocalization, capture, handle, swab, and release.	New.
PER0011950	Olberding Environmental; Folsom, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>), and California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS.	CA	Survey, capture, handle, swab, release, collect adult vouchers, and collect resting eggs.	Amend.
66265D	Donna Noce; Bakersfield, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>), Giant kangaroo rat (<i>Dipodomys ingens</i>), Tipton kangaroo rat (<i>Dipodomys nitratoideus nitratoideus</i>), Fresno kangaroo rat (<i>Dipodomys nitratoideus exilis</i>), Morro Bay kangaroo rat (<i>Dipodomys heermanni morroensis</i>), Foothill yellow-legged frog (<i>Rana boylei</i>) South Coast and South Sierra DPS, and California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS.	CA	Survey, capture, handle, release, and collect adult vouchers.	Renew.
58452B	Darren Ward; Arcata, California ..	Tidewater goby (<i>Eucyclogobius newberryi</i>).	CA	Survey, capture, handle, and release.	Renew.
191704	Dana Terry; Pleasant Hill, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>), California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS, and Foothill yellow-legged frog (<i>Rana boylei</i>) South Coast DPS.	CA	Survey, capture, handle, swab, release, collect adult vouchers, and collect resting eggs.	Renew and Amend.
73946B	Austin Parker; Long Beach, California.	El Segundo blue butterfly (<i>Euphilotes battoides allyni</i>) and Palos Verdes blue butterfly (<i>Glaucopsyche lygdamus palosverdensis</i>).	CA	Survey by pursuit	Renew.
PER20968708	Heather Curran; Los Osos, California.	Tidewater goby (<i>Eucyclogobius newberryi</i>).	CA	Survey, capture, handle, and release.	New.

TABLE 1—PERMIT APPLICATIONS RECEIVED—Continued

Application No.	Applicant; city, state	Species	Location	Take activity	Permit action
77128D	Victoria Prado; Santa Barbara, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, capture, handle, release, and collect adult vouchers.	Renew.
PER22053515	Rivers and Lands Conservancy; Riverside, California.	Delhi Sands flower-loving fly (<i>Rhaphiomidas terminates abdominalis</i>).	CA	Survey by pursuit	New.
787716	Scott Tremor; San Diego, California.	San Bernardino Merriam's kangaroo rat (<i>Dipodomys merriami parvus</i>), Pacific pocket mouse (<i>Perognathus longimembris pacificus</i>), and Sierra Nevada red fox (<i>Vulpes vulpes necator</i>).	CA	Survey, baited motion camera survey, track tube survey, capture, handle, collect tissue samples for genetic material, and release.	Renew and Amend.
67250D	Margaret Rei Scampavia; Richmond, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, capture, handle, release, and collect adult vouchers.	Renew.
PER21208242	Leslie Munoz; Santa Cruz, California.	California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS and Santa Cruz long-toed salamander (<i>Ambystoma macrodactylum croceum</i>).	CA	Survey, capture, handle, swab, and release.	New.
PER21200525	Jessica Appel; Pleasant Hill, California.	Mission blue butterfly (<i>Icaricia icarioides missionensis</i>).	CA	Survey, capture, handle, collect genetic material, sacrifice, and conduct genetic work.	New.
813545	Brock Ortega; Poway, California	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>), Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), and Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	CA	Survey, survey using recorded vocalizations, survey by pursuit, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
092162	Andrew Borchert; Santee, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>).	CA	Survey by pursuit	Renew.
031850	Gretchen Cummings; Ramona, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>).	CA	Survey by pursuit	Renew.
92770B	Conservation Society of California; Oakland, California.	Foothill yellow-legged frog (<i>Rana boylei</i>), South Coast and South Sierra DPS.	CA	Harass by transport, captive rear, provide veterinary treatment and husbandry including brumation, swab, collect tissue samples for genetic analysis, inert PIT tags, inject Visual Implant Elastomer, provide disease treatment and immunization, perform behavioral and disease experiments, indefinitely retain and display to the public individuals unfit for re-introduction into the wild, release, euthanize, and necropsy.	Amend.
PER21205976	Rachel Noriega; El Centro, California.	Yuma Ridgway's rail (<i>Rallus obsoletus yumanensis</i>).	CA, AZ	Survey using recorded vocalizations.	New.
68734D	Kyla Garten; Sacramento, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), and Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>).	CA	Survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
066621	U.S. Navy Ventura County Naval Base; Point Mugu, California.	Light-footed Ridgway's rail (<i>Rallus obsoletus levipes</i>), California least tern (<i>Sterna antillarum browni</i>), least Bell's vireo (<i>Vireo bellii pusillus</i>), and Salt marsh bird's beak (<i>Cordylanthus maritimus ssp. maritimus</i>).	CA	Survey using recorded vocalizations, locate and monitor nests and chicks, install/use remote sensing cameras near nests, use driftwood logs to protect nests, capture, band, release, and remove and reduce to possession.	Renew.

TABLE 1—PERMIT APPLICATIONS RECEIVED—Continued

Application No.	Applicant; city, state	Species	Location	Take activity	Permit action
PER22230993	Susan Williams; Ridgecrest, California.	Mohave tui chub (<i>Gila bicolor ssp. mohavensis</i>).	CA	Survey, capture, handle, collect tissue samples for genetic study, release, and restore habitat.	New.
051236	Erika Eidson; La Mesa, California	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>) and Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	CA	Survey by pursuit and survey using recorded vocalizations.	Renew.
56760D	Jason Allen; Bonita, California	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
844645	Richard U Kann; Sunland, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), Delhi Sands flower-loving fly (<i>Rhaphiomidas terminates abdominalis</i>), and Palos Verdes blue butterfly (<i>Glaucopsyche lygdamus palosverdensis</i>).	CA	Survey by pursuit	Renew and Amend.
PER22304748	Rachel Allingham; El Cajon, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>).	CA	Survey by pursuit	New.
PER22305725	Julie De Barros; Petaluma, California.	Foothill yellow-legged frog (<i>Rana boylei</i>) South Coast and South Sierra DPS.	CA	Survey, capture, handle, swab, and release.	New.
002243	Bighorn Institute; Palm Desert, California.	Peninsular bighorn sheep (<i>Ovis canadensis nelsoni</i>).	CA	Survey, capture, handle, collect biological samples, radio-collar, euthanize critically ill or injured wild or captive-reared individuals unable to recover, captive rear (not breed) adults in existing captive herd, remove sick or injured lambs from the wild for rehabilitation and captive rearing and release.	Renew.
045994	U.S. Geological Survey Western Ecological Research Center; San Diego, California.	Pacific pocket mouse (<i>Perognathus longimembris pacificus</i>), Desert slender salamander (<i>Batrachoseps aridus</i>), Unarmored threespine stickleback (<i>Gasterosteus aculeatus williamsoni</i>), Mountain yellow-legged frog (<i>Rana muscosa</i>) southern California DPS, Arroyo toad (<i>Anaxyrus canorus</i>), blunt-nosed leopard lizard (<i>Gambelia silus</i>), and Tidewater goby (<i>Eucyclogobius newberryi</i>).	CA	Survey, conduct work with ants in surrounding habitat, capture, handle, voucher new populations, collect hair and tissue samples, mark with visible implant elastomer tags, utilize tracking tubes, photograph and record, collect specimens for vouchers and genetic and morphological assessments, swab, and release.	Renew and Amend.
55068D	Allie Sennett; Sacramento, California.	California tiger salamander (<i>Ambystoma californiense</i>) Sonoma County distinct population segment and Foothill yellow-legged frog (<i>Rana boylei</i>) South Coast and South Sierra DPS.	CA	Survey, capture, handle, swab, and release.	Renew and Amend.
PER2424938	Westland Resources, Inc.; Tucson, Arizona.	Tiehm's buckwheat (<i>Eriogonum tiehmi</i>)	NV	Remove and reduce to possession.	Renew and Amend.
007907	U.S. Geological Survey Western Fisheries Research Center; Klamath Falls, Oregon.	Shortnose sucker (<i>Chasmistes brevirostris</i>) and Lost River sucker (<i>Deltistes luxatus</i>).	OR	Capture, handle, mark (including the use of fin clips, external tags, internal and external radio telemetry or acoustic transmitters, PIT tags, and coded wire tags), release, collect specimens, collect, gamete, and use enclosures.	Renew and Amend.
PER11171364	Caroline Hamilton; Nevada City, California.	Foothill yellow-legged frog (<i>Rana boylei</i>) South Coast and South Sierra DPS.	CA	Survey, capture, handle, swab, insert PIT tags, transport, translocate, emergency salvage, and release.	New.
20280D	Stephanie Cashin; Anaheim, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
64455D	Marshall Paymard; Foothill Ranch, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>).	CA	Survey by pursuit	Renew and Amend.

TABLE 1—PERMIT APPLICATIONS RECEIVED—Continued

Application No.	Applicant; city, state	Species	Location	Take activity	Permit action
62868B	The Klamath Tribes; Chiloquin, Oregon.	Shortnose sucker (<i>Chasmistes brevirostris</i>) and Lost River sucker (<i>Deltistes luxatus</i>).	OR	Survey, trap, capture, handle, mark, collect tissue samples, collect and rear in captivity, collect gametes and relocate/reintroduce, sacrifice, and release.	Renew and Amend.
28366D	Taylor Dee; Redlands, California	Yuma Ridgway's rail (<i>Rallus obsoletus yumanensis</i>).	AZ, CA, NV	Survey using recorded vocalization.	Renew and Amend.
PER20609148	Alexander Bajakian; Travis Air Force Base, California.	Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS, and Contra Costa goldfields (<i>Lasthenia conjugens</i>).	CA	Survey, capture, handle, release, collect adult vouchers, collect resting eggs, and remove and reduce to possession.	Amend.
800777	Jepson Prairie Preserve Docent Program; Davis, California.	Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>).	CA	Survey, capture, handle, release, and collect adult vouchers.	Amend.
PER9605389	Rylie Towne; Stockton, California	Foothill yellow-legged frog (<i>Rana boylei</i>), South Coast and South Sierra DPS.	CA	Survey, capture, handle, swab, and release.	Amend.
063230	Jim Rocks; San Diego, California	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>), and Quino checkerspot butterfly (<i>Euphydryas editha quino</i>).	CA	Survey, survey by pursuit, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
55135D	Adam Lockyer; Fallbrook, California.	Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	CA, NV, AZ	Survey using recorded vocalization.	Renew.
PER22876537	David Tange; Petaluma, California.	California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS.	CA	Survey, capture, handle, swab, and release.	New.
PER10171021	Miguel Moutsos; Oceanside, California.	Least Bell's vireo (<i>Vireo bellii pusillus</i>) ..	CA	Survey using recorded vocalization and locate and monitor nests.	New.
PER0011963	Ian Hirschler; San Diego, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), Delhi Sands flower-loving fly (<i>Rhaphiomidas terminatus abdominalis</i>), Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey by pursuit, survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
PER23104032	The Xerces Society for Invertebrate Conservation; Portland, Oregon.	Behren's silverspot butterfly (<i>Speyeria zeren behrensi</i>).	CA	Survey, capture, handle, and release.	New.
48170A	Lisa Herrera; Santa Maria, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>), and California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County distinct population segments (DPS).	CA	Survey, capture, handle, swab, release, and collect adult vouchers.	Renew.
32290D	Michael Scaffadi; Davis, California.	California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS.	CA	Survey, capture, handle, swab, and release.	Amend.
141359	Stephen Stringer; El Dorado Hills, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.

TABLE 1—PERMIT APPLICATIONS RECEIVED—Continued

Application No.	Applicant; city, state	Species	Location	Take activity	Permit action
50510A	Geoffrey Cline; Truckee, California.	Foothill yellow-legged frog (<i>Rana boylei</i>) South Coast and South Sierra DPS, Giant kangaroo rat (<i>Dipodomys ingens</i>), Tipton kangaroo rat (<i>Dipodomys nitratoideis nitratoideis</i>), Fresno kangaroo rat (<i>Dipodomys nitratoideis exilis</i>), and California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS.	CA	Survey, capture, handle, swab, mark, collect tissue samples, and release.	Renew and Amend.
PER23105280	Leonel Hausman; Dixon, California.	Foothill yellow-legged frog (<i>Rana boylei</i>) South Coast and South Sierra DPS.	CA	Survey, capture, handle, swab, and release.	New.
PER2385623	Alex Berryman; Ogden, Utah	Foothill yellow-legged frog (<i>Rana boylei</i>) South Coast and South Sierra DPS.	CA	Survey, capture, handle, swab, and release.	Amend.
77146D	Westervelt Ecological Services, LLC.; Sacramento, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>), California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS, and Foothill yellow-legged frog (<i>Rana boylei</i>) South Coast and South Sierra DPS.	CA	Survey, capture, handle, swab, release, collect adult vouchers, collect resting eggs, process soil samples for resting egg identification, and culturing and hatching resting eggs.	Renew and Amend.
77123D	Pim Laulikitnont-Lee; San Francisco, California.	California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS, and California Ridgway's rail (<i>Rallus obsoletus obsoletus</i>).	CA	Survey using recorded vocalizations, survey, capture, handle, swab, and release.	Renew and Amend.
119861	Quad Knopf, Inc.; Clovis, California.	California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS, Fresno kangaroo rat (<i>Dipodomys nitratoideis exilis</i>), Giant kangaroo rat (<i>Dipodomys ingens</i>), Tipton kangaroo rat (<i>Dipodomys nitratoideis nitratoideis</i>), and Buena Vista Lake shrew (<i>Sorex ornatus relictus</i>).	CA	Survey, capture, handle, swab, mark, and release.	Renew.
82155B	Johanna Page; Pasadena, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
64144A	Emily Mastrelli; Alpine, California	California least tern (<i>Sterna antillarum browni</i>), Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey by pursuit, survey, capture, handle, band, release, locate and monitor nests, collect or bury non-viable eggs, collect adult vouchers, and collect resting eggs.	Renew and Amend.
837760	Kendall Osborne; Riverside, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), El Segundo blue butterfly (<i>Euphilotes battoides allyni</i>), Palos Verdes blue butterfly (<i>Glaucopsyche lygdamus palosverdesensis</i>), Delhi Sands flower-loving fly (<i>Rhaphiomidas terminates abdominalis</i>), Laguna Mountains skipper (<i>Pyrgus ruralis lagunae</i>), and Casey's June Beetle (<i>Dinacoma caseyi</i>).	CA	Survey by pursuit, capture, handle, release.	Renew.
005535	Gilbert Goodlett; Ridgecrest, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>) and Delhi Sands flower-loving fly (<i>Rhaphiomidas terminates abdominalis</i>).	CA	Survey by pursuit	Renew.
069534	Victor Novik; San Diego, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey by pursuit, survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.

TABLE 1—PERMIT APPLICATIONS RECEIVED—Continued

Application No.	Applicant; city, state	Species	Location	Take activity	Permit action
PER0004080	U.S. Geological Survey Western Ecological Research Center, San Diego, California.	Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>) and Least Bell's vireo (<i>Vireo bellii pusillus</i>).	AZ, CA, NM	Survey, capture, handle, band, take bio-samples, release, conduct training workshops, and remove brown-headed cowbird eggs and chicks from parasitized nests.	Renew.
80703A	Seth Reimers; San Diego, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>).	CA	Survey by pursuit	Renew.
58862A	Greg Mason; San Diego, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey by pursuit, survey, capture, handle, release, collect adult vouchers, collect resting eggs, process soil samples for resting egg identification, and culturing and hatching resting eggs.	Renew.
95114C	Todd Easley; San Marcos, California.	Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>).	CA	Survey using recorded vocalizations.	Renew.
778195	HELIX Environmental Planning, Inc.; La Mesa, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS, Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey by pursuit, survey, capture, handle, swab, release, collect adult vouchers, collect resting eggs, and process soil samples for resting egg identification.	Renew.
170389	Travis Cooper; San Diego, California.	Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>), Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey using recorded vocalizations, survey by pursuit, survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
58760A	Jason Yakich; Forest Knolls, California.	California Ridgway's rail (<i>Rallus obsoletus obsoletus</i>), California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS, Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey using recorded vocalizations, survey, capture, swab, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
PER246532	Victoria Brunal-Byrd	California tiger salamander (<i>Ambystoma californiense</i>) Santa Barbara County and Sonoma County DPS, and California red-legged frog (<i>Rana draytonii</i>).	CA	Survey, capture, handle, swab, release.	New.
76006B	Zoological Society of San Diego; San Diego, California.	Mountain yellow-legged frog (<i>Rana muscosa</i>) Southern California DPS.	CA	Collect samples for genetic material, conduct captive research, and translocate.	Amend.
89991B	Sarah VonderOhe; Citrus Heights, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, capture, handle, release, collect adult vouchers, collect resting eggs, and process soil samples for resting egg identification.	Renew and Amend.

TABLE 1—PERMIT APPLICATIONS RECEIVED—Continued

Application No.	Applicant; city, state	Species	Location	Take activity	Permit action
63359B	Jennifer Radtkey; Oakland, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey by pursuit, survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
PER0002114	Scott K Whitman; Sacramento, California.	Foothill yellow-legged frog (<i>Rana boylei</i>) South Sierra DPS, Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), and Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>).	CA	Survey, capture, handle, swab, release, and collect adult vouchers.	Renew and Amend.
92462A	Ryan Quilley; San Diego, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), Yuma Ridgway's rail (<i>Rallus obsoletus yumanensis</i>), and Light-footed Ridgway's rail (<i>Rallus obsoletus levipes</i>).	CA	Survey by pursuit and survey using recorded vocalizations.	Renew.
06873C	Environmental Science Associates; San Diego, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), Light-footed Ridgway's rail (<i>Rallus obsoletus levipes</i>), Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>), Least Bell's vireo (<i>Vireo bellii pusillus</i>), San Bernardino Merriam's kangaroo rat (<i>Dipodomys merriami parvus</i>), Pacific pocket mouse (<i>Perognathus longimembris pacificus</i>), Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey by pursuit, survey using recorded vocalizations, locate and monitor nests, remove brown-headed cowbird eggs (<i>Molothrus ater</i>) and chicks from parasitized nests, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew and Amend.
13632B	Elena Gregg; Chico, California ...	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, conduct educational tours, capture, handle, release, collect adult vouchers, collect resting eggs, and process soil samples for resting egg identification.	Renew and Amend.
797665	Recon Environmental, Inc.; San Diego, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>), Least Bell's vireo (<i>Vireo bellii pusillus</i>), San Bernardino Merriam's kangaroo rat (<i>Dipodomys merriami parvus</i>), Pacific pocket mouse (<i>Perognathus longimembris pacificus</i>), Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey by pursuit, survey using recorded vocalizations, survey, locate and monitor nests, remove brown-headed cowbird eggs (<i>Molothrus ater</i>) and chicks from parasitized nests, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew and Amend.
221287	Diana Saucedo; San Diego, California.	Quino checkerspot butterfly (<i>Euphydryas editha quino</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey by pursuit, survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.
139634	Thomas Liddicoat; Vista, California.	Conservancy fairy shrimp (<i>Branchinecta conservatio</i>), Longhorn fairy shrimp (<i>Branchinecta longiantenna</i>), Vernal pool tadpole shrimp (<i>Lepidurus packardii</i>), Riverside fairy shrimp (<i>Streptocephalus woottoni</i>), and San Diego fairy shrimp (<i>Branchinecta sandiegonensis</i>).	CA	Survey, capture, handle, release, collect adult vouchers, and collect resting eggs.	Renew.

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, will be made available for public disclosure in their entirety.

Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching <https://www.regulations.gov> by the application number listed above in this document. Type in your search exactly as the application number appears above, with spaces and hyphens as necessary. For example, to find information about the potential issuance of Permit No. PER1234567–0, you would go to <https://www.regulations.gov> and type “PER1234567–0” in the Search field.

An interested party opposed to a recovery permit's issuance may object by following the requirements in 50 CFR 17.22(d) and request notification of the final action. The Service will follow the procedures in that section regarding notification of interested parties who file objections to issuance of permits.

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.*).

Angela Picco,

Regional Threatened and Endangered Lead, Ecological Services, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2026–02824 Filed 2–11–26; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1438]

Certain Photovoltaic Trunk Bus Cable Assemblies and Components Thereof; Notice of Request for Submissions on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on February 6, 2026, the presiding administrative law judge (“ALJ”) issued an Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public and interested government agencies only.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3179. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. (19 U.S.C. 1337(d)(1)).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: a limited exclusion order

directed to certain photovoltaic trunk bus cable assemblies and components thereof imported, sold for importation, and/or sold after importation by respondents Voltage, LLC of Chapel Hill, North Carolina and Ningbo Voltage Smart Production Co. of Ningbo, China. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public and interested government agencies are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bonding issued in this investigation on February 6, 2026. Comments should address whether issuance of the recommended remedial order in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) explain how the articles potentially subject to the recommended remedial order are used in the United States;
- (ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended order;
- (iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
- (iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended order within a commercially reasonable time; and
- (v) explain how the recommended order would impact consumers in the United States.

Written submissions must be filed no later than by close of business on March 9, 2026.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (“Inv. No. 337–TA–1438”) in a prominent place on

the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: February 9, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–02782 Filed 2–11–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification to Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On February 4, 2026, the Department of Justice lodged a proposed Third Joint Stipulation to Modify Consent Decree with the United States District Court for the Central District of California in the lawsuit entitled *United States and the State of California v. ITT LLC, et al.*, Civil Action No. 2:99–cv–00552.

In 1999, the United States and the State of California Department of Toxic Substances Control filed a lawsuit against numerous parties under the Comprehensive Environmental Response, Compensation, and Liability Act in connection with groundwater contamination at the Glendale North and South Operable Units of the San Fernando Valley (Area 2) Superfund Site in and around Glendale, California. The complaint sought reimbursement of response costs and the performance of response work by the defendants. In 2000, a consent decree settling the case was entered by the court. Pursuant to the consent decree, certain settling defendants (referred to in the consent decree as “Settling Work Defendants”) have been performing response work at the site in coordination with the City of Glendale.

The proposed Third Joint Stipulation provides that the Settling Work Defendants will not request a Certificate of Completion regarding the work before November 30, 2030, and they and the City of Glendale shall continue to perform their respective work until at least November 30, 2030.

The publication of this notice opens a period for public comment on the Third Joint Stipulation to Modify Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of California v. ITT LLC, et al.*, D.J. Ref. No. 90–11–2–442A. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the Third Joint Stipulation to Modify Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the Third Joint Stipulation to Modify Consent Decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Scott Bauer,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2026–02823 Filed 2–11–26; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Annual Information Return/Report of Employee Benefit Plan

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-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 March 16, 2026.

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: This information collection relates to section 104 of ERISA, which requires administrators of employee benefit pension and welfare plans (collectively referred to as employee benefit plans) to file returns or reports annually with the

federal government. The Form 5500 return/reports are the principal source of information and data available to the Department, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation (the Agencies) concerning the operation of employee benefit plans. For this reason, the Form 5500 constitutes an integral part of the Agencies' enforcement, research, and policy formulation programs. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0110. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 11, 2025 (90 FR 30984).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL-EBSA.

Title of Collection: Annual Information Return/Report of Employee Benefit Plan.

OMB Control Number: 1210-0110.

Affected Public: Private sector.

Total Estimated Number of

Respondents: 952,412.

Total Estimated Number of Responses: 952,412.

Total Estimated Annual Time Burden: 3,228,684 hours.

Total Estimated Annual Other Costs Burden: \$0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026-02785 Filed 2-11-26; 8:45 am]

BILLING CODE 4510-29-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 26-009]

Notice of Intent To Grant an Exclusive, Co-Exclusive or Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of intent to grant exclusive, co-exclusive or partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive, co-exclusive or partially exclusive patent license to practice the inventions described and claimed in the patents and/or patent applications listed in **SUPPLEMENTARY INFORMATION** below.

DATES: The prospective exclusive, co-exclusive or partially exclusive license may be granted unless NASA receives written objections including evidence and argument, no later than February 27, 2026 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than February 27, 2026 will also be treated as objections to the grant of the contemplated exclusive, co-exclusive or partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

Objections and Further Information: Written objections relating to the prospective license or requests for further information may be submitted to Agency Counsel for Intellectual Property, NASA Headquarters at Email: hq-patentoffice@mail.nasa.gov. Questions may be directed to Phone: (202) 358-0646.

SUPPLEMENTARY INFORMATION: NASA intends to grant an exclusive, co-exclusive, or partially exclusive patent license in the United States to practice the inventions described and claimed

in: U.S. Patent No. U.S. Patent 8,468,794 for an invention titled "Electric Propulsion Apparatus"; U.S. Patent 9,297,368 for an invention titled "Multi-Thruster Propulsion Apparatus"; and, U.S. Patent 9,494,143 for an invention titled "Ion Optics" to Desert Works Propulsion, LLC, having its principal place of business in Carrizozo, New Mexico. The fields of use may be limited. NASA has not yet made a final determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

This notice of intent to grant an exclusive, co-exclusive or partially exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at <http://technology.nasa.gov>.

Olivia Scheuer,

Senior Counsel for Intellectual Property, National Aeronautics and Space Administration.

[FR Doc. 2026-02807 Filed 2-11-26; 8:45 am]

BILLING CODE 7510-13-P

NUCLEAR REGULATORY COMMISSION

733rd Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232(b)), the U.S. Nuclear Regulatory Commission's (NRC) Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on March 5 and 6, 2026. In addition, the ACRS is implementing Section 4.(b) of Executive Order (E.O.) 14300, "Ordering the Reform of the Nuclear Regulatory Commission," dated May 23, 2025, which states, in part, that the functions of the ACRS shall be reduced to the minimum necessary to fulfill ACRS's statutory obligations and that review by ACRS of permitting and licensing issues shall focus on issues that are truly novel and noteworthy. The ACRS will only undertake other work as directed by the Commission in accordance with Sections 29 and 182b of the Atomic Energy Act.

The Committee will be conducting meetings that will include some Members being physically present at the headquarters of the NRC while other Members participate remotely. Interested members of the public are encouraged to participate remotely in any open sessions via Microsoft Teams or via phone at 301-576-2978, passcode 905831170#. A more detailed agenda, including the Microsoft Teams link, may be found at the ACRS public website at <https://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/index.html>. If you would like the Microsoft Teams link forwarded to you, please contact: Quynh.Nguyen@nrc.gov or Lawrence.Burkhart@nrc.gov.

Thursday, March 5, 2026

8:30 a.m.–8:35 a.m.: *Opening Remarks by the ACRS Chairman (Open)*—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–5:00 p.m.: *Self-Assessment/Lessons Learned/Path Forward/Planning and Procedures Session/Future ACRS Activities/Reconciliation of ACRS Comments and Recommendations/Preparation of Reports (Open/Closed)*—The Committee will discuss lessons learned from recent reviews and plan for future reviews; discuss planning and procedures topics including items proposed for consideration by the Full Committee during future ACRS meetings; deliberate; and proceed to preparation of reports. [Note: Pursuant to 5 U.S.C. 552b(c)(2), a portion of this meeting may be closed to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS.]

[Note: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Friday, March 6, 2026

8:30 a.m.–5:00 p.m.: *Self-Assessment/Lessons Learned/Path Forward/Planning and Procedures Session/Future ACRS Activities/Reconciliation of ACRS Comments and Recommendations/Preparation of Reports (Open/Closed)*—The Committee will discuss lessons learned from recent reviews and plan for future reviews; discuss planning and procedures topics including items proposed for consideration by the Full Committee during future ACRS meetings; deliberate; and proceed to preparation of reports. [Note: Pursuant to 5 U.S.C. 552b(c)(2), a portion of this meeting may be closed to discuss organizational and personnel matters that relate solely to

internal personnel rules and practices of the ACRS.]

[Note: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on July 22, 2025 (90 FR 34522). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff and the Designated Federal Officer (Telephone: 301-415-5844, Email: Quynh.Nguyen@nrc.gov), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the ACRS Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the cognizant ACRS staff if such rescheduling would result in major inconvenience. Registration for this meeting is not required.

An electronic copy of each presentation should be emailed to the cognizant ACRS staff at least three days before the meeting.

In accordance with Subsection 10(d) of Public Law 92-463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the ACRS Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

Please contact the Designated Federal Officer if you would like to submit a request for physical or electronic meeting accommodation.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at pdr.resource@nrc.gov, the ACRS public website, or by calling the PDR at 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern daylight time (EDT), Monday through Friday, except Federal holidays, or from the Publicly Available Records System component of NRC's Agencywide Documents Access and Management System, which is accessible from the NRC website at <https://www.nrc.gov/reading-rm/adams.html> or <https://www.nrc.gov/reading-rm/doc-collections/#ACRS/>.

Dated: February 10, 2026.

For the Nuclear Regulatory Commission.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2026-02826 Filed 2-11-26; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35940; 812-15906]

Alger Next Gen Growth Fund and Fred Alger Management, LLC

February 9, 2026.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c-3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end investment companies to issue multiple classes of shares and to impose asset-based distribution and/or service fees and early withdrawal charges.

APPLICANTS: Alger Next Gen Growth Fund and Fred Alger Management, LLC.

FILING DATE: The application was filed on September 25, 2025, and amended on January 28, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at Secretaries-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time, on March 6, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested.

Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at Secretaries-Office@sec.gov.

ADDRESSES: The Commission: Secretaries-Office@sec.gov. Applicants: Tina Payne, Esq., Fred Alger Management, LLC, 100 Pearl Street, 27th Floor, New York, New York 10004 with copies to Nicole M. Runyan, P.C., Kirkland & Ellis LLP, nicole.runyan@kirkland.com and Kim Kaufman, Esq., Kirkland & Ellis LLP, kim.kaufman@kirkland.com.

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Special Counsel, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated January 28, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC's Office of Investor Education and Advocacy at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-02794 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104783; File No. SR-IEX-2026-04]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Fee Schedule Concerning Equities Transaction Pricing

February 9, 2026.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (the "Act") ² and Rule 19b-4 thereunder, ³ notice is hereby given that on January 30, 2026, the Investors Exchange LLC ("IEX" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III

below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act, ⁴ and Rule 19b-4 thereunder, ⁵ the Exchange is filing with the Commission a proposed rule change to amend the Exchange's fee schedule applicable to Members ⁶ (the "Fee Schedule" ⁷) pursuant to IEX Rule 15.110(a) and (c) to introduce a new displayed liquidity adding rebate tier and modify its base fee for orders that remove displayed liquidity on the Exchange. Changes to the Fee Schedule pursuant to this proposal are effective upon filing, ⁸ and will be operative on March 1, 2026.

The text of the proposed rule change is available at the Exchange's website at <https://www.iexexchange.io/resources/regulation/rule-filings> and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to introduce an eighth Displayed Liquidity Adding Rebate Tier for executions priced at or above \$1.00 and modify its base fee rates for orders that remove displayed liquidity.

New Displayed Liquidity Adding Rebate Tier

IEX currently offers Members the following seven Displayed Liquidity Adding Rebate tiers ⁹ based on the Member's trading activity:

- *Tier 1:* provides Member the Exchange's base fee of FREE for all displayed liquidity adding executions priced at or above \$1.00 per share ("Added Displayed Liquidity") if the Member adds less than 3,000,000 ADV. ¹⁰
- *Tier 2:* provides Member a rebate of \$0.0010 per share for all Added Displayed Liquidity if the Member trades at least 5,000,000 non-displayed ADV and less than 10,000,000 non-displayed ADV.
- *Tier 3:* provides Member a rebate of \$0.0014 per share for all Added Displayed Liquidity if the Member: (1) adds at least 3,000,000 ADV of displayed liquidity and less than 10,000,000 ADV of displayed liquidity; or (2) adds at least 10,000,000 non-displayed ADV; or (3) has an NBBO Time of at least 50% in at least 250 ETPs.
- *Tier 4:* provides Member a rebate of \$0.0016 per share for all Added Displayed Liquidity if the Member: (1) adds at least 10,000,000 ADV of displayed liquidity and less than 15,000,000 ADV of displayed liquidity; or (2) has an NBBO Time of at least 50% in at least 750 ETPs.
- *Tier 5:* provides Member a rebate of \$0.0018 per share for all Added Displayed Liquidity if the Member: (1) adds at least 15,000,000 ADV of displayed liquidity and less than 20,000,000 ADV of displayed liquidity; or (2) trades at least 15,000,000 non-displayed ADV.
- *Tier 6:* provides Member a rebate of \$0.0020 per share for all Added Displayed Liquidity if the Member: (1) adds at least 20,000,000 ADV of displayed liquidity and less than 30,000,000 ADV of displayed liquidity; or (2) trades at least 20,000,000 non-displayed ADV.
- *Tier 7:* provides Member a rebate of \$0.0022 per share for all Added Displayed Liquidity if the Member: (1) adds at least 30,000,000 ADV of displayed liquidity; or (2) adds at least 25,000,000 ADV of displayed liquidity

⁹ IEX Fee Schedule, *supra* note 7, Base Rates table and Fee Code Combinations and Associated Fees, footnote 4.

¹⁰ The Fee Schedule defines "ADV" as average daily volume calculated as the number of shares added or removed (as applicable) that executed at or above \$1.00 per share, per day. ADV is calculated on a monthly basis, based on trading activity in the immediately preceding month, unless otherwise indicated in the Fee Schedule.

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b-4.

⁶ See IEX Rule 1.160(s).

⁷ See Investors Exchange Fee Schedule ("IEX Fee Schedule"), available at <https://www.iexexchange.io/resources/trading/fee-schedule>.

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

and trades at least 30,000,000 non-displayed ADV.

Beginning on February 2, 2026, all IEX transaction fees and rebates will be determinable at the time of execution, in compliance with Rule 610(d) of Regulation NMS.¹¹ Accordingly, any transaction fees or rebates that are currently based upon a Member's trading activity in the current month, including the seven Displayed Liquidity Adding Rebate tier noted above, will be based upon that Member's trading or quoting activity in the immediately preceding month.¹²

To incentivize the posting of displayed liquidity on the Exchange, the Exchange proposes to introduce "Tier 8," which would provide Members a rebate of \$0.0023 per share for all executions of Added Displayed Liquidity priced at or above \$1.00 for Members that added at least 40,000,000 ADV of displayed liquidity in the immediately preceding month. The Exchange notes that this model of offering volume-based rebates is consistent with similar rebates offered by other exchanges.¹³

Accordingly, the Exchange proposes to add the following language to the "ML" Fee Code in the Base Rates table of the Fee Schedule: "Member added at least 40,000,000 ADV of displayed liquidity," and add "\$0.0023" in the "Executions at or above \$1.00" column. The Exchange also proposes to amend Footnote 4 (Displayed Liquidity Adding Rebate Tiers (Applicable to Executions at or above \$1.00)) to the Transaction Fees section, which applies to Base Fee Code ML in the Base Rates table, to reflect the required criteria for the rebate

tier and the applicable rebate for the proposed Tier 8.

Amended Fees for Removing Displayed Liquidity

Consistent with the higher rebate the Exchange will pay Members that meet Displayed Liquidity Adding Rebate Tier 8, as proposed and described above, the Exchange proposes to increase the fees for executions that remove displayed liquidity as described below.

Executions at or Above \$1.00/Share

Currently Members that add at least 25,000 ADV of displayed liquidity in the current month are eligible for a fee of \$0.0022 per share on executions at or above \$1.00 per share of displayed liquidity removing orders, rather than a fee of \$0.0030 per share for Members that do not add at least 25,000 ADV of displayed liquidity in the current month.¹⁴ The Exchange proposes to increase the fee by \$0.0002 per share, from \$0.0022 per share to \$0.0024 per share, provided a Member added at least 25,000 ADV of displayed liquidity. No change is proposed to the \$0.0030 per share fee for Members that do not add at least 25,000 ADV of displayed liquidity. Because this proposed fee change will be operative after IEX fees have been updated to be deterministic,¹⁵ the Member's added displayed liquidity in the immediately preceding month will determine the Member's eligibility for this fee tier.

Accordingly, the Exchange proposes to update the following Fee Codes and Fee Code Combinations and Associated Fees in the Fee Schedule by changing the fees in the "Executions at or above \$1.00" column from \$0.0022 to \$0.0024:

- TL (Remove displayed liquidity);¹⁶
- TLB (Remove displayed liquidity (Tape B));
- TLY (Post Only order removes displayed liquidity);
- TLYB (Post Only order removes displayed liquidity (Tape B));
- TLW (Resting non-displayed order removes liquidity against incoming Post Only order); and

¹⁴ See IEX Fee Schedule—Fee Code Combinations and Associated Fees, footnote 5, *supra* note 7.

¹⁵ See *supra*, note 11.

¹⁶ This fee change proposal will not affect the \$0.0030 per share fee the Exchange charges to Members that remove displayed liquidity and have not added at least 25,000 ADV of displayed liquidity. See IEX Fee Schedule, *supra* note 7, Transaction Fees—Fee Code Combinations and Associated Fees, fn. 5. The Exchange is also not proposing to change the \$0.0010 per share fee charged for certain pegged orders that remove displayed liquidity. See *id.*, Fee Codes TLK and TLBK. The Exchange is also not proposing to change fees for Retail orders that remove displayed liquidity. See *id.*, Fee Code TLR.

- TLWB (Resting non-displayed order removes liquidity against incoming Post Only order (Tape B)).

The Exchange also proposes to amend Footnote 5 (Displayed Liquidity Removing Fee Tiers (Applicable to Executions at or above \$1)) to the Transaction Fees section, which applies to Fee Codes TL, TLB, TLY, TLYB, TLW, and TLWB. As proposed, Tier 2 in Footnote 5 will be amended to reflect the changed fee for removing displayed liquidity from \$0.0022 per share to \$0.0024 per share for Members that added at least 25,000 ADV of displayed liquidity. Members who added less than 25,000 ADV of displayed liquidity in the immediately preceding month will qualify for Tier 1 of Displayed Liquidity Removing Fees in footnote 5 and will be charged a fee of \$0.0030 per share.

Executions Below \$1.00/Share

Currently, Members that remove displayed liquidity for executions below \$1.00 per share of displayed liquidity removing orders are charged 0.15% of the total dollar value of the execution ("TDV").¹⁷ The Exchange proposes to increase the fee to 0.20% of TDV. Accordingly, the Exchange proposes to update the following Fee Codes and Fee Code Combinations and Associated Fees in the Fee Schedule by changing the fees in the "Executions below \$1.00" column from 0.15% to 0.20%:

- TL (Remove displayed liquidity)
- TLB (Removes displayed liquidity (Tape B))
- TLK (Discretionary Peg, Fixed Midpoint Peg, Midpoint Peg, or Primary Peg order removes displayed liquidity); and
- TLBK (Discretionary Peg, Fixed Midpoint Peg, Midpoint Peg, or Primary Peg order removes displayed liquidity (Tape B)).

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) ¹⁸ of the Act in general and furthers the objectives of Sections 6(b)(4) ¹⁹ of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. For the reasons set forth below, the Exchange believes that the proposed rule change is reasonable, fair

¹⁷ "TDV" means the total dollar value of the execution calculated as the execution price multiplied by the number of shares executed in the transaction.

¹⁸ 15 U.S.C. 78f.

¹⁹ 15 U.S.C. 78f(b)(4).

¹¹ See 17 CFR 242.610(d) ("Transparency of fees. A national securities exchange shall not impose, nor permit to be imposed, any fee or fees, or provide, or permit to be provided, any rebate or other remuneration, for the execution of an order in an NMS stock that cannot be determined at the time of execution."). Exhibit 5 attached to this rule filing reflects changes to the Fee Schedule that will be in effect on March 1, 2026, the operative date of the proposed fee changes described herein.

¹² See Securities Exchange Act Release 104541 (January 5, 2026), 91 FR 737 (January 8, 2026) (SR-IEX-2025-39) (amending the Exchange's fee schedule applicable to Members to comply with Rule 610(d) under Regulation NMS).

¹³ See, e.g., Cboe BZX Fee Schedule (Effective January 2, 2026), available at <https://www.cboe.com/us/equities/membership/fee-schedule/bzx/>; MEMX Equities Fee Schedule (Effective October 1, 2025), available at <https://info.memxtrading.com/equities-trading-resources/us-equities-fee-schedule/>; Nasdaq Equity VII, Section 118 (as of December 11, 2025), Price List available at <https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>; New York Stock Exchange Price List 2026 (as of January 2, 2026) ("NYSE Price List 2026"), available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf.

and equitable, and not designed to permit unfair discrimination.

The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. As discussed in the Purpose section, the Exchange believes that the proposed addition of a new volume-based rebate tier that pays a higher rebate to Members who added progressively more displayed liquidity (on a monthly average basis) is reasonable and consistent with the Act because it is designed to attract and incentivize Members to send displayed orders, as well as order flow seeking to trade with such displayed orders, to IEX. With respect to the proposed fee increases for removing displayed liquidity, the Exchange believes that the increases are a reasonable approach to help offset the costs of the higher rebate for Displayed Liquidity Adding Rebate Tier 8, while retaining the existing displayed liquidity adding requirement for executions at or above \$1.00 per share. In combination, the Exchange believes that the proposed fee changes are reasonably designed to incentivize Members to add a meaningful volume of displayed liquidity by providing an increasingly higher rebate for Members that qualify for a higher average minimum volume threshold and offsetting the costs of that rebate by charging a higher fee for removing displayed liquidity. Increases in displayed liquidity would contribute to the public price discovery process which would benefit all market participants and protect investors and the public interest.

As discussed above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Within that context, the proposed new Displayed Liquidity Adding Rebate Tier 8 and the proposed increased displayed liquidity removing fee are designed to keep the Exchange's displayed trading prices competitive with those of other exchanges. The proposed new rebate tier and the proposed fees for removing displayed liquidity are within the range or lower than fees offered by competing exchanges, and thus the Exchange does not believe that the proposal raises any new or novel issues not already considered by the Commission in the context of other exchanges' fees.

The Exchange notes that the proposed rebate for the proposed new rebate tier and the proposed fees for removing displayed liquidity are not designed to

permit unfair discrimination because they will be applied uniformly to all Members who satisfy the specified criteria.

Finally, the Exchange believes it is consistent with the Act to specify that the criteria to qualify for Displayed Liquidity Adding Rebate Tier 8 and the displayed liquidity removing fee for executions at or above \$1.00 are based on the trading activity on IEX in the prior month in order to comply with Rule 610(d) of Regulation NMS.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if fee schedules at other venues are viewed as more favorable. Consequently, the Exchange believes that the degree to which its fees could impose any burden on competition is extremely limited and does not believe that such fees would burden competition between Members or competing venues. Moreover, as noted in the Statutory Basis section, the Exchange does not believe that the proposed change raises any new or novel issues not already considered by the Commission.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different rebates are assessed on Members, these rebate tiers are not based on the type of Member entering the orders that match, but rather on the Member's own trading activity on the Exchange. Further, the proposed fee change continues to be intended to encourage market participants to bring increased order flow to the Exchange and contribute to the public price discovery process, which benefits all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) ²⁰ of the Act.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) ²¹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-IEX-2026-04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-IEX-2026-04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-IEX-2026-04 and

²⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

²¹ 15 U.S.C. 78s(b)(2)(B).

should be submitted on or before March 5, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-02799 Filed 2-11-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104784; File No. SR-CMESC-2026-001]

Self-Regulatory Organizations; CME Securities Clearing Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the CME Securities Clearing Inc. Rules and Incorporate CME Securities Clearing Inc. Procedures Into the Rules

February 9, 2026.

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 January 29, 2026, CME Securities Clearing Inc. (“CMESC”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change described in Items I, II, and III below, which Items have been substantially prepared by CMESC. CMESC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act ³ 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. CMESC’s Statement of the Terms and Substance of the Proposed Rule Change

The proposed rule change consists of non-substantive modifications to the

CMESC Rulebook (the “Rules”)⁵ to incorporate existing provisions in the Procedures of CMESC into the Rules; clarify CMESC’s intentions in a small number of Rules; and make wordsmithing corrections, clarifications, and technical changes to improve clarity and consistency of the Rules. Almost all of the revisions relate to relocating CMESC’s existing provisions in its Procedures to corresponding Rules, along with certain non-substantive drafting changes, including clarification changes, related thereto. The proposed clarification changes include, notably, revising: (i) the definition of “Bank” in Rule 101 to confirm CMESC’s intention implicit in the Rules that CMESC will hold margin collateral, including margin collateral of Supported Users of Members that are broker-dealers, in a banking institution that meets the definition of “Bank” in Section 3(a)(6) of the Exchange Act, consistent with the requirements of Note H to Rule 15c3-3a under the Act; (ii) paragraph (b)(ii) of Rule 510, Withdrawal of Margin, to confirm CMESC’s intention that it may only reject a request pursuant to Rule 510(a) to withdraw excess collateral by a Member on behalf of a Supported User or by an Independent User for reasons related to risk considerations with respect to such User, as reasonably determined by CMESC in its sole judgment and that it will hold unreturned excess margin subject to the requirements generally for holding margin, including, as applicable, requirements under Rule 513 applicable to margin deposited for Supported Users authorized by Members that are broker-dealers, consistent with the requirements of Note H to Rule 15c3-3a under the Act and for Supported Users authorized by Members that are not broker-dealers; and (iii) paragraph (c) of

Rule 1004, Hearing, to clarify that CMESC will provided at least three (3) Business Days advance notice of the time and place of a hearing by changing three (3) calendar days to three (3) Business Days. CMESC filed Exhibit 5 to this filing showing the text of the proposed amendments to the CMESC’s Rules.

II. CME’s Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, CMESC 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. CMESC has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

(A) CMESC’s Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

1. Purpose

CMESC is proposing certain changes to its Rules, which are reflected in Exhibit 5 to this filing, to incorporate existing provisions in the Procedures of CMESC into the Rules; clarify CMESC’s intentions in a small number of Rules; and make wordsmithing corrections, clarifications, and technical changes to improve clarity and consistency of the Rules. The table below lists each Rule to which CMESC is proposing changes, describes the proposed changes, and indicates the types of changes, *i.e.*, whether the changes are in the nature of clarification, correction or technical, or incorporation of Procedures into the Rules.

Rule	Proposed change	Change type
Rule 101, Definition of “Bank” ..	Revised the definition of “Bank” to confirm CMESC’s intention implicit in the Rules that CMESC will hold margin collateral of Supported Users of Members that are broker-dealers consistent with the requirements of Note H to Rule 15c3-3a under the Act. Specifically, CMESC proposes expanding the definition to state that the term “Bank” means “any U.S. Federal Reserve Bank or any ‘bank’ within the meaning of that term as defined in section 3(a)(6) of the Act that is insured by the Federal Deposit Insurance Corporation,” so designated by the Corporation as a bank where the Corporation maintains one or more accounts in which it holds margin assets and/or makes and receives payments in satisfaction of Outstanding Exposure Settlement.	Clarification.
Rule 101, Definitions of “CME” and “CME Group”.	Moved definitions of “CME” and “CME Group” to be above the definition for Cooling Off Period to conform with the alphabetical order.	Correction.
Rule 101, Definition of “Cooling Off Period”.	Changed the format of the cross-reference to combine the subparagraph with the Rule; relocated this definition after the definition of “CME Group” to be in alphabetical order.	Technical.
Rule 101, Definition of “Controlling Management”.	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 101, Definition of “Daily Margin Report”.	Added “and/” before “or Supported User Account” for clarity	Clarification.

²² 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)(6).

⁵ Capitalized terms used herein and not defined shall have the meanings assigned to such terms in

the Rules, as applicable, available at <https://www.cmegroup.com/rulebook/CMESC/CMESC%20Rulebook.pdf>.

Rule	Proposed change	Change type
Rule 101, Definition of "Default Assessment".	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 101, Definition of "Eligible Secondary Market Transaction".	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 101, Definition of "Haircut Collateral".	Removed the first reference to "excess of the" value to correct an inadvertent error	Correction.
Rule 101, Definition of "Head of Corporation".	Added "the" between "head of" and "Corporation"	Technical.
Rule 101, Definition of "Interest Rate Securities Clearing Service".	Changed "clearing and settlement" to "clearance and settlement" to be consistent with the statutory language in Section 17A of the Act.	Clarification.
Rule 101, Definition of "Procedures".	Changed "the Procedures of the Corporation adopted" to "any Procedures the Corporation may adopt" to reflect that the Procedures have been removed, but may be adopted later.	Clarification
Rule 101, Definition of "Required Guaranty Fund Contribution".	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 101, Definition of "Securities Clearing System".	Added definition for "Securities Clearing System" as a result of incorporation of Procedures into the Rules: "The term 'Securities Clearing System' means the clearing system utilized by the Corporation".	Clarification.
Rule 201(b)	Added language from Procedure 2-1(b): "via an Advisory" and ", and the Corporation shall state the reasons for such discontinuance".	Incorporation of Procedure 2-1(b) to Rule 201(b).
Rule 201(c)	Revised existing Rule 201(c) to reflect language from Procedure 2-1(a) regarding maintenance of the master file listing of Eligible Securities Transactions.	Incorporation of Procedure 2-1(a) to Rule 201(c).
Rule 202(b)	Changed "clearing and settlement" to "clearance and settlement" to be consistent with the statutory language in Section 17A of the Act.	Clarification.
Rule 202(c)	Deleted reference to "Procedures" to reflect removal of the Procedures and collapsing the same into the Rulebook.	Clarification and Technical.
Rule 202(d)	Changed the format of the cross-references to combine the subparagraphs with the Rules. Revised existing Rule 202(d) to be split into four subparts, (i)–(iv). Subpart (i) retains language from the existing Rule 202(d) and adds language from Procedure 2-2(a). New subparts (ii)–(v) are derived from Procedures 2-2(b)–(e) regarding periodic review of Members to monitor compliance with obligations under proposed Rule 202(b). The provision regarding Members' full cooperation with any inquiry, investigation or review conducted by the Corporation in existing Rule 202(d) was combined with Procedure 2-2(d) regarding Member's obligation to cooperate and the Corporation's authority to take disciplinary action against a Member for its failure to cooperate, as new Rule 202(d)(iv).	Incorporation of Procedures 2-2(a)–(e) as Rules 202(d)(i)–(iv).
Rule 302(a)(iv)	Corrected cross-reference regarding satisfaction of minimum net asset requirements from Rule 306(b)(v) to (b)(iv) and changed the format of the cross-reference to combine the subparagraph with the Rule.	Correction and Technical.
Rule 302(b)(iii)	Replaced a comma with a semicolon as a technical grammatical change	Technical.
Rule 302(c)	Revised existing Rule 302(c) to incorporate language from Procedure 3-3 regarding the requirement of Risk Management Committee's approval with respect to new categories of Members and Users at Committee's discretion.	Incorporation of Procedure 3-3 to Rule 302(c).
Rule 303(a)(i)	Added language to existing Rule 303(a)(i) from Procedure 3-1(a) to clarify that the Corporation offers the Interest Rate Securities Clearing Service and persons must be approved as Members/Users to use that service.	Incorporation of Procedure 3-1(a) to Rule 303(a)(i).
Rule 303(a)(ii)	Changed reference to "Applications" to be "An application" in the first sentence for clarity	Incorporation of Procedure 3-1(a)(i) to Rule 303(a)(ii).
Rule 303(a)(iii)	Added language to Rule 303(a)(ii) from Procedure 3-1(a)(i) to clarify that Member Applications shall be filed electronically or via email and the Corporation may amend the Member Application and require additional information from applicants "from time to time".	Clarification.
Rule 303(a)(iv)	Changed references to "Applications" to be "An application" in two places for clarity	Incorporation of Procedure 3-1(a)(ii) to Rule 303(a)(iii).
Rule 303(a)(v)	Added language to Rule 303(a)(iii) from Procedure 3-1(a)(i) to clarify that a User Application shall be filed with the Corporation electronically or via email and the Corporation may amend User Application and require additional information from applicants "from time to time".	Correction and Technical.
Rule 303(a)(vi)	Corrected the cross-reference to Rule 303(b) to Rule "303(c)" regarding a Member's verification of due diligence on authorized User applicant and changed the format of the cross-reference to combine the subparagraph with the Rule.	Incorporation of Procedure 3-1(a)(iii) as Rule 303(a)(iv).
Rule 303(a)(vii)	Incorporated Procedure 3-1(a)(iii) into Rule 303(a) as new Rule 303(a)(iv) regarding information and materials Members are required to provide to Corporation if the Member is seeking to nominate and authorize persons as Users and added a heading "Member Authorization of User".	Incorporation of Procedures 3-1(a)(i)–(ii) and 3-1(b) to Rule 303(e).
Rule 303(e)	Revised Rule 303(e) to conform with Procedures 3-1(a)(i)–(ii) regarding recommendation for approval or disapproval to Risk Management Committee, which shall approve or disapprove applications, and also with Procedure 3-1(b) which provides that the Corporation is not subject to any timeframe for approving or disapproving applications.	Incorporation of Procedures 3-1(a)(i)–(ii) to Rule 303(f).
Rule 303(f)	Revised Rule 303(f) to conform with Procedures 3-1(a)(i)–(ii) to clarify that application denial determinations are ultimately made by the Risk Management Committee.	Technical.
Rule 303(g)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Incorporation of Procedure 3-1(c) as Rule 303(g).
Rule 303(h)	Added Rule 303(g) from Procedure 3-1(c) regarding the "Conditions for Approval" by the Corporation of a Member's or User's application.	Incorporation of Procedure 3-1(d) as Rule 303(h).
Rule 303(i)	Added Rule 303(h) from Procedure 3-1(d) providing that Approved Applicants must fulfill all conditions associated with their approval within the timeframe established by the Corporation.	Incorporation of Procedure 3-1(e) as Rule 303(i).
Rule 303(j)	Added Rule 303(i) from Procedure 3-1(e) providing that Member or User status does not confer any "participant" or "member" or comparable status with any Affiliate of the Corporation.	Incorporation of Procedure 3-2(d) as Rule 303(j).
Rule 305(a)(i)	Added Rule 303(j) from Procedure 3-2(d) regarding an Approved Applicant's completion of satisfactory operational testing and other requirements or conditions imposed by the Corporation.	Clarification and Technical.
Rules 305(a)(ii)–(v)	Deleted reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook. Also removed a comma after "By-Laws" as a grammatical correction.	Clarification and Technical.
Rules 305(a)(vi)–(viii)	Deleted reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook. Also removed a comma after "By-Laws" and added "and" before "Rules" as grammatical corrections.	

Rule	Proposed change	Change type
Rule 305(a)(xi)	Deleted reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook. Also removed a comma after "By-Laws" and added "or" before "Rules" as grammatical corrections. Also added "to" between "right" and "withdraw." Finally, deleted a comma after "withdraw as a Member".	Clarification and Technical.
Rules 305(a)(xiii)–(xiv)	Deleted reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rules 305(b)(i)–(v)	Deleted reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook. Also removed a comma after "By-Laws" and added "and" before "Rules" as grammatical corrections.	Clarification and Technical.
Rule 305(b)(ix)	Deleted reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook. Also removed a comma after "By-Laws" and added "or" before "Rules" as grammatical corrections.	Clarification and Technical.
Rule 305(c)	Deleted references to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 305(d)	Added Rule 305(d) from Procedure 3–2(a) regarding the terms and conditions binding on each Member and User, and the requirement for applicants to sign the same during the application process.	Incorporation of Procedure 3–2(a) as Rule 305(d).
Rule 305(e)	Added Rule 305(e) from Procedure 3–2(b) regarding an Approved Applicant's receipt of the executed copy of the Agreement and notification of acceptance, among other things, upon granting of Member or User status.	Incorporation of Procedure 3–2(b) as Rule 305(e).
Rule 306(a)	Deleted reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 306(a)(i)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 306(b)(iv)	Capitalized "Default Assessment" to reflect that it is a defined term	Clarification.
Rule 306(b)(v)	Deleted "(y)," which was an inadvertent remnant of a prior revision	Correction.
Rule 306(b)(vi)	Corrected cross-reference to "(b)(i) through (b)(v)" (of Rule 306) to "(b)(i) through (b)(iv)"	Correction.
Rule 306(c)(i)(C)	Changed the format of the cross-reference to combine the subparagraphs with the Rule	Technical.
Rule 306(c)(iii)	Removed an "s" from "Members"	Technical.
Rules 306(c)(iii)(A)(a)–(g)	Corrected the cross-reference to Rule 311 to be Rule 313	Correction.
Rule 306(c)(iii)(B)	Moved introductory paragraph to Rule 306(c)(iii)(A) and added language regarding a Member's User Due Diligence Policies to reflect Procedure 3–6(a).	Incorporation of Procedure 3–6(a) to Rule 306(c)(iii).
Rules 306(c)(iii)(A)(a)–(g)	Changed lettering of Rules 306(c)(iii)(A)–(G) to be Rules 306(c)(iii)(a)–(g)	Technical.
Rule 306(c)(iii)(B)	Added Rule 306(c)(iii)(B) from Procedure 3–6(b) regarding the requirement that a Member conduct due diligence of each applicant for User status the Member nominates.	Incorporation of Procedure 3–6(b) as Rule 306(c)(iii)(B).
Rule 306(c)(iii)(C)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 306(d)	Added Rule 306(c)(iii)(C) from Procedure 3–6(c) regarding the requirement that a Member conduct routine periodic due diligence of its authorized Users.	Incorporation of Procedure 3–6(c) as Rule 306(c)(iii)(C).
Rule 307(a)	Deleted reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 307(d)	Deleted reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 308(a)(iii)	Removed "Chapter," which was a typo	Technical.
Rule 308(c)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rules 309(a)–(b), (b)(v)–(vi), (c)	Added "and" before "or operational capability" to clarify that the Corporation maintains the discretion to obtain both adequate assurances of the applicant's financial responsibility and operational capability from the applicant.	Clarification.
Rule 309(b)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 309(b)(v)	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rule 309(b)(vi)	Corrected cross-references to Rule 309(b)(i)–(b)(v) to be "(b)(i) through (b)(viii)" to reflect additions of Rules 309(b)(vi)–(viii) as a result of the incorporation of Procedures 3–7(b)–(d) as new Rule 309(b)(vi)–(b)(viii).	Correction.
Rule 309(b)(vii)	Added language to Rule 309(b)(v) from Procedures 3–7(a)(i)–(iii) regarding the supplemental information required in monthly submissions submitted by Members to the Corporation.	Incorporation of Procedures 3–7(a)(i)–(iii) to Rule 309(b)(v).
Rule 309(b)(viii)	Added Rule 309(b)(vi) from Procedure 3–7(b) regarding the requirement that a Member submit annual audited financial statements to the Corporation.	Incorporation of Procedure 3–7(b) as Rule 309(b)(vi).
Rule 309(e)(iv)	Added Rule 309(b)(vii) from Procedure 3–7(c) regarding the requirement that a Member who is not required to prepare annual audited financial statements by any regulatory agency must submit equivalent financial information to the Corporation.	Incorporation of Procedure 3–7(c) as Rule 309(b)(vii).
Rule 311 Heading	Added Rule 309(b)(viii) from Procedure 3–7(d) regarding the Corporation's discretion to require a Member at any time to make more frequent capital computations or submit more frequent reports or financial statements.	Incorporation of Procedure 3–7(d) as Rule 309(b)(viii).
Rule 311(a)	Deleted reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 311(a)(ix)	Added "Member Status, or User Status" to the heading for Rule 311 to reflect the addition of Rule 311(d) regarding voluntary withdrawal of Member and User status as a result of incorporation of Procedure 3–8(c).	Clarification.
Rule 311(c)	Added language to Rule 311(a) from Procedure 3–4(a)(ii)–placed after Rule 311(a)(x)–regarding the Corporation's periodic review of Members.	Incorporation of Procedure 3–4(a)(ii) to Rule 311(a).
Rule 311(c)(i)	Uncapitalized "If" to conform with the other items in Rule 311(a)(i)–(x)	Technical.
Rules 311(c)(ii)(A), (iii)	Added language to Rule 311(c) from Procedure 3–4(a)(iii)–placed after Rule 311(c)(v)(D)–regarding the Corporation's periodic review of Members.	Incorporation of Procedure 3–4(a)(iii) to Rule 311(c).
Rule 311(c)(iv)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rules 311(c)(v)(A)–(D)	Uncapitalized references to "Net Capital" because it is not a defined term	Correction.
Rule 311(d)	Added reference to "CET1" before "capital declines" for clarification	Clarification.
Rule 311(d)(i)	Changed Rule 311(c)(v)(A) to be a separate subparagraph under Rule 311(c)(vi), and changed lettering of Rule 311(c)(v)(B)–(D) to be (c)(vi)(A)–(C), accordingly.	Clarification and Correction.
Rule 311(d)(ii)	Added language to Rule 311(d) from Procedure 3–8(c) regarding defined term "Authorization Termination Notice" and the requirement that the Corporation confirm termination of the Authorization Agreement in writing.	Incorporation of Procedure 3–8(c) to Rule 311(d).
Rule 311(d)(iii)	Added language to Rule 311(d)(i) from Procedure 3–8(c) regarding a Member's responsibility to meet a defaulting User's obligations prior to termination of the Authorization Agreement.	Incorporation of Procedure 3–8(c) to Rule 311(d)(i).

Rule	Proposed change	Change type
	Revised language to clarify that the Member's guarantee of financial performance for each User remains in effect "as to any and all Eligible Securities Transactions submitted for the User's User Account associated with the Authorizing Member prior to the effective date of" termination of the Authorization Agreement, instead of "until" that termination.	Clarification.
Rule 311(d)(ii)	Added language to Rule 311(d)(ii) from Procedure 3–8(c) regarding withdrawal of an unauthorized User's status.	Incorporation of Procedure 3–8(c) to Rule 311(d)(ii).
Rule 311(e)	Added Rule 311(e) from Procedures 3–8(a)–(b) regarding voluntary withdrawal of Member or User status.	Incorporation of Procedures 3–8(a)–(b) as Rule 311(e).
Rule 314	Changed the format of the cross-reference to combine the subparagraphs with the Rule Deleted reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook. Also removed a comma after "By-Laws" and added "and" before "Rules" as grammatical corrections.	Technical.
Rule 402(a)	Replaced "Corporation's Procedures" with "Rules" to reflect the removal of the Procedures and collapsing the same into the Rulebook. Also capitalized "Default" to reflect that it is a defined term.	Clarification.
	Added language to Rule 402(a) from Procedures 4–1(a)–(b) regarding the calculation of the amount of the Guaranty Fund.	Incorporation of Procedures 4–1(a)–(b) to Rule 402(a).
Rule 402(b)	Added language to Rule 402(b) from Procedure 4–2(a) regarding the requirement that the Corporation must receive a new Member's Required Guaranty Fund Contribution before the Member is eligible to commence clearing.	Incorporation of Procedure 4–2(a) to Rule 402(b).
	Added language to Rule 402(b) from Procedure 4–1(c) regarding the determination of each Member's Required Guaranty Fund Contribution using fair and risk-based measures, and reflecting that the Fund may be adjusted from time to time.	Incorporation of Procedure 4–1(c) to Rule 402(b).
	Added language to Rule 402(b) from Procedure 4–1(d)—placed after Rule 402(b)(ii)—regarding the formula for calculating amounts pursuant to Rule 402(b)(ii).	Incorporation of Procedure 4–1(d) to Rule 402(b).
Rule 402(b)(i)	Added language to Rule 402(b)(i) from Procedure 4–1(c)(i) reflecting that one of the potential values of the Required Guaranty Fund Contribution is \$10 million, which is the minimum amount of cash or securities that a Member is required to contribute to the Guaranty Fund.	Incorporation of Procedure 4–1(c)(i) to Rule 402(b)(i).
	Removed "as determined by the Corporation" and the phrase "set forth in subparagraph (c)(i) of Procedure 4–1" because the \$10 million figure in Procedure 4–1(c)(i) has been incorporated into Rule 402(b)(i).	Technical.
Rule 402(b)(ii)	Added language to Rule 402(b)(ii) from Procedure 4–1(c)(ii) to provide that prior to a Member using a Clearing Service, the Member's proportionate share of the aggregate Required Guaranty Fund Contribution for such Clearing Service is zero.	Incorporation of Procedure 4–1(c)(ii) to Rule 402(b)(ii).
Rule 402(c)	Broke Rule 402(c) regarding Default Assessment into Rule 402(c)(i) and (ii) for better clarity	Clarification.
Rule 402(c)(i)	Added language to new Rule 402(c)(i) from Procedure 4–5(a) to reflect the specific losses or liabilities that triggers a Default Assessment is in excess of "50% of" the amount of funds available to the Corporation "for discharging such losses and liabilities".	Incorporation of Procedure 4–5(a) to Rule 402(c)(i).
	Added language to Rule 402(c)(i) from Procedure 4–5(a) reflecting that the Corporation may impose a Default Assessment "in its sole discretion" if the losses or liabilities arising from a Member Default exceed a certain amount.	Incorporation of Procedure 4–5(a) to Rule 402(c)(i).
	Added language to the end of Rule 402(c)(i) from Procedure 4–5(a) providing clarification on the meaning of a Default Assessment.	Incorporation of Procedure 4–5(a) to Rule 402(c)(i).
	Made necessary non-substantive adjustments to the original Rule 402(c) to accommodate the additional language from Procedure 4–5(a), including changing the reference to "loss or liability" to "losses or liabilities arising from a Member Default" and removing parentheses and quotes around "Default Assessment," because it is a previously defined term in Chapter 1. Also changed the format of the cross-references to combine the subparagraphs with the Rules.	Technical.
Rule 402(c)(ii)	Capitalized "Defaulting" in "non-Defaulting" to reflect that it is a defined term	Clarification.
Rule 402(c)(iii)	Added Rule 402(c)(iii) from Procedure 4–5(d) reflecting that a Member who does not satisfy a Default Assessment may be declared to be in Default.	Incorporation of Procedure 4–5(d) as Rule 402(c)(iii).
Rule 402(c)(iv)	Added Rule 402(c)(iv) from Procedure 4–5(b) regarding calculation of each Member's Default Assessment.	Incorporation of Procedure 4–5(b) as Rule 402(c)(iv).
Rule 402(d)	Added language to Rule 402(d) from Procedure 4–1(h) reflecting that recalculations of the Required Guaranty Fund Contribution and maximum Default Assessment may be "based on the results of the Corporation's daily stress testing" "for risk management purposes including but not limited to adherence to the cover two standard".	Incorporation of Procedure 4–1(h) to Rule 402(d).
	Changed the format of the cross-references to combine the subparagraphs with the Rules Added a comma and "if" in the second sentence for better clarity	Technical.
Rule 402(d)(i)	Replaced language in Rule 402(d)(i) regarding withdrawal of reported excess with more detailed language from Procedures 4–2(c)–(d) defining the "Required Guaranty Fund Contribution Deadline," reflecting possible shortening or extension of that deadline, and repayment of Guaranty Fund contribution amounts in excess of a Member's Required Guaranty Fund Contribution (unless withheld by the Corporation for unmet obligations).	Clarification.
Rule 402(e)	Added Rule 402(e) from Procedure 4–1(e) regarding stress testing	Incorporation of Procedures 4–2(c)–(d) to Rule 402(d)(i).
Rule 402(f)	Added Rule 402(f) from Procedure 4–1(f) regarding periodic comprehensive analyses performed by the Corporation to determine the adequacy of and adopting adjustments to the Corporation's margin methodology, model parameters, models used to generate clearing or Guaranty Fund requirements, and other relevant aspects of the Corporation's risk management policies and procedures.	Incorporation of Procedure 4–1(e) as Rule 402(e).
Rule 404(a)	Replaced the reference to "Procedures" with "these Rules" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Incorporation of Procedure 4–1(f) as Rule 402(f).
Rule 405(a)	Deleted the reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook. Also moved Rule 405 under newly added Rule 405(a) as a "General" introductory provision regarding the Default Management Process to account for additions of Procedure 4–4(a)–(d) pursuant to collapsing the Procedures into the Rulebook. Also deleted reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rules 405(b) and (b)(i)–(iii)	Added Rule 405(b), "Member Default," and subparagraphs (b)(i)–(iii) from Procedures 4–4(a)(i)–(iii) regarding the specific Member Default management process.	Clarification.
		Incorporation of Procedures 4–4(a)(i)–(iii) as Rules 405(b)(i)–(iii).

Rule	Proposed change	Change type
Rules 405(c) and (c)(i)–(iii)	Added Rule 405(c), “User Default,” and subparagraphs (c)(i)–(iii) from Procedures 4–4(b)(i)–(iii) regarding the specific User Default management process.	Incorporation of Procedures 4–4(b)(i)–(iii) as Rules 405(c)(i)–(iii).
Rules 405(d), (d)(i)–(ii), and (d)(ii)(A)–(B).	Added Rule 405(d), “Close-out process for the positions of a Defaulting Member or Defaulting User,” and subparagraphs (d)(i)–(ii) and (ii)(A)–(B) from Procedures 4–4(c)(i)–(ii) and (c)(ii)(A)–(B) regarding the specific process for such close-outs.	Incorporation of Procedures 4–4(c)(i)–(ii) and (c)(ii)–(A)–(B) as Rules 405(d)(i)–(ii), and (d)(ii)(A)–(B).
Rules 405(e) and (e)(i)–(iii)	Added Rule 405(e), “Managing a Default with Respect to a Specific Clearing Service and Across Clearing Services,” and subparagraphs (e)(i)–(iii) from Procedures 4–4(d)(i)–(iii) regarding the Corporation’s discretion to take certain actions in the event of a Member or User Default.	Incorporation of Procedures 4–4(d)(i)–(iii) as Rules 405(e)(i)–(iii).
Rule 405(f)	Added Rule 405(f) from Procedure 4–7(a) regarding the Corporation’s notice to Members and Users of a Member or User Default.	Incorporation of Procedure 4–7(a) as Rule 405(f).
Rule 405(g)	Added Rule 405(g) from Procedure 4–7(b) regarding the Corporation’s provision of updated Guaranty Fund Statements to Members following any charges against the Guaranty Fund due to Default by a Member.	Incorporation of Procedure 4–7(b) as Rule 405(g).
Rules 406(a)(ii)–(v)	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rule 406(a)(iv)	Added “Required” to “Guaranty Fund Contributions” and capitalized the “C” in “Contributions” to reflect that “Required Guaranty Fund Contributions” is a defined term.	Clarification.
Rule 406(b)(ii)(B)	Changed “obligations” to “losses and liabilities” to conform with the language in Rule 406(b)(ii)(A).	Clarification.
Rules 406(b)(iii)–(iv), (c)	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rules 407(c)(i)–(ii)	Capitalized references to “Repo Transaction” to reflect that it is a defined term	Clarification.
Rule 407(c)(iii)	Changed the format of the cross-reference to combine the subparagraphs with the Rule	Technical.
Rule 408(a)	Added language to Rule 408(a) from Procedures 4–11(a)–(d) regarding the requirement that Members must execute a master repurchase agreement with the Corporation to govern all non-committed repo transactions, and regarding negotiation of terms for such transactions and periodic testing by Members of repo transactions with the Clearing House when requested.	Incorporation of Procedures 4–11(a)–(d) as Rule 408(a).
Rule 408(b)	Capitalized the references to “Repo Transaction” to reflect that it is a defined term	Technical.
Rule 409	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rule 409	Capitalized references to “Repo Transaction” to reflect that it is a defined term	Clarification.
Rule 409	Removed an inadvertent comma between “creation of” and “security interests”	Technical.
Rules 410(a) and (a)(i)	Added language to Rule 409 from Procedures 4–12(a)–(c) regarding the terms of committed repo transactions and testing committed repo counterparties to affirm operational readiness.	Incorporation of Procedures 4–12(a)–(c) to Rule 409.
Rules 410(a) and (a)(i)	Moved Rule 410(a) to Rule 410(a)(i) under a new heading to Rule 410(a): “CLF MRA,” to incorporate Procedure 4–9(a).	Incorporation of Procedure 4–9(a) to Rule 410(a).
Rules 410(a)(ii) and (a)(ii)(A)–(F).	Added language to Rule 410(a)(i) from Procedure 4–9(a)(i) regarding CLF Event Transactions ...	Incorporation of Procedure 4–9(a)(i) to Rule 410(a)(i).
Rules 410(a)(ii) and (a)(ii)(A)–(F).	Added Rules 410(a)(ii) and (a)(ii)(A)–(F) from Procedures 4–9(a)(ii) and (a)(ii)(A)–(F) regarding the terms of the CLF MRA.	Incorporation of Procedures 4–9(a)(ii) and (a)(ii)(A)–(F) as Rules 410(a)(ii) and (a)(ii)(A)–(F).
Rules 410(b), (b)(i), and (b)(i)(A)	Added new heading to Rule 410(b): “Declaration of a CLF Event,” and moved existing Rule 410(b) to subparagraph (b)(i)(A) to incorporate Procedure 4–9(b). New Rule 410(b), (b)(i) and (b)(i)(A) reflects Procedure 4–9(b), (b)(i) and (b)(i)(A).	Incorporation of Procedures 4–9(b), (b)(i), and (b)(i)(A) to Rules 410(b), (b)(i), and (b)(i)(A).
Rule 410(b)(i)(A)	Revised existing Rule 410(b) that has been moved to Rule 410(b)(i)(A) to reflect language of Procedure 4–9(b)(i)(A) regarding notification to Members of the declaration of the CLF Event.	Incorporation of Procedure 4–9(b)(i)(A) to Rule 410(b)(i)(A).
Rules 410(b)(i)(B)–(E)	Added Rules 410(b)(i)(B)–(E) from Procedures 4–9(b)(i)(C)–(F) regarding events resulting from the declaration of a CLF Event.	Incorporation of Procedures 4–9(b)(i)(C)–(F) as Rules 410(b)(i)(B)–(E).
Rule 410(c)	Revised existing Rule 410(c) to incorporate language from Procedure. 4–9(b)(i)(B) regarding the terms of CLF Event Transactions, and specifying that Members who enter into CLF Event Transactions are non-Defaulting Members.	Incorporation of Procedure 4–9(b)(i)(B) to Rule 410(c).
Rule 410(d)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 410(h)	Revised Rule 410(h) to incorporate language from Procedure 4–9(b)(ii) regarding the exchange of securities for cash after termination of a CLF Event Transaction.	Incorporation of Procedure 4–9(b)(ii) to Rule 410(h).
Rules 410(i) and (i)(i)–(ii)	Added Rule 410(i) and subparagraphs (i)(i)–(ii) from Procedures 4–9(c) and (c)(i)–(ii) regarding “Calculation of Required CLF Size and Allocated Capped CLF Amounts”.	Incorporation of Procedures 4–9(c) and (c)(i)–(ii) as Rules 410(i) and (i)(i)–(ii).
Rules 410(j) and (j)(i)–(ii)	Added Rules 410(j) and (j)(i)–(ii) from Procedures 4–9(d) and (d)(i)–(ii) regarding a Member’s “Required Attestation and Acknowledgment” that the Member understands and is bound by the Rules related to CLF.	Incorporation of Procedures 4–9(d) and (d)(i)–(ii) as Rules 410(j) and (j)(i)–(ii).
Rule 410(k)	Added Rule 410(k) from Procedure 4–9(e) regarding “Report of Actions” to the SEC and other relevant regulatory agencies.	Incorporation of Procedure 4–9(e) as Rule 410(k).
Rule 410(l)	Capitalized reference to “Repo Transaction” to reflect that it is a defined term	Clarification.
Rule 410(l)	Added Rule 410(l) from Procedure 4–9(f) regarding “Operational Testing” with respect to annual CLF MRA tests for Member.	Incorporation of Procedure 4–9(f) as Rule 410(l).
Rule 411	Added subparagraph letters (a)–(g) to Rule 411 regarding “Substitution of Guaranty Fund Cash” to reflect Procedure 4–10(a)–(g).	Incorporation of Procedures 4–10(a)–(g) to Rule 411.
Rule 411(a)	Revised Rule 411(a) to reflect language from Procedure 4–10(a) regarding procedures for substitution of Guaranty Fund cash.	Incorporation of Procedure 4–10(a) to Rule 411(a).
Rule 411(b)	Added Rule 411(b) from Procedure 4–10(b) regarding notice to impacted non-Defaulting Members of a substitution of Guaranty Fund cash for U.S. Treasury securities.	Incorporation of Procedure 4–10(b) as Rule 411(b).
Rule 411(c)	Revised Rule 411(c) to reflect language from Procedure 4–10(c) regarding determining the market value of the securities used in a cash substitution under Rule 411, subject to the Corporation’s discretion to impose appropriate haircut.	Incorporation of Procedure 4–10(c) to Rule 411(c).
Rule 411(e)	Added Rule 411(e) from Procedure 4–10(d) regarding timing of completion of substitution of U.S. Treasury securities for cash Guaranty Fund contributions as determined by the Corporation.	Incorporation of Procedure 4–10(d) as Rule 411(e).
Rule 411(f)	Revised Rule 411(f) to incorporate language from Procedures 4–10(e)–(f) regarding replacement of substituted U.S. Treasury securities for cash.	Incorporation of Procedures 4–10(e)–(f) to Rule 411(f).

Rule	Proposed change	Change type
Rule 411(g)	Added Rule 411(g) from Procedure 4–10(g) regarding procedures for substitution of Guaranty Fund cash.	Incorporation of Procedure 4–10(g) as Rule 411(g).
Rule 412	Revised Rule 412 to incorporate language from Procedure 4–8 regarding the transfer of User Accounts where a Member with authorized Users is in Default.	Incorporation of Procedure 4–8 to Rule 412.
Rules 413(a)–(d)	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rule 413(e)	Added Rule 413(e) from Procedure 4–7(b) regarding the Corporation's obligation to provide updated Guaranty Fund Statements to Members following charges against the Guaranty Fund due to Default by a Member.	Incorporation of Procedure 4–7(b) as Rule 413(e).
Rules 416(a)–(b)	Deleted the references to "Procedures" from Rule 416(a)–(b) to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 417	Changed the format of the reference to the Securities Exchange Act to combine the subparagraph with the rule.	Technical.
Rule 501	Deleted the reference to "Procedures" from Rule 501 to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 502(a)	Revised Rule 502(a) to incorporate language from Procedures 5–2(a)–(b) regarding calculation of initial margin and providing information about the Corporation's margin model and calculations to Members and Users. Also removed the reference to Procedure 5–2 to reflect the removal of Procedures and collapsing the same into the Rulebook.	Incorporation of Procedures 5–2(a)–(b) to Rule 502(a).
Rule 502(b)	Changed heading of Rule 502(b) from "Form" to "Form and Limitations on Types of Collateral" to reflect incorporation of Procedure 5–3(a) regarding limitations on types of collateral. Removed comma after "in the manner" to correct a grammatical error	Incorporation of Procedure 5–3(a) to Rule 502(b). Technical.
Rule 502(c)	Deleted the reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook. Revised Rule 502(b) to add language from Procedure 5–3(a) regarding the limitations on the types of collateral acceptable as satisfying initial margin requirements.	Clarification. Incorporation of Procedure 5–3(a) to Rule 502(b).
Rule 502(f) and (f)(i)–(iii)	Added "(s)" to the end of "Corporation's Bank" to clarify that the Corporation might have multiple Banks. Also deleted reference to "Procedure 5–4" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rules 502(g) and (g)(i)–(iii)	Added language to Rule 502(c) from Procedure 5–4(c)(ii) regarding the receipt of substitution funds and transfer of excess initial margin.	Incorporation of Procedure 5–4(c)(ii) to Rule 502(c).
Rules 502(f) and (f)(i)–(iii)	Added Rule 502(f) and subparagraphs (f)(i)–(iii) from Procedure 5–3(d) and subparagraphs (d)(i)–(iii) regarding accepting U.S. Treasury securities in satisfaction of initial margin requirements, as well as limitations, valuation, and maturity of the same.	Incorporation of Procedures 5–3(d) and (d)(i)–(iii) as Rule 502(f) and (f)(i)–(iii).
Rules 502(g) and (g)(i)–(iii)	Added Rules 502(g) and subparagraphs (g)(i)–(iii) from Procedures 5–4(b) and subparagraphs (b)(i) and (iv) regarding requirements for Members and Users posting margin into the Corporation's system.	Incorporation of Procedures 5–4(b) and (b)(i), (iv) as Rules 502(g) and (g)(i)–(iii).
Rules 503(a)(ii), (b)(i)	Deleted the references to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 505(a)(ii)	Replaced the reference to "Procedures" with "these Rules" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 506(a)	Replaced reference to "Procedure 5–1" with "Rule 508," and deleted the reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 507(a)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 507(d)	Added "the" before "market value"	Technical.
Rules 508(a) and (a)(i) and (iii)	Added "and paying out" after "The Corporation may forego collecting" and before "de minimis amounts of Outstanding Exposure Settlement, as a clarification, to reflect that the Corporation may forego de minimis amounts of Outstanding Exposure Settlement in both collecting and paying out circumstances.	Clarification.
Rule 508(a)(ii)	Corrected "if" to "of" in the second sentence	Technical.
Rule 508(a)(iv)	Deleted the reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 508(a)(v)	Added the words "at least" before the list of applicable accounts to clarify that the list is not exhaustive.	Clarification.
Rule 508(a)	Deleted the reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rules 508(c) and (c)(i)–(ii)	Added Rules 508(a)(i) and (a)(iii) from Procedures 5–1(a)(i)–(ii) regarding the contents of the Daily Margin Report.	Incorporation of Procedures 5–1(a)(i)–(ii) as Rules 508(a)(i), (iii).
Rule 508(a)(ii)	Added the word "and" before "any surplus" and "removed the word "and" at the end of (a)(ii) as technical grammar corrections.	Technical.
Rule 508(a)(iv)	Deleted the words "The Daily Margin Report will also provide" to clarify that the next subparagraph is part of a continuing list of items the Daily Margin Report contains.	Clarification.
Rule 508(a)(v)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 508(a)	Added language to the end of Rule 508(a) from Procedure 5–1(b) regarding making the Daily Margin Report available to Members and Users via various means following each clearing cycle on each Business Day at a time determined by the Corporation.	Incorporation of Procedure 5–1(b) to Rule 508(a).
Rules 508(c) and (c)(i)–(ii)	Added Rules 508(c) and subparagraphs (c)(i)–(ii) from Procedures 5–1(c) and (c)(i)–(ii) regarding end-of-day clearing cycles and intraday clearing cycles.	Incorporation of Procedures 5–1(c) and (c)(i)–(ii) as Rules 508(c) and (c)(i)–(ii).
Rules 509(a)–(c)	Revised Rules 509(a)–(c) to reflect Procedure 5–1(d) regarding requiring additional initial margin posting at the sole Corporation's discretion, the time frame for Members and Users to meet the additional margin requirement and the Corporation's sole discretion to run additional clearing cycles to facilitate the exchange of Outstanding Exposure Settlement.	Incorporation of Procedure 5–1(d) to Rules 509(a)–(c).
Rule 510(a)	Revised Rule 510(a) to reflect Procedures 5–4(c) and (c)(i) regarding withdrawals of excess collateral and the process for effecting the same.	Incorporation of Procedures 5–4(c) and (c)(i) to Rule 510(a).
Rule 510(b)	Add "of" before "initial margin" in the first sentence as a grammatical change	Technical.
Rule 510(b)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.

Rule	Proposed change	Change type
Rule 510(b)(ii)	Revised Rule 510(b)(ii) to confirm CMESC's intention that it may only reject a request pursuant to Rule 510(a) to withdraw excess collateral by a Member on behalf of a Supported User or by an Independent User for reasons related to risk considerations with respect to such User, as reasonably determined by CMESC in its sole judgment. Specifically, CMESC proposes to make this clarification by adding, at the end of the first sentence, "that the Corporation may only reject a request pursuant to Rule 510(a) to withdraw excess collateral by a Member on behalf of a Supported User or by an Independent User for reasons related to risk considerations with respect to such User, as reasonably determined by the Corporation in its sole judgement". Further revised Rule 510(b)(ii) to confirm CMESC's intention that it will hold unreturned excess margin subject to the requirements generally for holding margin, including, as applicable, requirements under Rule 513 applicable to margin deposited for Supported Users. Specifically, CMESC proposes to clarify how it will hold unreturned excess margin by adding that in the event the Corporation rejects a withdrawal request, the Corporation will "hold the margin post-ed subject to and in accordance with the Rules including Rule 513 as may be applicable".	Clarification.
Rule 511(b)	Changed reference to "Board of Directors" to be "Board," to reflect that "Board" is a defined term. Also added "sole" before "discretion" and "elect to" before "consult" as clarification edits.	Clarification.
Rule 513(a)	Replaced reference to "Procedures" with "these Rules" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 513(c)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 514	Added Rule 514 from Procedure 5-4(a) regarding the Corporation's system to enter and receive information regarding initial margin and Outstanding Exposure Settlement.	Incorporation of Procedure 5-4(a) as Rule 514.
Rule 601	Changed "maintain" to "have" as clarification edits	Clarification.
Rule 602(a)	Replaced the words "the Procedures" with "these Rules" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 602(d)(i)	Change the cross-reference to Procedure 15-4(c)(iii) to Rule 1502(b)(iii) to reflect collapsing the Procedures into the Rulebook.	Clarification.
Rules 602(d)(i)-(ii)	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rule 602(d)(iii)	Added Rule 602(d)(iii) from Procedure 6-1(c) regarding the Corporation's right to adopt a schedule of fines to be imposed summarily on Members or Users who have a pattern of making initial submissions of transaction data that are rejected.	Incorporation of Procedure 6-1(c) as Rule 602(d)(iii).
Rule 603	Replaced references to "Procedures" with "Rules" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 604(b)	Added "prior to or" with respect to when Members and Users must notify the Corporation of the Securities Settlement Bank(s) or Bank(s) that will act on their behalf with respect to handling settlement of Eligible Securities Transactions.	Clarification.
Rule 605	Added "unless and" before "until" in the last sentence as clarification edits	Clarification.
Rule 701(b)(ii)	Changed the format of the cross-reference to 17 CFR 210.2-02 to combine the subparagraphs with the regulation section.	Technical.
Rule 705	Revised the language of Rule 705 to clarify that the Board "may" prescribe Procedures in the future pursuant to this Rule 705 and will post any Procedures so adopted on the Corporation's website.	Clarification.
Rule 706(b)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 707(a)	Deleted the references to the "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 708(b)(iv)	Changed the incorrect paragraph numbering (b)(iv)(E) and (b)(iv)(F) to (b)(iv)(B) and (b)(iv)(C) ...	Technical.
Rule 708(b)(vi)	Changed "him" to "them" with respect to reference to a Member	Clarification.
Rule 709(b)	Added language to Rule 709(b) from Procedure 7-3(a) to reflect that the Corporation will release Clearing Data related to a particular User to a Member that authorizes that User upon written request.	Incorporation of Procedure 7-3(a) as Rule 709(b).
Rule 709(d)	Added language to Rule 709(d) from Procedure 7-3(b) to reflect that the Corporation will post to its website basic data related to the volume and values of Eligible Securities Transactions cleared through the Corporation.	Incorporation of Procedure 7-3(b) as Rule 709(d).
Rule 709(e)	Added "to" between "construed" and "limit" to correct grammatical error	Technical.
Rule 710(b)	Added a comma after "positions of Members and Users" in the last sentence to improve clarity and enhance readability.	Technical.
Rule 710(e)	Added a comma after "CMESC Emergency Financial Committee" in the second sentence, to improve clarity and enhance readability.	Technical.
Rule 710(f)	Deleted the reference to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 710(g)	Changed reference to "Board of Directors" to be "Board," to reflect that "Board" is a defined term.	Clarification.
Rule 711	Changed reference to "Board of Directors" to be "Board," to reflect that "Board" is a defined term.	Clarification.
Rule 713	Revised heading of Rule 713 to capitalize "Regarding." Deleted the reference to "Procedures" in the heading and body of Rule 713 to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Technical and Clarification.
Rule 714(a)	Removed quotation marks around "Corporation Default" to reflect that it is a previously defined term in Chapter 1.	Clarification.
Rules 714(a)(i), (b), (c), (c)(i), (d)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 714(d)(iii)	Deleted the references to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 714(d)(vii)	Added "acting" at the beginning of the parentheses before "for itself," referring to a Member to improve clarity and readability.	Clarification.
Rule 717	Clarified that the close-out process referred to in Rule 714(d)(vii) is also laid out in Rule 405, in addition to Rules 714, 1501, and 1507. Also deleted the references to "Procedures" to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 717	Added Rule 717 from Procedure 7-4 regarding "Forms, Media and Technical Specifications" with respect to the forms and format Members and Users must use to submit instructions and data to the Corporation.	Incorporation of Procedure 7-4 as Rule 717.

Rule	Proposed change	Change type
Rule 801(a)	Deleted the word “such” before “fees and charges” to improve clarity and readability. Also changed “the Rules” to “these Rules” to clarify the Rule is discussing this Rulebook. Also deleted the reference to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 801(d)	Added Rule 801(d) from Procedure 8–1 regarding the Schedule of Fees setting out the fees and charges arising from the provision of the Corporation's services.	Incorporation of Procedure 8–1 as Rule 801(d).
Rule 901(a)	Added language to Rule 901(a) from Procedure 9–1(a) reflecting that a Member's or User's notification of its failure to perform material contracts or obligations, its determination of inability to perform material contracts or obligations, or its insolvency can be in the form of e-mail or another system designated by the Corporation, and the timing of such required notice by the Member or User.	Incorporation of Procedure 9–1(a) as Rule 901(a).
Rule 901(b)(i)	Replaced “to do so” with “to perform its material contracts or obligations” to improve clarity Changed the format of the cross-reference to combine the subparagraph with the Rule Added language to Rule 901(b)(i) from Procedure 9–3 reflecting that the Corporation has sole discretion to determine the timeframe within which a Member or User that has provided an insolvency notice to the Corporation pursuant to Rule 901(a) must post a bond, indemnity, or guaranty from a third party satisfactory to the Corporation to avoid being treated as insolvent by the Corporation.	Clarification. Technical. Incorporation of Procedure 9–3 as Rule 901(b)(i).
Rule 901(b)(v)	Revised the lead-in language to conform with other items in Rule 901(b)(i)–(vi)	Clarification.
Rule 901(b)(vi)	Add the word “the” before “Member or User” as a technical grammatical change	Technical.
Rule 901(c)	Removed comma after “act for the Member or User” as a technical, grammatical change. Also changed the format of the cross-reference to combine the subparagraph with the Rule.	Technical.
Rule 902(a)	Capitalized “Default” to reflect that it is a defined term	Clarification.
Rule 902(a)(i)	Capitalized “Default” to reflect that it is a defined term Deleted the reference to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook..	Clarification. Clarification.
Rule 902(a)(ii)	Changed the format of the cross-reference to combine the subparagraph with the Rule Deleted the reference to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Technical. Clarification.
Rule 902(b)	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rule 902(c)	Added language to Rule 902(c) from Procedure 9–4(d) regarding the Head of the Corporation's latitude to consider all information available in determining whether to prohibit or limit the access of a Member or User to services offered by the Corporation.	Incorporation of Procedure 9–4(d) to Rule 902(c).
Rule 903(a)	Capitalized “Default” to reflect that it is a defined term	Clarification.
Rule 903(a)	Revised Rule 903(a) to become Rule 903(a)(i), and added a heading for 903(a), titled “Voluntary Withdrawal of Member or User Status,” to reflect that Rules 903(a)(i) and (a)(ii) cover Voluntary Withdrawal of Member Status and Voluntary Withdrawal of User Status, respectively.	Clarification.
Rule 903(a)(i)	Revised Rule 903(a)(i) to reflect Procedure 3–8(a) regarding the process related to a Member's voluntary withdrawal of its Member status, including the requirement of providing an at least ten-Business-Day Member Withdrawal Notice to the Corporation and the withdrawal not being effective until the Corporation's confirmation via an Advisory announcing the withdrawal of the Member and the effective date of the withdrawal.	Incorporation of Procedure 3–8(a) to Rule 903(a)(i).
Rule 903(a)(ii)	Added Rule 903(a)(ii) from Procedure 3–8(b) regarding the process related to a User's voluntary withdrawal of its User status, including providing an at least ten-Business-Day User Withdrawal Notice to the Corporation and the withdrawal not being effective until Corporation's confirmation via an Advisory announcing the withdrawal of the User and the effective date of the withdrawal.	Incorporation of Procedure 3–8(b) to Rule 902(a)(ii).
Rule 903(c)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 904	Added language to Rule 904 from Procedures 9–4(b)(i)–(ii) regarding the effect of the Corporation ceasing to act for a Member or User, specifically relating to completing or closing transactions and open positions, and returning contributions to the Guaranty Fund of the Member pursuant to Rule 415 and margin owed to the Member or User.	Incorporation of Procedures 9–4(b)(i)–(ii) to Rule 904.
Rule 906	Added language to Rule 906 from Procedure 9–4(c) regarding a terminated Member's or User's continuing responsibility to discharge any obligations it incurred prior to the Corporation's ceasing to act on the Member's or User's behalf.	Incorporation of Procedure 9–4(c) to Rule 906.
Rule 907(a)	Changed the cross-reference to Rule 902 to refer to both “Rules 901 and 902” to reflect that cessation-to-act by the Corporation under either rule can result in the Corporation prohibiting or limiting a Member's or User's access to Clearing Services. Also changed “object” to “objective” for clarity. Added language to Rule 907(a) from Procedures 9–4(a)(i)–(iii) regarding the ways the Corporation may prohibit or limit a Member's or User's access to Clearing Services, including limiting or suspending a Member or User from submitting additional transactions for clearing and, if a Member is suspended from submitting additional transactions for clearing, requiring such Member to transfer its authorization of any User, along with such User Account, to another Member.	Clarification.
Rule 907(b)	Added language to Rule 907(a) from Procedure 9–2 regarding the Corporation's discretion to subject a Member or User to fines, additional requirements, or restrictions upon failure of the Member or User to perform certain required obligations for Member status or User status.	Incorporation of Procedure 9–2 to Rule 907(a).
Rule 907(c)	Added language to Rule 907(a) clarifying that, in addition to fines, requirements, and other restrictions as a result of a Member's or User's failure to perform obligations, the Corporation may also terminate the Member's or User's status as a Member or User with the Corporation.	Clarification.
Rule 907(b)	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rule 907(c)	Added Rule 907(c) from Procedures 9–1(c)–(e) regarding the Corporation's discretion to impose a Noncompliance Time Period in lieu of ceasing to act for the Member or User, during which the Member or User subject to the Noncompliance Time Period must use every effort to come back into compliance with the applicable requirements for Member or User status, while the Corporation preserves its authority to cease to act at the end of the Noncompliance Time Period, or, if the Corporation determines, in its sole discretion, that a Member's financial or operational condition or User's operational condition has significantly deteriorated during the Noncompliance Time Period, the Corporation may cease to act for the Member or User pursuant to Rules 901 and 902.	Incorporation of Procedures 9–1(c)–(e) as Rule 907(c).
Rule 1001(b)	Deleted the reference to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.

Rule	Proposed change	Change type
Rules 1003(a)–(b)	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rule 1004(b)	Changed references to “Board of Directors” to be “Board,” to reflect that “Board” is a defined term.	Clarification.
Rule 1004(c)	Changed “three (3) days” to “three (3) Business Days,” with respect to the minimum advance notice given to the Respondent or Interested Person of the place and time of a hearing.	Clarification.
Rule 1005(b)(i)	Removed the comma after “engaged” to improve readability	Technical.
Rule 1005(b)(ii)	Deleted the reference to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 1005(c)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 1008	Clarified that the reference to “this Chapter” refers to “Chapter 10”	Clarification.
Rules 1011(b)(ii)–(iv)	Corrected paragraph numbering by changing the paragraph number of existing Rule 1011(b)(iv), (v) and (vi) to Rule 1011(b)(ii), (iii) and (iv).	Correction.
Rule 1011(b)(iv)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 1011(d)	Added a comma after “filing with the Corporation” in the first sentence to improve clarity and readability.	Technical.
Rules 1012(b)–(d)	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rule 1012(b)	Deleted the reference to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 1012(e)	Removed the comma after “Securities Exchange Act” in the first sentence to improve readability	Technical.
Rule 1013(b)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 1101	Changed reference to “Board of Directors” to be “Board,” to reflect that “Board” is a defined term.	Clarification.
Rules 1101(d)–(e)	Removed the subparagraph number to make (e) a separate paragraph under Rule 1101	Clarification.
Rules 1102(b), (d)	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rule 1301	Replaced the reference to “Procedures” with “these Rules” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rules 1303–1304	Deleted the references to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rules 1305(a)(i), (b)	Deleted the references to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 1307(b)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 1501(b)	Deleted the reference to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 1501(c)	Revised and added language to Rule 1501(c) to reflect Procedure 15–1(a) to identify that only Repo Transactions and Cash Transactions involving Eligible Securities that are U.S. Treasury securities may be cleared through the Corporation’s Interest Rate Securities Clearing Service, and providing that the Corporation may make information regarding the terms of Repo Transactions and a list of U.S. Treasury securities that are Eligible Securities for purposes of Cash Treasury Transactions available to Members and Users via an Advisory.	Incorporation of Procedure 15–1(a) to Rule 1501(c).
	Deleted the reference to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 1501(d)	Deleted the reference to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 1501(e)	Added Rule 1501(e) from Procedure 15–1(b) regarding the requirement that original parties to a Clear to Hold Transaction may only deliver collateral to settle Repo Transactions that meets the requirements of a General Collateral Bucket.	Incorporation of Procedure 15–1(b) as Rule 1501(e).
Rule 1501(f)	Added Rule 1501(f) from Procedure 15–1(c) regarding the Corporation providing a description to Members and Users of the General Collateral Bucket and Eligible Securities that the Corporation will accept as collateral.	Incorporation of Procedure 15–1(c) as Rule 1501(f).
Rule 1501(g)(iii)	Deleted the reference to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 1501(h)	Capitalized “Repo Transactions” to reflect that it is a defined term	Clarification.
Rules 1501(g)–(h)	Changed letter numbering of Rules 1501(e) and (f) to Rules 1501(g) and 1501(h), respectively, to reflect the addition of new Rules 1501(e) and (f).	Correction.
Rule 1502	Changed the heading of Rule 1502 from “Members and Users” to “Submission of Eligible Securities Transactions for Clearing; Functions of the Clearing System,” to reflect addition of Rules from Procedures relating to processes for submitting Clear to Deliver Transactions, Cash Treasury Transactions, Clear to Hold Transactions, and Repo Transactions, as well as the functions of the securities clearing system.	Incorporation of Procedures 15–3 and 15–4 to Rule 1502.
Rules 1502(a) and (a)(i)	Moved existing Rule 1502 to Rule 1502(a)(i) and added heading to Rule 1502(a) titled “Submission Process.” Also removed reference to “Procedures” from Rule 1502(a)(i) to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 1502(a)(i)	Added language to the end of Rule 1502(a)(i) from Procedure 15–3(a) regarding Members and Users’ submission of Cash Treasury Transactions and Repo Transactions for clearing to the Securities Clearing System, and access to the same.	Incorporation of Procedure 15–3(a) to Rule 1502(a)(i).
Rules 1502(a)(i)(A)–(B) and (a)(ii)–(iii).	Added Rules 1502(a)(i)(A)–(B) and (a)(ii)–(iii) from Procedures 15–3(a)(i)–(ii) and (b)–(c) regarding the specific submission processes for Clear to Deliver Transactions, Cash Treasury Transactions, and Repo Transactions.	Incorporation of Procedures 15–3(a)(i)–(ii) and (b)–(c) as Rules 1502(a)(i)(A)–(B) and (a)(ii)–(iii).
Rules 1502(b) and (b)(i)–(iv)	Added Rules 1502(b) and (b)(i)–(iv) from Procedures 15–4(a)–(d) regarding the functions of the Corporation’s Securities Clearing System.	Incorporation of Procedures 15–4(a)–(d) as Rules 1502(b) and (b)(i)–(iv).
Rule 1503(a)	Revised Rule 1502(a) to replace cross-references to Procedures 15–1 and 15–3 with Rules 1501 and 1502 to reflect removal of the Procedures and collapsing the same into the Rulebook. Also removed the reference to “Procedures” for the same reason.	Clarification.
	Added language to Rule 1503(a) from Procedure 15–5(a) to reflect that novation may occur “[u]pon completion of the confirmations set forth in Rule 1502(b)”.	Incorporation of Procedure 15–5(a) to Rule 1503(a).
Rule 1503(c)	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rules 1503(d) and (d)(i)–(vi)	Added new heading, “Settlement Modification,” to Rule 1503(d) to reflect addition of Rules 1503(d)(i)–(vi) from Procedures 15–8(a)–(f) regarding processes related to settlement modification of different transactions, notification to the Corporation of the same, and cancellation of the original transaction upon such modification.	Incorporation of Procedures 15–8(a)–(f) as Rules 1503(d) and (d)(i)–(vi).

Rule	Proposed change	Change type
Rules 1503(e) and (e)(i)–(iv)	Added Rules 1503(e) and (e)(i)–(iv) from Procedures 15–5(b) and (b)(i)–(iv) regarding the Clearing Confirmation provided to Members and Users that were parties to original Repo Transactions or Cash Treasury Transactions.	Incorporation of Procedures 15–5(b) and (b)(i)–(iv) as Rules 1503(e) and (e)(i)–(iv).
Rule 1504(a)	Added “and” before item (B) as a technical edit	Technical.
Rule 1504(d)	Added language to Rule 1504(d) to clarify that the procedures for settlement and netting are detailed in paragraphs (f) and (g) of Rule 1504. Also capitalized “Transactions” in “Clear to Hold Transactions” to reflect that it is part of the defined term.	Clarification.
Rule 1504(e)	Revised language to clarify that the Rule applies to “any” Repo Transactions “and/or” Cash Treasury Transactions. Also removed the “s” from “Daily Settlement Report.” Also added “and” before “or General Collateral Bucket(s)”.	Clarification.
Rules 1504(f) and (f)(i)–(ix)	Added Rules 1504(f) and (f)(i)–(ix) from Procedures 15–6(a)–(i) regarding the Corporation’s settlement procedure and obligations of Members and Users pursuant to the same.	Incorporation of Procedures 15–6(a)–(i) as Rules 1504(f) and (f)(i)–(ix).
Rules 1504(g) and (g)(i)–(v)	Added Rules 1504(g) and (g)(i)–(v) from Procedures 1507(a)–(e) regarding the Corporation’s netting procedures.	Incorporation of Rules Procedures 15–7(a)–(e) as Rules 1504(g) and (g)(i)–(v).
Rule 1505(a)	Revised Rule 1505(a) to be a “General” provision related to the Corporation’s collection of net deficit and payment of net gain, which language was taken from Procedure 15–9(a).	Incorporation of Procedure 15–9(a) to Rule 1505(a).
Rule 1505(b)	Added a lead-in provision, Rule 1505(b), which applies to 1505(b)(i)–(vii) regarding components of Outstanding Exposure Settlement for Clear to Deliver Transactions.	Clarification.
Rule 1505(b)(i)	Added language to Rule 1505(b)(i) from Procedures 15–9(b)(i)(A)–(C) regarding the calculation of settlement variation payment amount for Clear to Deliver Transactions. Also changed “Repo” Transaction to “Clear to Deliver” Transaction to reflect the terminology used in Procedures 15–9(b)(i)(A)–(C).	Incorporation of Procedures 15–9(b)(i)(A)–(C) to Rule 1505(b)(i).
Rule 1505(b)(ii)	Revised the language regarding the “difference between the settlement prices for the current and preceding clearly cycles” and added “multiplied by the par amount of the securities” for clarity.	Clarification.
Rule 1505(b)(iii)	Revised Rule 1505(b)(iii) to reflect Procedures 15–9(b)(iii) and (b)(iii)(A) regarding the Repo Rate Accrual and calculation of the same.	Incorporation of Procedures 15–9(b)(iii) and (b)(iii)(A) to Rule 1505(b)(ii).
Rule 1505(b)(iv)	Revised Rule 1505(b)(iv) to reflect Procedures 15–9(b)(v) and (b)(v)(A)–(B) regarding collateral coupon payments for Clear to Deliver Transactions.	Incorporation of Procedures 15–9(b)(v) and (v)(A)–(B) to Rule 1505(b)(iii).
Rule 1505(b)(iv)	Revised Rule 1505(b)(iv) to remove the reference to Procedure 15–9(b)(iv) and to make it a lead-in paragraph to new Rules 1505(b)(iv)(A)–(C).	Clarification.
Rules 1505(b)(iv)(A)–(C)	Added proposed Rules 1505(b)(iv)(A)–(C) from Procedures 15–9(b)(iv)(A)–(C) regarding determining the Price Alignment Amount component of Clear to Deliver Transactions.	Incorporation of Procedures 15–9(b)(iv)(A)–(C) as Rules 1505(b)(iv)(A)–(C).
Rule 1505(b)(v)	Relocated existing Rule 1505(b)(v) regarding “Additional Information Included in Daily Margin Report” to become new Rule 1505(e) with minor adjustments described below, which will apply to all of Clear to Deliver Transactions, Cash Treasury Transactions, and Clear to Hold Transactions.	Clarification.
Rule 1505(b)(vi)	Incorporated Procedure 15–9(b)(vi) regarding maturity adjustments for Clear to Deliver Transactions as new Rule 1505(b)(v).	Incorporation of Procedure 15–9(b)(vi) as new Rule 1505(b)(v).
Rule 1505(b)(vi)	Added Rule 1505(b)(vi) from Procedure 15–9(b)(viii) regarding a potential transfer cash component to Outstanding Exposure Settlement for Clear to Deliver Transactions.	Incorporation of Procedure 15–9(b)(viii) as Rule 1505(b)(vi).
Rules 1505(b)(vii) and (b)(vii)(A)–(B).	Added Rules 1505(vii) and (vii)(A)–(B) from Procedures 15–9(b)(vii) and (vii)(A)–(B) regarding the possible collection or return of Haircut Collateral relating to Outstanding Exposure Settlement for Clear to Deliver Transactions.	Incorporation of Procedures 15–9(b)(vii) and (vii)(A)–(B) as Rules 1505(vii) and (vii)(A)–(B).
Rule 1505(c)	Added clarifying lead-in language to Rule 1505(c) to reflect that Rules 1505(c)(i)–(v) are components of Outstanding Exposure Settlement for Cash Treasury Transactions.	Clarification.
Rule 1505(c)(i)	Added language to Rule 1505(c)(i) from Procedures 15–9(b)(ii)(A)–(B) regarding the calculation settlement variation payment amount for Cash Treasury Transactions.	Incorporation of Procedure 15–9(b)(ii)(A)–(B) to Rule 1505(c)(i).
Rule 1505(c)(ii)	Revised Rule 1505(c)(ii) to reflect Procedures 15–9(b)(v) and (b)(v)(B) regarding collateral coupon payments for Cash Treasury Transactions.	Incorporation of Procedures 15–9(b)(v) and (b)(v)(B) to Rule 1505(c)(ii).
Rule 1505(c)(iii)	Uncapitalized “coupon payment date” to reflect that it is not a defined term	Clarification.
Rule 1505(c)(iii)	Revised Rule 1505(c)(iii) to remove the reference to Procedure 15–9(b)(iv) to reflect the removal of the Procedures and collapsing the same into the Rulebook. Also revised Rule 1505(c)(iii) to reflect that the Price Alignment Amount component for a Cash Treasury Transaction is calculated in the same manner as explained in Rules 1505(b)(iv) with respect to Clear to Deliver Transactions.	Clarification.
Rule 1505(c)(iv)	Added Rule 1505(c)(iv) from Procedure 15–9(b)(vi) regarding maturity adjustments for Cash Treasury Transactions.	Incorporation of Procedure 15–9(b)(vi) as Rule 1505(c)(iv).
Rule 1505(c)(v)	Added Rule 1505(c)(v) from Procedure 15–9(b)(viii) regarding a potential transfer cash component to Outstanding Exposure Settlement for Cash Treasury Transactions.	Incorporation of Procedure 15–9(b)(viii) as new Rule 1505(c)(v).
Rule 1505(d)	Added Rule 1505(d) from Procedure 15–9(c)—misabeled in the Procedures as Procedure 15–9(b)—regarding Outstanding Exposure Settlement for Clear to Hold Transactions with two adjustments: (i) clarified that the “components” included in the Outstanding Exposure Settlement for Clear to Hold Transactions includes “settlement variation,”; and (ii) changed the cross-references of Procedure 15–9(b)(i)–(iii) to Rule 1509(d)(i)–(iii).	Incorporation of Procedure 15–9(c)—misabeled in Procedures as 15–9(b)—as new Rule 1505(d).
Rule 1505(d)(i)	Added Rule 1505(d)(i) from Procedure 15–9(c)(i)—misabeled in the Procedures as 15–9(b)(i)—regarding Haircut Collateral for Clear to Hold Transactions.	Incorporation of Procedure 15–9(c)(i)—misabeled in Procedures as 15–9(b)(i)—as Rule 1505(d)(i).
Rule 1505(d)(ii)	Added Rule 1505(d)(ii) from Procedure 15–9(c)(ii)—misabeled in the Procedures as 15–9(b)(ii)—regarding the daily repo rate accrual for Clear to Hold Transactions.	Incorporation of Procedure 15–9(c)(ii)—misabeled in Procedures as 15–9(b)(ii)—as Rule 1505(d)(ii).

Rule	Proposed change	Change type
Rule 1505(d)(iii)	Added Rule 1505(d)(iii) from Procedure 15–9(c)(iii)—misabeled in the Procedures as 15–9(b)(iii)—regarding Haircut Collateral for Clear to Hold Transactions.	Incorporation of Procedure 15–9(c)(iii)—misabeled in Procedures as 15–9(b)(iii)—as Rule 1505(d)(iii).
Rule 1505(e)	Relocated existing Rule 1505(b)(iv) to become new Rule 1505(e) regarding Additional Information Included in Daily Margin Report to reflect that this provision applies to all types of transactions and components thereto; also made changes to clarify that the Daily Margin Report will include, among others, any settlement variation, repo rate accrual and maturity adjustments for collateral that expires before securities settlement.	Clarification.
Rules 1505(f) and (f)(i)–(ii)	Add Rule 1505(f) and (f)(i)–(ii) from Procedure 15–9(d)—misabeled in the Procedures as 15–9(c)—regarding the intraday clearing cycle for Clear to Deliver Transactions, Cash Treasury Transactions, and Clear to Hold Transactions.	Incorporation of Procedure 15–9(d)—misabeled in Procedures as 15–9(c)—as Rule 1505(f).
Rule 1506(b)	Capitalized “Repo Transaction” to reflect that it is a defined term	Clarification.
Rule 1506(b)(i)	Uncapitalized “For” to conform with other items in Rule 1506(b)(i)–(iii)	Technical.
Rules 1506(c) and (c)(i)	Added “will” before the colon and removed “will” at the beginning of Rule 1506(c)(i)	Technical.
Rule 1506(h)	Moved lead-in language of Rule 1506(h) to new subparagraph (h)(i)	Clarification.
Rule 1506(h)(i)	Added new Rule 1506(h)(i) from Procedure 15–10(a) regarding buy-in procedure where a Member or User has failed to satisfy its obligations to deliver Eligible Securities to the Corporation.	Incorporation of Procedure 15–10(a) as Rule 1506(h)(i).
Rule 1506(h)(ii)	Removed reference to Procedure 15–10 to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rule 1506(h)(iii)	Added new Rule 1506(h)(ii) using language from existing Rule 1506(h) and adding language to new Rule 1506(h)(ii) from Procedures 15–10(b)–(d) regarding the Notice of Intention to Buy-In.	Incorporation of Procedures 15–10(b)–(d) as Rule 1506(h)(ii).
Rule 1506(h)(iv)	Added Rule 1506(h)(iii) using language from existing Rule 1506(h) and revised language in the same to reflect the language in Procedure 15–10(e) regarding procedure for settling a buy-in and calculation of the settlement.	Incorporation of Procedure 15–10(e) as Rule 1506(h)(iii).
Rule 1507(a)	Relocated existing Rule 1506(h) to becoming new Rule 1506(h)(iv) with additional language reflecting that Rule 1506(h)(iv) provides an alternative to the settlement procedure in Rule 1506(h)(iii).	Clarification.
Rule 1507(b)	Removed the reference to “and Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook.	Clarification.
Rules 1507(b)–(d), (e)(iii), (f)	Changed the format of the cross-references to combine the subparagraphs with the Rules	Technical.
Rule 1507(e)(iii)	Deleted the reference to “Procedures” to reflect the removal of the Procedures and collapsing the same into the Rulebook. Also corrected the cross-references in Rule 1507(e)(iii) to refer to Rules 1506(c) and 1506(h)(iii) regarding the processes for close-outs and buy-ins.	Clarification.
Rule 1507(f)	Removed the reference to “Procedure 15–11” to reflect the removal of the Procedures and collapsing the same into the Rulebook. Also capitalized “Repo Transactions” to reflect that it is a defined term. Also removed language regarding notification to Members or Users subject to acceleration of the details of the accelerated positions, because the same is reflected in new Rule 1507(g).	Clarification.
Rule 1507(g)	Added Rule 1507(g) from Procedure 15–11(b) regarding notification to non-Defaulting Members or Non-Defaulting Users of the Corporation’s acceleration rights and the terms of accelerated transactions, and also added language from existing Rule 1507(f) regarding compensation to Members or Users equal to the reasonable costs of entering into a replacement Repo Transaction.	Incorporation of Procedure 15–11(b) as Rule 1507(g).
Rule 1508(a)	Changed reference to Rule 405(c) to 405(d) to reflect the correct cross-reference, and removed the reference to Procedure 4–4.	Correction and Clarification.
Rule 1508(e)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rule 1508(g)(i)	Changed reference to Rule 405(c) to 405(d) to reflect the correct cross-reference, and removed the reference to Procedure 4–4.	Correction and Clarification.
Rule 1508(g)(ii)	Changed the format of the cross-reference to combine the subparagraph with the Rule	Technical.
Rules 1508(g)(i)–(ii)	Changed “borrow of”—with respect to paired sales—to “reverse repo transaction involving” to improve clarity.	Clarification.
Rule 1508(g)(iii)	Capitalized references to “Repo Transaction” to reflect that it is a defined term	Clarification.
Rule 1509(a)	Changed “borrow of”—with respect to paired purchases—to “repo transaction for” to improve clarity.	Clarification.
Rule 1509(b)	Changed the format of the cross-reference to combine the subparagraphs with the Rule	Technical.
Rules 1509(a)–(b)	Added language to Rule 1509(a) to reflect that the terms of offsetting repo transactions will be determined based on current market values. Also added “(2)” after “two” for clarity.	Clarification.
Rules 1509(a)–(b)	Capitalized references to “Repo Transaction” to reflect that it is a defined term	Clarification.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, in general, to protect investors and the public interest.⁶ CMESC believes that the proposed changes are consistent with these provisions of Section 17A(b)(3)(F) because they would provide greater clarity, consistency, and understanding of CMESC’s clearance and settlement practices and further the

goals of Section 17A(b)(3)(F). The primary purpose of the proposed rule change is to consolidate and relocate CMESC’s current Procedures into the Rules. Currently, CMESC’s specific procedures related to clearance and settlement are, in many cases, described in Procedures separate from the Rules. CMESC believes that consolidating these provisions into the Rules—which will allow Members and Users and the public to review a single document relating to CMESC’s clearing services rather than separate Procedures and Rules—will improve the readability of CMESC’s policies and procedures for

clearance and settlement and facilitate greater understanding of the same. CMESC believes that greater understanding of CMESC’s Rules in turn helps promote the prompt and accurate clearance and settlement of securities transactions. CMESC also believes that greater understanding of its Rules promotes the protection of investors and the public interest by similarly reducing uncertainty with respect to clearance and settlement of securities transactions.

In addition to consolidating its Procedures and Rules, CMESC also proposes changes to the current text of

⁶ 15 U.S.C. 78q–1(b)(3)(F).

certain Rules to eliminate redundancy and promote clarity for Members and Users. Greater clarity regarding Participants' rights and obligations as set forth in the Rules makes it more likely that they will act in accordance with the Rules, which CMESC believes would promote the prompt and accurate clearance and settlement of securities transactions. CMESC therefore believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.⁷

CMESC also believes that the proposed rule change is consistent with Rule 17ad-22(e)(1) under the Act, which requires that a covered clearing agency's policies and procedures provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.⁸ Specifically, CMESC believes that by improving the readability of its Rules through the consolidation of the Procedures into the Rules, and by providing additional clarity with technical changes and corrections, CMESC's Rules will be more clear and transparent, which in turn supports their enforceability.

(B) CMESC's Statement on Burden on Competition

CMESC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to improve the Rules' accuracy and clarity for Members and Users, and to be consistent with the Act. These proposed changes would not affect CMESC's operations that are already provided in the existing Rules and Procedures or create additional rights and obligations of Members and Users. As such, CMESC does not believe the proposed rule change would have any impact on burden on competition that does not already exist under the existing Rules and Procedures or is not necessary or appropriate in furtherance of the purposes of the Act.

(C) CMESC's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CMESC currently does not have any Members or Users and has not received nor solicited any written comments from others related to this proposal. CMESC has not received any unsolicited written comments from any interested parties. 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 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 <https://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 222-551-5777. CMESC reserves the right to not respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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; and
- (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 Act⁹ and Rule 19b-4(f)(6)¹⁰ thereunder.

A proposed rule change filed under rule 19b-4(f)(6)¹¹ normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹² the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Clearing Agency has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Clearing Agency states that this waiver would be appropriate to allow CMESC to maintain clear and accurate Rules in one document (instead of maintaining separate Rules and Procedures in two documents) and avoid any internal confusion or errors in carrying out the important responsibilities described in

the Rules and existing Procedures. The Clearing Agency also stated that in anticipation of the launch of its clearing services, it is imperative that the proposed rule change become operative as soon as possible in order to provide market participants the needed clarity and transparency for evaluating their choices of clearing services. The Commission agrees that a waiver of the 30-day operative delay is appropriate under the particular facts and circumstances here, and that this waiver is consistent with the protection of investors and the public interest.¹³

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CMESC-2026-001 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-CMESC-2026-001. 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 (<http://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of CMESC. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ *Id.*

¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ 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).

⁷ *Id.*

⁸ 17 CFR 240.17ad-22(e)(1).

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-CMESC-2026-001 and should be submitted on or before March 5, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-02800 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104786; File No. S7-2026-04]

Notice of an Application of the Chicago Mercantile Exchange Inc. for an Exemption Pursuant to Section 36 of the Securities Exchange Act of 1934 and Request for Comment in Connection With the Opening Price Settlement Requirements of Rule 6h-1(b) Under the Securities Exchange Act of 1934 for Certain Cash-Settled Security Futures

February 10, 2026.

On July 25, 2025, the Securities and Exchange Commission (“SEC” or “Commission”) received an application¹ from the Chicago Mercantile Exchange Inc. (“CME”) to obtain an exemption pursuant to Section 36² of the Securities Exchange Act of 1934 (“Exchange Act”),³ in accordance with the procedures set forth in Exchange Act Rule 0-12.⁴ Specifically, CME is requesting exemptive relief from Rule 6h-1(b) under the Exchange Act to permit the final settlement price of certain cash-settled security futures to reflect the closing price of the underlying security.

The Commission is publishing this notice to provide interested persons with an opportunity to comment.

I. Introduction

A. Security Futures Regulatory Framework

The Commodity Futures Modernization Act of 2000⁵ (“CFMA”) authorizes the trading of futures on individual stocks and narrow-based security indexes (collectively, “security futures”)⁶ and any put, call, straddle, option, or privilege on any security future (collectively with security futures, “security futures products”).⁷ The CFMA defines security futures as securities under the Exchange Act⁸ and contracts of sale for future delivery under the Commodity Exchange Act (“CEA”).⁹ Accordingly, the regulatory framework established by the CFMA for the markets and intermediaries trading security futures products provides the Commission and the Commodity Futures Trading Commission (“CFTC”) with joint jurisdiction.

B. Exemption Request

CME plans to list and trade cash-settled security futures on certain individual securities.¹⁰ CME previously listed and traded security futures and ceased offering security futures for trading in March 2011. CME previously adopted general listing standards for security futures in Chapter 700 of its Rules. In connection with its plans to begin listing and trading security futures again, CME intends to revise its security futures listing standards to establish contract terms and conditions specific to listing and trading cash-settled single stock futures. In addition to the listing standards CME originally established for single stock security futures, CME would limit the listing and trading of cash-settled security futures to an

underlying security that (1) has an outstanding market capitalization of \$20 billion or greater, (2) has an estimated deliverable supply¹¹ of greater than 20 million shares, and (3) a minimum average daily value of transactions (“ADVT”) of \$100 million over the prior six months¹² (“Proposed Cash-Settled Products”). The new listing standards also would provide for the Proposed Cash-Settled Products to settle at expiration based on the closing prices of the underlying securities.¹³

The SEC and CFTC jointly adopted Exchange Act Rule 6h-1(b) and CFTC Regulation 41.25(c) to require that cash-settled security futures products be A.M. Settled.¹⁴ CME’s planned P.M. Settlement would not comply with Rule 6h-1(b). Therefore, CME requests that the Commission grant an exemption from Rule 6h-1(b) of the Exchange Act. Simultaneously, CME is seeking from the CFTC an exemption from the corresponding requirement under CFTC Regulation 41.25.¹⁵ Rule 6h-1(d) states that the SEC may grant a national securities exchange or national securities association an exemption from the above SEC requirements if the SEC determines that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors.¹⁶ The Commission is publishing this notice to provide interested persons with an opportunity to comment.

II. Discussion of History of P.M. Settlement and CME’s Application

A. History of P.M. Settlement

In the mid-1980s, cash-settled index options and futures utilized P.M.

¹¹ See *infra* note 68.

¹² An underlying security that has been trading for less than six months must have a minimum ADVT of \$1 billion over the prior month.

¹³ Cash-settled derivatives contracts such as security futures must determine a settlement price on expiration date that is based on the underlying product of the derivatives contract on expiration date. Cash-settled derivatives products’ final settlement prices on the expiration date can be based on different reference prices for the underlying security, including: (1) the opening price (“A.M. Settlement” or “A.M. Settled”) or (2) the closing price (“P.M. Settlement” or “P.M. Settled”) of the underlying security.

¹⁴ Rule 6h-1(b) also requires that, if an opening price for an underlying security or securities was not readily available, the final settlement price of the overlying cash-settled security futures product has to fairly reflect the price of the underlying security or securities during its most recent regular trading session or the next available opening price of the underlying security or securities.

¹⁵ Application at 1.

¹⁶ The standard for exemptive authority under Rule 6h-1(d) is the same as that in Section 36 of the Exchange Act. 15 U.S.C. 78mm.

¹⁴ 17 CFR 200.30-3(a)(12).

¹ Letter from Jonathan Marcus, Senior Managing Director and General Counsel, CME (July 25, 2025) (“Application”). The Application is an appendix to this notice and available on the Commission’s internet website (<https://www.sec.gov/rules-regulations/exchange-act-exemptive-notice-orders>). Defined terms in this notice are the same as used in the Application, unless noted otherwise.

² 15 U.S.C. 78mm. Section 36(a)(1) of the Exchange Act gives the Commission the authority to exempt any person, security or transaction or any class or classes of persons, securities or transactions, conditionally or unconditionally, from any Exchange Act provision or any rule or regulation thereunder by rule, regulation or order, to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors. 15 U.S.C. 78mm(a)(1).

³ 15 U.S.C. 78a *et seq.*

⁴ 17 CFR 240.0-12.

⁵ Public Law 106-554, Appendix E, 114 Stat. 2763.

⁶ See Section 3(a)(55) of the Exchange Act, 15 U.S.C. 78c(a)(55) (defining security future as “a contract of sale for future delivery of a single security or of a narrow-based security index, including any interest therein or based on the value thereof, except an exempted security under section 3(a)(12) of this title 5 as in effect on the date of the enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in section 3(a)(29) as in effect on the date of the enactment of the Futures Trading Act of 1982”).

⁷ See Section 3(a)(56) of the Exchange Act, 15 U.S.C. 78c(a)(56) (defining “security futures product” as “a security future or any put, call, straddle, option, or privilege on any security future”).

⁸ See Section 3(a)(10) of the Exchange Act, 15 U.S.C. 78c(a)(10).

⁹ See Section 1a(44) of the CEA, 7 U.S.C. 1a(44) (defining “security future”).

¹⁰ Application at 1.

Settlement procedures.¹⁷ The Commission and the CFTC became concerned that cash-settled index derivatives that were P.M. Settled contributed to market volatility in the underlying securities near the close on expiration days.¹⁸ These cash settlement provisions in index futures and options “facilitated the growth of sizable index arbitrage activities by firms and professional traders and made it relatively easy for arbitrageurs to buy or sell the underlying stocks at or near the market close on expiration Fridays in order to ‘unwind’ arbitrage-related positions.”¹⁹ Unwinding these positions often severely constrained the liquidity of the securities markets because unwinding sometimes involved large sell or buy orders in individual securities and there was insufficient buy or sell interest to absorb the derivatives’ expiration-related trading within the limited amount of time to establish closing prices at 4 p.m.²⁰ Specialists in the underlying securities often had to drop or raise share prices sharply at the close to establish sufficient buy-side or sell-side interest to offset order imbalances.²¹ In addition, these derivative expiration liquidity constraints created concerns that liquidity constraints could provide opportunities for market participants to “anticipate these pressures and enter orders as part of manipulative or abusive trading practices designed to artificially drive up or down share prices.”²² These concerns were heightened during the “triple-witching” hour on the third Friday of March, June, September, and December when index options, index futures, and options on index futures expired concurrently.²³ Academic research at the time suggested that futures and options expirations contributed to excess volatility and

reversals around the close on those days.²⁴

The SEC and CFTC expected that opening price settlement procedures would solve these expiration-related liquidity pressures.²⁵ For example, smaller price discounts or premiums were needed to accommodate derivatives’ expiration related trading in opening auctions because market participants in an opening auction would have the rest of the trading day to trade out of long or short positions acquired in the opening auction.²⁶ Additionally, the New York Stock Exchange was able to use its existing electronic order routing systems and electronic specialist books to process and match incoming unwinding stock orders before the opening of the regular trading session at 9:30 a.m.²⁷ Specialists could then utilize long-standing procedures to disseminate price indications in an orderly manner before index component stocks opened for trading.²⁸

In light of the concerns with P.M. Settlement and to help ameliorate the price effects associated with expirations of P.M. Settled index products, in 1987, CME proposed to change its rules to provide for A.M. Settlement for index futures, including futures on the S&P 500.²⁹ The Commission subsequently approved several filings to list and trade A.M. Settled options.³⁰ The SEC and CFTC expected the widespread

adoption of opening-price settlement procedures in index futures and options served to mitigate the liquidity strains that had previously been experienced in the securities markets on expirations.³¹

Shortly after the CFMA was enacted, the SEC and CFTC jointly adopted Rule 6h–1 and CFTC Regulation 41.25(c) to establish an A.M. Settlement standard for cash-settled security futures that had become common for index futures and index options.³² Rule 6h–1 states that the final settlement price of a “cash-settled” security futures product must fairly reflect the opening price of the underlying security or securities.³³ As discussed above, this rule was established in response to concerns with cash-settled index derivatives that were P.M. Settled.³⁴ At the time, there were no single stock futures products; single stock options were physically settled using P.M. Settlement, as they are generally done today.³⁵

B. Options P.M. Pilots

Starting in 2010, the Commission approved proposals, on a pilot basis, permitting CBOE and other options exchanges to introduce P.M. Settlement for various cash-settled broad-based index options (“P.M. Pilots”). These included P.M. Settled index options expiring weekly (other than the third Friday) and at the end of each month,³⁶

³¹ See Pilot Memo, *supra* note 24; see also Rule 6h–1 Joint Proposing Release, 66 FR at 45908.

³² See 17 CFR 6h–1(b)(1) and 17 CFR 41.25(c); see also Rule 6h–1 Joint Adopting Release, 67 FR at 36759.

³³ 17 CFR 6h–1(b)(1).

³⁴ See Rule 6h–1 Joint Adopting Release, 66 FR at 36741–42.

³⁵ The Commission has approved cash settlement for two types of single security options, in each case recognizing several factors that mitigated manipulation concerns with these products: (1) binary options on certain single stocks (“BYRDS”); and (2) Flexible Exchange (“FLEX”) options on certain exchange traded products such as exchange traded funds (“ETFs”). See, e.g., Securities Exchange Act Release Nos. 56251 (Aug. 14, 2007), 72 FR 46523 (Aug. 20, 2007) (SR–Amex–2004–27) (Order approving listing of Fixed Return Options, later known as “BYRDS”); 88131 (Feb. 5, 2020), 85 FR 7806 (Feb. 11, 2020) (SR–NYSEAMER–2019–38) (Order approving certain FLEX options to be cash-settled). Section 6(h)(3)(C) of the Exchange Act states that listing standards for security futures shall be no less restrictive than comparable listing standards for options traded on a national securities exchange. 15 U.S.C. 78f(h)(3)(C). Section 6(h)(3)(H) of the Exchange Act states that listing standards for security futures shall “require that trading in the security futures product not be readily susceptible to manipulation of the price of such security futures product, nor to causing or being used in the manipulation of the price of any underlying security, option on such security, or option on a group or index including such securities.” 15 U.S.C. 78f(h)(3)(H).

³⁶ See Securities Exchange Act Release Nos. 62911 (Sept. 14, 2010), 75 FR 57539 (Sept. 21, 2010) (SR–CBOE–2009–075); 76529 (Nov. 30, 2015), 80 FR 75695 (Dec. 3, 2015) (SR–CBOE–2015–106);

¹⁷ See, e.g., Securities Exchange Act Release Nos. 45956 (May 17, 2002), 67 FR 36740, 36741 (May 24, 2002) (“Rule 6h–1 Joint Adopting Release”); 65256 (Sept. 2, 2011), 76 FR 55969, 55972 (Sept. 9, 2011) (SR–C2–2011–008); 98454 (Sept. 20, 2023) 88 FR 66103, 66103–66104 (Sept. 26, 2023) (SR–CBOE–2023–005).

¹⁸ See Rule 6h–1 Joint Adopting Release, 67 FR at 36741; Securities Exchange Act Release Nos. 65256 (Sept. 2, 2011), 76 FR 55969, 55972 (Sept. 9, 2011) (SR–C2–2011–008); 98454 (Sept. 20, 2023) 88 FR 66103, 66103–66104 (Sept. 26, 2023) (SR–CBOE–2023–005).

¹⁹ Rule 6h–1 Joint Adopting Release, 67 FR at 36741.

²⁰ See *id.*; Securities Exchange Act Release No. 44743 (Aug. 24, 2001), 66 FR 45904, 45907 (Aug. 30, 2001) (“Rule 6h–1 Joint Proposing Release”).

²¹ See Rule 6h–1 Joint Proposing Release, 66 FR at 45907.

²² See *id.*

²³ See, e.g., Securities Exchange Act Release No. 98454 (Sept. 20, 2023), 88 FR 66103, 66104 (Sept. 26, 2023) (SR–CBOE–2023–005).

²⁴ See Securities and Exchange Commission, Division of Economic Risk and Analysis, Memorandum dated Feb. 2, 2021 on Cornerstone Analysis of PM Cash-Settled Index Option Pilots (Sept. 16, 2020) (“Pilot Memo”) at 5–6, available at: https://www.sec.gov/files/Analysis_of_PM_Cash-Settled_Index_Option_Pilots.pdf (citing, among other papers, Stoll, Hans R., and Robert E. Whaley, “Expiration day effects of index options and futures,” *Monograph Series in Finance and Economics*, no. 3 (1986)).

²⁵ Rule 6h–1 Joint Adopting Release, 67 FR at 36742–43.

²⁶ Rule 6h–1 Joint Proposing Release, 66 FR at 45908.

²⁷ See *id.*

²⁸ See *id.*

²⁹ See Proposed Amendments Relating to the Standard and Poor’s 500, the Standard and Poor’s 100 and the Standard Poor’s OTC Stock Price Index Futures Contract, 51 FR 47053 (Dec. 30, 1986) (notice of proposed rule change submitted by CME to the CFTC). See also Securities Exchange Act Release No. 24367 (Apr. 17, 1987), 52 FR 13890 (Apr. 27, 1987) (SR–CBOE–87–11) (noting that CME moved the S&P 500 futures contract’s settlement value to opening prices on the delivery date).

³⁰ See Securities Exchange Act Release No. 24367 (Apr. 17, 1987), 52 FR 13890 (Apr. 27, 1987) (SR–CBOE–87–11). See also Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (SR–CBOE–92–09). The Commission also approved proposals by other options markets to transfer most of their cash-settled index products to A.M. Settlement. See, e.g., Securities Exchange Act Release No. 25804 (June 15, 1988), 53 FR 23475 (June 22, 1988) (SR–NYSE–87–11 and 88–04).

as well as P.M. Settled Mini-S&P 500 index options (“SPX”) and Mini-Russell 2000 index options expiring on the third Friday of the month.³⁷ In the course of approving the various P.M. Pilots, the Commission reiterated its concerns about P.M. Settled, cash-settled index options on the underlying component stocks at expiration.³⁸ However, the Commission also recognized the potential impact was unclear.³⁹ The Commission approved the programs on a pilot basis to allow the various exchanges and the Commission to monitor for any adverse market effects.⁴⁰ As part of the P.M. Pilots, the Commission required that certain data and analysis be provided by the exchanges in order to evaluate the effects of these products on the underlying securities.⁴¹

After a lengthy evaluation period, the Commission approved the P.M. Pilots on a permanent basis.⁴² Generally, during the pilot period, the exchanges listing and trading these products stated that they had not identified any evidence indicating that the trading of P.M. Settled index options had any adverse impact on fair and orderly markets on expiration days, nor had there been any observations of abnormal market movements attributable to P.M. Settled index options from any market participants.⁴³ For example, one exchange reviewed a sample of pilot data from 2019 through 2021, and measured the volatility of the S&P 500 over the final fifteen minutes of each trading day and compared expiration

days to non-expiration days.⁴⁴ That exchange observed that generally volatility was slightly higher on expiration days, but in cases where overall market volatility increased, the normalized impact on expiration days versus non-expiration days remained consistent.⁴⁵ The exchange further analyzed volatility on days when the S&P 500 was rebalanced, and stated the results suggest more closing volatility on rebalance dates compared to non-rebalance expiration dates, indicating that rebalancing of the S&P 500 may have had a greater impact on S&P 500 volatility than P.M. Settled index option expirations.⁴⁶ In addition to reviewing the data and analysis provided by the exchanges, the Commission reviewed analysis prepared by the Commission’s Division of Economic and Risk Analysis. This analysis, contained in the Pilot Memo, evaluated whether higher levels of expiring open interest in P.M. Settled index options resulted in increased volatility and price reversals around the close.⁴⁷ The Pilot Memo concluded that, although expiring P.M. Settled index option open interest may have a statistically significant relationship with volatility and price reversals of the underlying index, index futures, and index component securities around the market close, the magnitude of the effect was economically small.⁴⁸

C. CME Application⁴⁹

In its Application, CME states that now, more than twenty years later, the historic concern around thin liquidity at the close of the equity securities markets is largely moot given the characteristics of today’s markets for those securities.⁵⁰ CME states that trading volumes and liquidity for equity securities have increased substantially since 2002, including trading volumes at both the open and close of the markets.⁵¹ CME states that trading volume for equity

securities is generally significantly greater at the close than at the open.⁵² CME states that the liquidity characteristics of today’s cash equity markets, as well as the current use of the closing price for final settlement of cash-settled index options and physically-settled options on individual stock, mitigate the concerns regarding closing volatility and manipulation, and support CME’s proposed use of the official closing prices for securities underlying the Proposed Cash-Settled Products.⁵³

In support of its position, CME provided comparisons of trading volume at the market close versus the market open.⁵⁴ The sample consisted of the constituents within the Russell 1000 as of June 30, 2025.⁵⁵ CME sorted stocks into various buckets of trading activity and liquidity; and the average full day trading volume by value for each stock on the Fridays from January 2025 through June 2025 was ranked and filtered based on per-stock ADVT (\$).⁵⁶ The most active 25 stocks by this metric were grouped as the top 25 stocks in tables provided by CME, followed subsequent rank based on ADVT to provide an indication of activity throughout the index.⁵⁷

CME’s tables showed that on the 25 Fridays from January 2025 through June 2025 (excluding April 18, 2025, Good Friday), irrespective of the trading activity bucket, trading volume at the closing auction far outstripped trading volume at the opening auction.⁵⁸ For the top 25 traded stocks, the former was 5.14 times greater than the latter. For the second 25 traded stocks, the ratio was 7.04.⁵⁹ As the “liquidity” of the stock dropped, the ratio became increasingly larger, e.g., 14.84 for the 350th stock within the Russell 1000.⁶⁰ Additionally, for opening and closing auctions on third Fridays other than quarterly third Fridays, the difference in volume was even greater in favor of the close.⁶¹ Therefore, CME states that the exchange equities markets that exist today have substantial liquidity that can absorb trading demand at the close in contrast to the circumstances of the distant past.⁶² Thus, according to CME, it is no longer a valid concern that using official closing prices for final settlement of

78531 (Aug. 10, 2016), 81 FR 54643 (Aug. 16, 2016) (SR-CBOE-2016-046).

³⁷ See Securities Exchange Act Release Nos. 70087 (July 31, 2013), 78 FR 47809 (Aug. 6, 2013) (SR-CBOE-2013-055); 91067 (Feb. 5, 2021) 86 FR 9108 (Feb. 11, 2021) (SR-CBOE-2020-116).

³⁸ See, e.g., Securities Exchange Act Release No. 68888 (Feb. 8, 2013), 78 FR 10668, 10669 (Feb. 14, 2013) (SR-CBOE-2012-120).

³⁹ See *id.*

⁴⁰ See *id.*

⁴¹ Information provided as part of the pilot data included, among other data: monthly volume aggregated for all trades; monthly volume aggregated by expiration date; monthly volume for each individual series; month-end open interest aggregated for all series; month-end open interest for all series aggregated by expiration date; month-end open interest for each individual series; a time series analysis of open interest; and (8) an analysis of the distribution of trade sizes. See, e.g., Securities Exchange Act Release No. 96703 (Jan. 18, 2023), 88 FR 4265, 4266 (Jan. 24, 2023) (SR-CBOE-2023-005).

⁴² See, e.g., Securities Exchange Act Release No. 98454 (Sept. 20, 2023), 88 FR 66103 (Sept. 26, 2023) (SR-CBOE-2023-005).

⁴³ See, e.g., Securities Exchange Act Release Nos. 96703 (Jan. 18, 2023), 88 FR 4265, 4267 (Jan. 24, 2023) (SR-CBOE-2023-005); 98451 (Sept. 20, 2023), 88 FR 66088, 66091 (Sept. 26, 2023) (SR-Phlx-2023-07).

⁴⁴ See Securities Exchange Act Release No. 96703 (Jan. 18, 2023), 88 FR 4265, 4268 (Jan. 24, 2023) (SR-CBOE-2023-005).

⁴⁵ See *id.*

⁴⁶ See *id.*

⁴⁷ See Pilot Memo, *supra* note 24.

⁴⁸ See *id.* at 3.

⁴⁹ This section describes CME’s statements in support of its request for exemptive relief. The Commission seeks comment on CME’s statements in support of such exemption.

⁵⁰ Application at 4.

⁵¹ See *id.* (citing C. Tarun, et al., *Recent Trends in Trading Activity and Market Quality*, 101 J. Fin. Econ. 2 (2011) (analyzing, among other data, the large increase in daily trading volume from 1993—under 1,000 trades per day—to 2008—over 100,000 trades per day); B. Novick, et al., *A global perspective on market-on-close activity*, BlackRock ViewPoint (2020) (observing the “notable escalation globally in [market-on-close] activity” from the early 2000s through 2020)).

⁵² Application at 4.

⁵³ See *id.* at 5.

⁵⁴ *Id.* at 4–8.

⁵⁵ *Id.* at 5.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.* at 8.

⁶² *Id.*

security futures could strain trading liquidity at the close for the underlying securities when market participants engaged in intermarket trading strategies unwind their securities positions.⁶³

In addition to the analysis described above, CME states that the listing standards for cash-settled futures on individual equity securities described in its Application ensure substantial protection from manipulation, because they require a highly liquid underlying market for any such contracts the Exchange will list for trading.⁶⁴ Specifically, CME's planned additions to Chapter 700, as described in its exemption request, include the requirement that the underlying security for each product must exceed 20 million shares in estimated deliverable supply (Rule 70001.5); have a minimum market capitalization of at least \$20 billion (Rule 70001.6); and have a minimum ADVT of \$100 million over the prior six months (Rule 70001.7).⁶⁵ CME further states that it will review the underlying securities on a quarterly basis and apply maintenance standards under which an underlying security must maintain over 20 million shares in estimated deliverable supply, a minimum market capitalization of at least \$10 billion, and an ADVT of \$100 million for the prior calendar quarter.⁶⁶ CME states that the new listing standards assure a robust market for the underlying security to protect against manipulation.⁶⁷ It also states that it has carefully structured the initial listing standards to assure that the contracts it will list at a minimum meet the more stringent requirements for CME to have the flexibility allowed under CFTC Regulation 41.25(b)(3)(i)(A) to set positions limits as a percentage of the security's estimated deliverable supply.⁶⁸

CME also states that the position limits that CME will establish will provide additional protection against manipulation.⁶⁹ In particular, CME states that it will establish speculative position limits for all cash-settled single equity security futures it lists as required by and consistent with CFTC Rule 41.25(b)(3) and the CFTC's guidance in Appendix A to Subpart C of Part 41—Guidance on and Acceptable Practices for Position Limits and Position Accountability for Security Futures Products.⁷⁰ CME states that its existing Rule 71101.E., Position Limits, provides that: "Position limits shall be applied in accordance with CFTC Rule 41.25(b)(3). Cash-Settled Single Stock Security Futures limits will be set no greater than the equivalent of 12.5 percent of the estimated deliverable supply of the underlying security for securities exceeding 20 million shares in estimated deliverable supply and no greater than 25,000 contracts for securities at or below 20 million shares in estimated deliverable supply. Limits will be effective during the last three trading days of an expiring contract month."⁷¹ CME states that it will set out the position limits in the Position Limit, Position Accountability and Reportable Level Table in the Interpretations & Special Notices Section of Chapter 5.⁷²

CME also states that it has rules prohibiting market participants from engaging in manipulation of the security futures or the underlying cash market and disciplinary rules to enforce such prohibition.⁷³ Finally, CME states that trading activity in the Proposed Cash-Settled Products will be subject to monitoring and surveillance by CME Group Inc.'s Market Regulation Department.⁷⁴

deliverable supply should be "based on free float, that is, shares issued and outstanding, excluding shares that either: (i) [a]re restricted from transfer (e.g., restricted stock units), or (ii) have been repurchased by the issuing corporation (i.e., treasury shares)." See CFTC Position Limit Rule, 84 FR at 51008.

⁶⁹ Application at 10.

⁷⁰ *Id.* CFTC Rule 41.25 establishes position limits for security futures on a single equity security, including ETFs. See 17 CFR 41.25. For any equity security with an estimated deliverable supply of greater than 20 million shares, Rule 41.25 permits a DCM to adopt, if appropriate considering the liquidity and trading in the underlying security, a position limit as high as 12.5% of the estimated deliverable supply of the underlying security. See 17 CFR 41.25(b)(3)(i)(A). For single equity securities where the six-month total trading volume in the underlying exceeds 2.5 billion shares and there are more than 40 million shares of estimated deliverable supply, a DCM is permitted to adopt a position accountability rule instead of a position limit. See 17 CFR 41.25(b)(3)(i)(B).

⁷¹ Application at 10.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

III. Request for Comments

We request and encourage any interested person to submit comments regarding the Application, including whether the Commission should grant the exemption request. We also request comment on whether the Commission should establish any limitations or conditions in connection with an exemption. In particular, we request comment on the following questions:

1. Does the data and analysis provided by CME in its Application support granting an exemption from Rule 6h-1 for the Proposed Cash-Settled Products?

2. Are there potential risks associated with P.M. Settlement for cash-settled single equity security futures? If so, what are they and how do the risks of P.M. Settlement compare to the risks of A.M. Settlement? Does P.M. Settlement present risks that do not exist with A.M. Settlement with respect to cash-settlement and, if so, what are these risks?

3. Would P.M. Settlement of the Proposed Cash-Settled Products result in constraints on liquidity, closing volatility, and manipulation in the market for the underlying securities at expiration that the SEC and CFTC were concerned about when Rule 6h-1 was adopted? Does CME's Application, including its contemplated initial and maintenance listing standards, address these concerns regarding P.M. Settlement for the Proposed Cash-Settled Products that were present when Rule 6h-1 was adopted? What factors should CME consider when determining whether a Proposed Cash-Settled Product is readily susceptible to manipulation?

4. As discussed above, the markets have changed significantly in the decades since Rule 6h-1 was adopted as has the regulatory landscape, such as the implementation of Regulation National Market System. Do these regulatory and market structure changes affect the concerns regarding constraints on liquidity, closing volatility, and manipulation regarding P.M. Settlement?

5. What data would facilitate the Commission's analysis of liquidity levels and absorption of imbalances at the time of expiration?

6. Do closing processes in today's markets mitigate against the risk of constraints on liquidity, closing volatility, and manipulation due to P.M. Settlement and, if so, how? Could P.M. Settlement nonetheless result in constraints on liquidity and increased closing volatility on expiration days due to insufficient buy or sell interest to

⁶³ *Id.* at 8–9.

⁶⁴ *Id.* at 9.

⁶⁵ *Id.* at 9–10.

⁶⁶ *Id.* at 1–2. An underlying security that has been listed for trading for less than a quarter must have a minimum of \$1 billion ADVT over the period traded during the calendar quarter.

⁶⁷ *Id.* at 10.

⁶⁸ *Id.* The CFTC revised its position limits rule concerning single stock futures in 2019, and in that rulemaking defined "estimated deliverable supply" for security futures position limits. See Position Limits and Position Accountability for Security Futures Products, 84 FR 51005 (Sept. 27, 2019) ("CFTC Position Limit Rule"). CFTC Rule 41.25 defines "estimated deliverable supply" as "the quantity of the security underlying a security futures product that reasonably can be expected to be readily available to short traders and salable by long traders at its market value in normal cash marketing channels during the specified delivery period." See 17 CFR 41.25(a). Appendix A to Part 41 of the CFTC's rules states that for equity securities "deliverable supply should be no greater than the free float of the security." See 17 CFR 41 Appendix A. The CFTC stated that estimated

satisfy demand to unwind security futures positions or from market participants being less willing to provide liquidity at the close on expiration day due to the risk of carrying positions overnight?

7. Does the listing and trading of the Proposed Cash-Settled Products that are P.M. Settled raise concerns about manipulation of the underlying security in order to benefit the position in the security futures or options on such security? If so, what are these concerns? Are there conditions on the listing and trading of the Proposed Cash-Settled Products that may mitigate these concerns?

8. Should an exemption be granted for the Proposed Cash-Settled Products that meet the specific listing standards that CME described in its Application? Should CME's proposed listing standards be subject to periodic evaluation to ensure their continued appropriateness? What methods should be used to conduct this evaluation?

9. With respect to each listing standard described by CME in its Application and identified below, should any of them be modified? If the listing standard should be modified, please explain why and in what way. If not, please explain why not. Specifically, CME has proposed that each underlying security has:

- an outstanding market capitalization of \$20 billion or greater;
- an estimated deliverable supply of greater than 20 million shares;
- a minimum ADVT of \$100 million over the prior six months (or if the underlying security has been trading for less than six months, a minimum ADVT of \$1 billion over the prior month); and
- these exact same standards to maintain listing except that market capitalization must be at least \$10 billion (instead of \$20 billion required for initial listing) and ADVT must be at least \$100 million over the prior quarter (instead of the prior six months)?⁷⁵

10. Currently, approximately 300 underlying securities would qualify for listing a cash-settled security future based on CME's listing standards identified in the exemption request. Should the Commission limit an exemption to a smaller group of securities than those that would qualify for the Proposed Cash-Settled Products and if so, how should the Commission determine which securities should qualify for the exemption? Is there a smaller group of securities that have

certain characteristics (*e.g.*, very high daily trading volume or accessible shares outstanding) that effectively mitigate the Commission's concerns regarding constraints on liquidity, closing volatility, and manipulation in the underlying securities related to the P.M. Settlement of cash-settled products? For example, should the Proposed Cash-Settled Products be limited to security futures overlying the top 25 or 50 securities in terms of daily trading volume?

11. Are the P.M. Pilots informative with respect to P.M. Settlement of the Proposed Cash-Settled Products? Are the P.M. Pilots informative on the issue of constraints on liquidity, closing volatility, and manipulation in the underlying markets? If so, please explain. If not, what aspects of the P.M. Pilots make them different enough to not be a relevant precedent?

12. Are there differences between cash-settled index derivatives and cash-settled single stock derivatives that raise or mitigate concerns related to constraints on liquidity, closing volatility, and manipulation in the underlying securities of P.M. Settlement as applied to the Proposed Cash-Settled Products and, if so, what are those differences?

13. What type of market participant is likely to trade the Proposed Cash-Settled Products, and what would be the common use cases for these products? What are the benefits to the market of permitting the listing and trading of the Proposed Cash-Settled Products?

14. Would P.M. Settlement of the Proposed Cash-Settled Products lead to any unintended consequences?

15. Would trading volume in the underlying cash securities migrate to the Proposed Cash-Settled Products? Are there certain types of underlying securities where it is more likely for trading volume to migrate from the underlying cash security to the Proposed Cash-Settled Products? Could potential trading volume migration to the Proposed Cash-Settled Products negatively impact the liquidity of the underlying securities, including on expiration days?

16. Should data regarding the trading of cash-settled security futures be made publicly available? What data would be useful for the evaluation of any potential impact of the Proposed Cash-Settled Products on the underlying securities and options on such securities? Should an exemption be conditioned on CME making publicly available in a machine-readable Comma-Separated Values format for a period of three years the following information:

- on a daily basis, a daily report of aggregate long and short positions by market participant type (including market maker, firm and customer) or by clearing member account type (*e.g.*, proprietary and customer account as required by CFTC Rule 16.00)⁷⁶ for each security future listed and traded pursuant to this exemption ("Listed Cash-Settled Product");

- for each security underlying a Listed Cash-Settled Product, the opening price for the next trading day after the settlement Friday and the closing price on the settlement Friday, along with the percentage change between these two prices, and the average percent change between these two prices over the course of a year, made available once a year and to the Commission upon request;

- for each Listed Cash-Settled Product, the month-end aggregate long and short positions by market participant type (including market maker, firm and customer) or by clearing member account type (*e.g.*, proprietary and customer account as required by CFTC Rule 16.00) and trading volume for each month, made available once a year and to the Commission upon request; and

- for each security underlying a Listed Cash-Settled Product, the first traded price and the last traded price for the 15-minute periods of 3:30 p.m.–3:45 p.m. and 3:45 p.m.–4:00 p.m. for every Friday of each month along with the next trading day's opening price, made available once a year and to the Commission upon request?

17. Should an exemption be conditioned on CME providing the Commission within four years of listing and trading security futures pursuant to the exemption, a report examining the effect of cash-settled single stock futures and, to the extent listed and traded, cash-settled single stock options, on the market for the underlying securities? If so, should this report include analysis concerning the Proposed Cash-Settled Products, as well as analysis of any other P.M. Settled, cash-settled single stock security futures, security options, or other derivative listed and traded during the period subject to the report? Should the report examine the price of the underlying stock at 3:30 p.m. and 3:45 p.m., the closing price of the underlying stock on expiration day, the opening price on the next trading day, and the percentage change among such prices? Should the number of security futures contracts settled based on the closing price of the underlying stock be included with a discussion of price

⁷⁵ If an underlying security has been listed for trading for less than a quarter, it must have a minimum of \$1 billion ADVT over the period traded during the calendar quarter.

⁷⁶ See 17 CFR 16.00.

reversal (*i.e.*, change in the closing price of the underlying security and the opening price on the next trading day)? Should such a report be made publicly available?

18. Are the data and report described above sufficient to evaluate the potential impacts of the Proposed Cash-Settled Products on the market for the underlying security or options on such security? What other or different data or report would be useful concerning the Proposed Cash-Settled Products in order to evaluate the impact of the Proposed Cash-Settled Products on the underlying securities and options on such securities?

19. Section 6(h)(3)(I) of the Exchange Act requires that procedures be in place for coordinated surveillance among the markets trading security futures, the markets trading the underlying securities, and markets trading related securities to detect manipulation and insider trading. What surveillance (coordinated or otherwise) is in place that could help identify manipulation and insider trading related to the Proposed Cash-Settled Products? Would a surveillance agreement among CME, the primary markets where the underlying securities trade, and markets that trade related securities be appropriate to detect manipulation and insider trading with respect to products related to the Proposed Cash-Settled Products? Would membership by CME in the Intermarket Surveillance Group be appropriate and sufficient to detect manipulation and insider trading with respect to products related to the Proposed Cash-Settled Products?

20. Should an exemption be conditioned on CME entering a market-to-market surveillance sharing agreement with the markets trading the underlying securities and markets that trade related securities? Should an exemption be conditioned, instead, on CME entering a market-to-market surveillance sharing agreement with the primary listing market? Should an exemption be conditioned on CME being a member of ISG?

21. Would position limits that are filed with the Commission pursuant to Section 19(b)(7) of the Exchange Act for the Proposed Cash-Settled Products mitigate the concerns around cash settlement and P.M. Settlement, and, if so, what should be the position limits for the Proposed Cash-Settled Products in order to support the Commission granting an exemption from Rule 6h-1(d)? Should an exemption be

conditioned on CME filing such position limits with the Commission pursuant to Section 19(b)(7) of the Exchange Act?

22. CME states that it will establish speculative position limits for all cash-settled single equity security futures it lists as required by and consistent with CFTC Rule 41.25(b)(3) and the CFTC's guidance in Appendix A to Subpart C of Part 41—Guidance on and Acceptable Practices for Position Limits and Position Accountability for Security Futures Products.⁷⁷ Would a position limit of 12.5% of the estimated deliverable supply (as represented by CME and reflected in CFTC Rule 41.25⁷⁸), which would be applicable to most of the Proposed Cash-Settled Products, be sufficient to mitigate the concerns regarding cash settlement and P.M. Settlement? Would a higher or lower limit be appropriate?

23. CFTC Rule 41.25(b)(3)(i)(B) permits a designated contract market to adopt a position accountability rule in lieu of position limits if the 6-month total trading volume of the underlying security exceeds 2.5 billion shares and it has more than 40 million shares of estimated deliverable supply. Approximately 40 Proposed Cash Settled Products would qualify for position accountability.⁷⁹ Would position accountability (*i.e.*, requirements to provide information about or adjust positions if certain position levels are reached) be sufficient to mitigate the concerns regarding cash settlement and P.M. Settlement?

24. Is the method for estimating deliverable supply that is prescribed in CFTC Rule 41.25, and Appendix A to Subpart C of Part 41 of the CFTC's regulations, appropriate for setting position limits on the Proposed Cash-Settled Products? Should alternative methods be considered when estimating the deliverable supply for the Proposed Cash-Settled Products?

25. Should position limits be different for cash-settled single stock futures that are P.M. Settled versus those that are A.M. Settled?

26. Would applying to the Proposed Cash-Settled Products the same position limits that are currently applied to securities options mitigate concerns regarding cash settlement and P.M.

Settlement and, if not, should position limits for the Proposed Cash-Settled Products be higher or lower?

27. Should any position limit require the aggregation of positions across exchange-traded derivatives (or across all derivatives whether traded on exchange or over-the-counter) overlying the same underlying security?

Comments should be received on or before March 16, 2026. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules-regulations/commission-orders-notices/other-commission-orders-notices-information>); or
- Send an email to rule-comments@sec.gov. Please include File Number S7-2026-04 on the subject line.

Paper Comments

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-2026-04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules-regulations/exchange-act-exemptive-notices-orders>). 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.

For further information, you may contact David Dimitriou, Senior Special Counsel; Michou Nguyen, Special Counsel; and Alba Baze, Attorney-Advisor, Office of Market Supervision, Division of Trading and Markets, at (202) 551-5550, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

By the Commission.

Sherry R. Haywood,
Assistant Secretary.

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⁷⁷ Application at 10.

⁷⁸ See *supra* notes 69-70 and accompanying text.

⁷⁹ See 17 CFR 41.25(b)(3)(i)(B) and *supra* notes 68 and 70 (discussing CFTC position limit and accountability rules).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104789; File No. SR-PHLX-2026-06]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Schedule of Fees and Rebates To Bring It Into Compliance With New Reg NMS Rule 610(d)

February 9, 2026.

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 January 30, 2026, Nasdaq PHLX LLC ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at PHLX Rule Equity 7, Section 3, to bring the Exchange's schedule of fees and rebates into compliance with Reg NMS Rule 610(d), which becomes effective on February 2, 2026.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on February 2, 2026.

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 purpose of the proposed rule change is to amend the Exchange's transaction fees at PHLX Rule Equity 7, Section 3, to bring the Exchange schedule of equities transaction fees and rebates into compliance with Reg NMS Rule 610(d), which becomes effective on February 2, 2026.

On September 18, 2024, the Commission adopted several amendments to Reg NMS in order to increase the transparency of exchange fees and rebates.³ New Reg NMS Rule 610(d) provides that "[a] national securities exchange shall not impose, nor permit to be imposed, any fee or fees, or provide, or permit to be provided, any rebate or other remuneration, for the execution of an order in an NMS stock that cannot be determined at the time of execution."⁴ The original compliance date for new Reg NMS Rule 610(d) was the first business day of November 2025, which was Monday, November 3, 2025.⁵ However, on October 31, 2025, the Commission granted temporary exemptive relief to delay the implementation date until the first business day of February 2026, which is Monday, February 2, 2026.⁶

Currently, the Exchange establishes certain transaction fees and rebates for equities executions that are based on tiers calculated using volume figures from trading or quoting activity in the current month. This means that the fees and rebates at the Exchange associated with a given equities execution often cannot be determined at the time of execution, but only retroactively at the end of the month in which the execution occurred. In order to ensure that its transaction fees and rebates for equities executions are compliant with new Reg NMS Rule 610(d), the Exchange is adding the following text to PHLX Rule Equity 7, Section 3:

³ See Securities Exchange Act Release No. 101070 (Sept. 18, 2024), 89 FR 81620 (Oct. 8, 2024) (File No. S7-30-22) (Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders.) ("Rule 610(d) Adopting Release").

⁴ 17 CFR 242.610(d).

⁵ See Rule 610(d) Adopting Release, 89 FR at 81680.

⁶ See Securities Exchange Act No. 104172 (Oct. 31, 2025), 90 FR 51418 (Nov. 17, 2025) (Order Granting Temporary Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 and Rules 610(f) and 612(d) of Regulation NMS, From Compliance With Rule 600(b)(89)(i)(F), Rule 610(c), Rule 610(d) and Rule 612 of Regulation NMS, as Amended).

Rule of Interpretation: In compliance with Reg NMS Rule 610(d), effective February 2, 2026, for purposes of determining quoting or transaction volumes for fees and rebates qualifications under this section, all volume figures will be derived from quoting or trading activity in the prior month. Consequently, new members will receive the base rates in their first month of trading.

This change will ensure that all Exchange participants will be able to ascertain at the time of execution all the transactions fees and rebates associated with an execution of an order in an NMS stock at the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁸ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The 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'"⁹

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

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) and (5).

⁹ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782-83 (Dec. 9, 2008) (SR-NYSEArca-2006-21)).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁰

Numerous indicia demonstrate the competitive nature of this market. For 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 the modification made in this filing to the schedule of transaction fees and rebates is reasonable because it attempts to preserve the current quoting and trading incentives, while bringing them into compliance with the requirements of new Reg NMS Rule 610(d). Currently, members are assessed certain execution fees, and paid certain execution rebates, based on tiers calculated using volume figures from trading and quoting activity in the current month. In order to bring these existing fees and rebates into compliance with new Reg NMS Rule 610(d), the Exchange is modifying the criteria for these fees and rebates so that they are based on tiers calculated using volume figures from trading and quoting activity in the prior month. This way all fees and rebates associated with the execution of an order in an NMS stock at the Exchange can be determined at the time of execution of said order. All existing fees and rebates remain otherwise unchanged.

The Exchange believes that the modified schedule of transaction fees and rebates is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same fees and rebates to all similarly situated members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the fees assessed and rebates available to member firms for execution of securities in securities of all three Tapes do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues.

The proposed fees and rebates are identical to the Exchange's existing fees and rebates, except that in order to comply with new Reg NMS Rule 610(d), all transaction fees and rebates that are based on tiers of transaction or quoting volumes will now be calculated using volume figures derived from trading and quoting activity in the prior month.

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. In terms of intra-market competition, the modified transaction fees and rebates will apply equally to all members of the Exchange. Therefore, the proposed changes do not impose any burden on competition. However, even if these fees and rebates imposed a burden on competition, such a burden would be necessary or appropriate in furtherance of the purposes of the Act

because these changes are being made to bring the Exchange's schedule of transactions of fees and rebates into compliance with new Reg NMS Rule 610(d).

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.¹¹

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-2026-06 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-2026-06. 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.

¹⁰ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

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-2026-06 and should be submitted on or before March 5, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-02804 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104780; File No. SR-PEARL-2026-04]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Equities Fee Schedule

February 9, 2026.

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 January 28, 2026, MIAX PEARL, LLC (“MIAX Pearl” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule (the “Fee Schedule”) applicable to MIAX Pearl Equities, an equities trading facility of the Exchange, to amend the General Notes section of the Fee Schedule to bring the Exchange’s transaction fees and rebates into compliance with Regulation NMS Rule 610(d), which becomes effective on February 2, 2026.

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 purpose of the proposed rule change is to amend the General Notes section of the Fee Schedule to bring the Exchange’s transaction fees and rebates into compliance with Regulation NMS Rule 610(d), which becomes effective on February 2, 2026.

On September 18, 2024, the Securities and Exchange Commission (“Commission”) adopted several amendments to Regulation NMS in order to increase the transparency of exchange fees and rebates.³ New Regulation NMS Rule 610(d) provides that “[a] national securities exchange shall not impose, nor permit to be imposed, any fee or fees, or provide, or permit to be provided, any rebate or other remuneration, for the execution of an order in an NMS stock that cannot be determined at the time of execution.”⁴ The compliance date for new Regulation NMS Rule 610(d) is the first business day of February 2026, which is Monday, February 2, 2026.⁵

Currently, the Exchange establishes certain transaction fees and rebates for equities executions that are based on tiers calculated using volume figures from trading or quoting activity in the current month. This means that the fees and rebates at the Exchange associated with a given equities execution often

cannot be determined at the time of execution, but only retroactively at the end of the month in which the execution occurred. In order to ensure that its transaction fees and rebates for equities executions are compliant with new Regulation NMS Rule 610(d), the Exchange is adding the following text to the General Notes section of the Fee Schedule:

In compliance with Rule 610(d) of Regulation NMS, effective February 2, 2026, for purposes of determining quoting or transaction volumes for fees and rebates qualifications under Section 1) Transaction Rebates/Fees, all volume figures will be derived from quoting or trading activity in the prior month. Consequently, new Equity Members will receive the base rates in their first month of trading.

This change will ensure that all Exchange participants will be able to ascertain at the time of execution all the transactions fees and rebates associated with an execution of an order in an NMS stock at the Exchange.

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 Sections 6(b)(4) and 6(b)(5) of the Act,⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among 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 Fee Schedule 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

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 101070 (Sept. 18, 2024), 89 FR 81620 (Oct. 8, 2024) (File No. S7-30-22) (Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders.) (“Rule 610(d) Adopting Release”).

⁴ 17 CFR 242.610(d).

⁵ See Securities Exchange Act Release No. 104172 (October 31, 2025), 90 FR 51418 (November 17, 2025) (Order Granting Temporary Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 and Rules 610(f) and 612(d) of Regulation NMS, From Compliance With Rule 600(b)(89)(i)(F), Rule 610(c), Rule 610(d) and Rule 612 of Regulation NMS, as Amended).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4) and (5).

of order flow from broker dealers'. . . ."⁸

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."⁹

Numerous indicia demonstrate the competitive nature of this market. For 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 the modification made in this filing to the transaction fees and rebates is reasonable because it attempts to preserve the current quoting and trading incentives, while bringing them into compliance with the requirements of new Regulation NMS Rule 610(d). Currently, Equity Members¹⁰ are assessed certain execution fees, and paid certain execution rebates, based on tiers calculated using volume figures from trading and quoting activity in the current month. In order to bring these existing fees and rebates into compliance with new Regulation NMS Rule 610(d), the Exchange is modifying these fees and rebates so that they are

based on tiers calculated using volume figures from trading and quoting activity in the immediate prior month for the relevant current month. This way all fees and rebates associated with the execution of an order in an NMS stock at the Exchange can be determined at the time of execution of said order. All existing fees and rebates remain otherwise unchanged.

The Exchange believes that the modified schedule of transaction fees and rebates is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same fees and rebates to all similarly situated Equity Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed change to the fees and rebates available to Equity Members for execution of securities in securities of all three Tapes do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues.

The proposed fees and rebates are identical to the Exchange's existing fees and rebates, except that in order to comply with new Regulation NMS Rule 610(d), all transaction fees and rebates that are based on tiers of transaction or quoting volumes will now be calculated using volume figures derived from trading and quoting activity in the prior month.

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 Equity Members or competing order execution venues to maintain their competitive standing in the financial markets. In terms of intra-market competition, the modified transaction fees and rebates will apply equally to all Equity Members of the Exchange. Therefore, the proposed change does not impose any burden on competition. However, even if these fees and rebates imposed a burden on competition, such a burden would be necessary or appropriate in furtherance of the purposes of the Act because the proposed change is being made to bring the Exchange's schedule of transactions of fees and rebates into compliance with new Regulation NMS Rule 610(d).

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)(ii) of the Act,¹¹ and Rule 19b-4(f)(2)¹² 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 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

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

⁸ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782-83 (Dec. 9, 2008) (SR-NYSEArca-2006-21)).

⁹ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

¹⁰ The term "Equity Member" is a Member authorized by the Exchange to transact business on MIAX Pearl Equities. See Exchange Rule 1901.

• Send an email to rule-comments@sec.gov. Please include file number SR-PEARL-2026-04 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-2026-04. 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-2026-04 and should be submitted on or before March 5, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-02797 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0801]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 10b5-1

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") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 10b5-1 (17 CFR 240.10b5-1) under the Securities Exchange Act of

1934 (the "Exchange Act"), among other things, provides an affirmative defense to Exchange Act Section 10(b) and Rule 10b-5 liability for insider trading in circumstances where the individual purchasing or selling a security can demonstrate that material nonpublic information did not factor into the trading decision because, before becoming aware of material nonpublic information, they entered into a binding contract to purchase or sell the security, provided instruction to another person to execute the trade for the trader's account, or adopted a written plan for trading the securities. As a condition to that affirmative defense, directors and officers must include a representation in a written Rule 10b5-1 plan certifying that at the time of the adoption of a new or modified plan: (1) they are not aware of material nonpublic information about the issuer or its securities; and (2) they are adopting the plan in good faith and not as part of a plan or scheme to evade the prohibitions of Rule 10b-5. The information collection requirement is mandatory to satisfy the conditions of the affirmative defense, and the information collection is not required to be publicly filed with the Commission. We estimate that Rule 10b5-1 takes approximately 1.5 hours per response and is filed by approximately 8,700 respondents annually. We estimate that 100% of the 1.5 hours per response is carried internally by the respondent for annual burden of 13,050 hours (1.5 hours per response × 8,700 responses). We estimate that respondents will not incur any cost burdens in connection with the information collection requirements.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202511-3235-002 or send an email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice by March 16, 2026.

Dated: February 10, 2026.

Sherry Haywood,

Assistant Secretary.

[FR Doc. 2026-02861 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104788; File No. SR-BX-2026-007]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Schedule of Fees and Rebates To Bring It Into Compliance With New Reg NMS Rule 610(d)

February 9, 2026.

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 January 30, 2026, Nasdaq BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at BX Rule Equity 7, Section 118, to bring the Exchange's schedule of fees and rebates into compliance with Reg NMS Rule 610(d), which becomes effective on February 2, 2026.

These amendments are effective upon filing. However, they will become operative on February 2, 2026.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/bx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹³ 17 CFR 200.30-3(a)(12).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's transaction fees at BX Rule Equity 7, Section 118, to bring the Exchange schedule of equities transaction fees and rebates into compliance with Reg NMS Rule 610(d), which becomes effective on February 2, 2026.

On September 18, 2024, the Commission adopted several amendments to Reg NMS in order to increase the transparency of exchange fees and rebates.³ New Reg NMS Rule 610(d) provides that "[a] national securities exchange shall not impose, nor permit to be imposed, any fee or fees, or provide, or permit to be provided, any rebate or other remuneration, for the execution of an order in an NMS stock that cannot be determined at the time of execution."⁴ The original compliance date for new Reg NMS Rule 610(d) was the first business day of November 2025, which was Monday, November 3, 2025.⁵ However, on October 31, 2025, the Commission granted temporary exemptive relief to delay the implementation date until the first business day of February 2026, which is Monday, February 2, 2026.⁶

Currently, the Exchange establishes certain transaction fees and rebates for equities executions that are based on tiers calculated using volume figures from trading or quoting activity in the current month. This means that the fees and rebates at the Exchange associated with a given equities execution often cannot be determined at the time of execution, but only retroactively at the end of the month in which the execution occurred. In order to ensure that its transaction fees and rebates for equities executions are compliant with new Reg NMS Rule 610(d), the Exchange is adding the following text to BX Rule Equity 7, Section 118:

Rule of Interpretation: In compliance with Reg NMS Rule 610(d), effective February 2, 2026, for purposes of determining quoting or transaction volumes for fees and rebates qualifications under Section 118(a), (e), and (f), all volume figures will be derived from quoting or trading activity in the prior month. Consequently, new members will receive the base rates in their first month of trading.

This change will ensure that all Exchange participants will be able to ascertain at the time of execution all the transactions fees and rebates associated with an execution of an order in an NMS stock at the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁸ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The 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'"⁹

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission

highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹⁰

Numerous indicia demonstrate the competitive nature of this market. For 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 the modification made in this filing to the schedule of transaction fees and rebates is reasonable because it attempts to preserve the current quoting and trading incentives, while bringing them into compliance with the requirements of new Reg NMS Rule 610(d). Currently, members are assessed certain execution fees, and paid certain execution rebates, based on tiers calculated using volume figures from trading and quoting activity in the current month. In order to bring these existing fees and rebates into compliance with new Reg NMS Rule 610(d), the Exchange is modifying the criteria for these fees and rebates so that they are based on tiers calculated using volume figures from trading and quoting activity in the prior month. This way all fees and rebates associated with the execution of an order in an NMS stock at the Exchange can be determined at the time of execution of said order. All existing fees and rebates remain otherwise unchanged.

The Exchange believes that the modified schedule of transaction fees and rebates is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same fees and rebates to all similarly situated members.

³ See Securities Exchange Act Release No. 101070 (Sept. 18, 2024), 89 FR 81620 (Oct. 8, 2024) (File No. S7-30-22) (Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders.) ("Rule 610(d) Adopting Release").

⁴ 17 CFR 242.610(d).

⁵ See Rule 610(d) Adopting Release, 89 FR at 81680.

⁶ See Securities Exchange Act No. 104172 (Oct. 31, 2025), 90 FR 51418 (Nov. 17, 2025) (Order Granting Temporary Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 and Rules 610(f) and 612(d) of Regulation NMS, From Compliance With Rule 600(b)(9)(i)(F), Rule 610(c), Rule 610(d) and Rule 612 of Regulation NMS, as Amended).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) and (5).

⁹ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782-83 (Dec. 9, 2008) (SR-NYSEArca-2006-21)).

¹⁰ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the fees assessed and rebates available to member firms for execution of securities in securities of all three Tapes do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues.

The proposed fees and rebates are identical to the Exchange's existing fees and rebates, except that in order to comply with new Reg NMS Rule 610(d), all transaction fees and rebates that are based on tiers of transaction or quoting volumes will now be calculated using volume figures derived from trading and quoting activity in the prior month.

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. In terms of intra-market competition, the modified transaction fees and rebates will apply equally to all members of the Exchange. Therefore, the proposed changes do not impose any burden on competition. However, even if these fees and rebates imposed a burden on competition, such a burden would be necessary or appropriate in furtherance of the purposes of the Act

because these changes are being made to bring the Exchange's schedule of transactions of fees and rebates into compliance with new Reg NMS Rule 610(d).

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.¹¹

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-BX-2026-007 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-BX-2026-007. 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.

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-BX-2026-007 and should be submitted on or before March 5, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104785; File No. SR-NASDAQ-2026-007]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Schedule of Fees and Incentives To Bring It Into Compliance With New Reg NMS Rule 610(d)

February 9, 2026.

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 January 30, 2026, 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, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at Nasdaq Rule Equity 7, Sections 114 and 118, to bring the Exchange's schedule of fees and incentives into compliance with Reg NMS Rule 610(d), which becomes effective on February 2, 2026.

These amendments are effective upon filing. However, they will become operative on February 2, 2026.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/>

¹² 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

rulebook/nasdaq/rulefilings, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's transaction fees at Nasdaq Rule Equity 7, Sections 114 and 118, to bring the Exchange schedule of equities transaction fees and incentives into compliance with Reg NMS Rule 610(d), which becomes effective on February 2, 2026.

On September 18, 2024, the Commission adopted several amendments to Reg NMS in order to

increase the transparency of exchange fees and incentives.³ New Reg NMS Rule 610(d) provides that "[a] national securities exchange shall not impose, nor permit to be imposed, any fee or fees, or provide, or permit to be provided, any rebate or other remuneration, for the execution of an order in an NMS stock that cannot be determined at the time of execution."⁴ The original compliance date for new Reg NMS Rule 610(d) was the first business day of November 2025, which was Monday, November 3, 2025.⁵ However, on October 31, 2025, the Commission granted temporary exemptive relief to delay the implementation date until the first business day of February 2026, which is Monday, February 2, 2026.⁶

Currently, the Exchange establishes certain transaction fees and incentives for equities executions that are based on tiers calculated using volume figures from trading or quoting activity in the current month. This means that the fees and incentives at the Exchange associated with a given equities execution often cannot be determined at the time of execution, but only retroactively at the end of the month in which the execution occurred. In order to ensure that its transaction fees and incentives for equities executions are compliant with new Reg NMS Rule 610(d), the Exchange is adding the following text to Nasdaq Rule Equity 7, Section 114:

Rule of Interpretation: In compliance with Reg NMS Rule 610(d), effective February 2, 2026, for purposes of determining quoting or transaction volumes for fees and incentives qualifications under Section 114(d), (e), (f), (g), and (h), all volume figures will be derived from quoting or trading activity in the prior month. Consequently, new members will receive the base rates in their first month of trading.

For the same purpose, the Exchange is also adding the following text to Nasdaq Rule Equity 7, Section 118:

Rule of Interpretation: In compliance with Reg NMS Rule 610(d), effective February 2, 2026, for purposes of determining quoting or transaction volumes for fees and incentives qualifications under Section 118(a), (d), (j), and (k), all volume figures will be derived from quoting or trading activity in the prior month. Consequently, new members will receive the base rates in their first month of trading.

Additionally, Nasdaq Rule Equity 7, Section 118(e)(1), which contains a monthly cap for orders executed during the Opening Cross, has to be modified to bring it into compliance with new Reg NMS Rule 610(d). Current Nasdaq Rule Equity 7, Section 118(e)(1) states as follows:

(1) Firms that execute orders in the Nasdaq Opening Cross in securities priced at or above \$1 will be subject to the following fees for such executions up to a monthly maximum of \$35,000, provided, however, that such firms add at least one million shares of liquidity, on average per day, per month.

Market-on-Open, Limit-on-Open, Good-till-Cancelled, and Immediate-or-Cancel orders executed in the Nasdaq Opening Cross.

All other quotes and orders executed in the Nasdaq Opening Cross

*\$0.0015 per share executed.
\$0.0011 per share executed.*

Because a firm that executes orders in the Nasdaq Opening Cross does not know at the time of execution which specific order in a given Nasdaq Opening Cross will push it to meet or exceed the current \$35,000 monthly cap, the Exchange is modifying this incentive program to bring it into compliance with new Reg NMS Rule 610(d). Specifically, the Exchange proposes to replace this hard cap with a soft cap. In other words, the Exchange

would charge a firm these fees up to, and including, the day in which the firm has incurred at least \$35,000 in these fees. Then, starting the following day, and for the rest of that month, the firm would not incur additional fees for these transactions. Amended Nasdaq Rule Equity 7, Section 118(e)(1) reads as follows:

(1) Firms that execute orders in the Nasdaq Opening Cross in securities priced at or above \$1 will be subject to the following fees

for such executions up to, and including, on the trading day on which they meet or surpass a monthly threshold of \$35,000 in such fees. On every trading day on a given month after the day on which they meet or surpass this \$35,000 monthly threshold, they will not be charged any execution fee for orders that they execute in the Nasdaq Opening Cross in securities priced at or above \$1. This monthly threshold is contingent on such firms having added at least one million shares of liquidity, on average, per day, in the prior month.

Market-on-Open, Limit-on-Open, Good-till-Cancelled, and Immediate-or-Cancel orders executed in the Nasdaq Opening Cross.

All other quotes and orders executed in the Nasdaq Opening Cross

*\$0.0015 per share executed.
\$0.0011 per share executed.*

³ See Securities Exchange Act Release No. 101070 (Sept. 18, 2024), 89 FR 81620 (Oct. 8, 2024) (File No. S7-30-22) (Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders.) ("Rule 610(d) Adopting Release").

⁴ 17 CFR 242.610(d).

⁵ See Rule 610(d) Adopting Release, 89 FR at 81680.

⁶ See Securities Exchange Act No. 104172 (Oct. 31, 2025), 90 FR 51418 (Nov. 17, 2025) (Order

Granting Temporary Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 and Rules 610(f) and 612(d) of Regulation NMS, From Compliance With Rule 600(b)(9)(i)(F), Rule 610(c), Rule 610(d) and Rule 612 of Regulation NMS, as Amended).

So, for example, suppose that a firm surpasses this \$35,000 threshold on the 15th day of a given month because at the end of the Nasdaq Opening Cross on that day it has incurred a running total of \$35,500 of these fees in that month. In that case, the firm will owe \$35,500 in these fees. However, starting on the Nasdaq Opening Cross on the 16th day of that month, and for every subsequent Nasdaq Opening Cross through the end of that month, the firm will not owe any fee for this type of transaction that it executes on those days.

Furthermore, the current fee cap is contingent upon the firm adding at least one million shares of liquidity, on average, per day, in the current month. To bring this qualification into compliance with new Reg NMS Rule 610(d), the revised qualification will apply to the firm's trading activity on the prior month. Therefore, the proposed revised incentive specifies that "[t]his monthly threshold is contingent on such firms having added at least one million shares of liquidity, on average, per day, in the prior month."

These changes will ensure that all Exchange participants will be able to ascertain at the time of execution all the transactions fees and incentives associated with an execution of an order in an NMS stock at the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁸ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The 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'. . . ." ⁹

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies." ¹⁰

Numerous indicia demonstrate the competitive nature of this market. For 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 incentives 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 the modifications made in this filing to the schedule of transaction fees and incentives are reasonable because they attempt to preserve the current quoting and trading incentives, while bringing them into compliance with the requirements of new Reg NMS Rule 610(d). Currently, members are assessed certain execution fees, and paid certain execution incentives, based on tiers calculated using volume figures from trading and quoting activity in the current month. In order to bring these existing fees and incentives into

compliance with new Reg NMS Rule 610(d), the Exchange is modifying the criteria for these fees and incentives so that they are based on tiers calculated using volume figures from trading and quoting activity in the prior month. This way all fees and incentives associated with the execution of an order in an NMS stock at the Exchange can be determined at the time of execution of said order. All existing fees and incentives remain otherwise unchanged.

Additionally, the modification of the Nasdaq Opening Cross incentive in Nasdaq Rule Equity 7, Section 118(e), is reasonable because it is designed preserve the incentive for participants to execute orders in the Nasdaq Opening Cross and encourage participants to add significant liquidity on the Exchange, while making the incentive compatible with new Reg NMS Rule 610(d). While the current \$35,000 transaction fee cap is incompatible with new Reg NMS Rule 610(d), its modification into a transaction fee threshold (or soft cap), as described above, offers a similar incentive to Exchange participants.

The Exchange believes that the modified schedule of transaction fees and incentives is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same fees and incentives to all similarly situated members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of 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 incentive opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the fees assessed and incentives available to member firms for execution

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) and (5).

⁹ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782–83 (Dec. 9, 2008) (SR–NYSEArca–2006–21)).

¹⁰ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

of securities in securities of all three Tapes do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues.

The proposed fees and incentives are identical to the Exchange's existing fees and incentives, except that in order to comply with new Reg NMS Rule 610(d), all transaction fees and incentives that are based on tiers of transaction or quoting volumes will now be calculated using volume figures derived from trading and quoting activity in the prior month. Additionally, the existing Nasdaq Opening Cross transaction fee cap for securities priced at or above \$1 is being modified into a transaction fee threshold (or soft cap), so that the applicable schedule of per share transaction fees are in full force through the day of the month in which the participant meets or exceeds the threshold, at which point the participant will owe the full amount of fees accrued through that trading day, but will not incur further fees for these types of transactions through the end of the month.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets. In terms of intra-market competition, the modified transaction fees and incentives will apply equally to all members of the Exchange. Therefore, the proposed changes do not impose any burden on competition. However, even if these fees and incentives imposed a burden on competition, such a burden would be necessary or appropriate in furtherance of the purposes of the Act because these changes are being made to bring the Exchange's schedule of transactions of fees and incentives into compliance with new Reg NMS Rule 610(d).

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.¹¹

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-NASDAQ-2026-007 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-2026-007. 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-2026-007 and should be submitted on or before March 5, 2026.

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-02801 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104782; File No. SR-CBOE-2026-013]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 5.52 (Market-Maker Quotes) To Adopt Two-Sided Quote Bid/Ask Differentials

February 9, 2026.

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 January 29, 2026, Cboe Exchange, Inc. ("Exchange" or "Cboe Options") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. ("Cboe" or the "Exchange") is filing with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change to amend Exchange Rule 5.52 (Market-Maker Quotes) to adopt two-sided quote bid/ask differentials.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/options/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 5.52 to adopt two-sided quote bid/ask differentials, also referred to as spread parameters, which establish the maximum permissible width between a Market-Maker's bid and offer in a series in an appointed class. The proposal is substantively identical to Miami International Securities Exchange, LLC ("MIAX") Rules 603(b)(4) and (5).

Background on Market-Maker Quoting Obligations

Exchange Rule 5.51 sets forth Market-Maker Obligations on the Exchange. Rule 5.51(a)(1) requires that, ordinarily, a Market-Maker must during the trading day maintain a continuous two-sided market in each of its appointed classes, pursuant to Rule 5.52(d). Rule 5.52(d) requires a Market-Maker to enter continuous electronic bids and offers (in accordance with the requirements in Rules 5.51 and 5.52). Given this, a Market-Maker is generally obligated to comply with all requirements provided in Exchange Rules 5.51 and 5.52.

Exchange Rule 5.52(c) provides for the requirements of two-sided quotes. Specifically, Rule 5.52(c) currently provides that a Market-Maker that enters a bid (offer) on the Exchange in a series in an appointed class must enter an offer (bid). Currently, Market-Makers on the Exchange are not subject to bid/ask differentials, meaning that the requirement for a two-sided market can be set with a quote that is very wide. The Exchange now proposes to adopt new provisions under Rule 5.52(c) to set forth the bid/ask differential requirements for such two-sided quotes.

Proposed Bid/Ask Differential Requirements

The Exchange proposes to add to Exchange Rule 5.52(c) that the bid/ask differential of a Market-Maker's electronic quotes may not exceed \$5 regardless of the Market-Maker's bid. For purposes of measuring compliance with the bid/ask differential requirement, the Exchange will consider the aggregate of all quotes entered by a Market-Maker (*i.e.*, at the Trading

Permit Holder ("TPH") firm level) across all Executing Firm IDs ("EFIDs") used by that Market-Maker in a particular option series or class. For example, if a Market-Maker TPH quotes using multiple EFIDs in the same series, with EFID A quoting \$0 bid at \$10 offer and EFID B quoting \$5 bid at \$15 offer, the Exchange would measure the bid/ask differential based on the firm's aggregate quote of \$5 bid at \$10 offer, resulting in a \$5 width that satisfies the requirement.

Additionally, the Exchange clarifies that a bid of zero or no bid is a valid bid for purposes of the two-sided market requirement and the bid/ask differential calculation. Using the example above, EFID A's quote of a \$10 offer (and no bid) would result in a \$10 width, as no bid is equivalent to a bid of \$0. However, when aggregated with EFID B's quote of \$5 bid at \$15 offer, the Market-Maker firm's aggregate quote would be \$5 bid at \$10 offer, satisfying the \$5 differential requirement.

Proposed Exceptions

The Exchange also proposes to adopt certain exceptions to the bid/ask differential requirements under proposed Rules 5.52(c)(1) and (2).

Proposed Rule 5.52(c)(1) would provide that the Exchange may establish bid/ask differentials other than the foregoing for one or more series or classes of options. As proposed, the Exchange would have flexibility to establish bid/ask differential in excess of \$5 where appropriate for a particular options series or class. The Exchange notes that MIAX has exercised similar discretion to establish wider bid/ask differentials tailored to specific market conditions.³

Proposed Rule 5.52(c)(2) would provide that the bid/ask differentials shall not apply to in-the-money series where the national best bid and offer ("NBBO") for the underlying security is wider than the differentials set forth above. For such series, the bid/ask differentials may be as wide as the spread between the NBBO in the underlying security.

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.⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁵ 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)⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that establishing bid/ask differential requirements for Market-Maker quotes promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system. The Exchange believes the proposed bid/ask differentials will enhance the quality of markets on the Exchange by requiring that Market-Makers maintain reasonably tight markets when fulfilling their continuous quoting obligations. Currently, Market-Makers may satisfy their two-sided quoting obligations with quotes that are excessively wide, which may not provide meaningful liquidity to market participants. By establishing a general maximum permissible width of \$5 between a Market-Maker's bid and offer, the Exchange believes the proposal will cause Market-Makers to submit quotes that are more likely to facilitate price discovery and execution opportunities for investors.

The Exchange believes the proposed \$5 bid/ask differential as the general maximum is reasonable and appropriate. The differential is sufficiently wide to accommodate normal market conditions and volatility while preventing Market-Makers from entering quotes that are so wide as to provide no meaningful liquidity. The Exchange notes that the proposal is substantively identical to MIAX Rules 603(b)(4) and (5).

The Exchange believes that measuring compliance with the bid/ask differential requirement at the TPH firm level (*i.e.*, aggregating quotes across all EFIDs used

³ For example, MIAX has established bid/ask differentials for various options series or classes based on factors such as the price of the underlying security and market characteristics. See MIAX Options Exchange Regulatory Circular 2025-44 at *MIAX_Options_RC_2025_44.pdf*.

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

⁶ *Id.*

by a Market-Maker in a particular series) is consistent with the protection of investors and the public interest. This approach recognizes the operational reality that Market-Maker firms often utilize multiple EFIDs for legitimate business purposes, such as managing different trading strategies or order flow types. The Exchange believes measuring compliance with the bid/ask differential requirement at the firm level more accurately reflects the Market-Maker's overall market in a series, rather than evaluating each EFID in isolation. This aggregation approach appropriately assesses whether the Market-Maker is providing a meaningful two-sided market to investors, as the firm's combined quotes across all EFIDs represent the actual liquidity available from that Market-Maker. This approach is also consistent with how the Exchange measures compliance with other Market-Maker obligations, which are assessed at the firm level rather than by individual EFID.

The Exchange believes that clarifying that a bid of zero or no bid satisfies the two-sided quotation requirement promotes regulatory clarity and removes impediments to and perfects the mechanism of a free and open market. The Exchange believes this clarification will provide Market-Makers with additional understanding of their obligations and thus their ability to comply with the rule in a straightforward manner without being penalized for quoting markets that accurately reflect economic reality. By permitting zero or no bids to be considered a bid for purposes of determining compliance with quoting obligations, the Exchange believes the proposed rule change imposes a meaningful bid/ask differential requirement (measured in the aggregate across all EFIDs used by a Market-Maker in a series), that requires Market-Makers provide two-sided markets while providing Market-Makers with flexibility to quote in a manner that reflects then-current market conditions, thereby facilitating fair and efficient price discovery.

The Exchange believes that proposed Rule 5.52(c)(1), which provides the Exchange with the ability to establish bid/ask differentials other than \$5 for one or more series or classes of options, is reasonable and promotes just and equitable principles of trade. This flexibility allows the Exchange to tailor bid/ask differential requirements to the specific characteristics of particular options series or classes, such as volatility levels, liquidity profiles, underlying security characteristics, or other relevant factors. For example,

certain options classes may warrant narrower bid/ask differentials to enhance market quality, while wider differentials may be appropriate in others to account for unique risk or liquidity characteristics. This discretion enables the Exchange to respond to evolving market conditions and impose bid/ask differential requirements that are appropriate for different product types. The Exchange notes it will announce differentials, including any changes, to TPHs pursuant to Rule 1.5, providing transparency and notice of the applicable requirements. This approach is substantively identical to the flexibility provided to MIAX under MIAX Rules 603(b)(4) and (5).

The Exchange believes the exception under proposed Rule 5.52(c)(2) for in-the-money series where the underlying security market is wider than the applicable bid/ask differential is appropriate because it recognizes that options pricing is inherently tied to the pricing of the underlying security. When the NBBO in the underlying security is wider than the bid/ask differential required for the option, it would be unreasonable to require Market-Makers to maintain tighter markets in the option than exist in the underlying security itself. The Exchange believes this proposed exception is reasonable and appropriate to avoid not placing Market-Makers in the untenable position of being required to quote options more tightly than the securities on which those options are based, which could expose Market-Makers to undue risk and potentially discourage participation in market making. By allowing the bid/ask differential to be as wide as the NBBO in the underlying security for such series, the proposal appropriately balances the goal of maintaining tight markets with the practical realities of options pricing.

The Exchange notes that the proposed exceptions are substantively identical to those in MIAX Rules 603(b)(4) and (5), further demonstrating that the proposal is consistent with the Act.

For the foregoing reasons, the Exchange believes the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act

because the proposed bid/ask differential requirements will apply uniformly to all Market-Makers on the Exchange. All Market-Makers will be subject to the same bid/ask differential requirements in all classes.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the proposal is substantively identical to MIAX Rules 603(b)(4) and (5). By adopting bid/ask differential requirements consistent with those of another options exchange, Market-Makers on the Exchange will be subject to the same bid/ask differential requirements as market-makers on another market.

For the foregoing reasons, the Exchange does not believe the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

A proposed rule change filed under Rule 19b-4(f)(6)⁹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁰ the Commission may designate a shorter

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, 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.

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 17 CFR 240.19b-4(f)(6)(iii).

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 so that the proposal may become operative immediately upon filing. According to the Exchange, waiver of the operative delay would allow the Exchange to enhance market quality without delay by imposing bid/ask differential requirements on Market-Makers that will result in tighter markets. In addition, the proposed requirements are substantively identical to the rules of another exchange. For the foregoing reasons, the Commission believes that the proposed rule change presents no novel issues and 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 proposal operative upon filing.¹¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹² of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CBOE-2026-013 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.

¹¹ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to file number SR-CBOE-2026-013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CBOE-2026-013 and should be submitted on or before March 5, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-02798 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0132]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Trust Indenture Act Rules 7a-15 Through 7a-37

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") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rules 7a-15 through 7a-37 (17 CFR 260.7a-15 through 260.7a-37) under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*) set forth the general requirements as to form and content of applications, statements, and reports that must be filed under the Trust Indenture Act. The respondents are persons and entities subject to the requirements of the Trust Indenture Act.

¹³ 17 CFR 200.30-3(a)(12) and (59).

Trust Indenture Act Rules 7a-15 through 7a-37 are disclosure guidelines and do not directly result in any collection of information. The rules are assigned only one burden hour for administrative convenience.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202511-3235-001 or send an email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice by March 16, 2026.

Dated: February 10, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-02862 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0530]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 32a-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 ("Commission") has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Section 32(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-31(a)(2)) ("Act") requires that the selection of a registered management investment company's or registered face-amount certificate company's (collectively, "funds") independent public accountant be submitted to shareholders for ratification or rejection. Rule 32a-4 under the Investment Company Act (17 CFR 270.32a-4) ("rule") exempts a fund from this requirement if, among other things, the fund has an audit committee consisting entirely of independent directors. The rule permits continuing oversight of a fund's accounting and auditing processes by an independent audit

committee in place of a shareholder vote.

Among other things, to rely on rule 32a–4, a fund’s board of directors must adopt an audit committee charter and must preserve that charter, and any modifications to the charter, permanently in an easily accessible place. The purpose of these conditions is to ensure that Commission staff will be able to monitor the duties and responsibilities of an audit committee of a fund relying on the rule.

Commission staff estimates that on average the board of directors takes 15 minutes to adopt the audit committee charter. Commission staff has estimated that with an average of 9 directors on the board,¹ total director time to adopt the charter is 2.25 hours. Combined with an estimated ½ hour of paralegal time to prepare the charter for board review, the staff estimates a total one-time collection of information burden of 2.75 hours for each fund. Once a board adopts an audit committee charter, the charter is preserved as part of the fund’s records. Commission staff estimates that there is no annual hourly burden associated with preserving the charter in accordance with this rule.²

Because virtually all existing funds have now adopted audit committee charters, the annual one-time collection of information burden associated with adopting audit committee charters is limited to the burden incurred by newly established funds. Commission staff estimates that fund sponsors establish approximately 88 new funds each year,³ and that all of these funds will adopt an audit committee charter in order to rely on rule 32a–4. Thus, Commission staff estimates that the annual one-time hour burden associated with adopting an audit committee charter under rule 32a–4 is approximately 242 hours.⁴

When funds adopt an audit committee charter to rely on rule 32a–4, they also may incur one-time costs related to hiring outside counsel to prepare the charter. Commission staff estimates that those costs average approximately \$2,086 per fund.⁵ As noted above,

Commission staff estimates that approximately 88 new funds each year will adopt an audit committee charter in order to rely on rule 32a–4. Thus, Commission staff estimates that the ongoing annual cost burden associated with rule 32a–4 in the future will be approximately \$183,568.⁶

The estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. The collections of information required by rule 32a–4 are necessary to obtain the benefits of the rule. The Commission is seeking OMB approval, because 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 control number.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202512-3235-008 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by March 16, 2026.

Dated: February 10, 2026.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026–02863 Filed 2–11–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35943; File No. 812–15962]

Stepstone Private Credit Fund LLC, et al.

February 9, 2026.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).
ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the

that prepare these charters, legal fees related to the preparation and adoption of an audit committee charter usually average \$2,086 or less; the Commission also understands that model audit committee charters are available, which reduces the costs associated with drafting a charter.

⁶ This estimate is based on the following calculations: (\$2,086 cost of adopting charter × 88 newly established funds = \$183,568).

Investment Company Act of 1940 (the “Act”) and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (“BDCs”) and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: StepStone Private Credit Fund LLC, StepStone Private Markets, StepStone Private Venture and Growth Fund, StepStone Private Infrastructure Fund, StepStone Private Credit Income Fund, StepStone Private Credit Co-Investment Fund, StepStone Private Equity Strategies Fund, StepStone Group Private Debt LLC, StepStone Group Private Wealth LLC, StepStone Group Real Assets LP, StepStone Group Europe Alternative Investments Limited, StepStone Group Real Estate LP, StepStone Group Private Debt AG, StepStone Group LP, certain of their wholly-owned subsidiaries as described in Schedule A to the application, and certain of their affiliated entities as described in Schedule B to the application

FILING DATES: The application was filed on December 23, 2025.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at Secretarys-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time, on March 6, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary at Secretarys-Office@sec.gov.

ADDRESSES: The Commission: Secretarys-Office@sec.gov. Applicants:

¹ This estimate is based on staff experience and on discussions with a representative of an entity that surveys funds and calculates fund board statistics based on responses to its surveys.

² This estimate is based on staff experience and discussions with funds regarding the hour burden related to maintenance of the charter.

³ This estimate is based on the average annual number of notifications of registration on Form N–8A filed from 2022 to 2024.

⁴ This estimate is based on the following calculation: (2.75 burden hours for establishing charter × 88 new funds = 242 burden hours).

⁵ Costs may vary based on the individual needs of each fund; however, based on the staff’s experience and conversations with outside counsel

Ariel Goldblatt, StepStone Group Private Debt LLC, New York, NY, 10172; Robert W. Long, StepStone Group Private Wealth LLC, 128 S Tryon St., Suite 880, Charlotte, NC 28202; Bendukai Bouey, bendukai.bouey@stepstonegroup.com; David Bartels, Esq., Clay Douglas, Esq., Dechert LLP, 1095 Avenue of the America, New York, NY 10036; and Richard Horowitz, Dechert LLP, richard.horowitz@dechert.com.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, or Adam Large, Senior Special Counsel, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, filed December 23, 2025, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC's Office of Investor Education and Advocacy at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-02793 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104791; File No. SR-NYSE-2026-04]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Proposes To Modify the Definition of "Reverse Merger" Set Forth in Section 102.01F of the NYSE Listed Company Manual

February 9, 2026.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ notice is hereby given that on January 29, 2026, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have

been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the definition of "Reverse Merger" set forth in Section 102.01F of the NYSE Listed Company Manual ("Manual"). The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to modify the definition of a "Reverse Merger" in Section 102.01F of the Manual⁴ to exclude the securities of a special purpose acquisition company, as that term is defined in Item 1601(b) of Regulation S-K ("SPAC"),⁵ which was

⁴ Section 102.01F defines a "Reverse Merger" as "any transaction whereby an operating company becomes an Exchange Act reporting company by combining directly or indirectly with a shell company which is an Exchange Act reporting company, whether through a reverse merger, exchange offer, or otherwise." However, the definition currently excludes from being a Reverse Merger "the acquisition of an operating company by a listed company which qualified for initial listing as an acquisition company under Section 102.06."

⁵ The term special purpose acquisition company (SPAC) means a company that has:

- (1) Indicated that its business plan is to:
 - (i) Conduct a primary offering of securities that is not subject to the requirements of § 230.419 of this chapter (Rule 419 under the Securities Act);
 - (ii) Complete a business combination, such as a merger, consolidation, exchange of securities, acquisition of assets, reorganization, or similar transaction, with one or more target companies within a specified time frame; and
 - (iii) Return proceeds from the offering and any concurrent offering (if such offering or concurrent offering intends to raise proceeds) to its security holders if the company does not complete a

previously listed on a national securities exchange, and is listing in connection with a de-SPAC transaction, as that term is defined in Item 1601(a) of Regulation S-K ("de-SPAC transaction"), in connection with an effective 1933 Securities Act registration statement ("Registration Statement"). The effect of these changes will be to treat a de-SPAC transaction by such SPAC trading in the over-the-counter ("OTC") market in the same way as a de-SPAC transaction with a listed SPAC and, in each case, subject these transactions to the same rules applicable to an initial public offering.⁶

Reverse Merger Rule

Under Section 102.01F, a security issued by a company formed by a Reverse Merger is eligible for initial listing only if it satisfies additional listing conditions, including, among other requirements, that the combined entity has, immediately preceding the filing of the initial listing application:

(i) traded for at least one year in the U.S. over-the-counter market, on another national securities exchange or on a regulated foreign exchange following the consummation of the Reverse Merger and (i) in the case of a domestic issuer, has filed with the Commission a Form 8-K containing all of the information required by Item 2.01(f) of Form 8-K, including all required audited financial statements, after the consummation of the Reverse Merger, or (ii) in the case of a foreign private issuer, has filed all of the information described in (i) above on Form 20-F;

(ii) maintained a closing stock price of \$4 or higher for a sustained period of time, but in no event for less than 30 of the most recent 60 trading days prior to the filing of the initial listing application, and

(iii) filed with the Commission all required reports since the consummation of the Reverse Merger, including the filing of at least one annual report containing all required audited financial statements for a full fiscal year commencing on a date after

business combination, such as a merger, consolidation, exchange of securities, acquisition of assets, reorganization, or similar transaction, with one or more target companies within the specified time frame; or

(2) Represented that it pursues or will pursue a special purpose acquisition company strategy. 17 CFR 229.1601

⁶ An OTC SPAC can also structure its de-SPAC transaction such that the operating company, and not the SPAC, is the surviving entity. In a transaction structured in this manner, the de-SPAC transaction would not be subject to the Reverse Merger Requirement because the listing applicant is a new registrant and not the OTC traded entity. The proposed rule change will therefore also align the treatment of these various structures.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

the date of filing with the Commission of the filing described in (i) above (the requirements set forth in (i)–(iii) are referred to as the “Reverse Merger Requirement”).

Section 102.01F defines a “Reverse Merger” as a transaction whereby an operating company becomes an Exchange Act reporting company by combining with a shell company. While a SPAC is a shell company, the rule specifically excludes from the definition of a Reverse Merger the acquisition of an operating company by a company qualified for listing under the Exchange’s listing standard for SPACs set forth in Section 102.06 of the Manual.

The Reverse Merger rule also provides an exception for a company that lists in connection with a firm commitment underwritten public offering where the gross proceeds to the company will be at least \$40 million. The Reverse Merger Requirement was designed to prevent an operating company from becoming an Exchange Act reporting company in a so-called “backdoor registration”⁷ and immediately accessing public markets without any of the vetting from investors and/or underwriters that companies typically undergo when they perform a traditional IPO. Moreover, in these transactions, the newly public company typically is not required to file a 1933 Act registration statement, which is subject to SEC Staff review.

The Commission recently adopted new rules to align the legal obligations of companies in de-SPAC transactions with those in traditional IPOs and mandated additional disclosures for both SPAC IPOs and de-SPAC transactions (the “SPAC Release”).⁸ In the SPAC Release the Commission

explained that “[w]hile structured as an M&A transaction, the de-SPAC transaction also is the functional equivalent of the private target company’s IPO, because it results in the target company becoming part of a combined company that is a reporting company and provides the private target company with access to cash proceeds that the SPAC had previously raised from the public.”⁹

As described above, Section 102.01F already excludes a de-SPAC transaction by a currently listed SPAC from the definition of a Reverse Merger, as do the comparable rules of other exchanges.¹⁰ This exception was premised on the fact that the Exchange initially listed the SPAC knowing it would seek to conduct a de-SPAC transaction, and investors invested with that knowledge and with the benefit of the additional disclosure and redemption possibilities that come at the time of the de-SPAC transaction, and so it would be inconsistent to require the company to delist and trade in the OTC market at the time it completes the very transaction it was formed to pursue. The Exchange believes that modifying this definition to also exclude other de-SPAC transactions, involving SPACs which were previously listed on a national securities exchange, from the rule is similarly reasonable where the de-SPAC is listing in connection with an effective Registration Statement. The Commission treats a de-SPAC transaction as the functional equivalent of an IPO;¹¹ and given the proposed requirement that a de-SPAC transaction occurs in connection with an effective Registration Statement, such transaction is subject to a level of investor protection, rigorous disclosure requirements, and SEC review similar to that of an IPO. Accordingly, prior to the closing of the de-SPAC transaction, SPAC shareholders will have an opportunity to review an effective Registration Statement which would allow them to make an informed decision whether to remain a shareholder of the surviving company after the business combination or redeem their shares prior to the de-SPAC transaction. Similarly, a company conducting a firm commitment underwritten offering is also currently excluded from the Reverse Merger rules, because such an offering involves an underwriter and requires a Registration

Statement, which includes issuer disclosure and can be reviewed by the Commission. Thus, the Exchange believes that regardless of where the SPAC is trading, a company listing on the Exchange in connection with a de-SPAC transaction involving a SPAC, which was previously listed on a national securities exchange and provides its public shareholders the opportunity to redeem or tender their shares in connection with the de-SPAC transaction in exchange for a pro rata share of the IPO proceeds and concurrent sale by the company of equity securities; in connection with an effective Registration Statement should be excluded from the Reverse Merger Requirement.¹²

To effect this change, the Exchange proposes to modify Section 102.01F to revise the existing de-SPAC exclusion from the definition of a Reverse Merger to exclude any de-SPAC transaction, as that term is defined in Item 1601(a) of Regulation S–K, involving a SPAC, which is listed or was previously listed on a national securities exchange and provides its public shareholders the opportunity to redeem or tender their shares in connection with the de-SPAC transaction in exchange for a pro rata share of the IPO proceeds and concurrent sale by the company of equity securities; where the company is listing in connection with an effective Registration Statement.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹³ in general, and furthers the objectives of Section 6(b)(5)

⁷ See former Commissioner Aguilar speech: Facilitating Real Capital Formation, citing release No. 33–8587, (July 15, 2005) [70 FR 42233] (stating that “These transactions generally take one of two forms: In the most common type of transaction, a “reverse merger,” the private business merges into the shell company, with the shell company surviving and the former shareholders of the private business controlling the surviving entity. In another common type of transaction, a “back door registration,” the shell company merges into the formerly private company, with the formerly private company surviving and the shareholders of the shell company becoming shareholders of the surviving entity.”).

⁸ Securities Exchange Act Release No. 99418 (January 24, 2024), 89 FR 14158 (February 26, 2024). In the SPAC Release the Commission also adopted a definition for a “de-SPAC transaction” that the Exchange proposes to utilize. See 17 CFR 229.1601 (Item 1601 of Regulation S–K): “The term de-SPAC transaction means a business combination, such as a merger, consolidation, exchange of securities, acquisition of assets, reorganization, or similar transaction, involving a special purpose acquisition company and one or more target companies (contemporaneously, in the case of more than one target company).”

⁹ SPAC Release at 14160.

¹⁰ See e.g., NYSE American Company Guide Section 102(e) (“However, a Reverse Merger does not include the acquisition of an operating company by a listed company which qualified for initial listing under Section 119.”).

¹¹ See footnote 8 above.

¹² Following its IPO, a SPAC places all or substantially all of the IPO proceeds into a trust or escrow account. The SPAC typically registers its shares and warrants under Section 12(b) of the Securities Exchange Act of 1934 and lists the units (typically consisting of a common share and a fraction of a warrant) for trading on a national securities exchange. Next, the SPAC seeks to identify a target company for a de-SPAC transaction within the time frame specified in its governing documents. If the SPAC does not complete a de-SPAC transaction within that time frame, it may seek an extension (often requiring approval from its shareholders) or dissolve and liquidate. SPAC shareholders typically also have a redemption right in connection with any votes to extend the duration of the SPAC. The Exchange generally expects that an OTC trading SPAC, which was previously listed on a national securities exchange, will retain the investor protection features it had at the time of its IPO, including providing its public shareholders the opportunity to redeem or tender their shares in connection with the de-SPAC transaction in exchange for a pro rata share of the IPO proceeds and concurrent sale by the company of equity securities. See e.g., Section 119 of the Company Guide. (“At least 90% of the gross proceeds from the initial public offering and any concurrent sale by the company of equity securities must be deposited in a trust account. . .”)

¹³ 15 U.S.C. 78f(b).

of the Act¹⁴ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, by excluding the securities of certain OTC-trading SPACs listing in connection with a de-SPAC transaction in connection with an Registration Statement, as described above, from the definition of a Reverse Merger. Based on the unique characteristics of a de-SPAC transaction, the proposed change will align the requirements for listing a de-SPAC transaction with those for listing an IPO, consistent with the treatment by the Commission in other contexts, eliminating an impediment to a free and open market, while ensuring adequate distribution, shareholder interest, a liquid trading market and investor protections through other listing standards.

The Exchange believes that excluding a de-SPAC transaction by an OTC-trading SPAC, which is listed or was previously listed on a national securities exchange and provides its public shareholders the opportunity to redeem or tender their shares in connection with the de-SPAC transaction in exchange for a pro rata share of the IPO proceeds and concurrent sale by the company of equity securities; from the Reverse Merger definition avoids imposing an unnecessary impediment to the mechanism of a free and open market and is not unfairly discriminatory. Specifically, as noted above, the Reverse Merger Requirement was designed to prevent an operating company from becoming an Exchange Act reporting company and immediately accessing public markets without proper disclosure and vetting opportunities by the Commission and investors. The Exchange believes that a de-SPAC transaction with such OTC-trading SPAC where the post-transaction entity lists in connection with an effective Registration Statement does not present the same concerns as a typical Reverse Merger transaction. The Commission in the SPAC Release explained that “[w]hile structured as an M&A transaction, the de-SPAC transaction also is the functional equivalent of the private target company’s IPO, because it results in the target company becoming part of a combined company that is a

reporting company and provides the private target company with access to cash proceeds that the SPAC had previously raised from the public.” Unlike the historical “backdoor registrations” that the Reverse Merger rule was designed to capture, a de-SPAC transaction would be required to file a 1933 Act registration statement to avail itself of the proposed rule change.

The Exchange believes that excluding a de-SPAC transaction by such OTC-trading SPACs from the definition of a Reverse Merger is reasonable because it aligns the treatment of such transactions with the treatment of a de-SPAC transaction by an Exchange-listed SPAC because both cases represent the functional equivalent of an IPO, as the Commission explained in the SPAC Release, and, therefore, these cases differ from a typical Reverse Merger where a public shell merges into a private company, in a so-called “backdoor registration”¹⁵ without a Registration Statement which is subject to review by Commission staff.¹⁶

The proposed requirement that a de-SPAC transaction by a previously listed OTC-trading SPAC, as described above, or a listed SPAC, is excluded from the definition of Reverse Merger only where the Company is listing in connection with an effective Registration Statement is designed to protect investors and the public interest, because it will ensure such companies satisfy the rigorous disclosure requirements under the Securities Act of 1933 and are subject to review by Commission staff. In addition, as noted above, SPACs that are listed or were previously listed on a national securities exchange, generally have established certain investor protection safeguards. Accordingly, prior to the closing of the de-SPAC transaction, SPAC shareholders will have an opportunity to review an effective Registration Statement allowing them to make an informed decision whether to remain a shareholder of the surviving company after the business combination or redeem their shares prior to the de-SPAC transaction.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance

of the purposes of the Act. The proposed rule changes are designed to avoid imposing an unnecessary impediment to the mechanism of a free and open market and does not limit the ability of companies to list on any other national securities exchange. Furthermore, while the rule change may permit more companies to list on the Exchange in connection with de-SPAC transactions, Nasdaq has already adopted a similar rule¹⁷ and other exchanges could adopt similar rules to compete for such listings. In addition, the proposed rule change could help facilitate competition amongst OTC-trading SPACs with other SPACs.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁸ and Rule 19b-4(f)(6) thereunder.¹⁹ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁰ and Rule 19b-4(f)(6)(iii) thereunder.²¹

A proposed rule change filed under Rule 19b-4(f)(6)²² normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²³ the Commission may designate a shorter time if such action is consistent with the

¹⁷ See Securities Exchange Act Release No. 104344 (December 8, 2025) (SR-NASDAQ-2025-066), 90 FR 57510 (December 11, 2025).

¹⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

²¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²² 17 CFR 240.19b-4(f)(6).

²³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ See footnote 6 above.

¹⁶ The Exchange notes that a de-SPAC transaction where the SPAC is not the surviving entity is not subject to the Reverse Merger Requirement because the entity to be listed is a new registrant, and, therefore a de-SPAC transaction can already be structured so as not to implicate the Reverse Merger Requirement.

protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) ²⁴ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSE-2026-04 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-NYSE-2026-04. 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-NYSE-2026-04 and should be submitted on or before March 5, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-02806 Filed 2-11-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104790; File No. SR-NYSEAMER-2026-06]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change Proposes To Modify the Definition of "Reverse Merger" Set Forth in Section 101(e) of the NYSE American Company Guide

February 9, 2026.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 ("Act") ² and Rule 19b-4 thereunder, ³ notice is hereby given that, on January 30, 2026, NYSE American LLC ("NYSE American" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the definition of "Reverse Merger" set forth in Section 101(e) of the NYSE American Company Guide ("Company Guide"). The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to modify the definition of a "Reverse Merger" in Section 101(e) of the Company Guide ⁴ to exclude the securities of a special purpose acquisition company, as that term is defined in Item 1601(b) of Regulation S-K ("SPAC"), ⁵ which was previously listed on a national securities exchange, and is listing in connection with a de-SPAC transaction, as that term is defined in Item 1601(a) of Regulation S-K ("de-SPAC transaction"), in connection with an effective 1933 Securities Act registration statement ("Registration Statement"). The effect of these changes will be to treat a de-SPAC transaction by such SPAC trading in the over-the-counter ("OTC") market in the same way as a de-SPAC transaction with a listed SPAC and, in each case, subject these transactions to the same rules applicable to an initial public offering. ⁶

⁴ Section 101(e) defines a "Reverse Merger" as "any transaction whereby an operating company becomes an Exchange Act reporting company by combining directly or indirectly with a shell company which is an Exchange Act reporting company, whether through a reverse merger, exchange offer, or otherwise." However, the definition currently excludes from being a Reverse Merger "the acquisition of an operating company by a listed company which qualified for initial listing under Section 119."

⁵ The term special purpose acquisition company (SPAC) means a company that has:

- (1) Indicated that its business plan is to:
 - (i) Conduct a primary offering of securities that is not subject to the requirements of § 230.419 of this chapter (Rule 419 under the Securities Act);
 - (ii) Complete a business combination, such as a merger, consolidation, exchange of securities, acquisition of assets, reorganization, or similar transaction, with one or more target companies within a specified time frame; and
 - (iii) Return proceeds from the offering and any concurrent offering (if such offering or concurrent offering intends to raise proceeds) to its security holders if the company does not complete a business combination, such as a merger, consolidation, exchange of securities, acquisition of assets, reorganization, or similar transaction, with one or more target companies within the specified time frame; or
- (2) Represented that it pursues or will pursue a special purpose acquisition company strategy. 17 CFR 229.1601.

⁶ An OTC SPAC can also structure its de-SPAC transaction such that the operating company, and not the SPAC, is the surviving entity. In a transaction structured in this manner, the de-SPAC transaction would not be subject to the Reverse Merger Requirement because the listing applicant is a new registrant and not the OTC traded entity. The proposed rule change will therefore also align the treatment of these various structures.

²⁴ 15 U.S.C. 78s(b)(2)(B).

²⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

Reverse Merger Rule

Under Section 101(e), a security issued by a company formed by a Reverse Merger is eligible for initial listing only if it satisfies additional listing conditions, including, among other requirements, that the combined entity has, immediately preceding the filing of the initial listing application:

(i) traded for at least one year in the U.S. over-the-counter market, on another national securities exchange or on a regulated foreign exchange following the consummation of the Reverse Merger and (i) in the case of a domestic issuer, has filed with the Commission a Form 8-K containing all of the information required by Item 2.01(f) of Form 8-K, including all required audited financial statements, after the consummation of the Reverse Merger, or (ii) in the case of a foreign private issuer, has filed all of the information described in (i) above on Form 20-F;

(ii) maintained a closing stock price equal to the stock price requirement applicable to the initial listing standard under which the Reverse Merger Company is qualifying to list for a sustained period of time, but in no event for less than 30 of the most recent 60 trading days prior to the filing of the initial listing application; and

(iii) filed with the Commission all required reports since the consummation of the Reverse Merger, including the filing of at least one annual report containing all required audited financial statements for a full fiscal year commencing on a date after the date of filing with the Commission of the filing described in (i) above (the requirements set forth in (i)–(iii) are referred to as the “Reverse Merger Requirement”).

Section 101(e) defines a “Reverse Merger” as a transaction whereby an operating company becomes an Exchange Act reporting company by combining with a shell company. While a SPAC is a shell company, the rule specifically excludes from the definition of a Reverse Merger the acquisition of an operating company by a company qualified for listing under the Exchange’s listing standard for SPACs set forth in Section 119 of the Company Guide.

The Reverse Merger rule also provides an exception for a company that lists in connection with a firm commitment underwritten public offering where the gross proceeds to the company will be at least \$40 million. The Reverse Merger Requirement was designed to prevent an operating company from becoming an Exchange Act reporting company in a

so-called “backdoor registration”⁷ and immediately accessing public markets without any of the vetting from investors and/or underwriters that companies typically undergo when they perform a traditional IPO. Moreover, in these transactions, the newly public company typically is not required to file a 1933 Act registration statement, which is subject to SEC Staff review.

The Commission recently adopted new rules to align the legal obligations of companies in de-SPAC transactions with those in traditional IPOs and mandated additional disclosures for both SPAC IPOs and de-SPAC transactions (the “SPAC Release”).⁸ In the SPAC Release the Commission explained that “[w]hile structured as an M&A transaction, the de-SPAC transaction also is the functional equivalent of the private target company’s IPO, because it results in the target company becoming part of a combined company that is a reporting company and provides the private target company with access to cash proceeds that the SPAC had previously raised from the public.”⁹

As described above, Section 101(e) already excludes a de-SPAC transaction by a currently listed SPAC from the definition of a Reverse Merger, as do the comparable rules of other exchanges.¹⁰ This exception was premised on the fact that the Exchange initially listed the SPAC knowing it would seek to conduct a de-SPAC transaction, and investors invested with that knowledge and with the benefit of the additional disclosure

⁷ See former Commissioner Aguilar speech: Facilitating Real Capital Formation, citing release No. 33-8587, (July 15, 2005) [70 FR 42233] (stating that “These transactions generally take one of two forms: In the most common type of transaction, a “reverse merger,” the private business merges into the shell company, with the shell company surviving and the former shareholders of the private business controlling the surviving entity. In another common type of transaction, a “back door registration,” the shell company merges into the formerly private company, with the formerly private company surviving and the shareholders of the shell company becoming shareholders of the surviving entity.”).

⁸ Securities Exchange Act Release No. 99418 (January 24, 2024), 89 FR 14158 (February 26, 2024). In the SPAC Release the Commission also adopted a definition for a “de-SPAC transaction” that the Exchange Staff proposes to utilize. See 17 CFR 229.1601 (Item 1601 of Regulation S-K): “The term de-SPAC transaction means a business combination, such as a merger, consolidation, exchange of securities, acquisition of assets, reorganization, or similar transaction, involving a special purpose acquisition company and one or more target companies (contemporaneously, in the case of more than one target company).”

⁹ SPAC Release at 14160.

¹⁰ See e.g., NYSE Listed Company Manual Section 102.01F (“However, a Reverse Merger does not include the acquisition of an operating company by a listed company which qualified for initial listing as an acquisition company under Section 102.06.”).

and redemption possibilities that come at the time of the de-SPAC transaction, and so it would be inconsistent to require the company to delist and trade in the OTC market at the time it completes the very transaction it was formed to pursue. The Exchange believes that modifying this definition to also exclude other de-SPAC transactions, involving SPACs which were previously listed on a national securities exchange, from the rule is similarly reasonable where the de-SPAC is listing in connection with an effective Registration Statement. The Commission treats a de-SPAC transaction as the functional equivalent of an IPO;¹¹ and given the proposed requirement that a de-SPAC transaction occurs in connection with an effective Registration Statement, such transaction is subject to a level of investor protection, rigorous disclosure requirements, and SEC review similar to that of an IPO. Accordingly, prior to the closing of the de-SPAC transaction, SPAC shareholders will have an opportunity to review an effective Registration Statement which would allow them to make an informed decision whether to remain a shareholder of the surviving company after the business combination or redeem their shares prior to the de-SPAC transaction. Similarly, a company conducting a firm commitment underwritten offering is also currently excluded from the Reverse Merger rules, because such an offering involves an underwriter and requires a Registration Statement, which includes issuer disclosure and can be reviewed by the Commission. Thus, the Exchange believes that regardless of where the SPAC is trading, a company listing on the Exchange in connection with a de-SPAC transaction involving a SPAC, which was previously listed on a national securities exchange and provides its public shareholders the opportunity to redeem or tender their shares in connection with the de-SPAC transaction in exchange for a pro rata share of the IPO proceeds and concurrent sale by the company of equity securities; in connection with an effective Registration Statement should be excluded from the Reverse Merger Requirement.¹²

¹¹ See footnote 8 above.

¹² Following its IPO, a SPAC places all or substantially all of the IPO proceeds into a trust or escrow account. The SPAC typically registers its shares and warrants under Section 12(b) of the Securities Exchange Act of 1934 and lists the units (typically consisting of a common share and a fraction of a warrant) for trading on a national securities exchange. Next, the SPAC seeks to

To effect this change, the Exchange proposes to modify Section 102(e) to revise the existing de-SPAC exclusion from the definition of a Reverse Merger to exclude any de-SPAC transaction, as that term is defined in Item 1601(a) of Regulation S-K, involving a SPAC, which is listed or was previously listed on a national securities exchange and provides its public shareholders the opportunity to redeem or tender their shares in connection with the de-SPAC transaction in exchange for a pro rata share of the IPO proceeds and concurrent sale by the company of equity securities; where the company is listing in connection with an effective Registration Statement.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹³ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁴ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, by excluding the securities of certain OTC-trading SPACs listing in connection with a de-SPAC transaction in connection with an Registration Statement, as described above, from the definition of a Reverse Merger. Based on the unique characteristics of a de-SPAC transaction, the proposed change will align the requirements for listing a de-SPAC transaction with those for listing an IPO, consistent with the treatment by the Commission in other contexts,

identify a target company for a de-SPAC transaction within the time frame specified in its governing documents. If the SPAC does not complete a de-SPAC transaction within that time frame, it may seek an extension (often requiring approval from its shareholders) or dissolve and liquidate. SPAC shareholders typically also have a redemption right in connection with any votes to extend the duration of the SPAC. The Exchange generally expects that an OTC trading SPAC, which was previously listed on a national securities exchange, will retain the investor protection features it had at the time of its IPO, including providing its public shareholders the opportunity to redeem or tender their shares in connection with the de-SPAC transaction in exchange for a pro rata share of the IPO proceeds and concurrent sale by the company of equity securities. *See e.g.*, Section 119 of the Company Guide. (“At least 90% of the gross proceeds from the initial public offering and any concurrent sale by the company of equity securities must be deposited in a trust account . . .”)

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

eliminating an impediment to a free and open market, while ensuring adequate distribution, shareholder interest, a liquid trading market and investor protections through other listing standards.

The Exchange believes that excluding a de-SPAC transaction by an OTC-trading SPAC, which is listed or was previously listed on a national securities exchange and provides its public shareholders the opportunity to redeem or tender their shares in connection with the de-SPAC transaction in exchange for a pro rata share of the IPO proceeds and concurrent sale by the company of equity securities; from the Reverse Merger definition avoids imposing an unnecessary impediment to the mechanism of a free and open market and is not unfairly discriminatory. Specifically, as noted above, the Reverse Merger Requirement was designed to prevent an operating company from becoming an Exchange Act reporting company and immediately accessing public markets without proper disclosure and vetting opportunities by the Commission and investors. The Exchange believes that a de-SPAC transaction with such OTC-trading SPAC where the post-transaction entity lists in connection with an effective Registration Statement does not present the same concerns as a typical Reverse Merger transaction. The Commission in the SPAC Release explained that “[w]hile structured as an M&A transaction, the de-SPAC transaction also is the functional equivalent of the private target company’s IPO, because it results in the target company becoming part of a combined company that is a reporting company and provides the private target company with access to cash proceeds that the SPAC had previously raised from the public.” Unlike the historical “backdoor registrations” that the Reverse Merger rule was designed to capture, a de-SPAC transaction would be required to file a 1933 Act registration statement to avail itself of the proposed rule change.

The Exchange believes that excluding a de-SPAC transaction by such OTC-trading SPACs from the definition of a Reverse Merger is reasonable because it aligns the treatment of such transactions with the treatment of a de-SPAC transaction by an Exchange-listed SPAC because both cases represent the functional equivalent of an IPO, as the Commission explained in the SPAC Release, and, therefore, these cases differ from a typical Reverse Merger where a public shell merges into a private company, in a so-called

“backdoor registration”¹⁵ without a Registration Statement which is subject to review by Commission staff.¹⁶

The proposed requirement that a de-SPAC transaction by a previously listed OTC-trading SPAC, as described above, or a listed SPAC, is excluded from the definition of Reverse Merger only where the Company is listing in connection with an effective Registration Statement is designed to protect investors and the public interest, because it will ensure such companies satisfy the rigorous disclosure requirements under the Securities Act of 1933 and are subject to review by Commission staff. In addition, as noted above, SPACs that are listed or were previously listed on a national securities exchange, generally have established certain investor protection safeguards. Accordingly, prior to the closing of the de-SPAC transaction, SPAC shareholders will have an opportunity to review an effective Registration Statement allowing them to make an informed decision whether to remain a shareholder of the surviving company after the business combination or redeem their shares prior to the de-SPAC transaction.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes are designed to avoid imposing an unnecessary impediment to the mechanism of a free and open market and does not limit the ability of companies to list on any other national securities exchange. Furthermore, while the rule change may permit more companies to list on the Exchange in connection with de-SPAC transactions, Nasdaq has already adopted a similar rule¹⁷ and other exchanges could adopt similar rules to compete for such listings. In addition, the proposed rule change could help facilitate competition amongst OTC-trading SPACs with other SPACs.

¹⁵ *See* footnote 6 above.

¹⁶ The Exchange notes that a de-SPAC transaction where the SPAC is not the surviving entity is not subject to the Reverse Merger Requirement because the entity to be listed is a new registrant, and, therefore a de-SPAC transaction can already be structured so as not to implicate the Reverse Merger Requirement.

¹⁷ *See* Securities Exchange Act Release No. 104344 (December 8, 2025) (SR-NASDAQ-2025-066), 90 FR 57510 (December 11, 2025).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁸ and Rule 19b-4(f)(6) thereunder.¹⁹ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁰ and Rule 19b-4(f)(6)(iii) thereunder.²¹

A proposed rule change filed under Rule 19b-4(f)(6)²² normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²³ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

under Section 19(b)(2)(B)²⁴ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEAMER-2026-06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSEAMER-2026-06. 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-NYSEAMER-2026-06 and should be submitted on or before March 5, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104779; File No. SR-CboeBZX-2026-011]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Fees for Certain Logical Ports and Average Daily Order and Quote Threshold Fees

February 9, 2026.

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 January 29, 2026, 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, 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

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") proposes to adopt fees for new logical ports in connection with a new connectivity offering on its equity options platform. 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

¹⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

²¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²² 17 CFR 240.19b-4(f)(6).

²³ 17 CFR 240.19b-4(f)(6)(iii).

²⁴ 15 U.S.C. 78s(b)(2)(B).

²⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 its fee schedule to adopt fees for Unitized Logical Ports, a new connectivity offering for its equity options platform ("BZX Options") and adopt new Average Daily Quote and Average Daily Order fees.³

Unitized Port Fees

By way of background, Exchange Members may interface with the Exchange's Trading System⁴ (hereinafter, "System") by utilizing either the Financial Information Exchange ("FIX") protocol or the Binary Order Entry ("BOE") protocol. The Exchange further offers a variety of logical ports,⁵ which provide users of these ports with the ability within the Exchange's System to accomplish a specific function through a connection, such as order entry, data receipt or access to information. For example, such ports include Logical Ports,⁶ Purge

Ports,⁷ and Ports with Bulk Quoting Capabilities⁸ ("Bulk Ports"). By way of further background, each of these ports corresponds to a single running order handler. Each order handler processes the messages it receives from these ports from the connected Members. This processing includes determining whether the message contains the required information to enter the System, whether the message parameters satisfy port-level (*i.e.*, pre-trade) risk controls, and where to send that message within the System (*i.e.*, to which matching engine⁹). Once an order handler completes the processing of a message, it sends that message to the appropriate matching engine.

Historically, all order handlers connect to all matching engines. That is, under the BOEv2 and FIX protocols,¹⁰ Members were able to access all symbols from a single logical port since each port corresponds to a single order handler that conveniently connects to all matching engines ("convenience layer"). Although the Exchange configures the software and hardware for its order handlers in the same manner, there can be a natural variance in the amount of time it takes individual order handlers to process messages of the same type under this architecture. Factors that contribute to this differentiation in processing times include the availability of shared resources (such as memory), which is impacted by (among other things) then-current message rates, the number of active symbols (*i.e.*, classes), and recent messages for a symbol. This natural differentiation in processing times

inherently may cause some messages to be sent from an order handler to a matching engine ahead of other messages that the Exchange's System may have received earlier on a different order handler.

The Exchange recently implemented a new architecture and protocol which includes, among other things, a single gateway per matching engine ("unitized layer"), which renders the above-described natural variance of order handler processing irrelevant for Members that connect to the unitized order handler.¹¹ More specifically, effective August 19, 2024, the Exchange implemented this new unitized access architecture and a new version of its Binary Order Entry (BOE) protocol¹² ("BOEv3"), which also resulted in the adoption of new logical port types ("Unitized Logical Ports"), for which the Exchange is now seeking to establish fees.¹³ Under the new unitized BOEv3 architecture, a single BOEv3 order handler corresponds to a single matching engine and all message traffic (including FIX and BOEv3 convenience layer port traffic)¹⁴ passes through this unitized BOEv3 order handler before reaching that order handler's corresponding matching engine.¹⁵ If a Member desires to access this unitized layer of the BOEv3 architecture, the Member would need to obtain a Unitized Logical Port for each corresponding matching engine(s) that process the symbol(s) that Member desires to trade.¹⁶

BOEv3 Unitized Logical Ports provide an expedited processing path to a single matching engine over that of other inbound paths on a best-efforts basis. Under routine circumstances, the System will process pending purge messages from BOEv3 Unitized Logical Ports before processing other inbound paths. Exceptions to this approach exist with regard to various message traffic

³ The Exchange initially submitted the proposed rule change on August 30, 2024 and was effective September 3, 2024 (SR-CboeBZX-2024-082). On September 13, 2024, the Exchange withdrew that filing and submitted SR-CboeBZX-2024-088. On November 12, 2024, the Exchange withdrew that filing and submitted SR-CboeBZX-2024-113. On December 20, 2024, the Exchange withdrew that filing and submitted SR-CboeBZX-2024-131. On February 3, 2025, the Exchange withdrew that filing and submitted SR-CboeBZX-2025-016. On April 4, the Exchange withdrew that filing and submitted SR-CboeBZX-2025-052. On June 2, 2025, the Exchange withdrew that filing and submitted SR-CboeBZX-2025-075. On July 31, 2025, the Exchange withdrew that filing and submitted SR-CboeBZX-2025-107. On September 26, 2025, the Exchange submitted SR-CboeBZX-2025-134. On November 24, 2025, the Exchange withdrew that filing and submitted SR-CboeBZX-2025-152. On December 4, 2025, the Exchange withdrew that filing and submitted SR-CboeBZX-2025-158. On January 29, 2026, the Exchange withdrew that filing and submitted this filing.

⁴ The terms "Trading System" and "System" mean the automated trading system used by BZX Options for the trading of options contracts. See Chapter XVI. General Provisions—BZX Options, Rule 16.1 Definitions.

⁵ See Exchange Rule 21.1 (l)(2), definition of "logical port." Logical ports include FIX and BOE ports (used for order entry), drop logical port (which grants users the ability to receive and/or send drop copies) and ports that are used for receipt of certain market data feeds.

⁶ The term "Logical Ports" used herein shall refer to FIX and BOE ports (used for order entry). See Cboe BZX Options Fee Schedule, Options Logical Port Fees, "Logical Ports" (which exclude Purge Port, Multicast PITCH Spin Server Port or GRP Port).

⁷ Purge Ports provide users the ability to cancel a subset (or all) of open orders across Executing Firm ID(s) ("EFID(s)"), Underlying symbol(s), or CustomGroupID(s), across multiple logical ports/sessions. See Securities Exchange Act Release 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR-BatsBZX-2017-05). See also https://cdn.cboe.com/resources/membership/US_Options_BOE_Specification.pdf and https://cdn.cboe.com/resources/membership/US_Options_FIX_Specification.pdf.

⁸ See Exchange Rule 21.1 (l)(3), definition of "bulk port." Bulk Ports provide users with the ability to submit and update multiple quote bids and offers in one message through logical ports enabled for bulk-quoting.

⁹ A matching engine is a part of the Exchange's System that processes options quotes and trades on a symbol-by-symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will be processed by one single matching engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated matching engine. A particular root symbol may not be assigned to multiple matching engines.

¹⁰ The Exchange notes for clarity that while BOEv2 has been decommissioned, Members can still access the convenience layer through BOEv3 protocol.

¹¹ See Securities Exchange Act Release 100582 (July 23, 2024), 89 FR 60958 (July 29, 2024) (SR-CboeBZX-2024-071).

¹² The BOE protocol is a proprietary order entry protocol used by Members to connect to the Exchange. The current version is BOEv3.

¹³ See Securities Exchange Act Release No. 100582 (July 23, 2024) 89 FR 60958 (July 29, 2024) (SR-CboeBZX-2024-071).

¹⁴ The Exchange decommissioned BOEv2 in March 2025.

¹⁵ The Exchange notes that this improved infrastructure improves the prior noted natural variance in the amount of time it takes individual order handlers to process messages of the same type for all Members due to the improved infrastructure, even if a participant chooses to not utilize Unitized Logical Ports.

¹⁶ Members will be able to purchase Unitized Logical Ports individually or may purchase a "set," which will provide the total number of ports needed to connect to each available matching engine.

and rate controls that are incorporated into the BOEv3 architecture. To illustrate how BOEv3 processes inbound messages, consider the following simplified example: (1) process pending purge messages from BOEv3 Unitized Logical Ports; (2) process all other pending messages from BOEv3 Unitized Logical Ports; (3) process pending messages from convenience ports.

As noted above, to access the BOEv3 architecture a Member must obtain a Unitized Logical Port for each corresponding matching engine(s) that processes the symbol(s) the Member

desires to trade. The three new port types that have been adopted are: (1) BOE Unitized Logical Ports,¹⁷ (2) Bulk Unitized Logical Ports,¹⁸ and (3) Purge Unitized Logical Ports¹⁹ (collectively, “Unitized Logical Port”). With the exception of Exchange Options Market Makers²⁰ (hereinafter, “Market Makers”) who may only quote via a BOE Bulk Unitized Logical Port,²¹ use of the unitized architecture and purchase of a Unitized Logical Port is completely voluntary, and Members (*i.e.*, non-Market Makers) are not required, or

under any regulatory obligation, to utilize them.

The Exchange proposes to establish fees for the new Unitized Logical Ports, which can be purchased on an individual basis (*i.e.*, capable of accessing a specified matching engine (“Matching Unit”))²² and/or as a set (“Unitized Logical Port Set”) (*i.e.*, will include the total number of ports needed to connect to each available Matching Unit). The proposed fees for Unitized Logical Ports purchased individually and as sets are as follows:

BOE Unitized Logical Port	\$350/port/month.
Bulk Unitized Logical Port	\$550/port/month.
Purge Unitized Logical Port	\$400/port/month.
BOE Unitized Logical Port (Set)	\$2,500/month for 1st and 2nd port set. \$3,000/month for 3rd–14th port set. \$3,500/month for 15th–30th port set.
Bulk Unitized Logical Port (Set)	\$5,500/month for 1st and 2nd port set. \$6,000/month for 3rd–14th port set. \$6,500/month for 15th–30th port set.
Purge Unitized Logical Port (Set) ...	\$2,500/month for 1st and 2nd port set. \$3,000/month for 3rd–14th port set. \$3,500/month for 15th–30th port set.

The proposed fees for Unitized Logical Port Sets are progressive. For example, if a User were to purchase 11 BOE Unitized Logical Port Sets, it will be charged a total of \$32,000 per month ($\$2,500 \times 2 + \$3,000 \times 9$). As is the case today for existing logical ports, the monthly fees are assessed and applied in their entirety and are not prorated. The Exchange notes the current standard fees assessed for existing logical ports will remain applicable and unchanged,²³ and Members are still able to purchase and utilize such ports if they choose to do so. The proposed fees for Unitized Logical Port Sets will be assessed per set, per Port Type. As an example, if a Member requests three BOE Unitized Logical Port Sets, one Bulk Unitized Logical Port Set, and one Purge Unitized Logical Port Set, the firm would be charged \$8,000 ($\$2,500 + \$2,500 + \$3,000$) for the three BOE Unitized Logical Port Sets, \$5,500 for the one Bulk Unitized Logical Port Set,

and \$2,500 for the one Purge Unitized Logical Port Set.²⁴

Since the Exchange has a finite amount of capacity, it also proposes to prescribe a maximum limit on the number of Unitized Logical Ports that may be purchased and used on a per Member, per Matching Unit basis. The purpose of establishing these limits is to manage the allotment of Unitized Logical Ports in a fair and reasonable manner while preventing the Exchange from being required to expend large amounts of resources in order to provide an unlimited capacity to its matching engines. The Exchange previously proposed to provide that the two structures (*i.e.*, individual unitized ports or unitized port sets) can be combined for up to a maximum of 20 Unitized Logical Ports per Member, per Matching Unit, per type of Unitized Logical Port.²⁵ The Exchange noted at the time it adopted this maximum that it would continue monitoring interest by all Members and system capacity availability with the goal of increasing

these limits to meet Members’ needs if and when the demand is there and/or the Exchange is able to accommodate such demand.²⁶ Since then, the Exchange has determined that it is able to accommodate an increased cap relative to current demand and available to the Exchange’s matching engine and order handler capacity. As such, the Exchange proposes to increase the maximum to 30 Unitized Logical Ports per Member, per Matching Unit, per port type. As an example, a Member may request 12 BOE Unitized Logical Port Sets and 18 individual BOE Unitized Logical Ports for Matching Unit 1, providing a total max of 30 BOE Unitized Logical Ports on Matching Unit 1 specifically. This would result in having 30 BOE Unitized Logical Ports on Matching Unit 1 and 12 BOE Unitized Ports on all additional Matching Units as part of the 12 BOE Unitized Logical Port Sets requested. Additionally, a firm may request 30 Bulk Unitized Logical Port Sets and 30

¹⁷ Similar to the Exchange’s preexisting Logical Ports, the new Unitized Logical Ports allow Members to submit orders and quotes.

¹⁸ Similar to the Exchange’s preexisting Bulk Ports, the new Bulk Unitized Logical Ports allow Members to submit and update multiple quote bids and offers in one message and are particularly useful for Members that provide quotations in many different options.

¹⁹ Similar to the Exchange’s preexisting Purge Ports, the new Purge Unitized Logical Ports are dedicated logical ports that provide the ability to cancel/purge all open orders, or a subset thereof, across multiple logical ports through a single cancel/purge message. They also solely process purge messages and are designed to assist Members, including Market Makers, in the management of,

and risk control over, their orders and quotes, particularly if the Member is dealing with a large number of options.

²⁰ The terms “Options Market-Maker” and “Market-Maker” mean an Options Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter XXII of these Rules. See Chapter XVI. General Provisions—BZX Options, Rule 16.1 Definitions.

²¹ Market Makers may provide liquidity using either FIX, BOE convenience ports, BOE Unitized Logical Ports, or BOE Bulk Unitized sessions using either order or quote messages. Only the BOE Bulk Unitized sessions support the quote messages. BOE

Bulk convenience sessions were not created due to lack of demand from MMs.

²² The Exchange notes that it operates 32 separate matching units.

²³ For example, the Exchange currently assesses a monthly per port fee of \$750 for Logical Ports and Purge Ports. It also assesses \$1,500 per port month for the 1st and 2nd Bulk Ports and \$2,500 for the 3rd or more Bulk Ports. See Cboe BZX Options Fee Schedule, Options Logical Port Fees.

²⁴ The Exchange proposes to include this example in the Fee Schedule to provide further clarity as to the application of the proposed fees.

²⁵ See Securities Exchange Act Release 101212 (September 27, 2024), 89 FR 80614 (October 3, 2024) (SR–CboeBZX–2024–088).

²⁶ *Id.*

Purge Unitized Logical Port Sets as those would constitute different port types.²⁷ The Exchange believes the proposed cap will be sufficient for the vast majority of Members, as the Exchange understands that at this time, no Member desires more than the current cap. The Exchange notes that it will continue to monitor interest in Unitized Logical Ports and system capacity availability with the goal of further increasing these limits to meet Members' needs if and when the demand is there, and the Exchange is able to accommodate it. Additionally, Members will still be able to utilize the existing logical port connectivity offerings with no maximum limit in addition to their Unitized Logical Port allocation.²⁸ As further discussed below, the Exchange's pricing for these new Unitized Logical Ports are less than or comparable to

similar offerings from other exchanges.²⁹

Average Daily Quotes and Average Daily Order Fees

The Exchange also proposes to adopt Average Daily Order ("ADO") and Average Daily Quote ("ADQ") fees. "ADO" represents the total number of orders for the month, divided by the number of trading days. "ADQ" represents the total number of quotes for the month, divided by the number of trading days.³⁰ When measuring a Member's ADO orders and cancel/replace modify orders which submit a bid or offer and do not include cancels, are included. To measure a Member's ADQ, quotes and quote updates which submit a bid or offer and do not include cancels, are included. Further, ADO will include orders submitted by a Member from all logical port types (*i.e.*, non-

unitized logical ports and Unitized Logical Ports).³¹ Each Member may submit up to 2,000,000 average daily orders or up to 250,000,000 average daily quotes per calendar month without incurring any ADO or ADQ fees, respectively. In the event that the average number of quotes per trading day during a calendar month submitted exceeds 250,000,000, each incremental usage of up to 20,000 average daily quotes will incur an additional fee as set forth in the table below. Similarly, in the event that the average number of orders per trading day during a calendar month submitted exceeds 2,000,000, each incremental usage of up to 1,000 average daily orders will incur an additional ADO fee as set forth in the table below. A Member's ADO and ADQ will be aggregated together with any affiliated Member sharing at least 75% common ownership.

Fee				
Tier 1 ≤250,000,000	Tier 2 >250,000,000	Tier 3 >500,000,000	Tier 4 >1,000,000,000	Tier 5 >3,500,000,000
ADQ Fee Rate per 20,000 ADQ				
\$0.00	\$0.05	\$0.075	\$0.10	\$0.20
ADO Fee Rate per 1,000 ADO				
Tier 1 ≤2,000,000	Tier 2 >2,000,000	Tier 3 >2,500,000	Tier 4 >3,000,000	Tier 5 >3,500,000
\$0.00	\$1.00	\$1.50	\$2.00	\$2.50

As an example, a Member that has 510,000,000 ADQ would subsequently have 25,500 "ADQ increments" (510,000,000 ADQ/20,000 ADQ increments). While 12,500 of the 25,500 ADQ increments are free within Tier 1, 12,500 of the ADQ increments would be fee liable at \$0.050 within Tier 2, while the remaining 500 ADQ increments would be fee liable at \$0.075 within Tier 3, resulting in a total ADQ fee of \$662.50 for that month.³²

The Exchange notes that market participants with incrementally higher ADO or ADQ are likely to require more of the Exchange's Trading System resources, bandwidth, and capacity. In this regard, higher ADO or ADQ may, in turn, create System latency and potentially impact other Members' ability to receive timelier executions. The proposed fee structure has multiple thresholds, and the proposed fees are incrementally greater at higher ADO and

ADQ rates because the potential impact on Exchange Systems, bandwidth, and capacity becomes greater with increased ADO and ADQ rates. As noted above, the proposal contemplates that a Member would have to exceed the high ADO rate of 2,000,000 and a Member would have to exceed the high ADQ rate of 250,000,000 before that market participant would be charged a fee under the proposed respective tiers. The Exchange believes that it is in the

²⁷ The Exchange proposes to include this example in its Fee Schedule to provide clarity as to how Unitized Logical Port fees will be assessed. The Exchange further notes that in its prior filing (SR-CboeBZX-2025-016), it increased the cap to 30 and noted as such in its fee schedule; however, the Exchange will now include a clarifying update in its fee schedule to update the max tier amount from 20 to 30 for consistency and clarity.

²⁸ The Exchange notes that it does not support conversion of any one port type to another. Members and Market Makers would need to request new port and delete existing their port to transition from convenience ports to a Unitized Logical Port.

²⁹ See MIA Express Interface for Quoting and Trading Options, MEI Interface Specification, Section 1.2 (MEI Architecture) available at: MIA Express Interface_MEI_v2.10a.pdf (mioxglobal.com) which indicates firms can connect directly to one

or more matching engines depending on which symbols they wish to trade and states "MIA trading architecture is highly scalable and consists of multiple trade matching environments (clouds). Each cloud handles trading for all options for a set of underlying instruments" and provides that "Market Maker firms can connect to one or more pre-assigned servers on each cloud. This will require the firm to connect to more than one cloud in order to quote in all underlying instruments they are approved to make markets in." See also MIA Emerald Options Order Management Using FIX Protocol, FIX Interface Specification, available at https://www.mioxglobal.com/sites/default/files/page-files/FIX_Order_Interface_FOI_v2.6c.pdf. MIA describes its FIX Order Interface Gateway as "a high-speed FIX Order Interface gateway [that] conveniently routes orders to our trading engines through a common entry point to our trading

platform." See <https://www.mioxglobal.com/markets/us-options/mia-options/interface-specifications>.

³⁰ The term "quote" refers to bids and offers submitted in bulk messages. A bulk message means a single electronic message a user submits with an M (Market-Maker) capacity to the Exchange in which the User may enter, modify, or cancel up to an Exchange-specified number of bids and offers. A User may submit a bulk message through a bulk port as set forth in Exchange Rule 21.1(l)(3). See Rule 16.1 (definition of bulk message).

³¹ As previously noted above, only quotes may be placed via Unitized Bulk Ports, as such, only Unitized Ports are used to determine a Member's ADQ.

³² The Exchange proposes to include this example in the Fees Schedule to provide further clarity as to the application of the proposed fees.

interests of all Members and market participants who access the Exchange to not allow other market participants to strain System resources, but rather encourage efficient usage of network capacity. The Exchange also believes this proposal (and in particular the proposed incrementally higher fee amounts associated with higher ADO and ADQ) will help to moderate excessive order/quote and trade activity from Members that may require the Exchange to otherwise increase its storage capacity and will encourage such activity to be submitted in good faith for legitimate purposes.

The Exchange also represents that the proposed fees are not intended to raise profits; rather, as noted above, it is intended to encourage efficient behavior so that market participants do not exhaust System resources. Moreover, the Exchange provides Members with daily reports, free of charge, which details their order and trade activity in order for those firms to be fully aware of all order and trade activity they (and their affiliates) are sending to the Exchange. This will allow Members to monitor their behavior and determine whether it is approaching any of the ADO or ADQ thresholds that trigger the proposed fees.

Lastly, the Exchange notes that other exchanges have adopted various fee programs that assess incrementally higher fees to Members that have incrementally higher order and/or quoting trading activity for similar reasons.³³

³³ See, e.g., Securities Exchange Act Release No. 60102 (June 11, 2009), 74 FR 29251 (June 19, 2009) (SR-NYSEArca-2009-50) (adopting fees applicable to Members based on the number of orders entered compared to the number of executions received in a calendar month). It appears that Nasdaq similarly assesses a penalty charge to its members that exceed certain “weighted order-to-trade ratios”. See *Price List—Trading Connectivity*, NASDAQ, available at <https://www.nasdaqtrader.com/trader.aspx?id=pricelisttrading2>. See also Securities Exchange Act Release No. 91406 (March 25, 2021), 86 FR 16795 (March 31, 2023) (SR-EMERALD-2021-10) (adopting an “Excessive Quoting Fee” to ensure that Market Makers do not over utilize the exchange’s System by sending messages to the MIAx Emerald, to the detriment of all other Members of the exchange).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.³⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³⁵ 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)³⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)³⁷ of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes the proposed fees are reasonable because Unitized Logical Ports provide a valuable service in that Unitized Logical Ports are intended to create a more consistent, and more deterministic experience for messages once received within the Exchange’s System under the recently adopted unitized BOEv3 architecture. As discussed above, the new architecture (and thereby the new Unitized Logical Ports) was designed to create a more consistent and more

deterministic experience for messages once received within the System, which the Exchange believes improves the overall access experience on the Exchange and will enable future system enhancements. As noted, the BOEv3 protocol and architecture, along with the three new corresponding Unitized Logical Ports, are intended to reduce the natural variance of order handler processing times for messages, and as a result reduce the potential resulting “reordering” of messages when they are sent from order handlers to matching engines. The adoption of the unitized BOEv3 structure (including the corresponding new Unitized Ports) was a technical solution that is intended to reduce the potential of this reordering and increase determinism.³⁸ The Exchange believes the proposed fees are also reasonable to offset costs incurred in order to build out an entirely new unitized architecture.

Furthermore, the Exchange also notes that it believes the proposed fees are similar to or less than fees assessed by other exchanges, for analogous connections as explained in further detail below.³⁹ The Exchange notes that other exchanges that offer similar pricing for similar connections have a comparable, or even lower, market share as the Exchange, as also detailed further below. Indeed, the Exchange has reviewed the U.S. options market share for each of the eighteen options markets utilizing total options contracts traded year-to-date as of the end of June 2025, as set forth in the following graph:⁴⁰

³⁸ See Securities Exchange Act Release 100582 (July 23, 2024), 89 FR 60958 (July 29, 2024) (SR-CboeBZX-2024-071).

³⁹ See e.g., MIAx Pearl Options Fee Schedule.

⁴⁰ Market share is the percentage of volume on a particular exchange relative to the total volume across all exchanges, and indicates the amount of order flow directed to that exchange. High levels of market share enhance the value of trading and ports. Total contracts include both multi-list options and proprietary options products. Proprietary options products are products with intellectual property rights that are not multi-listed. The Exchange does not currently list proprietary products.

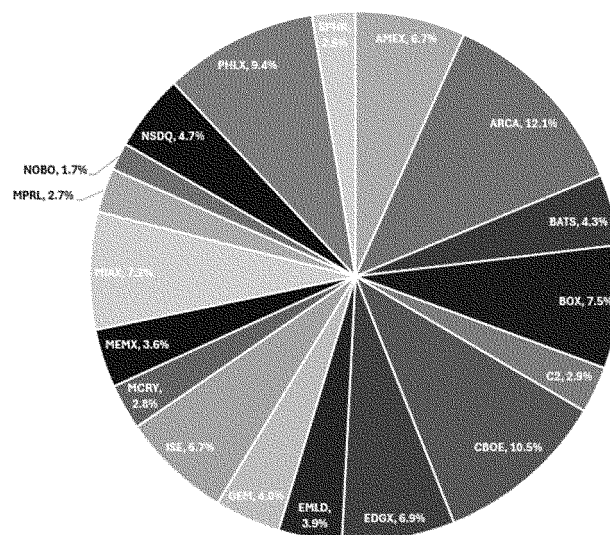
³⁴ 15 U.S.C. 78f(b).

³⁵ 15 U.S.C. 78f(b)(5).

³⁶ *Id.*

³⁷ 15 U.S.C. 78f(b)(4).

Multi-list Options Market Share – YTD 2025



The Exchange (market share of 4.30%) notes that the proposed Purge Unitized Logical Port fee of \$400 to connect to a matching engine is lower than fees charged by at least two other exchanges with comparable (indeed, even lower) market share, particularly by MIAX Emerald (3.90% market share) and MIAX Pearl (2.7% market share). The Exchange does note that both MIAX Emerald and MIAX Pearl offer two purge ports for a matching engine connection at a cost of \$600,⁴¹ while the Exchange offers the primary Purge Unitized Logical Port as well as a secondary Purge Unitized Logical Port for its redundant secondary data center ports for \$400. The Exchange believes that the bulk of the value customers derive is not within the quantity of Purge Unitized Logical Ports a Member purchases, but the ability to connect to the specific matching engine.⁴² For instance, a Member may need to purchase several convenience ports to minimize the natural variance of order handler processing times for messages, but by comparison the same Member may only need to purchase a single Unitized Logical Port to achieve the same results. For this reason, the Exchange still believes it is better priced than MIAX Emerald's and MIAX Pearl's comparable offerings.

Furthermore, even when comparing the costs of purchasing Purge Unitized Logical Ports to connect to all matching engines, the Exchange still assesses a lower fee than MIAX Pearl or MIAX

Emerald. Connecting to all matching engines on MIAX Emerald or MIAX Pearl would cost \$7,200, while connecting to all matching engines on BZX Options costs \$2,500.⁴³ As noted above, while the Exchange believes the bulk of the value customers derive is the ability to connect to specific matching engines, and in this case, all matching engines, if a customer did want to have two Purge Unitized Logical Ports for all matching engines (in addition to the included secondary purge ports provided), it would cost the participant \$5,000 (\$2,500/set × 2)—still lower than the cost of \$7,200 for two purge ports for all matching engines that MIAX Emerald and MIAX Pearl offer.

While not as closely comparable, MIAX Emerald and MIAX Pearl both offer Full Service MEI Ports (analogous to the Exchange's Bulk Port offering) and Limited Service MEI Ports (analogous to the Exchange's BOE Port offering) that are based on the lesser of a participant's per class basis or percentage of total national average daily volume measurement. For each matching engine a participant connects to (based on their activity), they receive two Full Service MEI Ports and four Limited Service MEI Ports.⁴⁴ Based on publicly available information, MEI

ports provide market makers direct connections to each matching engine for high-speed mass quoting.⁴⁵ A Full Service MEI Ports support all input message types, and Limited Service MEI Ports support all message types except bulk quotes.

Notably, MIAX Emerald and MIAX Pearl offer their Full Service MEI Ports and Limited Service MEI Ports only to market makers on those respective exchanges, and non-market maker members are not permitted to purchase MEI connections. As such, when comparing the Unitized Logical Port fees assessed to Market Makers by the Exchange to the Full Service MEI and Limited Service MEI Ports assessed to market makers by MIAX Emerald and MIAX Pearl, the Exchange believes that its proposed fee for Unitized Logical Ports is reasonable and justified by the value derived by Options Market Makers purchasing these connections in being able to connect directly to a certain matching engine.

Specifically, presuming a participant is quoting up to 10 classes for MIAX Pearl or 5 classes for MIAX Emerald (the lowest available tier for each exchange), they are connecting to fewer matching engines than another participant who may be quoting over 100 classes (the highest tier available for both MIAX Pearl and MIAX Emerald). In comparing the monthly cost using the pricing of the lowest tiers for MIAX Pearl and MIAX Emerald, the Exchange presumes an estimated comparable connection of

⁴³ The pricing amounts for MIAX Pearl and MIAX Emerald are based off of \$600 per Purge Port fee per matching engine with a total of 12 matching engines (see MIAX Pearl Options—Reminder of rebalancing of the symbol distribution across Trade Matching Environments (Clouds) effective for Trading on May 12, 2025 | MIAX and MIAX Emerald Options Rebalancing of the symbol distribution across Trade Matching Environments (Clouds) effective for Trading on April 14, 2025 | MIAX). While the pricing for BZX Options is based on connecting to all Matching Engines by purchasing a set.

⁴⁴ See e.g., MIAX Pearl Options Fee Schedule.

⁴⁵ See MIAX Emerald Options Exchange, Market Access—MIAX Express Interface, at 2, available at: https://www.miaxglobal.com/sites/default/files/website_file-files/MIAX_Emerald_Fact_Sheet_03272019.pdf.

⁴¹ See e.g., MIAX Emerald Options Fee Schedule.

⁴² Due to the higher performance that offers higher throughput with more deterministic outcomes for participants, the revised architecture leads to a decreased demand in ports generally.

connecting to 3 different matching engines at a cost of \$550 per Bulk Port per matching engine and \$350 per BOE Port per matching engine.⁴⁶ This equates to $\$7,500 ((\$350 * 4 \text{ Ports} * 3 \text{ matching engines}) + (\$550 * 2 \text{ Ports} * 3 \text{ matching engines}))$ per month for BZX Options, and \$5,000 per month for both MIAX Pearl and Emerald. For the highest tier, the Exchange presumes that if a participant was quoting over 100 classes, they are likely connecting to all matching engines. In this case, it costs a participant \$12,000 per month for MIAX Pearl, \$20,500 per month for MIAX Emerald, and \$22,000 $(\$5,500 * 2 \text{ Bulk Sets}) + (\$2,500 * 2 \text{ BOE Sets (Tier 1)}) + (\$3,000 * 2 \text{ BOE Sets (Tier 2)})$ per month for BZX Options to connect to all matching engines.

While the Exchange is priced higher in these specific examples, it again believes the value comes from the ability to connect to additional matching engines as opposed to the quantity of ports itself and participants of the Exchange are able to determine their number of desired ports as opposed to having a set package based on their Exchange activity. For example, a participant of BZX Options can have similar matching engine connectivity to the lowest tier of MIAX Emerald or MIAX Pearl by connecting to three matching engines (using the same presumed number as above) by purchasing three Bulk Ports for a cost of \$1,650 per month, substantially less than the fixed costs of \$5,000 per month of MIAX Emerald and MIAX Pearl. Additionally, a participant on BZX Options is able to connect to all matching engines for a price of \$5,500 per month by purchasing a Bulk Set as opposed to the fixed cost of MIAX Emerald and MIAX Pearl at \$20,000 per month and \$12,000 per month, respectively. Furthermore, MIAX Emerald does allow participants to purchase additional Limited Service ports at a price of \$420 per month, higher than the Exchange's comparable offering of \$350 per month for a BOE port. While it is challenging to compare the exact pricing on these products, the Exchange believes that it is priced comparably, if not lower than MIAX Pearl and MIAX Emerald.

The Exchange acknowledges that the above comparability analysis does not consider the fees assessed to non-Options Market Makers on the Exchange relative to non-market makers on MIAX Emerald or MIAX Pearl. This is due, however, to the fact that MIAX Emerald and MIAX Pearl do not permit non-market makers to purchase MEI ports (the closest comparable product to BZX's Unitized Logical Ports). Presumably, MIAX Emerald and MIAX Pearl limit such participants to use of only MIAX's FIX ports. Importantly, unlike MIAX Emerald and MIAX Pearl, the Exchange permits its Members (*i.e.*, non-Market Makers) to purchase a Unitized Logical Port, should such Member deem the use of such connection to be beneficial to their trading strategy. Additionally, Members (*i.e.*, non-Market Makers) may instead elect to purchase Exchange BOE convenience or FIX Ports, or a combination of Unitized Logical Ports, BOE convenience and FIX ports. Furthermore, Members and Market Makers are free to choose to purchase Unitized Logical Ports in sets or by individual ports (dependent on the firm's matching engine needs, which may be based on products it trades, strategies, or other business needs). As such, the Exchange's offering is both more widely available and provides Members and Market Makers with more flexibility and customization in contrast to MIAX's strict matching engine connectivity based on the classes a Market Maker is quoting in and its rigid fee structure.

As an additional point of comparison for non-market makers, the Exchange notes the FIX port fees it charges its Members, relative to those charged by MIAX Emerald and MIAX Pearl for their non-market maker members.⁴⁷ Specifically, the Exchange charges its Members \$750 per month, per convenience port (which may be FIX or BOE). MIAX Emerald⁴⁸ utilizes a progressive fee schedule for its FIX ports and charges its members a fee of \$550 per month, per port, for the first FIX port; \$350 per month, per port, for ports two through five; and \$150 per month, per port, for each FIX port above five. MIAX Pearl⁴⁹ also utilizes a progressive fee schedule for its FIX ports, and charges its members \$275 per month, per port, for the first FIX port; \$175 per month, per port, for FIX ports

two through five; and \$75 per month, per port, for each sixth or more FIX port. While purchasing six FIX ports on the Exchange (\$4,500)⁵⁰ would cost more than purchasing six FIX ports on MIAX Emerald (\$3,100)⁵¹ or MIAX Pearl (\$1,225),⁵² the Exchange again notes that its Members are, unlike MIAX Emerald and MIAX Pearl members, permitted to purchase BOE ports, FIX ports, or Unitized Logical Ports, or a combination of the three, depending on their needs and strategy. In this regard, unlike MIAX Emerald and MIAX Pearl the Exchange's Unitized Logical Port solution and its related benefits are available to *all* Members, and at a lower cost than that assessed to Members for a single FIX port (\$750 for one FIX port, per month vs. \$350 for one BOE Unitized Logical Port). Therefore, while FIX ports on the Exchange are more expensive than those on MIAX Emerald and MIAX Pearl, the Exchange's port offerings as a whole provide Members and Market Makers with more flexibility in how to manage their Exchange access and better configure their connectivity costs based on their needs. The Exchange also emphasizes that the use of the Unitized Logical Ports is not necessary for trading on the Exchange and, as noted above, is entirely optional (other than Market Makers which must utilize a Unitized Logical Port for quoting). The Exchange notes the following usage stats, current as of September 25, 2025:

- Convenience Ports (FIX or BOEv3)
 - 57% of Members still utilize a convenience layer port (FIX or BOEv3), in addition to or in lieu of Unitized Ports. On average, Market Makers utilize 44 convenience ports.
- BOEv3 Unitized Logical Port
 - Market Makers constitute 71% of all BOEv3 Unitized Logical Port usage, compared to 29% of Members (*i.e.*, non-Market Makers).
 - Market Makers constitute 70% of all BOEv3 Unitized Logical Port sets usage, while Members (*i.e.*, non-Market Makers) constitute 30% of BOEv3 Unitized Logical Port sets usage.
- BOEv3 Unitized Logical Purge Port
 - Market Makers constitute 100% of all BOEv3 Unitized Logical Purge Port usage, and 100% of BOEv3 Unitized Logical Purge Port set usage.

⁴⁶ The Exchange notes that, based on publicly available information from MIAX Emerald and MIAX Pearl, a definitive comparison is not feasible. Rather, the Exchange could only reasonably infer that using the lowest tier for each of MIAX Emerald and MIAX Pearl *may* reasonably equate to connecting to 3 Exchange matching engines. The Exchange deduced that 3 Exchange matching engines *may* be a relevant comparison given the number of quoting symbols quoted per Exchange matching engine.

⁴⁷ For the sake of clarity, the Exchange notes that Options Market Makers are also permitted to purchase convenience ports (which may be FIX or BOE).

⁴⁸ *Supra* note 40.

⁴⁹ *Supra* note 38.

⁵⁰ $\$750 * 6 = \$4,500$.

⁵¹ $\$750 + \$550 + \$550 + \$550 + \$550 + \$550 + \$150 = \$3,100$.

⁵² $\$275 + \$175 + \$175 + \$175 + \$175 + \$175 + \$75 = \$1,225$.

- BOEv3 Unitized Logical Bulk Port
 - Market Makers constitute 99% of all BOEv3 Unitized Logical Bulk Port Usage, while Members (*i.e.*, non-Market Makers) constitute 1%.
 - Market Makers constitute 99% of all BOEv3 Unitized Logical Bulk Port set usage, while Members (*i.e.*, non-Market Makers) constitute 1% of BOEv3 Unitized Logical Bulk Port set usage.

The Exchange believes that the above statistics demonstrate that the use of Unitized Logical Ports and their associated fees are not mandatory *per se*. Indeed, Market Makers and Members alike are free to continue to utilize convenience ports for their message traffic as they best see fit, and may continue to access the Exchange through existing logical port offerings at existing rates. The Exchange believes that it is a Member's specific business needs that will drive its decision whether to use Unitized Logical Ports in lieu of, or in addition to, existing logical ports (or, as emphasized, not use them at all). If a Member finds little benefit in having these ports based on its business model and trading strategies, or determines the Unitized Logical ports are not cost-efficient for its needs, or does not provide sufficient value to the firm, such Member may continue connecting to the Exchange in the manner it does today, unchanged. Moreover, the Exchange believes that providing Members the option of purchasing Unitized Logical Ports individually or in sets provides Members further flexibility and an opportunity for cost savings for those Members that wish to only trade a subset of classes. The Exchange has seen firms take advantage of individually priced Unitized Logical Ports when their needs do not require connectivity to all matching engines—further allowing its Members to pay reduced fees relative to a Unitized Logical Port set.

Furthermore, the Exchange notes that undertaking a technological innovation, such as offering a new connectivity option for Members (of which, 57% still utilize at least one FIX or BOEv3 Port through the convenience layer), requires costs and resource allocation. In fact, as the Exchange previously noted, such innovation has improved the infrastructure for all Members of the Exchange. Such innovation is a part of what allows the Exchange to continue to provide access to markets in times of heightened volatility with zero downtime. The new Chairman of the Securities Exchange Commission, Paul Atkins, even recently heightened the importance of innovation by stating “. . . we are getting back to our roots of

promoting, rather than stifling, innovation. The markets innovate, and the SEC should not be in the business of telling them to stand still.”⁵³ In order for exchanges to continue to provide greater options through technological innovation and, in turn, work to improve the resiliency of markets, exchanges must have reasonable certainty around their ability to set fees.

The Exchange also believes that the proposed Unitized Logical Port fees are equitable and not unfairly discriminatory because they continue to be assessed uniformly to similarly situated users in that all Members who choose to purchase Unitized Logical Ports will be subject to the same proposed tiered fee schedule. Moreover, Members purchasing Unitized Logical Ports will only do so if they find a benefit and sufficient value in such ports as all Members can otherwise continue to use the preexisting logical connectivity options.⁵⁴ As such, Members can choose whether to purchase Unitized Logical Ports based on their respective business needs.

The proposed ascending tier structure for Unitized Logical Port Sets is reasonable, equitable and not unfairly discriminatory as it is designed to encourage market participants to be efficient with their respective Unitized Logical Port usage. It also is designed so that Members that use a higher allotment of the Exchange's system resources pay higher rates, rather than placing that burden on market participants that have more modest needs. The Exchange believes the proposed ascending fee structure is therefore another appropriate means, in conjunction with an established Unitized Logical Port limit, to manage this finite resource (system capacity) and ensure it is apportioned fairly.

In contrast, MIAX's structure limits its offering to a specific subset of participants, Market Makers, and allocates its ports based on quoting. In contrast, the Exchange and its participants are free to utilize this product at their required level of consumption. Furthermore, the Exchange already assesses higher fees to those that consume more Exchange resources for the existing non-Unitized Bulk Ports.⁵⁵ The proposed limit on

Unitized Logical Ports is also reasonable, equitable and not unfairly discriminatory as the Exchange believes that it is in the interests of all Members and market participants who access the Exchange to not allow Members to exhaust System resources, but to encourage efficient usage of network capacity. The Exchange also notes that the new BOEv3 unitized architecture is subject to software limitations on the number of sessions that can be created on any one unitized process. Consideration was given to this limitation as well as to the amount of ports firms had indicated they would need prior to the implementation of Unitized Logical Ports.

The Exchange believes the proposed ADO and ADQ fees are reasonable as Members that do not exceed the high thresholds of 2,000,000 ADO and 250,000,000 ADQ will not be charged any fee under the proposed tiers. The Exchange notes that in establishing the proposed thresholds, it evaluated average ADO and ADQ rates over several months and the thresholds were designed to protect the Exchange's Matching Engines from being adversely impacted from sustained and excessive orders/quotes throughout the course of a given month. Further, the Exchange considered the highest levels of ADO and ADQ rates amongst firms and from there, reviewed what would be considered an unreasonable threshold even at the highest levels. The ADQ thresholds are also designed to ensure Market Makers quoting activity, which acts as an important source of liquidity, is not impeded by the proposal.⁵⁶ In fact, when setting these thresholds, the Exchange reviewed to ensure that these levels would not prohibit Market Makers from meetings quoting obligations.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to assess higher fees when a Member has higher ADO and ADQ rates because the potential impact on exchange systems, bandwidth and capacity becomes greater with increased ADO and ADQ rates. In this regard, the fees are designed to apply only to those Members whose message traffic is noticeably beyond the proposed ADO and ADQ rates. In particular, the proposed fee amounts that correspond to higher ADO and ADQ rates are designed to incentivize Members to reduce excessive order and quoting trade activity that the Exchange believes

⁵³ See Chairman Atkins "Prepared remarks before SEC Speaks," May 19, 2025, available at: <https://www.sec.gov/newsroom/speeches-statements/atkins-prepared-remarks-sec-speaks-051925>.

⁵⁴ The Exchange notes that Market Makers are required to purchase and utilize a Unitized Logical Port for their quoting activity.

⁵⁵ See Cboe U.S. Options Fees Schedule, BZX Options, Options Logical Port Fees, Ports with Bulk Quoting Capabilities.

⁵⁶ Since the implementation of the proposal on September 3, 2024, the Exchange notes that it has not received any feedback from Market Maker participants that the proposal has impeded their ability to meet their quoting obligations.

can be detrimental to all market participants at those levels and encourage such activity to be made in good faith and for legitimate purposes. As of the end of August 2025, the Exchange notes that all but one Member fell within the proposed ADO Tier 1, resulting in that one single Member being assessed additional ADO fees. With regards to ADQ, 9 Members fell into Tier 1 and were not assessed any additional ADQ fees. Additionally, 4 Members fell into Tier 2, 2 Members fell into Tier 3, 2 Members fell into Tier 4, and 1 Member fell into Tier 5, and were assessed related ADQ fees.⁵⁷

Importantly, as noted above, the Exchange believes that it is in the interests of all Members and market participants who access the Exchange to not allow Members to exhaust System resources, but to encourage efficient usage of network capacity. The Exchange therefore also believes that the proposed fees are one method of facilitating the Commission's goal of ensuring that critical market infrastructure has "levels of capacity, integrity, resiliency, availability, and security adequate to maintain their operational capability and promote the maintenance of fair and orderly markets."⁵⁸ Furthermore, the Exchange believes adopting the proposed ADO and ADQ fees are reasonable as unfettered usage of System capacity and network resource consumption can have a detrimental effect on all market participants who access and use the Exchange. As discussed above, high

ADO and ADQ rates may adversely impact system resources, bandwidth, and capacity which may, in turn, create latency and impact other Members' ability to receive timely executions.

Moreover, the Exchange believes that the proposed ADO and ADQ fees are equitable and not unfairly discriminatory because they will be assessed uniformly to similarly situated users in that all Members that exceed the thresholds in connection with ADO and ADQ will be assessed the proposed ADO and ADQ rates. Regarding ADO and ADQ, no market participant is assessed any fees unless it exceeds the proposed thresholds. The Exchange also believes it is equitable and not unfairly discriminatory to assess incrementally higher fees to Members that have higher ADO and ADQ rates because the potential impact on exchange systems, bandwidth and capacity becomes greater with increased ADO and ADQ.

Furthermore, the Exchange believes it is equitable and not unfairly discriminatory to aggregate Members trading activity with any affiliated Member sharing at least 75% common ownership⁵⁹ in order to prevent members from shifting their order flow or quoting activity to other affiliates in order to circumvent the ADO and ADQ thresholds.

The Exchange lastly believes that its proposal is reasonable, equitably allocated and not unfairly discriminatory because it is not intended to raise revenue for the Exchange; rather, it is intended to encourage efficient behavior so that Members do not exhaust System resources. Moreover, as noted above, competing options exchanges similarly assess fees to deter Members from over utilizing their respective systems by having excessive order and/or quoting trading activity.⁶⁰

⁵⁹ The Exchange notes that its usage of 75% of common ownership is standard practice and utilized by the Exchange's affiliated exchanges. For instance, Cboe EDGX Exchange, Inc. options Market Maker Order-to-Trade Ratio fees provide that Order-to-Trade Ratio fees will apply only to participants registered as Market Makers on EDGX Options. The Order-to-Trade ratio will be calculated monthly based on the total number of orders (including messages to modify orders) submitted to EDGX Options, regardless of capacity, divided by the total number of trades occurring on orders. The calculation of the ratio will not include quotes or trades resulting from such quotes. A Market Maker's order flow will be aggregated together with any affiliated Members sharing at least 75% common ownership." See Cboe U.S. Options Fee Schedule, EDGX Options, available at: https://www.cboe.com/us/options/membership/fee_schedule/edgx/; see also Nasdaq BX Options 7 Pricing Schedule, "The term 'Common Ownership' shall mean participants under 75% common ownership or control. . . ." available at: <https://listingcenter.nasdaq.com/rulebook/bx/rules/bx-options-7>.

⁶⁰ See supra note 32.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange is only one of 18 options exchanges which market participants may direct their order flow and/or participate on, and it represents a small percentage of the overall market.⁶¹ When determining reasonable prices, the Exchange must ensure these are competitive prices in order to maintain market share, as uncompetitive pricing, or prices that Members deem to be excessive, can lead Members to take their order flow to other exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change to adopt fees for Unitized Logical Ports will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act because the proposed fees for will apply equally to all similarly situated Members. As discussed above, Unitized Logical Ports are optional⁶² and Members may choose to utilize Unitized Logical Ports or not, based on their views of the additional benefits and added value provided by these ports. The Exchange believes the proposed fees will be assessed proportionately to the potential value or benefit received by Members with a greater number of Unitized Logical Ports and notes that Members may determine to cease using Unitized Logical Ports should they determine that they are no longer receiving value from these ports. As discussed, Members can also continue to access the Exchange through existing Logical Ports, which fees are not changing. Moreover, while the NYSE Arca Marketplace ("Arca") and Nasdaq Stock Market, LLC ("Nasdaq") do not have offerings directly comparable to Unitized Logical Ports, the Exchange notes that Arca's and Nasdaq's port fees are higher than those of the Exchange. Specifically, the Exchange notes that Arca charges a fee of \$621 per quoting/order entry port,⁶³

⁶¹ See Cboe Global Markets, U.S. Options Market Volume Summary, Month-to-Date (August 27, 2024), available at https://www.cboe.com/us/options/market_statistics/ which reflects the Exchange representing only 3.3% of total market share.

⁶² The Exchange notes that while use of Unitized Logical Ports is optional, Market Makers are required to utilize a Unitized Logical Port of their quoting activity.

⁶³ See NYSE Arca Fees and Charges "Connectivity Fees," available at: <https://www.nyse.com/>

⁵⁷ The Exchange notes that a Member's ADO and ADQ rates will naturally vary based on options trading volume on the Exchange. In its initial filing the Exchange noted that while it could not predict with certainty any Member's actual ADO and ADQ rates, that it believed approximately 74% of Members would fall into Tier 1, and the remaining 26% would fall outside of Tier 1. In this filing, the stated ADO and ADQ rates are from August 2025, and represent that approximately 50% of Members fell out of Tier 1. While this percentage is greater than the 26% of Members noted in the Exchange's initial filing, the Exchange notes that average daily volume ("ADV") in August 2025 across Cboe's four U.S. options exchange was at an all-time high of 19.2 million contracts, comprised of: record multi-listed options ADV of 14.3 millions contracts, which surpassed the ADV record of 13.6 million contracts set in February 2025; and S&P 500 Index (SPX) options ADV of 3.8 million contracts, the second-best month of all time, with zero-days-to-expiry (ODTE) trading representing a record ADV of 2.4 million contracts. See "Cboe Global Markets Reports Trading Volume for August 2025," available at: <https://ir.cboe.com/news/news-details/2025/Cboe-Global-Markets-Reports-Trading-Volume-for-August-2025/default.aspx#:sim;:text=Record%20multi%20listed%20options%20ADV,ADV%20of%202.4%20million%20contracts.>

⁵⁸ See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72251 (December 5, 2014) (File No. S7-01-13) (Regulation SCI Adopting Release).

and Nasdaq assess its members a fee of \$575 per FIX order entry port.⁶⁴ In both cases, Arca and Nasdaq's port fees are more expensive than the proposed fees for a single BOE Unitized Logical Port (\$350/port/month), a single Bulk Unitized Logical Port (\$550/port/month), and a single Purge Unitized Logical Port (\$400/port/month).

Similarly, the Exchange does not believe that the proposed rule change to adopt ADO and ADQ fees will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act because such fees will apply equally to all similarly situated Members. Particularly, the proposed fees apply uniformly to all Members, in that any Member who exceeds the ADO and/or ADQ Tier 1 thresholds will be subject to a fee under the proposed corresponding tiers. The Exchange believes that the proposed change neither favors nor penalizes one or more categories of market participants in a manner that would impose an undue burden on competition. Rather, the proposal seeks to benefit all market participants by encouraging the efficient utilization of the Exchange's network while taking into account the important liquidity provided by its Members. As discussed above potential impact on exchange systems, bandwidth, and capacity becomes greater with increased ADO and ADQ rates. Accordingly, the Exchange believes that the proposed ADO and ADQ fees do not favor certain categories of market participants in a manner that would impose a burden on competition.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market, including competition for order flow. Market Participants have numerous alternative venues that they may participate on, including 17 other options exchanges (including 3 other Cboe-affiliated options exchanges), as well as off-exchange venues, where competitive products are available for trading. Indeed, participants can readily choose to submit their order flow to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover,

[publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf](https://publicdocs.nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf).

⁶⁴ See "Price List—Trading Connectivity," available at: <https://nasdaqtrader.com/Trader.aspx?id=PriceListTrading>.

the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."⁶⁵ The fact that this market is competitive has also 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'. . . ."⁶⁶ Accordingly, the Exchange does not believe its proposed change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁶⁷ and paragraph (f) of Rule 19b-4⁶⁸ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of

investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2026-011 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-2026-011. 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-2026-011 and should be submitted on or before March 5, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶⁹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-02796 Filed 2-11-26; 8:45 am]

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⁶⁵ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

⁶⁶ *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)).

⁶⁷ 15 U.S.C. 78s(b)(3)(A).

⁶⁸ 17 CFR 240.19b-4(f).

⁶⁹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35941; 812–15910]

Pursuit Asset-Based Income Fund and Pursuit Fund Advisers, LLC

February 9, 2026.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end investment companies to issue multiple classes of shares and to impose early withdrawal charges and asset-based distribution and/or service fees.

APPLICANTS: Pursuit Asset-Based Income Fund and Pursuit Fund Advisers, LLC.

FILING DATES: The application was filed on September 30, 2025, and amended on January 21, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above, Hearing requests should be received by the Commission by 5:30 p.m., Eastern time, on March 6, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Joshua B. Deringer, Esq., Faegre Drinker Biddle & Reath LLP, *joshua.deringer@faegredrinker.com* with a copy to Adam Stern, Pursuit Fund Advisers, LLC, 61 Clapboard Ridge Road, Greenwich, Connecticut 06830.

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Special Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: For Applicants’ representations, legal analysis, and conditions, please refer to Applicants’ application, dated January 21, 2026, which may be obtained via the Commission’s website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC’s EDGAR system. The SEC’s EDGAR system may be searched at <https://www.sec.gov/search-filings>.

You may also call the SEC’s Office of Investor Education and Advocacy at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–02791 Filed 2–11–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104787; File No. SR–NYSEARCA–2026–11]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the NYSE Arca Options Fee Schedule To Eliminate a Pricing Incentive Relating to Options on NYSE Arca Equities-Listed Digital Asset Exchange Trading Funds

February 9, 2026.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”),² and Rule 19b–4 thereunder,³ notice is hereby given that on January 30, 2026, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE Arca Options Fee Schedule (“Fee Schedule”) to eliminate a pricing incentive related to options on digital asset ETFs. The proposed rule change is available on the Exchange’s website at www.nyse.com and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change**1. Purpose**

The Exchange proposes to amend the Fee Schedule to eliminate a pricing incentive designed to encourage trading in options on NYSE Arca Equities-listed digital asset ETFs (the “Digital Asset Incentive”).⁴ Currently, the Digital Asset Incentive provides for an additional discount of \$0.05 per contract on electronic take liquidity, manual, and electronic complex-to-complex executions or an additional credit of \$0.05 per contract on electronic post liquidity executions, applicable to executions in options on NYSE Arca Equities-listed digital asset ETFs (excluding QCC transactions). The Digital Asset Incentive does not apply to QCC transactions (which are subject to separate fees and credits), and executions in options on NYSE Arca Equities-listed digital asset ETFs are not included in the daily fee cap on strategy executions (*i.e.*, the Limit of Fee on Options Strategy Executions) or calculations for or rebates available through the Manual Billable Rebate Program.⁵

⁴ See Fee Schedule, Endnote 12.

⁵ Manual executions of options on digital asset ETFs are subject to the Firm and Broker Dealer

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

The Exchange adopted the Digital Asset Incentive in an effort to incentivize trading in, at the time, newly available options on digital asset ETFs (as well as in other options series in digital asset ETFs that might be listed on NYSE Arca Equities in the future). Because the Digital Asset Incentive has been underutilized and thus has not achieved its intended effect, the Exchange now proposes to eliminate it from the Fee Schedule. To effect this change, the Exchange proposes to delete Endnote 12, as well as cross-references to Endnote 12 throughout the Fee Schedule.⁶

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,⁸ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed rule change to eliminate the Digital Asset Incentive is reasonable because this program has not effectively encouraged OTP Holders to increase trading in options on NYSE Arca Equities-listed digital asset ETFs, and eliminating an underutilized incentive program would simplify the Fee Schedule. The Exchange also believes that eliminating the Digital Asset Incentive from the Fee Schedule is equitable and not unfairly discriminatory because the program would be eliminated in its entirety and would no longer be available to any OTP Holders.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in

furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed elimination of the Digital Asset Incentive would not affect intramarket or intermarket competition because, as noted above, the program has not effectively encouraged increased trading in options on NYSE Arca Equities-listed digital asset ETFs, and its elimination would impact all OTP Holders equally. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 18 competing option exchanges. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment because it removes an underutilized program that did not achieve its intended purpose.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)⁹ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁰ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹¹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEARCA-2026-11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSEARCA-2026-11. 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-NYSEARCA-2026-11 and should be submitted on or before March 5, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-02802 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35942; File No. 812-15864]

CAZ Strategic Opportunities Fund, et al.

February 9, 2026.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the "Act") and rule 17d-1 under the Act to permit certain joint transactions

Monthly Fee Cap, including the assessment of the incremental service fee of \$0.01 per contract once that Cap has been reached. See Fee Schedule, FIRM AND BROKER DEALER MONTHLY FEE CAP.

⁶ See proposed Fee Schedule, Endnote 12; TRANSACTION FEE FOR MANUAL EXECUTIONS—PER CONTRACT; TRANSACTION FEE FOR ELECTRONIC EXECUTIONS—PER CONTRACT; ELECTRONIC COMPLEX ORDER EXECUTIONS, TRANSACTION FEE—PER CONTRACT; LIMIT OF FEES ON OPTIONS STRATEGY EXECUTIONS and FLOOR BROKER FIXED COST PREPAYMENT INCENTIVE PROGRAM (the "FB Prepay Program")

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) and (5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(2).

¹¹ 15 U.S.C. 78s(b)(2)(B).

¹² 17 CFR 200.30-3(a)(12).

otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (“BDCs”) and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: CAZ Strategic Opportunities Fund, CAZ GP Stakes Fund, CAZ Investments Registered Adviser LLC, CAZ GP Stakes Adviser LLC, CAZ Investments LP, CAZ SOF Opportunistic Blocker LLC, and certain of their affiliated entities as described in Schedule A to the application.

FILING DATES: The application was filed on July 24, 2025, and amended on January 23, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time, on March 6, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Christopher Alan Zook, CAZ Strategic Opportunities Fund, *caz@cazinvestments.com*; Thomas Friedmann, Dechert LLP, *thomas.friedmann@dechert.com*; Matthew Carter, Dechert LLP, *matthew.carter@dechert.com*; and Alexander Karampatsos, Dechert LLP, *alexander.karampatsos@dechert.com*.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, or Adam Large, Senior Special Counsel, at (202) 551-

6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: For Applicants’ representations, legal analysis, and conditions, please refer to Applicants’ amended application, filed January 23, 2026, which may be obtained via the Commission’s website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC’s EDGAR system. The SEC’s EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC’s Office of Investor Education and Advocacy at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-02792 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35944; File No. 812-15814]

Andalusian Credit Company, LLC, et al.

February 9, 2026.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the “Act”) and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies and business development companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Andalusian Credit Company, LLC, Andalusian Credit Partners, LLC, and Andalusian Senior Credit Fund I, LP.

FILING DATES: The application was filed on May 27, 2025 and amended on October 7, 2025 and January 14, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders

a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m. Eastern time on March 6, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Moses Awe, Andalusian Credit Company, LLC, *m.awe@andalusiancredit.com*; Richard Horowitz, Dechert LLP, *richard.horowitz@dechert.com*.

FOR FURTHER INFORMATION CONTACT: Thomas Ahmadifar, Branch Chief, or Kris Easter Guidroz, Senior Counsel, at (202) 551-6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: For Applicants’ representations, legal analysis, and conditions, please refer to Applicants’ application, filed January 14, 2026, which may be obtained via the Commission’s website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC’s EDGAR system.

The SEC’s EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC’s Office of Investor Education and Advocacy at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-02795 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0556]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 15b11-1 and Form BD-N

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("SEC" or "Commission") is submitting to the Office of Management and Budget ("OMB") this request for extension of the proposed collection of information provided for in Rule 15b11-1 (17 CFR 240.15b11-1) under the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a *et seq.*) and Form BD-N (17 CFR 249.501b).

Rule 15b11-1 provides that a broker or dealer may register by notice pursuant to Section 15(b)(11)(A) of the Exchange Act (15 U.S.C. 78o(b)(11)(A)) if it: (1) is registered with the Commodity Futures Trading Commission as a futures commission merchant or an introducing broker, as those terms are defined in the Commodity Exchange Act (7 U.S.C. 1 *et seq.*); (2) is a member of the National Futures Association or another national securities association registered under Section 15A(k) of the Exchange Act (15 U.S.C. 78o-3(k)); and (3) is not required to register as a broker or dealer in connection with transactions in securities other than security futures products. The rule also requires a broker or dealer registering by notice to do so by filing Form BD-N in accordance with the instructions to the form. In addition, the rule provides that if the information contained in any notice of registration filed on Form BD-N is or becomes inaccurate for any reason, the broker or dealer shall promptly file an amendment on the form correcting such information.

The total industry-wide annual time burden imposed by Form BD-N is approximately 2.25 hours, based on approximately 9 responses (0 initial filings + 9 amendments). Each initial application filed on Form BD-N requires approximately 0.5 hours to complete and each amended Form BD-N requires approximately 0.25 hours to complete. (0 × 0.5 hours = 0 hours; 9 × 0.25 hours = 2.25 hours; 0 hours + 2.25 hours = 2.25 hours). The staff believes

that a notice-registered broker-dealer would have a Compliance Manager complete and file amendments on Form BD-N at a cost of \$385/hour.

Consequently, the staff estimates that the total monetized internal cost of compliance associated with the annual time burden is approximately \$866.25 per year (\$385/hour × 2.25 hours).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202512-3235-005 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by March 16, 2026.

Dated: February 10, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-02864 Filed 2-11-26; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

Advisory Committee Charter Reestablishment

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of advisory committee charter reestablishment.

SUMMARY: Pursuant to sections 14(b) (1) and 9(c) of the Federal Advisory Act (Pub. L. 92-463) and consultation with the General Services Administration, the Small Business Administration has determined that the Audit and Financial Management Committee, the Council on Underserved Communities, and the Small Business Lending Advisory Council are in the public interest and essential to the conduct of agency business. Accordingly, the charters for these committees are reestablished for a two-year period, effective from the date they are filed with Congress.

DATES: Renewed through February 23, 2028.

FOR FURTHER INFORMATION CONTACT: Andrienne Johnson, Committee Management Officer (CMO), Office of the Administrator, (202) 205-6685 or FACA@sba.gov.

SUPPLEMENTARY INFORMATION:

Audit and Financial Management Advisory Board

The Audit and Financial Management Advisory Committee provide

independent advice and recommendations to the Small Business Administration on matters concerning financial management, including financial reporting, internal controls, audit processes, and compliance with applicable laws and government-wide standards. The SBA has determined that continuation of this Committee is in the public interest, as it provides structured, recurring advice from external financial management and audit experts that cannot be effectively obtained through internal staff resources or ad hoc consultations. The Committee's advice strengthens fiscal stewardship, audit readiness, and statutory compliance. Membership will be fairly balanced in terms of viewpoints and expertise within the financial management community and will be appointed in accordance with applicable statutory and regulatory requirements.

Council on Underserved Communities

The Council on Underserved Communities provides advice and recommendations to the Small Business Administration on programs, policies, and services affecting small businesses in historically underserved and underrepresented communities. The SBA has determined that continuation of this Council is in the public interest, as it supports Administration priorities to expand equitable access to economic opportunity and promotes inclusive economic growth. The Council provides structured, collective, and recurring advice informed by stakeholder experience that cannot be effectively performed through internal staff work or informal consultations. Membership will be fairly balanced in terms of viewpoints and expertise relevant to underserved business communities and appointed in accordance with applicable statutory and regulatory requirements.

Small Business Lending Advisory Council

The Small Business Lending Advisory Council provides advice, insights, and recommendations to the Small Business Administration on matters related to access to capital for small businesses, including lending policies, program effectiveness, and market conditions. The SBA has determined that continuation of this Council is in the public interest, as access to capital is central to small business growth and economic development. The Council provides structured, recurring advice from a broad cross-section of the small business lending community that cannot be replicated through internal analysis or ad hoc outreach.

Membership will be fairly balanced in terms of viewpoints and expertise across the lending ecosystem and appointed in accordance with applicable statutory and regulatory requirements.

(Authority: 5 U.S.C. 10.)

Dated: February 10, 2026.

Andrienne Johnson,
Committee Management Officer.

[FR Doc. 2026–02829 Filed 2–11–26; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice 12943]

30-Day Notice of Proposed Information Collection: JADE Act Questionnaire

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to March 16, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* JADE Act Questionnaire.
- *OMB Control Number:* 1405–0236.
- *Type of Request:* Renewal of a currently approved collection.
- *Originating Office:* Visa Office.
- *Form Number:* DS–5537.
- *Respondents:* Burmese Applicants for U.S. Visas.
- *Estimated Number of Respondents:* 22,800.
- *Estimated Number of Responses:* 22,800.
- *Average Time per Response:* 30 minutes.
- *Total Estimated Burden Time:* 11,400 hours.
- *Frequency:* Once per application.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Consular officers use the DS–5537 to evaluate and adjudicate an applicant’s eligibility for a visa in accordance with the Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act of 2008, Public Law 110–286. The JADE Act renders certain individuals involved in specified Burmese organizations or activities, as well as their immediate family members, ineligible for U.S. visas.

Methodology

All Burmese nationals applying for a U.S. visa are required to complete the JADE Act questionnaire. The form is available on Embassy Rangoon’s website, or consular staff may provide the applicant with a copy of the form directly. Immigrant visa applicants receive an email with detailed guidance for the interview and the questionnaire as an attachment. Nonimmigrant visa applicants typically receive the questionnaire through their appointment confirmation or from the embassy website. Applicants are required to bring the completed and signed form to the interview.

Stuart R Wilson,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2026–02790 Filed 2–11–26; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2025–0070]

Notice of Proposed Modification of the Waiver of Buy America Requirements for Electric Vehicle Chargers

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT)

ACTION: Notice; request for comments

SUMMARY: The Federal Highway Administration (FHWA) is seeking comments on its February 21, 2023 Waiver of Buy America Requirements for Electric Vehicle (EV) Chargers. FHWA is specifically seeking comment on whether it should modify the waiver to increase the cost threshold of components manufactured in the United States for EV Chargers used in Federal-aid highway projects from 55 percent to up to 100 percent of the cost of all components. Following review and consideration of comments, FHWA will determine whether it should continue the waiver, modify the waiver, or discontinue the waiver.

DATES: Comments must be received by March 16, 2026.

ADDRESSES: Please submit your comments to the Federal eRulemaking Portal at www.regulations.gov, Docket: FHWA–2025–0070, and follow the online instructions for submitting comments.

Instructions: You must include the agency name and docket number at the beginning of your comments. Except as described below under the heading “Confidential Business Information,” all submissions received, including any personal information provided, will be posted without change or alteration to <http://www.regulations.gov>. For more information, you may review the U.S. Department of Transportation’s complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477).

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Robert Mooney, FHWA Office of Infrastructure, 202–366–2221, or via email at Robert.Mooney@dot.gov. For legal questions, please contact Michael Harkins, FHWA Office of the Chief Counsel, 202–366–1523, or via email at Michael.Harkins@dot.gov. Office hours for FHWA are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of this notice, all comments received on this notice, and all background material may be viewed online at www.regulations.gov using the docket number listed above. Electronic retrieval help and guidelines are also available at www.regulations.gov. An electronic copy of this document also may be downloaded from the Office of the Federal Register's website at: www.FederalRegister.gov and the U.S. Government Publishing Office's website at: www.GovInfo.gov.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. You may ask FHWA to give confidential treatment to information you give to the Agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as "Confidential;" (2) send FHWA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, FHWA will treat such marked submissions as confidential under FOIA, and they will not be placed in the public docket of this Request for Information (RFI). Submissions containing CBI should be sent to: Mr. Robert Mooney, FHWA, 1200 New Jersey Avenue SE, HICP-20, Washington, DC 20590. Any comment submissions that FHWA receives that are not specifically designated as CBI will be placed in the public docket for this matter.

Background

On November 24, 2021, FHWA published a Request for Information (RFI) to determine the state of the existing and future domestic manufacturing capacity of EV Chargers. Based on the information received in response to the November 24, 2021 RFI, FHWA issued a notice of a proposed waiver of Buy America requirements for EV chargers on August 31, 2022, at 87 FR 53539 ("Proposed Waiver"),

requesting comments on the conditions of a proposed waiver for EV Chargers. After reviewing the comments received, on February 21, 2023, FHWA established a final EV Charger waiver for EV charging equipment through a temporary public interest waiver of Buy America requirements for steel, iron, and manufactured products, in EV chargers under 23 U.S.C. 313 and for construction materials under section 70914 of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58), at 88 FR 10619 ("Final Waiver").

The Final Waiver became effective on March 23, 2023 (the effective date) and applied to all EV chargers manufactured before July 1, 2024 whose final assembly occurred in the United States and whose installation was begun by October 1, 2024 ("the Final Assembly Phase"). As for EV chargers manufactured on or after July 1, 2024, the Final Waiver applies to all such whose final assembly occurs in the United States and for which the cost of components manufactured in the United States is at least 55 percent of the cost of all components ("the 55 percent phase"). Further, under the Final Waiver, if an EV charger's housing is predominantly iron or steel, such housing is not covered by the Final Waiver at any time; instead, such housing must comply with FHWA's existing Buy America requirements for iron and steel. In the Final Waiver, FHWA reserved the right to modify the waiver in the event FHWA determines that the terms of the waiver are no longer in the public interest (see 88 FR 10634). FHWA published another RFI on November 28, 2023, at 88 FR 77140, requesting additional information on the domestic EV Charging capacity in the United States. A summary of the comments received in response to that RFI is included in the docket.

Subsequently, on January 14, 2025, FHWA published a final rule (90 FR 2932) establishing Buy America requirements for all manufactured products used in the Federal-aid highway program. Under this rule, for projects obligated on or after October 1, 2025, all such manufactured products must be manufactured in the United States (*i.e.*, final assembly) and, for projects obligated on or after October 1, 2026, the total cost of all components mined, produced, or manufactured in the United States of all manufactured products used in the project must also comprise at least 55 percent. FHWA explained in the preamble of this final rule that the EV Charger waiver would continue to apply to EV Chargers instead of the generally applicable Buy America requirements for manufactured products (90 FR 2943).

On April 18, 2017, President Trump issued Executive Order (E.O.) 13788 requiring every Executive Branch agency to monitor, enforce, and comply with existing "Buy American Laws" and minimize the use of waivers. In addition, E.O. 13788 set forth a policy "to maximize, consistent with law, . . . the use of goods, products, and materials produced in the United States." E.O. 13788 was superseded by E.O. 14005, which was issued on January 25, 2021. E.O. 14005 establishes the policy of the Federal Government that agencies should, when consistent with applicable law, use terms and conditions in Federal financial assistance awards and Federal procurements to maximize the use of goods, products, and materials produced in, and services offered in, the United States. President Trump continues to believe that Buy American remains the epitome of common-sense public policy for the use of Federal taxpayer funds (see, *e.g.*, April 3, 2025, Report to the President on the America First Trade Policy Executive Summary¹).

In reviewing the comments received in response to the Proposed Waiver, which are summarized in the Final Waiver, we are currently well-beyond the timeframe industry predicted would be needed to ramp-up capacity and domestically manufacture EV Chargers. The supply chain variability of 2023 levels, as articulated by commenters, has leveled off. Comments received from manufacturers in response to the November 28, 2023 RFI suggested that manufacturers have capabilities to manufacture EV Chargers wholly within their facilities located within the United States. In addition, FHWA believes there is a Federal interest in having domestically manufactured EV chargers maximize the use of domestically sourced and produced components due to national security concerns associated with dependency on foreign-produced electronic components, and FHWA seeks comment on this issue as well.

On November 15, 2021, the Build America Buy America Act (BABA) was enacted as title IX of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58, div. G §§ 70901–27). BABA requires Federal agencies periodically to review existing general applicability waivers of Buy America requirements by publishing in the **Federal Register** a notice that: (i) describes the justification for a general applicability waiver; and (ii) requests public comments for a

¹ <https://www.whitehouse.gov/fact-sheets/2025/04/report-to-the-president-on-the-america-first-trade-policy-executive-summary/>.

period of not less than 30 days on the continued need for the general applicability waiver. BABA § 70914(d).

For all of the above reasons, and in accordance with the President's priority to maximize the domestic content of products purchased with Federal taxpayer funds, FHWA is seeking comments on modifying the Final Waiver applicable to EV Chargers. Under the proposed modification, all such EV chargers would have to undergo final assembly in the United States, and the domestic content requirement that the cost of all components of an EV Charger that are purchased or installed with funds made available or administered by FHWA would be raised from 55 percent to up to 100 percent of the cost of components of the EV Charger. FHWA is specifically seeking comments on the higher level at which this domestic content threshold should be set along with supporting information.

If finalized, this proposed modification of the February 21, 2023 waiver would be immediately applicable to projects for EV Charger acquisition or installation that are obligated after publication of a final notice.

This proposal is designed to provide a strong incentive for manufacturers to shift more rapidly toward domestic manufacturing processes. FHWA believes this approach will be effective in fulfilling President Trump's strong commitment to help American businesses and workers compete and thrive in the global marketplace.

Comment Period for Proposed Modification of Waiver

Obtaining information through this notice and request for comment is consistent with the BABA section 70914(d) requirement to review waivers of general applicability periodically and will help FHWA determine the current state of domestic production of EV chargers and identify national security concerns associated with the use of non-U.S. components. Following the initial notice and review of comments received, FHWA will publish in the **Federal Register** a determination on whether to continue, modify, or discontinue the general applicability waiver.

FHWA will consider comments received in the 30-day comment period during our evaluation of the waiver request. Comments received after this period, but before notice of our finding is published in the **Federal Register**, may be considered to the extent practicable. Section 117 of the SAFETEA-LU Technical Corrections

Act of 2008 (Pub. L. 110–244, 122 Stat. 1572) requires an additional 5-day, comment period after FHWA publishes a waiver finding notice. Comments received during that period will be reviewed, but the finding will continue to remain valid. Those comments may influence FHWA's decision to terminate or modify a finding as well as other potential administrative actions, such as regulatory modifications.

Issued in Washington, DC, under authority delegated in 49 CFR 1.85.

Sean McMaster,

Administrator, Federal Highway Administration.

[FR Doc. 2026–02825 Filed 2–11–26; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number MARAD–2018–0088]

Centers of Excellence for Domestic Maritime Workforce Training and Education Notice of Opportunity To Apply for Designation

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The Maritime Administrator, after consultation with the United States Coast Guard, may designate a domestic maritime training or education entity as a Center of Excellence for Domestic Maritime Workforce Training and Education (CoE). MARAD's CoE Program focuses on entities other than Federal and State maritime academies that support the needs of the domestic maritime community. CoEs are key to building the maritime workforce and providing the necessary infrastructure for the United States to mobilize the required workforce in times of national need. Designations recognize the critical role these entities play in recruiting and training our Nation's maritime workforce and restoring America's maritime dominance. A CoE designation is valid for a period of five years. This notice solicits applications from eligible entities for the 2026 cycle of CoE designation. The notice also updates CoE Program policy to align with Executive Order (E.O.) 14151, *Ending Radical and Wasteful Government DEI Programs and Preferencing*, and announces that MARAD has terminated action on the 2024 application cycle, which was no longer in compliance with current Administration policy.

DATES: Applications, including all supporting information and documents,

must be submitted by 8:00 p.m. E.T. on April 13, 2026.

ADDRESSES: An entity seeking designation as a CoE may submit applications, including all supporting information and documents, by email to CoEDMWTE@dot.gov.

FOR FURTHER INFORMATION CONTACT: Gerard Wall, Centers of Excellence for Domestic Maritime Workforce Training and Education (CoE) Program Manager, via electronic mail at gerard.wall@dot.gov or call 202–366–7273.

Application Webinar: MARAD will host a webinar to provide guidance to prospective applicants on the content of this **Federal Register** notice. Information about the webinar will be announced on <https://www.maritime.dot.gov/education/maritime-centers-excellence>. Attendance at the webinar is entirely voluntary and not a requirement of the application process.

Prior Federal Action

Multiple **Federal Register** notices were published between May 2018 and March 2020 seeking and responding to public comment on the proposed CoE designation policy. On March 6, 2020, MARAD published its final CoE designation policy in the **Federal Register** (85 FR 13231). Subsequently, MARAD issued notices in the **Federal Register** and on the MARAD website at <https://www.maritime.dot.gov>, requesting applications from qualified entities seeking designation as a CoE. MARAD designated 27 Centers of Excellence on May 19, 2021. Those designations were valid for one year. MARAD subsequently designated 32 CoEs on February 22, 2024. In accordance with the FY 2023 NDAA, codified in 46 U.S.C. 51706, designation periods changed from a duration of one year to five years. On September 12, 2024, MARAD issued a notice in the **Federal Register** announcing opportunity to apply for CoE designation. MARAD has terminated action on the 2024 application cycle because the program policy was no longer in compliance with current Administration policy. Entities that applied during the 2024 cycle are encouraged to submit an updated application.

How To Be Designated a Center of Excellence for Domestic Maritime Workforce Training and Education

Introduction

The Maritime Administrator, after consultation with the United States Coast Guard, may designate certain eligible and qualified training entities as

CoEs. MARAD has developed the CoE Program to provide interested parties with comprehensive guidance on how best to apply for CoE designation. However, conformity with this CoE applicant guidance, except where explicit in the statute, is voluntary. MARAD will review and consider all applications it receives and may contact applicants with questions to assist in reviewing their applications. A training entity is free to decide whether it wishes to participate in the program and apply for a CoE designation.

Applications should include information to demonstrate that the applicant entity meets certain criteria, designation requirements, and attributes consistent with 46 U.S.C. 51706. If you believe that your entity qualifies for CoE designee status under an alternate interpretation or by qualifications not otherwise clearly articulated in the statute, your application should include a justification for any such alternative, and it will be considered during review. Annual program reviews, conducted throughout the 5-year period of designation, are designed to assess whether CoE designees follow relevant Federal requirements and continue to demonstrate a record of success in providing maritime workforce training and education.

Key Terms

The following list of key terms are either directly taken from the statute or were developed by MARAD, informed by comments received from the public during the initial policy development and comment period. The list is intended to assist applicants by providing context and insight into the approval process.

1. "Afloat career" means a career as a merchant mariner compensated for service aboard a vessel in the U.S. maritime industry.

2. "Ashore career" means a shore-based compensated occupation in the U.S. maritime industry.

3. "Covered training entity" means an entity that

A. is in a State that borders on:

- i. the Gulf of America;
- ii. the Atlantic Ocean;
- iii. the Long Island Sound;
- iv. the Pacific Ocean;
- v. the Great Lakes; or
- vi. the Mississippi River System;

B. The prospective entity is:

i. a postsecondary educational institution (as such term is defined in section 3(39) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302)) with an established maritime training program as part of its curriculum;

ii. a postsecondary vocational institution (as such term is defined in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c))) with an established maritime training program as part of its curriculum;

iii. a public or private nonprofit entity that offers one or more other structured experiential learning training programs for U.S. workers in the U.S. maritime industry, including a program offered by a labor organization or conducted in partnership with a nonprofit organization or one or more employers in the U.S. maritime industry;

iv. an entity sponsoring an apprenticeship program registered with the Office of Apprenticeship of the Employment and Training Administration of the Department of Labor or a State Apprenticeship Agency recognized by the Office of Apprenticeship pursuant to the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act;" 50 Stat. 664, chapter 663; 29 U.S.C. 50); or

v. a maritime training center designated prior to the date of enactment of the National Defense Authorization Act for Fiscal Year 2023 (FY 2023 NDAA);

C. has a demonstrated record of success in maritime workforce training and education; and

D. has—

i. not been subject to a disciplinary or adverse administrative action by Federal, State, or other regulatory bodies;

ii. no unresolved nonconformities from administrative audits by regulatory bodies; and

iii. not been subject to any adverse criminal action by a Federal, State, or local law enforcement authority.

5. "Mississippi River System" means the mostly riverine network of the United States, which includes the Mississippi River and all connecting waterways, natural tributaries, and distributaries. The system includes the Arkansas, Illinois, Missouri, Ohio, Red, Allegheny, Tennessee, Wabash, and Atchafalaya rivers. Important connecting waterways include the Illinois Waterway, the Tennessee-Tombigbee Waterway, and the Gulf Intracoastal Waterway.

4. "Postsecondary educational institution" means

A. an institution of higher education, as defined in 20 U.S.C. 1001, that provides not less than a two-year program of instruction that is acceptable for credit toward a bachelor's degree;

B. a tribally controlled college or university; or

C. a nonprofit educational institution offering certificate or other skilled

training programs at the postsecondary level.

5. "Postsecondary vocational institution" means a postsecondary vocational institution as defined in 20 U.S.C. 1002(c).

6. "State" means a State of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

7. "Training program" means a program that provides training services, as described in section 134(c)(3)(D) of the Workforce Innovation and Opportunity Act (Pub. L. 113–128; 29 U.S.C. 3174).

8. "United States maritime industry" (as such term is defined in 46 U.S.C. 51706(c)(6)) means the design, construction, repair, operation, manning, and supply of vessels in all segments of the maritime transportation system of the United States, including:

- A. the domestic and foreign trade;
- B. the coastal, offshore, and inland trade; or

C. non-commercial maritime activities, including:

- i. recreational boating; and
- ii. oceanographic and limnological research as described in 46 U.S.C. 2101(24).

9. "Demonstrated record of success" is interpreted by MARAD to mean a measurable and consistent history of achieving positive outcomes in key performance areas. For maritime training entities, this includes:

A. evidence of sustained or increasing student enrollment over time and a strong retention rate, indicating effective recruitment and student satisfaction;

B. a track record of students completing their programs on time, demonstrating the entity's ability to support student program completion;

C. high percentages of graduates securing employment in maritime-related fields, further education, or other relevant opportunities within a reasonable time after graduation, reflecting the entity's effectiveness in preparing students for career success; and

D. validation from relevant industry bodies, employers, or accrediting agencies that supports the quality and impact of the entity's programs.

Eligibility

Under the statute and MARAD policy, a covered training entity that provides training and education for the domestic maritime workforce may apply so long as it meets the following criteria:

1. The entity is in a State that borders on at least one of the following bodies of water:

A. Gulf of America;
 B. Atlantic Ocean;
 C. Long Island Sound;
 D. Pacific Ocean;
 E. Great Lakes; or
 F. Mississippi River System;
 2. The entity is:
 A. a postsecondary educational institution;
 B. a postsecondary vocational institution;
 C. a public or private nonprofit entity that offers one or more other structured experiential learning training programs for U.S. workers in the U.S. maritime industry, including a program that is offered by a labor organization or conducted in partnership with a nonprofit organization or one or more employers in the U.S. maritime industry;
 D. an entity sponsoring an apprenticeship program registered with the Office of Apprenticeship of the Employment and Training Administration of the United States Department of Labor or a State Apprenticeship Agency recognized by the Office of Apprenticeship pursuant to the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act;" 50 Stat. 664, chapter 663; 29 U.S.C. 50);
 E. a maritime training center designated prior to the date of enactment of the FY 23 NDAA; or
 F. a group of covered training entities that:
 i. consists only of members that meet the eligibility criteria at (1), (2), (3) and (4);
 ii. names a member of such group as a lead entity. The lead entity will serve as the primary point of contact with MARAD and will be responsible for all duties, including administrative, legal, and financial, as related to the CoE designation. For example, the lead entity is responsible for submitting the CoE application, responding to any inquiries from MARAD, and coordinating and executing any cooperative agreements with MARAD; and
 iii. has a legally binding agreement signed by all members. That agreement must include the name of the group, which will receive the CoE designation if one is granted, and list the lead entity and its responsibilities consistent with (ii) of this section;
 3. The entity has a demonstrated record of success in maritime workforce training and education; and
 4. The entity—
 A. has not been subject to a disciplinary or adverse administrative action by Federal, State, or other regulatory bodies;

B. has no unresolved nonconformities from administrative audits by regulatory bodies; and

C. has not been subject to any adverse criminal action by a Federal, State, or local law enforcement authority.

Implementation and Administration

MARAD will evaluate the applicant's supporting documentation and either approve or disapprove the request for designation. During the evaluation of the application and the supporting documentation, MARAD may request clarifications or additional information from the applicant. Upon approval, the Maritime Administrator or his designee will issue a decision. MARAD will thereafter publish the CoE's name and contact information on its website at <https://www.maritime.dot.gov>.

To assist MARAD in its review of the application and to ensure that it is identified as complete, provide only concise and relevant information and supporting documentation that demonstrate qualification and compliance with the statutory designation criteria. MARAD encourages applicants to ensure that each responsive section and each page of any document or enclosure in their application clearly references the submission requirement and section(s) as identified in Information to Include in Application.

Example 1. "*Mar Ex*" is eligible for the CoE program as a postsecondary educational institution, 4(a). Please find enclosed our Articles of Incorporation, Certificate of Status, and State authorization validation document, (5)(a–c).

Example 2. "*Mar Ex*" is enclosing the following supporting documents to demonstrate that our entity is accredited: U.S. Department of Education Accrediting Agency XYZ accreditation (5)(e), and our Afloat Track program and courses are approved by the United States Coast Guard (5)(h).

Information To Include in Application

1. Letter applying for CoE designation from the Chief Executive of the applicant entity.

2. Applicant's contact information:

A. Legal name of applicant entity and address.

B. Chief Executive's name, position title, address, phone number(s) and email.

C. Point(s) of contact (POC) name(s), position title(s), phone number(s), email(s).

3. Indicate the body of water that borders the entity's State:

A. Gulf of America;

B. Atlantic Ocean;
 C. Long Island Sound;
 D. Pacific Ocean;
 E. Great Lakes; or
 F. Mississippi River System.

4. Indicate the category under which the applicant entity is claiming eligibility for the CoE program:

A. Postsecondary educational institution;

B. Postsecondary vocational institution;

C. Public or private nonprofit entity that offers one or more other structured experiential learning training programs for U.S. workers in the U.S. maritime industry, including a program that is offered by a labor organization or conducted in partnership with a nonprofit organization or one or more employers in the U.S. maritime industry;

D. An entity sponsoring an apprenticeship program registered with the Office of Apprenticeship of the Employment and Training Administration of the United States Department of Labor or a State Apprenticeship Agency;

E. A maritime training center designated prior to the date of enactment of the FY 2023 NDAA; or

F. A group of covered training entities.

5. Submit the following supporting information and documents:

A. Charter, Articles of Incorporation, Certificate of Incorporation, or equivalent.

B. Certificate of Status (also known as Certificate of Existence or Certificate of Good Standing), a document issued by a State official (usually the Secretary of State), if applicable.

C. State authorization validation documents, if applicable.

D. Public or non-profit status certification, if applicable.

E. Accreditation approval letter(s) from an accrediting agency(ies).

F. Approval letter from a State Apprenticeship Agency in accordance with 29 CFR part 29, if applicable.

G. Approval letter from the State's Department of Education or equivalent State agency, if applicable.

H. Approval letter from the United States Coast Guard, if applicable.

I. ISO 9001 or other quality management certification, if applicable.

J. Data and statistics to demonstrate record of success in maritime workforce training and education, as well as entity effectiveness. This should include, but not be limited to, recruitment data; past/current enrollment (trends); attrition rates; student program completion data; post-program job and placement statistics (to the extent available); and

program effectiveness feedback from students, faculty, alumni, and other stakeholders.

K. A brief assessment of the entity's estimated ability to increase student or trainee throughput to meet demand in a time of national need such as war, armed conflict, or national emergency.

6. Indicate the *total number* of afloat career preparation tracks, the *total number* of ashore career preparation tracks, or both, that the entity offers in the U.S. maritime industry and submit the following supporting information:

A. A program summary;

B. A description of applicable courses offered (only relevant maritime-related program-specific pages from the catalogue);

C. If applicable, letters of authorization or endorsement of the course or program or courses from an applicable professional society or industry body (including, but not limited to Welding, Electrician, Electronics, Maritime Construction, Maritime Logistics, Maritime Systems, etc.) to issue industry accepted certifications that reflect a professionally recognized level of educational or technical skill achievement; and

D. Any other relevant supporting documentation.

7. Applicant entities offering afloat career tracks, ashore career tracks, or both should demonstrate that they have satisfied accreditation requirements, as set forth below:

A. Postsecondary educational institutions and postsecondary vocational institutions:

i. are accredited by a regional accreditation agency or a nationally recognized agency on the list of accrediting agencies approved by the U.S. Department of Education; and

ii. if applicable, the mariner training program and mariner training courses offered by the entity have United States Coast Guard approval.

B. A public or private nonprofit entity that offers one or more other structured experiential learning training programs for U.S. workers in the U.S. maritime industry, including a program offered by a labor organization or conducted in partnership with a nonprofit organization or one or more employers in the U.S. maritime industry:

i. has United States Coast Guard approval of the mariner training program and mariner training courses offered by the entity, if applicable; or

ii. holds current accreditation of the maritime training program offered by the entity from one or more of the following:

a. the State's Department of Education or equivalent State agency;

b. employers in the U.S. maritime industry; or

c. other appropriate external review body, which is specifically authorized to review and validate post-secondary education programs and is acceptable to MARAD.

C. An entity sponsoring a registered apprenticeship program holds current accreditation from a State Apprenticeship Agency in accordance with 29 CFR part 29.

D. A maritime training center designated prior to the date of enactment of the FY 2023 NDAA must hold current accreditation:

i. of the entity, from a regional accreditation agency or a nationally recognized agency on the list of accrediting agencies approved by the U.S. Department of Education; or

ii. of the maritime training program offered by the entity from either:

a. the State Apprenticeship Agency in accordance with 29 CFR part 29;

b. the State's Department of Education or equivalent State agency;

c. the United States Coast Guard; or

d. other appropriate external review body, which is specifically authorized to review and validate post-secondary education programs and is acceptable to MARAD.

E. Each member of a group must hold current accreditation according to each member's corresponding eligibility category and the accreditation requirements outlined above in 7a–d.

8. All applicant entities should submit a brief narrative statement highlighting efforts to accomplish the following:

A. Support the workforce needs of the local, State, or regional economy;

B. Build the science, technology, engineering, and math competencies of local and future workforce to meet emerging local, regional, and national economic interests;

C. Offer a broad-based curriculum and stackable credentials, where applicable;

D. Engage or collaborate with the maritime industry, including, but not limited to, employers, associations, and other industry organizations or partners;

E. Engage or collaborate with K–12 programs to promote interest in maritime careers;

F. Engage or collaborate with maritime academies and other entities or organizations for advanced proficiency and higher education;

G. Conduct other significant domestic maritime workforce development related activities; and

H. If applicable, engage or collaborate with employer-led maritime training

practices and programs through Sector Partnerships as authorized in the 2014 Workforce Innovation and Opportunity Act Section 3(26).

9. All applicant entities may provide any relevant endorsements, awards, recognition, and significant accomplishments in support of their application.

Note: As part of designation, CoE designees are geolocated on MARAD's CoE Interactive Map located on the MARAD website. In addition to identifying geographic location, this map also provides a link to the landing page for each entity and a brief narrative statement, a designee overview, and information about each entity's maritime program. Applicants should note that the information they submit for application sections 8a–h serves dual purposes—application support and content for a one-page designee overview that highlights your entity's achievements and aspirations.

Paperwork Reduction Act

The information collection requirements in the final CoE designation policy have been approved under information collection number 2133–0549 by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* In accordance with 5 CFR 1320.5(b)(2)(i), and notwithstanding any other provision of law, persons are not required to provide information to the Government unless the information collection displays a current and valid OMB control number. This application process is operating under the following current and valid OMB control number: 2133–0549.

(Authority: The National Defense Authorization Act for Fiscal Year 2023, Pub. L. 117–263 (December 23, 2022), 46 U.S.C. 51706, the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended, 49 CFR 1.93.)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026–02784 Filed 2–11–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

[Docket No. TTB–2026–0001]

Proposed Information Collections; Comment Request (No. 98)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB); Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the continuing or proposed information collections listed below in this document.

DATES: We must receive your written comments on or before April 13, 2026.

ADDRESSES: You may send comments on the information collections described in this document using one of these two methods:

- *Internet*—To submit comments electronically, use the comment form for this document posted on the “*Regulations.gov*” e-rulemaking website at <https://www.regulations.gov> within Docket No. TTB–2026–0001.

- *Mail*—Send comments to the Paperwork Reduction Act Officer, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005.

Please submit separate comments for each specific information collection described in this document. You must reference the information collection’s title, form number or recordkeeping requirement number (if any), and OMB control number in your comment.

You may view copies of this document, the relevant TTB forms, and any comments received at <https://www.regulations.gov> within Docket No. TTB–2026–0001. TTB has posted a link to that docket on its website at <https://www.ttb.gov/rrd/information-collection-notices>. You also may obtain paper copies of this document, the listed forms, and any comments received by contacting TTB’s Paperwork Reduction Act Officer at the addresses or telephone number shown below.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; 202–453–1039, ext. 135; or complete the Regulations and Rulings Division contact form at <https://www.ttb.gov/contact-rrd>.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of a continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed or continuing information collections described below, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this document will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether an information collection is necessary for the proper performance of the agency’s functions, including whether the information has practical utility; (b) the accuracy of the agency’s estimate of the information collection’s burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection’s burden on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information has a valid OMB control number.

Information Collections Open for Comment

Currently, we are seeking comments on the following forms, letterhead applications or notices, recordkeeping requirements, questionnaires, or surveys:

OMB Control No.: 1513–0002.

Title: Personnel Questionnaire—Alcohol and Tobacco Products.

TTB Form Number: TTB F 5000.9.

Abstract: Provisions of chapters 51 and 52 of the Internal Revenue Code (IRC, 26 U.S.C. chapters 51 and 52) and the Federal Alcohol Administration Act (FAA Act; 27 U.S.C. 201 *et seq.*) require all persons who desire to engage in certain alcohol and tobacco activities to obtain a permit or registration from, or file a notice with, the Secretary of the Treasury (the Secretary) before beginning operations. The IRC and FAA Act also provide that an applicant is not eligible for such approvals if the Secretary finds that the applicant, including company officers, directors, or principal investors, has certain criminal convictions or is not likely to lawfully operate. Under its delegated IRC and FAA Act authorities, the Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations in 27 CFR chapter I authorize the collection of information from applicants so that TTB can determine if they meet the statutory

and regulatory qualifications to hold alcohol and tobacco permits, registrations, or notices. To assist TTB in making such determinations, applicants use form TTB F 5000.9, Personnel Questionnaire—Alcohol and Tobacco, or its electronic equivalent, to provide TTB with information regarding their identity, business history, and criminal record.

Current Actions: There are no program changes to this information collection at this time, and TTB is submitting it for extension purposes only. As for adjustments, due to changes in agency estimates, TTB is decreasing the number of annual respondents, responses, and total burden hours associated with this collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits; Individuals and households.

Estimated Annual Burden

- *Number of Respondents:* 8,400.
- *Average Responses per Respondent:* 1 (one).
- *Number of Responses:* 8,400.
- *Average per-Response Burden:* 50 minutes.
- *Total Burden:* 7,000 hours.

OMB Control No.: 1513–0016.

Title: Drawback on Wines Exported.

TTB Form Number: TTB F 5120.24.

Abstract: In general, the IRC at 26 U.S.C. 5041 imposes Federal excise tax on wine produced or imported into the United States, while section 5362(c) allows domestic wine to be exported, transferred to a foreign trade zone, or used on certain vessels and aircraft without payment of that tax. In the case of domestic wine that is subsequently exported, the IRC at 26 U.S.C. 5062(b) provides that exporters of such wine may claim drawback (refund) of the excise tax paid or determined on the exported wine. Under the TTB regulations in 27 CFR part 28, Exportation of Alcohol, exporters of taxpaid domestic wine use form TTB F 5120.24 to document the wine’s exportation and to submit drawback claims for the excise taxes paid or determined on the exported wine. TTB uses the provided information to determine if the exported wine is eligible for drawback and to verify the amount of drawback claimed by the exporter. As such, the collected information collection is necessary to protect the revenue.

Current Actions: There are no program changes to this information collection at this time, and TTB is submitting it for extension purposes only. As for adjustments, due to changes in agency estimates, TTB is decreasing

the number of annual respondents, responses, and total burden hours associated with this collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 5.
- *Average Responses per Respondent:* 6.
- *Number of Responses:* 30.
- *Average per-Response Burden:* 67 minutes.
- *Total Burden:* 33.5 hours.

OMB Control No.: 1513–0031.

Title: Specific and Continuing Transportation Bonds—Distilled Spirits or Wines Withdrawn for Transportation to a Manufacturing Bonded Warehouse, Class Six.

TTB Form Numbers: TTB F 5100.12 and TTB F 5110.67.

Abstract: Under the United States customs laws at 19 U.S.C. 1311, materials subject to an internal revenue tax may be transferred without payment of tax to a manufacturing bonded warehouse for use in the production of products for export if a bond is provided to ensure compliance with relevant laws and regulations. Specific to distilled spirits and wine, the IRC at 26 U.S.C. 5214(a) authorizes transfer of distilled spirits from a distilled spirits plant to a manufacturing bonded warehouse without payment of excise tax, while section 5175 requires a bond for such transfers. The IRC at 26 U.S.C. 5362(c) authorizes the similar tax-free transfer of wine from a wine premises to a manufacturing bonded warehouse and provides that the Secretary may require a bond for such transfers. In addition, those IRC sections also authorize the Secretary to issue regulations regarding those tax-free transfers. Under those IRC authorities, the TTB alcohol export regulations in 27 CFR part 28 require manufacturing bonded warehouse proprietors to file a bond to cover the tax-free transfer of distilled spirits or wine from a distilled spirits plant or wine premises to their warehouse. Under those regulations, such proprietors may file either a specific transportation bond using form TTB F 5100.12 to cover a single tax-free transfer, or a continuing transportation bond using form TTB F 5110.67 to cover multiple tax-free transfers made over a period of time. This information collection request is necessary to meet statutory requirements and protect the revenue while providing operational flexibility to manufacturing warehouse proprietors.

Current Actions: There are no program changes or adjustments to this information collection at this time, and TTB is submitting it for extension purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 50.
- *Average Responses per Respondent:* 1 (one).
- *Number of Responses:* 50.
- *Average per-Response Burden:* 1 hour.
- *Total Burden:* 50 hours.

OMB Control No.: 1513–0056.

Title: Distilled Spirits Plants—Transaction and Supporting Records.
TTB Recordkeeping Number: TTB REC 5150/2.

Abstract: In general, the IRC at 26 U.S.C. 5001 imposes a Federal excise tax on distilled spirits produced or imported into the United States. Under The IRC tax-related provisions in chapter 51, 26 U.S.C. 5207 requires distilled spirits plant (DSP) proprietors to maintain records and provide reports related to their production, storage, denaturing, and processing activities as the Secretary prescribes by regulation. Under those IRC authorities, the TTB regulations in 27 CFR parts 19, 26, 27, and 28 require DSP proprietors to keep certain usual and customary transaction and supporting records that are common to their distilled spirits production, storage, denaturing, and processing activities. Proprietors use the common transaction and supporting records required under this information collection approval, along with records that are unique to each DSP activity required under other information collection approvals, to document the data provided on their monthly DSP production, storage, denaturing, and processing operations reports. TTB personnel may examine the DSP transaction and supporting records required under this collection to verify the data provided by DSP proprietors in those operations reports and to determine the Federal excise tax liabilities of those proprietors. As such, this information collection is necessary to protect the revenue.

Current Actions: There are no program changes to this information collection at this time, and TTB is submitting it for extension purposes only. As for adjustments, due to changes in agency estimates resulting from growth in the number of DSPs in the United States, TTB is increasing the number of annual respondents,

responses, and total burden hours associated with this collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 5,800.
- *Average Responses per Respondent:* 1 (one).
- *Number of Responses:* 5,800.
- *Average per-Response and Total Burden:* None. Because this collection consists of usual and customary records kept by respondents at their premises during the normal course of business, regardless of any regulatory requirement to do so, this collection requirement imposes no additional hourly burden on respondents, per the OMB regulations at 5 CFR 1320.3(b)(2).

OMB Control No.: 1513–0061.

Title: Letterhead Applications and Notices Relating to Denatured Spirits.

TTB Recordkeeping Number: TTB REC 5110/05.

Abstract: Under the IRC at 26 U.S.C. 5214, denatured spirits (distilled spirits to which denaturants have been added to render them unfit for beverage purposes) may be withdrawn from DSPs free of tax for nonbeverage industrial purposes in the manufacture of certain personal and household products. Since it is possible to recover potable alcohol from denatured spirits and articles made with denatured spirits, the IRC at 26 U.S.C. 5271–5275 sets forth provisions regarding such spirits and articles. Under those IRC authorities, the TTB regulations in 27 CFR part 20, Distribution and Use of Denatured Alcohol and Rum, require specially denatured spirits (SDS) dealers and nonbeverage product manufacturers that use or recover SDS to apply for and obtain a permit. Those part 20 regulations also require such permit holders, and non-permit holders that traffic in large quantities of completely denatured spirits (CDS), to submit letterhead applications or notices to TTB regarding certain changes to their permit information (if applicable), use of alternate methods and emergency variations, adoption or use of certain formulas, losses in transit, and other specified matters. The collected information is necessary to implement the IRC's statutory provisions regarding denatured spirits and protect the revenue.

Current Actions: There are no program changes or adjustments to this information collection at this time, and TTB is submitting it for extension purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 3,800.
- *Average Responses per Respondent:* 1 (one).
- *Number of Responses:* 3,800.
- *Average per-Response Burden:* 30 minutes.
- *Total Burden:* 1,900 hours.

OMB Control No.: 1513–0111.

Title: COLAs Online Access Request.

TTB Form Number: TTB F 5013.2.

Abstract: To provide consumers with adequate information as to the identity of alcohol beverages and prohibit consumer deception, the FAA Act at 26 U.S.C. 205, and the related TTB regulations in 27 CFR chapter I require alcohol beverage bottlers and importers to apply for Certificates of Label Approval (COLAs) for such products introduced into interstate commerce or released from customs custody. Additionally, those regulations require domestic bottlers of distilled spirits and wines to apply for COLA exemptions for certain products sold only in intra-State commerce and require domestic bottlers and importers of distilled spirits to apply for approval of distinctive bottles. The vast majority of bottlers and importers complete and submit such applications electronically using TTB's web-based COLAs Online system. Specific to this information collection, to protect TTB computer systems from cyber threats and misuse, persons desiring to use COLAs Online must first submit and receive TTB approval of a COLAs Online Access Request using the COLAs Online User Registration function or paper form TTB F 5013.2, COLAs Online Access Request. The collected information identifies the COLAs Online access applicant and confirms their authority to act on behalf of a specific alcohol beverage industry member.

Current Actions: There are no program changes to this information collection at this time, and TTB is submitting it for extension purposes only. As for adjustments, due to changes in agency estimates, TTB is increasing the number of annual respondents, responses, and total burden hours associated with this collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 5,100.

- *Average Responses per Respondent:* 1 (one).
- *Number of Responses:* 5,100.
- *Average per-Response Burden:* 18 minutes.
- *Total Burden:* 1,530 hours.

OMB Control No.: 1513–0124.

Title: Customer Satisfaction Surveys for Permits Online (PONL), Formulas Online (FONL), and COLAs Online.

Abstract: As part of TTB's efforts to improve customer service, we survey respondents who complete and submit applications electronically using our online systems—Permits Online (PONL) for original or amended alcohol or tobacco permits, Formulas Online (FONL) for approval of certain alcohol product formulas, and COLAs Online for submission of certificates of label approval (COLAs) for alcohol beverages sold in interstate commerce. These customer satisfaction surveys assist TTB in identifying potential customer needs and problems, along with opportunities for improvements in our PONL, FONL, COLAs Online electronic application systems.

Current Actions: There are no program changes or adjustments to this information collection request at this time, and TTB is submitting it for extension purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 18,000.
- *Average Responses per Respondent:* 1 (one).
- *Number of Responses:* 18,000.
- *Average per-Response Burden:* 12 minutes.
- *Total Burden:* 3,600 hours.

Dated: February 9, 2026.

Amy R. Greenberg,

Acting Assistant Administrator, Headquarters Operations.

[FR Doc. 2026–02815 Filed 2–11–26; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Reporting, Recordkeeping, and Disclosure Requirements Associated With Proprietary Trading and Certain Interests in and Relationships With Covered Funds

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled, “Reporting, Recordkeeping, and Disclosure Requirements Associated with Proprietary Trading and Certain Interests in and Relationships with Covered Funds.”

DATES: Comments must be received by April 13, 2026.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email:* prainfo@occ.treas.gov.
- *Mail:* Chief Counsel's Office,

Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0309, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

- *Fax:* (571) 293–4835.

Instructions: You must include “OCC” as the agency name and “1557–0309” in your comment. In general, the OCC will publish comments on www.reginfo.gov without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to www.reginfo.gov. Hover over the “Information Collection Review” tab

and click on “Information Collection Review” from the drop-down menu. From the “Currently under Review” drop-down menu, select “Department of the Treasury” and then click “submit.” This information collection can be located by searching OMB control number “1557–0309” or “Reporting, Recordkeeping, and Disclosure Requirements Associated with Proprietary Trading and Certain Interests in and Relationships with Covered Funds.” Upon finding the appropriate information collection, click on the related “ICR Reference Number.” On the next screen, select “View Supporting Statement and Other Documents” and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating www.reginfo.gov, please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel’s Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements, imposed on ten or more persons, that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 generally requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the renewal of this collection.

Title: Reporting, Recordkeeping, and Disclosure Requirements Associated with Proprietary Trading and Certain Interests in and Relationships with Covered Funds. **OMB Control No.:** 1557–0309.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: This submission covers an existing regulation and involves no change to the regulation or to the

information collection requirements. The OCC requests only that OMB renew its approval of the collection.

Section 13 of the Bank Holding Company (BHC) Act generally prohibits any banking entity from engaging in proprietary trading or from acquiring or retaining an ownership interest in, sponsoring, or having certain relationships with a hedge fund or private equity fund (covered fund), subject to certain exemptions. The exemptions allow certain types of permissible trading and covered fund activities. The initial regulations implementing section 13 became effective on April 1, 2014. Section 44.20(d) and Appendix A of the implementing regulations require certain of the largest banking entities to report to the appropriate agency certain quantitative measurements.

This collection of information was established pursuant to a rule¹ required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which was enacted on July 21, 2010.² The rule implemented section 619 of the Dodd-Frank Act, which added section 13 of the BHC Act (codified at 12 U.S.C. 1851). The OCC’s version of the rule is codified at 12 CFR part 44. The reporting, recordkeeping, and disclosure requirements associated with the rule permit banking entities and the OCC to enforce compliance with section 13 of the BHC Act and the rule and to identify, monitor, and limit risks of activities permitted under section 13.

Section-by-Section Analysis

Section 44.3(d)(3), regarding excluded liquidity management activities, includes recordkeeping requirements for security, foreign exchange forward, foreign exchange swap, or cross-currency swap transactions.

Section 44.4(b)(3)(i)(A), regarding permitted market making activities, provides that a trading desk or other organizational unit of another banking entity is not a client, customer, or counterparty of a trading desk relying on the market-making exemption if that other entity has trading assets and liabilities of \$50 billion or more unless the trading desk documents how and why a particular trading desk or other organizational unit of the other entity should be treated as a client, customer, or counterparty of the trading desk.

Section 44.4(c)(3)(i) requires a banking entity that relies on the market making presumption of compliance to

make available to the OCC upon request records regarding (1) any limit that is exceeded and (2) any temporary or permanent increase to any limit(s), in each case in the form and manner as directed by the OCC.

Section 44.5(c) includes documentation requirements for banking entities that have significant trading assets and liabilities and rely on the risk-mitigating hedging exemption.

Section 44.10(c)(18)(ii)(C)(1) requires a banking entity relying on the exclusion from the covered fund definition for customer facilitation vehicles to maintain documentation outlining how the banking entity intends to facilitate the customer’s exposure to a transaction, investment strategy, or service.

Section 44.11(a)(2) requires a banking entity (or an affiliate thereof) that organizes and offers a covered fund in connection with the provision of *bona fide* trust, fiduciary, investment advisory, or commodity trading advisory services to persons that are customers of such services of the banking entity (or an affiliate thereof) to organize and offer the fund pursuant to a written plan or similar documentation outlining how the banking entity or such affiliate intends to provide advisory or similar services to its customers through organizing and offering such fund.

Section 44.11(a)(8)(i) requires a banking entity that organizes and offers covered funds to make certain disclosures to investors in such funds. This provision also applies to banking entities relying on exclusions for credit funds, venture capital funds, family wealth management vehicles, or customer facilitation vehicles. *See* § 44.10(c)(15)(iii)(A), (c)(16)(ii)(A), (c)(17)(ii)(C), and (c)(18)(ii)(C)(3).

Section 44.12(e) outlines the requirements for requesting an extension of time to divest an ownership interest in a covered fund.

Section 44.20(b) requires a compliance program from banking entities with significant trading assets and liabilities including, among other things, records sufficient to demonstrate compliance with section 13 of the BHC Act and 12 CFR part 44. A banking entity must promptly provide these records to the OCC upon request and retain them for a period of no less than 5 years or such longer period as required by the OCC.

Section 44.20(c) requires a CEO attestation from any banking entity that has significant trading assets and liabilities.

Section 44.20(d) requires a banking entity with significant trading assets and

¹ 79 FR 5536 (January 31, 2014).

² Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

liabilities (or any other banking entity to which the OCC has provided written notification) to report metrics specified in Appendix A. Section 20(d) further specifies that a banking entity that is required to report these metrics must do so within 30 days of the end of each calendar quarter.

Section 44.20(e) requires a banking entity with significant trading assets and liabilities to maintain additional documentation relating to certain exclusions or exceptions.

Section 44.20(f)(1) provides that a banking entity with no covered activities (other than trading activities permitted pursuant to § 44.6(a) of subpart B) can satisfy the requirements of § 44.20 by establishing the required compliance program prior to becoming engaged in such activities or making such investments.

Section 44.20(f)(2) provides that a banking entity with moderate trading assets and liabilities may satisfy the requirements of § 44.20 by including in its existing compliance policies and procedures appropriate references to the requirements of section 13 of the BHC Act and part 44 and adjustments as appropriate given its activities, size, scope, and complexity.

Section 44.20(i) covers notice and response procedures. The OCC will notify a banking entity in writing of any determination requiring notice under part 44 and will provide an explanation of the determination. The banking entity may respond to the notice and should include any matters that the banking entity would have the OCC consider in deciding whether to make the determination. The response must be in writing and delivered to the designated OCC official within 30 days after the date on which the banking entity received the notice.

Estimated Burden

Estimated Frequency of Response: On occasion.

Estimated Number of Respondents: 39.

Estimated Total Annual Responses: 2,242.

Estimated Total Annual Burden: 20,410 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Eden Gray,

Assistant Director, Office of the Comptroller of the Currency.

[FR Doc. 2026-02788 Filed 2-11-26; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing updates to the identifying information of one or more entries currently included on one or more of OFAC's sanctions lists.

DATES: See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for the Office of Sanctions Support and Operations, 202-622-6943; Associate Director for Global Targeting, 202-622-2420; or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

OFAC's sanctions lists and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On April 22, 2025, OFAC updated the following names to improve data standardization and consistency and/or to correct records that were published with minor errors. The updated names and relevant sanctions authorities are available at the below URL: <https://ofac.treasury.gov/recent-actions/20250422>.

(Authority: 31 CFR chapter V.)

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2026-02837 Filed 2-11-26; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing updates to the identifying information of one or more entries currently included on one or more of OFAC's sanctions lists.

DATES: See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for the Office of Sanctions Support and Operations, 202-622-6943; Associate Director for Global Targeting, 202-622-2420; or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

OFAC's sanctions lists and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On August 6, 2025, OFAC updated the following names to improve data standardization and consistency and/or to correct records that were published with minor errors. The updated names and relevant sanctions authorities are available at the below URL: <https://ofac.treasury.gov/recent-actions/20250806>.

(Authority: 31 CFR chapter V.)

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2026-02839 Filed 2-11-26; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing updates to

the identifying information of one or more entries currently included on one or more of OFAC's sanctions lists.

DATES: See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for the Office of Sanctions Support and Operations, 202-622-6943; Associate Director for Global Targeting, 202-622-2420; or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

OFAC's sanctions lists and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On November 27, 2024, OFAC updated the following names to improve data standardization and consistency and/or to correct records that were published with minor errors. The updated names and relevant sanctions authorities are available at the below URL: <https://ofac.treasury.gov/recent-actions/20241127>.

(Authority: 31 CFR chapter V.)

Bradley T. Smith,
Director, Office of Foreign Assets Control.
[FR Doc. 2026-02836 Filed 2-11-26; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing updates to the identifying information of one or more entries currently included on one or more of OFAC's sanctions lists.

DATES: See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for the Office of Sanctions Support and Operations, 202-622-6943; Associate Director for Global Targeting, 202-622-2420; or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

OFAC's sanctions lists and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On June 18, 2025, OFAC updated the following names to improve data standardization and consistency and/or to correct records that were published with minor errors. The updated names and relevant sanctions authorities are available at the below URL: <https://ofac.treasury.gov/recent-actions/20250618>.

(Authority: 31 CFR chapter V.)

Bradley T. Smith,
Director, Office of Foreign Assets Control.
[FR Doc. 2026-02838 Filed 2-11-26; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing updates to the identifying information of one or more entries currently included on one or more of OFAC's sanctions lists.

DATES: See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for the Office of Sanctions Support and Operations, 202-622-6943; Associate Director for Global Targeting, 202-622-2420; or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

OFAC's sanctions lists and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On September 23, 2025, OFAC updated the following names to improve data standardization and consistency and/or to correct records that were published with minor errors. The updated names and relevant sanctions authorities are available at the below URL: <https://ofac.treasury.gov/recent-actions/20250923>.

(Authority: 31 CFR chapter V.)

Bradley T. Smith,
Director, Office of Foreign Assets Control.
[FR Doc. 2026-02840 Filed 2-11-26; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing updates to the identifying information of one or more entries currently included on one or more of OFAC's sanctions lists.

DATES: See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for the Office of Sanctions Support and Operations, 202-622-6943; Associate Director for Global Targeting, 202-622-2420; or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

OFAC's sanctions lists and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On October 2, 2024, OFAC updated the following names to improve data standardization and consistency and/or to correct records that were published with minor errors. The updated names and relevant sanctions authorities are available at the below URL: <https://ofac.treasury.gov/recent-actions/20241002>.

(Authority: 31 CFR chapter V.)

Bradley T. Smith,
Director, Office of Foreign Assets Control.
[FR Doc. 2026-02835 Filed 2-11-26; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

**Agency Information Collection
Activities: Comment Request Burden
Related to Form 1099-MISC**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before April 13, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments and recommendations to Andrés García, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email at pra.comments@irs.gov. Please include, "OMB Number: 1545-0115—Public Comment Request Notice" in the subject line of the message.

FOR FURTHER INFORMATION CONTACT:

View the latest drafts of the tax forms related to the information collection listed in this notice at <https://www.irs.gov/draft-tax-forms>. Requests for additional information or copies of this collection should be directed to Ronald J. Durbala, (202)–317–5746 or via email at RJoseph.Durbala@irs.gov.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess its impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record and be viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Miscellaneous Income.

OMB Number: 1545-0115.

Form Number(s): Form 1099-MISC.

Abstract: Form 1099-MISC is used by payers to report payments of \$600 or more of rents, prizes and awards, medical and health care payments, nonemployee compensation, and crop insurance proceeds, \$10 or more of

royalties, any amount of fishing boat proceeds, certain substitute payments, golden parachute payments, and an indication of direct sales of \$5,000 or more.

Current Actions: Changes made to comply with Public Law 119-21 (Sec. 70201 and 70202) will result in a burden decrease of 69,348 hours. Updated estimates based on 2025 Pub 6961 will decrease the estimated annual responses by 6,573,550.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 43,763,450.

Estimated Time per Respondent: 28 min.

Estimated Total Annual Burden Hours: 20,568,822.

Dated: February 10, 2026.

Ronald J. Durbala,

Tax Analyst.

[FR Doc. 2026-02817 Filed 2-11-26; 8:45 am]

BILLING CODE 4831-GV-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection

Activities: Comment Request Burden Related to the Low-Income Communities Bonus Credit Program

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before April 13, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments and recommendations to Andrés García, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email at pra.comments@irs.gov. Please include, "OMB Number: 1545-2308—Public Comment Request Notice" in the subject line of the message.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this collection should be directed to Ronald J. Durbala, (202)–317–5746 or via email at RJoseph.Durbala@irs.gov.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess its impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record and be viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Low-Income Communities Bonus Credit Program.

OMB Number: 1545-2308.

Program Number(s): TD 9979 and Rev. Proc. 2023-27.

Abstract: TD 9979 contains final regulations concerning the application of the low-income communities bonus credit program for the energy investment credit established pursuant to the Inflation Reduction Act of 2022. Revenue Procedure (Rev Proc 2023-27) provides procedural and clarifying guidance applicable to section 48(e).

Current Actions: There are no changes being made to the burden at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 70,000.

Estimated Time per Respondent: 3 hr.

Estimated Total Annual Burden Hours: 210,000.

Dated: February 9, 2026.

Ronald J. Durbala,

Tax Analyst.

[FR Doc. 2026-02816 Filed 2-11-26; 8:45 am]

BILLING CODE 4830-GV-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Agency Information Collection Activities: Comment Request on Burden Related to Form 1120–ND, Return for Nuclear Decommissioning Funds and Certain Related Persons**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before April 13, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments and recommendations to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email at pra.comments@irs.gov. Please include, “OMB Number: 1545–0954—Public Comment Request Notice” in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: View the latest drafts of the tax forms related to the information collection listed in this notice at <https://www.irs.gov/draft-tax-forms>. Requests for additional information or copies of this collection should be directed to Ronald J. Durbala, (202) 317–5746 or via email at RJoseph.Durbala@irs.gov.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess its impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record and be viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d)

ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Return for Nuclear Decommissioning Funds and Certain Related Persons.

OMB Number: 1545–0954.

Form Number(s): Form 1120–ND.

Abstract: This form is used by nuclear decommissioning funds to report contributions received, income earned, administration expenses, and the tax on modified gross income. It is also sometimes used to report and pay the section 4951 taxes on self-dealing.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 32 hrs., 35 min.

Estimated Total Annual Burden Hours: 3,259.

Dated: February 9, 2026.

Ronald J. Durbala,

Tax Analyst.

[FR Doc. 2026–02811 Filed 2–11–26; 8:45 am]

BILLING CODE 4831–GV–P

UNIFIED CARRIER REGISTRATION PLAN**Sunshine Act Meetings**

TIME AND DATE: February 19, 2026, 12:00 p.m. to 3:00 p.m., Eastern Time.

PLACE: The meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll), Meeting ID: 991 4902 6456, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is <https://kellen.zoom.us/join/99149026456>.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Finance Subcommittee (the “Subcommittee”) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda**I. Call to Order—UCR Finance Subcommittee Chair**

The UCR Finance Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Subcommittee Agenda and Setting of Ground Rules—UCR Finance Subcommittee Chair For Discussion and Possible Subcommittee Action

The agenda will be reviewed, and the Subcommittee will consider adoption of the agenda.

Ground Rules

Subcommittee action only to be taken in designated areas on agenda.

IV. Review and Approval of Subcommittee Minutes From the September 30, 2025, Meeting—UCR Finance Subcommittee Chair for Discussion and Possible Subcommittee Action

Draft minutes from the September 30, 2025, Subcommittee meeting will be reviewed. The Subcommittee will consider action to approve.

V. 2027 Registration Fee Update—UCR Finance Subcommittee Chair and Executive Director

The UCR Finance Subcommittee Chair and Executive Director will provide an update on the 2027 registration fee recommendation.

VI. Revenues From 2024 and 2025 Registration Fees—UCR Depository Manager

The UCR Depository Manager will review the revenues received from the 2024 and 2025 plan year registration fees.

VII. 2024 External Financial Audit Update—UCR Finance Subcommittee Chair and UCR Depository Manager

The UCR Finance Subcommittee Chair and UCR Depository Manager will provide an update on UCR’s 2024 External Financial Audit.

VIII. Management Report—UCR Finance Subcommittee Chair and UCR Depository Manager

The UCR Finance Subcommittee Chair and UCR Depository Manager will provide an update on UCR finances and related topics.

IX. Methodology for Distribution of Excess Funds From the Depository to Under Capped States—UCR Finance Subcommittee Chair and UCR Depository Manager for Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair and UCR Depository Manager will lead a discussion on the current methodology for the distribution of excess funds from the Depository to states that have not yet met their annual revenue caps and whether the methodology should be changed, and if so, how. The Subcommittee may recommend to the UCR Board a change in the current methodology for the distribution of excess funds from the Depository to states that have not yet met their annual revenue caps.

X. Other Business—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will call for any other items Subcommittee members would like to discuss.

XI. Adjourn—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, February 6, 2026 at: <https://plan.ucr.gov>.

CONTACT PERSON FOR MORE INFORMATION:

Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, eleaman@board.ucr.gov.

Alex B. Leath,
Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2026–02833 Filed 2–10–26; 4:15 pm]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. Ch. 10, that the National Research Advisory Council (NRAC) will hold a meeting on Tuesday, March 24, 2026, at 811 Vermont Avenue NW, Washington, DC 20571, in Room 4042. A virtual attendance option is available via Teams. The teleconference number is 1–872–701–0185, Phone Conference ID: 431 546 419# or the meeting link is: https://teams.microsoft.com/l/meetup-join/19%3ameeting_MmIxNWJlMWYtZWYyYS00MDEyLWZyYzQtNWRiNmJlZWMOOTY2%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%22bbe000de-64c3-4465-99a0-83e8fddd9836%22%7d.

The meeting will convene at 11:00 a.m. and end at approximately 4:00 p.m. Eastern Standard Time. This meeting is open to the public and will include time reserved for public comments at the end

of the meeting. The public comment period will be 30 minutes. Individual stakeholders will be given up to 5 minutes to express their comments.

The purpose of NRAC is to advise the Secretary on research conducted by the Veterans Health Administration, including policies and programs targeting the high priority of Veterans' health care needs.

On March 24, 2026, the agenda will include a summary of the previous meeting, next steps for the Council regarding possible recommendations related to research partnerships between the Department of Veterans Affairs and Department of Defense; presentations from the VA Office of Research and Development; and public comments.

Members of the public may submit written statements for review by the NRAC in advance of the meeting. Public comments may be received no later than close of business March 18, 2026, for inclusion in the official meeting record. Please send statements to Amanda Garcia, Designated Federal Officer, Office of Research and Development (14RD), Department of Veterans Affairs, 810 Vermont Avenue NW, MS: 14RD, Washington, DC 20420, at 202–304–3540, or Amanda.Garcia@va.gov. Any member of the public seeking additional information should contact Amanda Garcia at the phone number or email address noted above.

Dated: February 10, 2026.

LaTonya L. Small,
Federal Advisory Committee Management Officer.

[FR Doc. 2026–02860 Filed 2–11–26; 8:45 am]

BILLING CODE 8320–01–P

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S. 269/P.L. 119-77

Ending Improper Payments to Deceased People Act (Feb. 10, 2026; 140 Stat. 745)
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