



FEDERAL REGISTER

Vol. 91

Wednesday,

No. 72

April 15, 2026

Pages 20063–20316

OFFICE OF THE FEDERAL REGISTER



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Contents

Federal Register

Vol. 91, No. 72

Wednesday, April 15, 2026

Agriculture Department

See Rural Business-Cooperative Service

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 20090

Children and Families Administration

NOTICES

Hearings, Meetings, Proceedings, etc.:
Tribal Consultation, 20170

Commerce Department

See International Trade Administration

See National Oceanic and Atmospheric Administration

Consumer Product Safety Commission

NOTICES

Request for Information:
Consumer Product Recall Fraud, 20138–20139

Defense Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 20151
Arms Sales, 20139–20154

Education Department

See National Assessment Governing Board

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Foreign Gifts and Contracts Disclosures, 20156–20157

Energy Department

See Federal Energy Regulatory Commission

NOTICES

Hearings, Meetings, Proceedings, etc.:
Environmental Management Site-Specific Advisory Board, Savannah River Site, 20158–20159
Importation or Exportation of Liquefied Natural Gas or Electric Energy; Applications, Authorizations, etc.:
Corpus Christi Liquefaction, LLC; Corpus Christi Liquefaction Stage IV, LLC; and Cheniere Marketing, LLC, 20157–20158

Environmental Protection Agency

NOTICES

Allocations of Cross-State Air Pollution Rule Allowances from New Unit Set-Asides for 2025 Control Periods, 20163–20164

Federal Aviation Administration

RULES

IFR Altitudes, 20068–20073

PROPOSED RULES

Airworthiness Directives:
Airbus Helicopters, 20079–20081
Airbus SAS Airplanes, 20081–20084

Federal Communications Commission

PROPOSED RULES

Lower C-Band Petitions for Reconsideration, 20084–20085

Federal Energy Regulatory Commission

NOTICES

Combined Filings, 20160–20162
Environmental Assessments; Availability, etc.:
Enable Mississippi River Transmission, LLC, Ameren—Emrt Big Hollow Project, 20159–20160
Request under Blanket Authorization:
Texas Eastern Transmission, LP, 20162–20163

Federal Maritime Commission

NOTICES

Agreements Filed, 20164–20165

Federal Motor Carrier Safety Administration

NOTICES

Exemption Application:
Parts and Accessories Necessary for Safe Operation;
Aurora Operations, Inc., 20252–20254

Federal Reserve System

NOTICES

Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 20165

Federal Trade Commission

NOTICES

Analysis of Proposed Consent Order to Aid Public Comment:
TruHeight, 20165–20168
Granting of Requests for Early Termination of the Waiting Period under the Premerger Notification Rules, 20168–20170

Food and Drug Administration

NOTICES

Guidance:
Safety Assessment of Genome Editing in Human Gene Therapy Products Using Next-Generation Sequencing, 20173–20174
Hearings, Meetings, Proceedings, etc.:
Financial Transparency and Efficiency of the Prescription Drug User Fee Act, Biosimilar User Fee Act, and Generic Drug User Fee Amendments, 20171–20173
Increasing Access to Nonprescription Drugs, 20170–20171

Health and Human Services Department

See Children and Families Administration

See Food and Drug Administration

See National Institutes of Health

NOTICES

Hearings, Meetings, Proceedings, etc.:
Advisory Council on Alzheimer's Research, Care, and Services, 20175–20176
Requests for Nominations:
Center for Indigenous Innovation and Health, 20174–20175

Interior Department

See Land Management Bureau

International Trade Administration**NOTICES**

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
 Aluminum Extrusions from the People's Republic of China, 20106–20109
 Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 20099–20100
 Certain Oil Country Tubular Goods from the People's Republic of China, 20092–20093
 Citric Acid and Certain Citrate Salts from the People's Republic of China, 20093–20094, 20105–20106
 Forged Steel Fittings from India, 20102–20104
 Forged Steel Fittings from India and the Republic of Korea, 20094–20095
 Forged Steel Fluid End Blocks from the Federal Republic of Germany and Italy, 20091–20092
 Forged Steel Fluid End Blocks from the People's Republic of China, the Federal Republic of Germany, India, and Italy, 20100–20102
 Mattresses from Malaysia, 20095–20099
 Oil Country Tubular Goods from the People's Republic of China, 20104–20105

Justice Department**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 20179–20180
 Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 U.S. Department of Justice Self Reportable Activities, 20178–20179

Land Management Bureau**NOTICES**

Plats of Survey:
 Colorado, 20177–20178

National Aeronautics and Space Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 NASA Visitor Management System, 20180

National Assessment Governing Board**NOTICES**

Hearings, Meetings, Proceedings, etc.:
 Committee and Quarterly Board Meetings, 20154–20156

National Institutes of Health**NOTICES**

Hearings, Meetings, Proceedings, etc.:
 Center for Scientific Review, 20176–20177

National Oceanic and Atmospheric Administration**PROPOSED RULES**

Endangered and Threatened Species:
 12-Month Findings on a Petition to List the Tope Shark and Proposed Listing of Two Distinct Population Segments of Tope Shark, 20260–20315
 Fisheries of the Exclusive Economic Zone Off Alaska:
 Cook Inlet; Proposed 2026 Harvest Specifications for Salmon, 20085–20089

NOTICES

Taking or Importing of Marine Mammals, 20109–20110
 Taking or Importing of Marine Mammals:
 Aak'w Landing Development Project in Juneau, AK, 20110–20137

Nuclear Regulatory Commission**RULES**

Increased Flexibility in the Mandatory Hearing Process, 20063–20068

NOTICES

Draft Regulatory Guide:
 Nuclear Power Plant Simulation Facilities for Use in Operator Training, License Examinations, and Applicant Experience Requirements, 20184–20186
 Environmental Assessments; Availability, etc.:
 Louisiana Energy Services, LLC, dba Urenco USA; National Enrichment Facility, 20180–20183
 Hearings, Meetings, Proceedings, etc.:
 Advisory Committee on Reactor Safeguards, 20183–20184
 Licenses; Exemptions, Applications, Amendments, etc.:
 Constellation Energy Generation, LLC; Nine Mile Point Nuclear Station, Unit 1, 20183

Pipeline and Hazardous Materials Safety Administration**NOTICES**

Permits; Applications, Issuances, etc.:
 Hazardous Materials, 20254–20257

Postal Regulatory Commission**RULES**

Rules of Organization, Practice, and Procedure, 20073–20078

NOTICES

New Postal Products, 20186

Postal Service**NOTICES**

Product Change:
 Priority Mail Express, Priority Mail, and USPS Ground Advantage Negotiated Service Agreements, Priority Mail, and USPS Ground Advantage Negotiated Service Agreements, 20186–20187

Rural Business-Cooperative Service**NOTICES**

Funding Opportunity:
 Rural Energy for America Program for Fiscal Years 2025, 2026, and 2027; Rescission, 20090–20091

Securities and Exchange Commission**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Application for EDGAR Access, 20237
 Initial Statement of Beneficial Ownership of Securities, 20238
 Notice of Proposed Sale of Securities Pursuant to Rule 144 under the Securities Act, 20198–20199
 Application:
 John Hancock GA Mortgage Trust, et al., 20207–20208
 Joint Industry Plan:
 National Market System Plan Governing the Consolidated Audit Trail, 20199–20200
 Self-Regulatory Organizations; Proposed Rule Changes:
 Cboe BZX Exchange, Inc., 20195–20198
 Cboe EDGX Exchange, Inc., 20213–20222
 Cboe Exchange, Inc., 20204–20207, 20238–20246
 Long-Term Stock Exchange, Inc., 20235–20237
 Nasdaq PHLX LLC, 20200–20203
 NYSE American LLC, 20208–20213
 NYSE Arca, Inc., 20187–20192
 The Nasdaq Stock Market LLC, 20222–20235
 The Options Clearing Corp., 20192–20195

Small Business Administration

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 20247–20248
Disaster Declaration:
Mississippi, 20247

Social Security Administration

NOTICES

Privacy Act; Systems of Records, 20248–20252

Transportation Department

See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Pipeline and Hazardous Materials Safety
Administration

Separate Parts In This Issue

Part II

Commerce Department, National Oceanic and Atmospheric
Administration, 20260–20315

Reader Aids

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

To subscribe to the Federal Register Table of Contents
electronic mailing list, go to [https://public.govdelivery.com/
accounts/USGPOOFR/subscriber/new](https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new), enter your e-mail
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CFR PARTS AFFECTED IN THIS ISSUE

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

10 CFR	
2.....	20063
50.....	20063
51.....	20063
52.....	20063
53.....	20063
14 CFR	
95.....	20068
Proposed Rules:	
39 (2 documents)	20079, 20081
39 CFR	
Ch. III	20073
47 CFR	
Proposed Rules:	
1.....	20084
2.....	20084
25.....	20084
27.....	20084
101.....	20084
50 CFR	
Proposed Rules:	
223.....	20260
679.....	20085

Rules and Regulations

Federal Register

Vol. 91, No. 72

Wednesday, April 15, 2026

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

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 50, 51, 52, and 53

[NRC–2025–1502]

RIN 3150–AL59

Increased Flexibility in the Mandatory Hearing Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is revising the agency's rules of practice and procedure and other procedural regulations to increase the flexibility in conducting mandatory hearings in NRC licensing proceedings in response to the Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy Act of 2024 (ADVANCE Act) and Executive Order 14300, Ordering the Reform of the Nuclear Regulatory Commission.

DATES: This final rule is effective on May 15, 2026.

ADDRESSES: Please refer to Docket ID NRC–2025–1502 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Electronically at <https://www.regulations.gov>. Search for Docket ID NRC–2025–1502. Address questions about NRC dockets to Helen Chang; telephone: 301–415–3228; email: Helen.Chang@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select

“Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Marcia Simon, Office of the General Counsel, telephone: 301–287–9176; email: Marcia.Simon@nrc.gov and Sara Kirkwood, Office of the General Counsel, telephone: 301–287–9187; email: Sara.Kirkwood@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Executive Order 14300: Ordering the Reform of the Nuclear Regulatory Commission
- II. Background
- III. Discussion
- IV. Regulatory Flexibility Certification
- V. Regulatory Analysis
- VI. Backfitting and Issue Finality
- VII. Plain Writing
- VIII. National Environmental Policy Act
- IX. Paperwork Reduction Act
- X. Executive Orders
- XI. Congressional Review Act
- XII. Availability of Documents

I. Executive Order 14300: Ordering the Reform of the Nuclear Regulatory Commission

On May 23, 2025, the President signed Executive Order (E.O.) 14300, “Ordering the Reform of the Nuclear Regulatory Commission.” Section 5, “Reforming and Modernizing the NRC's Regulations,” requires the NRC to undertake a review and wholesale revision of its regulations and guidance documents as guided by the policies set forth in section 2 of the E.O. This rulemaking addresses section 5(j), which requires the NRC to “Streamline

the public hearings process,” and also supports meeting the objectives of sections 5(a), 5(d), and 5(e) of E.O. 14300, as discussed below.

II. Background

Section 189 of the Atomic Energy Act of 1954, as amended (AEA) requires mandatory (uncontested) hearings for applications under section 103 or 104b of the AEA for a construction permit for a facility, and on any application under section 104c for a construction permit for a testing facility. Over the last two decades the Commission has revisited its process for conducting these mandatory hearings several times. In 2007, as part of a major revision to 10 CFR part 52, “Licenses, Certifications, And Approvals for Nuclear Power Plants,” the Commission revised § 2.104 to remove all provisions specifying safety and environmental findings to be made by the presiding officer in hearings (72 FR 49352, 49412, August 28, 2007). This change to the NRC's rules of procedure was based on the Commission's desire to ensure maximum flexibility in the conduct of mandatory reactor licensing hearings and its determination, based on prior experience and consideration of the nature of mandatory hearings under section 189 of the AEA, that such detailed prescription was unnecessary (ADAMS Accession No. ML071010223). No reference was made at that time to §§ 51.105 and 51.107, which contain provisions specifying environmental findings to be made by presiding officers that are similar to those removed from § 2.104.

This final rule removes those two provisions from 10 CFR part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,” and makes conforming changes to remove references to those provisions in other parts of the regulations. In addition, the Commission is revising certain provisions in 10 CFR parts 2, 50, 51, 52, and 53 to clarify that references to hearings in those regulations apply only to contested hearings.

III. Discussion

In its 1971 decision in *Calvert Cliffs' Coordinating Committee v. Atomic Energy Commission*, the U.S. Court of Appeals for the District of Columbia Circuit held that the Atomic Energy Commission (predecessor of the NRC)

could not exclude environmental issues from its mandatory reactor licensing hearings that addressed safety and security issues. 449 F.2d 1109, 1117–19 (D.C. Cir. 1971). In response to that decision, the Atomic Energy Commission added to its regulations the provisions containing specific environmental issues to be addressed by the presiding officer, which are now found in §§ 51.105 and 51.107 and were formerly found in § 2.104 (37 FR 15127, 15130–31, 15141–42, July 28, 1972). These provisions call for the presiding officer in mandatory hearings on construction permits, early site permits, and combined licenses to determine whether the requirements in sections 102(2)(A), (C), and (D) of the National Environmental Policy Act (NEPA) have been met; to independently consider the final balance among conflicting factors with a view to determining the appropriate action to be taken; to determine whether the permit or license should be issued after weighing costs versus benefits and considering reasonable alternatives; and to determine whether the NRC staff's NEPA review has been adequate.

Although the language in the regulations derives from the *Calvert Cliffs* decision, the court did not hold that NEPA required specific findings to be made in a hearing. Rather, the court held that NEPA issues must be considered in the same way that safety and security issues are considered within the process. Therefore, to the extent that NRC regulations required findings on safety and security issues in hearings, they also had to include findings on NEPA issues. At bottom, *Calvert Cliffs* requires only that NEPA issues receive equal treatment to non-environmental issues during the hearing process.

Section 189a of the AEA states that a hearing must be held on certain applications but does not prescribe any findings that must be made prior to issuing a license or permit, nor does it prescribe the manner in which a hearing must be held. NEPA and *Calvert Cliffs* likewise do not require particular findings on environmental issues in a hearing unless the NRC is using that hearing to make comparable findings on safety and security issues. Currently, although NRC regulations require the NRC to make certain safety and security findings to issue a license or permit, NRC regulations contain no specific findings that a presiding officer must make in a hearing with respect to those non-environmental issues.

Accordingly, because the specific environmental findings delineated in §§ 51.105 and 51.107 are not legally

required, the Commission is removing them from the NRC regulations. Removing these findings from the regulations gives the Commission increased flexibility, both now and in the future, in deciding how to efficiently conduct mandatory hearings held pursuant to section 189 of the AEA.

In addition to deleting §§ 51.105 and 51.107 from the regulations, the Commission is making conforming changes to other regulations in 10 CFR part 51 to remove references to the deleted sections. The Commission is also making changes to provisions in 10 CFR parts 50, 51, 52, and 53 containing references to hearings to clarify that those provisions are intended to refer only to contested hearings and making changes to 10 CFR part 2 to clarify that the rules governing adjudications do not apply to mandatory reactor licensing hearings under section 189 of the AEA.

Similarly, the Commission is removing references in 10 CFR parts 50 and 53 (§§ 50.30(a)(3) and 53.1100(a)(2)) to the Atomic Safety and Licensing Board and the presiding officer requiring service of the application in the mandatory AEA hearing. These provisions have been superseded by the advent of the electronic hearing docket and are being removed as part of this rulemaking because the reference to the mandatory hearing could create confusion in the future. Likewise, references in appendix N of 10 CFR part 52 and in 10 CFR part 53 to the Commission designating a presiding officer to conduct the proceeding on issues relating to the common design are being removed. These provisions are redundant to the provisions in subpart D of 10 CFR part 2 which contain the procedures for the conduct of a proceeding involving an identical design at multiple sites and could create confusion regarding what is needed for a mandatory hearing. Subpart D of 10 CFR part 2 provides the Commission with the flexibility to hold individual or separate proceedings, as appropriate, in any contested hearing.

Finally, the Commission is revising certain sections in 10 CFR part 52 (§ 52.24 for early site permits and § 52.97 for combined licenses). These provisions currently state that, after a hearing is conducted and a report is received from the Advisory Committee on Reactor Safeguards, the Commission may issue the permit or license upon making the requisite findings. The references in these regulations to conducting a hearing are being removed to fully sever the historical but unnecessary link between the findings that must be made to support issuance of a license and the conduct of a

mandatory hearing pursuant to section 189 of AEA.

Because these provisions are procedural rules related to the conduct of hearings, notice and comment is not required under the Administrative Procedure Act, 5 U.S.C. 553(b)(A).

IV. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, as amended, 5 U.S.C. 605(b), the NRC certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule applies in the context of NRC adjudicatory proceedings concerning nuclear reactors. Reactor licensees do not fall within the definition of a small business found in section 3 of the Small Business Act, 15 U.S.C. 632, within the small business standards set forth in 13 CFR part 121, or within the size standards established by the NRC (§ 2.810).

V. Regulatory Analysis

This final rule removes requirements from the agency's rules of practice for mandatory hearings to further streamline the new reactor licensing process in response to the ADVANCE Act and the May 23, 2025, E.O. 14300, "Ordering the Reform of the Nuclear Regulatory Commission." This regulatory action removes the findings that a presiding officer must make in a mandatory hearing, which are not required by the AEA or NEPA. This rulemaking does not change the applicant's process in preparing a new license application nor does it change NRC's process for reviewing those applications. This rulemaking has the potential to shorten the time it takes the NRC to review an application by providing additional flexibility in the conduct of the mandatory hearing. These amendments will neither impose new safety requirements nor relax existing ones.

The cost savings or benefits¹ of this rule are that it is expected to increase the efficiency with which the NRC conducts mandatory hearings. The elimination of the requirement that the presiding officer in a mandatory hearing make certain findings, which are not required by statute, can not only streamline the hearing process but also mean that the hearing could be conducted earlier in the process such that the mandatory hearing is not on the critical path to license issuance. The NRC expects the costs of implementing this rule to be minimal. The NRC would

¹ Consistent with the Office of Management and Budget's Circular A-4 (2003), this final rule provides a qualitative analysis in absence of reliable data.

need to update its mandatory hearing procedures to reflect the additional flexibility.

Because these benefits outweigh the costs, the NRC expects this final rule to provide a net qualitative benefit without affecting safety.

VI. Backfitting and Issue Finality

The NRC has determined that the backfit rule and issue finality provisions do not apply to this rule because the amendments do not involve any provisions that would impose backfits as defined in 10 CFR chapter I and are not inconsistent with any applicable issue finality provision in 10 CFR part 52. Therefore, a backfit analysis or issue finality assessment is not required for this rule.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885).

VIII. National Environmental Policy Act

This rule involves an amendment to hearing procedures (in 10 CFR part 51) with conforming changes to 10 CFR parts 2, 50, 51, 52, and 53, and thus qualifies as an action for which no environmental review is required under the categorical exclusion set forth in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rulemaking.

IX. Paperwork Reduction Act

This rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

X. Executive Orders

Additional information about these statutes and Executive orders can be found at <https://www.nrc.gov/about-nrc/regulatory/rulemaking/procedural-requirements>.

Executive Order 12866: Regulatory Planning and Review (as Amended by Executive Order 14215, Ensuring Accountability for All Agencies)

The Office of Information and Regulatory Affairs (OIRA) has determined that this rule is not a significant regulatory action under E.O. 12866. More information can be found in section V, of this document, “Regulatory Analysis.”

Executive Order 14154: Unleashing American Energy

NRC has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154.

Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is a deregulatory action as defined by E.O. 14192. This final rule is considered an E.O. 14192 deregulatory

action. Details on the estimated costs of this final rule can be found in section V, of this document, “Regulatory Analysis.”

Executive Order 14270: Zero-Based Regulatory Budgeting To Unleash American Energy

Executive Order 14270, “Zero-Based Regulatory Budgeting to Unleash American Energy,” requires the NRC to insert a conditional sunset date into all new or amended NRC regulations provided the regulations are (1) promulgated under the Atomic Energy Act of 1954, as amended (AEA), the Energy Reorganization Act of 1974, as amended (ERA), and the Nuclear Waste Policy Act of 1982, as amended (NWPA); (2) not statutorily required; and (3) not part of the NRC’s permitting regime. The NRC determined that the regulatory changes in this rule are for hearing processes that are required by statute and are part of the NRC’s regulatory permitting scheme authorized by the AEA, ERA, or NWPA. Therefore, the NRC views this rulemaking to be outside the scope of E.O. 14270 and did not insert conditional sunset dates for the regulatory changes in this final rule.

XI. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has found that it does not meet the criteria at 5 U.S.C. 804(2).

XII. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No./web link/Federal Register citation
Executive Order 12866, “Regulatory Planning and Review,” October 4, 1993.	58 FR 51735.
Executive Order 14215, “Ensuring Accountability for All Agencies,” February 24, 2025.	90 FR 10447.
Executive Order 14154, “Unleashing American Energy,” January 29, 2025 ..	90 FR 8353.
Executive Order 14192, “Unleashing Prosperity Through Deregulation,” February 6, 2025.	90 FR 9065.
Executive Order 14270, “Zero-Based Regulatory Budgeting to Unleash American Energy,” April 15, 2025.	90 FR 15643.
Restructuring of Facility License Application Review and Hearing Processes, July 28, 1972.	37 FR 15127.
Final Rule—Licenses, Certifications, and Approvals for Nuclear Power Plants, August 28, 2007.	72 FR 49352.
Staff Requirements—Affirmation Session, 10:00 A.M., Wednesday, April 11, 2007, Commissioners’ Conference Room, One White Flint North, Rockville, Maryland (Open To Public Attendance).	ML071010223.
Office of Management and Budget’s Circular A–4, 2003	https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf .
<i>Calvert Cliffs’ Coordinating Committee v. Atomic Energy Commission</i> , the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. 1971).	449 F.2d 1109.

List of Subjects*10 CFR Part 2*

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Confidential business information, Freedom of information, Environmental protection, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 50

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Emergency planning, Fire prevention, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statements, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Combined license, Early site permit, Emergency planning, Fees, Inspection, Issue finality, Limited work authorization, Manufacturing license, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Penalties, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 53

Administrative practice and procedure, Antitrust, Backfitting, Construction permit, Combined license, Classified information, Criminal penalties, Early site permit, Emergency planning, Fees, Fire prevention, Fire protection, Inspection, Intergovernmental relations, Limited work authorization, Manufacturing license, Nuclear power plants and reactors, Operating license, Penalties, Prototype, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Standard design, Standard design certification, Training programs.

For the reasons set out in the preamble and under the authority of the

Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 2, 50, 51, 52, and 53:

PART 2—AGENCY RULES OF PRACTICE AND PROCEDURE

- 1. The authority citation for part 2 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 29, 53, 62, 63, 81, 102, 103, 104, 105, 161, 181, 182, 183, 184, 186, 189, 191, 234 (42 U.S.C. 2039, 2073, 2092, 2093, 2111, 2132, 2133, 2134, 2135, 2201, 2231, 2232, 2233, 2234, 2236, 2239, 2241, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 114(f), 134, 135, 141 (42 U.S.C. 10134(f), 10154, 10155, 10161); Administrative Procedure Act (5 U.S.C. 552, 553, 554, 557, 558); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note. Section 2.205(j) also issued under Sec. 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note).

- 2. Revise and republish § 2.300 to read as follows:

§ 2.300 Scope of this subpart.

The provisions of this subpart apply to all contested adjudications conducted under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and this part, and to uncontested proceedings or uncontested portions of proceedings involving applications for a license to construct and operate a uranium enrichment facility, unless specifically stated otherwise in this subpart. This subpart does not apply to the conduct of other uncontested proceedings or uncontested portions of proceedings.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

- 3. The authority citation for part 50 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 101, 102, 103, 104, 105, 108, 122, 147, 149, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Sec. 109, Pub. L. 96–295, 94 Stat. 783.

- 4. In § 50.10:

- a. Remove paragraph (e)(1)(ii);

- b. Redesignate paragraphs (e)(1)(iii) and (iv) as paragraphs (e)(1)(ii) and (iii); and
- c. Revise newly designated paragraph (e)(1)(iii) and paragraph (f).

The revisions read as follows:

§ 50.10 License required; limited work authorization.

* * * * *

(e) * * *

(1) * * *

(iii) If a contested hearing is held, the presiding officer finds that there are no unresolved safety issues relating to the activities to be conducted under the limited work authorization that would constitute good cause for withholding the authorization.

* * * * *

(f) *Effect of limited work authorization.* Any activities undertaken under a limited work authorization are entirely at the risk of the applicant and, except as to the matters determined under paragraph (e)(1) of this section, the issuance of the limited work authorization has no bearing on the issuance of a construction permit or combined license with respect to the requirements of the Act, and rules, regulations, or orders issued under the Act. The environmental impact statement for a construction permit or combined license application for which a limited work authorization was previously issued will not address, and the presiding officer in a contested hearing will not consider, the sunk costs of the holder of limited work authorization in determining the proposed action (*i.e.*, issuance of the construction permit or combined license).

* * * * *

§ 50.30 [Amended]

- 5. In § 50.30, remove paragraph (a)(3) and redesignate paragraphs (a)(4) through (6) as paragraphs (a)(3) through (5).

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

- 6. The authority citation for part 51 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 161, 193 (42 U.S.C. 2201, 2243); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); National Environmental Policy Act of 1969 (42 U.S.C. 4332, 4334, 4335); Nuclear Waste Policy Act of 1982, secs. 144(f), 121, 135, 141, 148 (42 U.S.C. 10134(f), 10141, 10155, 10161, 10168); 44 U.S.C. 3504 note.

Sections 51.20, 51.30, 51.60, 51.80, and 51.97 also issued under Nuclear Waste Policy

Act secs. 135, 141, 148 (42 U.S.C. 10155, 10161, 10168).

Section 51.22 also issued under Atomic Energy Act sec. 274 (42 U.S.C. 2021) and under Nuclear Waste Policy Act sec. 121 (42 U.S.C. 10141).

Sections 51.43, 51.67, and 51.109 also issued under Nuclear Waste Policy Act sec. 114(f) (42 U.S.C. 10134(f)).

■ 7. In § 51.102, revise paragraph (c) to read as follows:

§ 51.102 Requirement to provide a record of decision; preparation.

* * * * *

(c) When a contested hearing is held on the proposed action under the regulations in part 2 of this chapter or when the action can only be taken by the Commissioners acting as a collegial body, the initial decision of the presiding officer or the final decision of the Commissioners acting as a collegial body will constitute the record of decision. An initial or final decision constituting the record of decision will be distributed as provided in § 51.93.

■ 8. In § 51.104, revise paragraphs (a)(1), (b), and (c) to read as follows:

§ 51.104 NRC proceeding using public hearings; consideration of environmental impact statement.

(a)(1) In any proceeding in which a contested hearing is held on the proposed action; a final environmental impact statement has been prepared in connection with the proposed action; and matters within the scope of NEPA and this subpart are in issue, the NRC staff may not offer the final environmental impact statement in evidence or present the position of the NRC staff on matters within the scope of NEPA and this subpart until the final environmental impact statement is filed with the Environmental Protection Agency, furnished to commenting agencies and made available to the public.

* * * * *

(b) In any proceeding in which a contested hearing is held where the NRC staff has determined that no environmental impact statement need be prepared for the proposed action, unless the Commission orders otherwise, any party to the proceeding may take a position and offer evidence on the aspects of the proposed action within the scope of NEPA and this subpart in accordance with the provisions of part 2 of this chapter applicable to that proceeding or in accordance with the terms of the notice of hearing. In the proceeding, the presiding officer will decide any such matters in controversy among the parties.

(c) In any proceeding in which a limited work authorization is requested, unless the Commission orders otherwise, a party in a contested hearing may take a position and offer evidence only on the aspects of the proposed action within the scope of NEPA and this subpart which are within the scope of that party's admitted contention, in accordance with the provisions of part 2 of this chapter applicable to the limited work authorization or in accordance with the terms of any notice of hearing applicable to the limited work authorization. In the proceeding, the presiding officer will decide all matters in controversy among the parties.

§ 51.105 [Removed and Reserved]

■ 9. Remove and reserve § 51.105.

§ 51.106 [Amended]

■ 10. In § 51.106, in paragraphs (a) and (b), remove the phrase “§§ 51.104 and 51.105” and add in its place the phrase “§ 51.104”.

§ 51.107 [Removed and Reserved]

■ 11. Remove and reserve § 51.107.

PART 52—LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS

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

Authority: Atomic Energy Act of 1954, secs. 103, 104, 147, 149, 161, 181, 182, 183, 185, 186, 189, 223, 234 (42 U.S.C. 2133, 2134, 2167, 2169, 2201, 2231, 2232, 2233, 2235, 2236, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 44 U.S.C. 3504 note.

■ 13. Revise and republish § 52.21 to read as follows:

§ 52.21 Administrative review of applications; hearings.

An early site permit is subject to all applicable procedural requirements in 10 CFR part 2, including the requirements for docketing in § 2.101(a)(1) through (4) of this chapter, and the requirements for issuance of a notice of hearing in § 2.104(a) and (d) of this chapter, provided that the designated sections may not be construed to require that the environmental report, or draft or final environmental impact statement include an assessment of the benefits of construction and operation of the reactor or reactors, or an analysis of alternative energy sources. The presiding officer in a contested early site permit hearing shall not admit contentions proffered by any party

concerning an assessment of the benefits of construction and operation of the reactor or reactors, or an analysis of alternative energy sources if those issues were not addressed by the applicant in the early site permit application. All contested hearings conducted on applications for early site permits filed under this part are governed by the procedures contained in subparts C, G, L, and N of 10 CFR part 2, as applicable.

■ 14. In § 52.24, revise the paragraph (a) introductory text to read as follows:

§ 52.24 Issuance of early site permit.

(a) The Commission may issue an early site permit, in the form the Commission deems appropriate, if the Commission finds that:

* * * * *

§ 52.85 [Amended]

■ 15. In § 52.85, add the word “contested” after the word “All” in the last sentence.

§ 52.91 [Amended]

■ 16. In § 52.91, in the last sentence of paragraph (a), remove the phrase “the proceeding” and add in its place the phrase “a contested hearing”.

■ 17. In § 52.97, revise paragraph (a)(1) introductory text to read as follows:

§ 52.97 Issuance of combined licenses.

(a)(1) The Commission may issue a combined license if the Commission finds that:

* * * * *

Appendix N to Part 52—[Amended]

■ 18. In appendix N to part 52, remove paragraph 8.

PART 53—RISK-INFORMED, TECHNOLOGY-INCLUSIVE REGULATORY FRAMEWORK FOR COMMERCIAL NUCLEAR PLANTS

■ 19. The authority citation of part 53 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 101, 103, 108, 122, 147, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Pub. L. 115–439, 132 Stat. 5571.

§ 53.1100 [Amended]

■ 20. In § 53.1100, remove paragraph (a)(2) and redesignate paragraphs (a)(3) through (5) as paragraphs (a)(2) through (4).

■ 21. In § 53.1130:

- a. Remove paragraph (b)(1)(ii);
- b. Redesignate paragraphs (b)(1)(iii) and (iv) as paragraphs (b)(1)(ii) and (iii); and
- c. Revise newly redesignated paragraph (b)(1)(iii) and paragraph (c).

The revisions read as follows:

§ 53.1130 Limited work authorizations.

* * * * *

(b) * * *

(1) * * *

(iii) If a contested hearing is held, the presiding officer finds that there are no unresolved safety issues relating to the activities to be conducted under the LWA that would constitute good cause for withholding the authorization.

* * * * *

(c) *Effect of limited work authorization.* Any activities undertaken under an LWA are entirely at the risk of the applicant and, except as to the matters determined under paragraph (b)(1) of this section, the issuance of the LWA has no bearing on the issuance of a CP or COL with respect to the requirements of the Act and rules, regulations, or orders issued under the Act. The environmental impact statement for a CP or COL application for which an LWA was previously issued will not address, and the presiding officer in a contested hearing will not consider, the sunk costs of the holder of the LWA in determining the proposed action (*i.e.*, issuance of the CP or COL).

* * * * *

- 22. In § 53.1149, revise paragraph (b) to read as follows:

§ 53.1149 Review of applications.

* * * * *

(b) *Administrative review of applications; hearings.* An early site permit application is subject to all applicable procedural requirements in 10 CFR part 2, including the requirements for docketing in § 2.101(a)(1) through (4) of this chapter, and the requirements for issuance of a notice of hearing in § 2.104(a) and (d) of this chapter, provided that the designated sections may not be construed to require that the environmental report, or draft or final environmental impact statement includes an assessment of the benefits of construction and operation of the reactor or reactors, or an analysis of alternative energy sources. The presiding officer in a contested early site permit hearing must not admit contentions proffered by any party concerning an assessment of the benefits of construction and operation of the

reactor or reactors, or an analysis of alternative energy sources if those issues were not addressed by the applicant in the early site permit application. All contested hearings conducted on applications for early site permits filed under this part are governed by the procedures contained in subparts C, G, L, and N of 10 CFR part 2, as applicable.

- 23. In § 53.1158, revise paragraph (a) introductory text to read as follows:

§ 53.1158 Issuance of early site permit.

(a) The Commission may issue an early site permit, in the form the Commission deems appropriate, if the Commission finds that—

* * * * *

§ 53.1315 [Amended]

- 24. In § 53.1315, in paragraph (b), add the word “contested” after the word “All” in the last sentence.

- 25. In § 53.1327, revise paragraph (a) to read as follows:

§ 53.1327 Authorization to conduct limited work authorization activities.

(a) If the application does not reference an early site permit which authorizes the holder to perform the activities under § 53.1130, the applicant may not perform those activities without obtaining the separate authorization required by § 53.1130. Authorization may be granted only after the presiding officer in a contested hearing on the application has made the findings and determination required by § 53.1130(b)(1)(iii), and the Director, Office of Nuclear Reactor Regulation makes the determination required by § 53.1130(b)(1)(ii).

* * * * *

- 26. In § 53.1333, revise paragraph (a) introductory text to read as follows:

§ 53.1333 Issuance of construction permits.

(a) The Commission may issue a CP only if the Commission finds that—

* * * * *

§ 53.1422 [Amended]

- 27. In § 53.1422, in paragraph (b), add the word “contested” after the word “All” in the last sentence.

- 28. In § 53.1434, revise paragraph (a) to read as follows:

§ 53.1434 Authorization to conduct limited work authorization activities.

(a) If the application for a COL under this part does not reference an early site permit which authorizes the holder to perform the activities under § 53.1130(b), the applicant may not perform those activities without

obtaining the separate authorization required by § 53.1130(a). Authorization may be granted only after the presiding officer in a contested hearing on the application has made the findings and determination required by § 53.1130(b)(1)(iii), and the Director, Office of Nuclear Reactor Regulation makes the determination required by § 53.1130(b)(1)(ii).

* * * * *

- 29. In § 53.1440, revise paragraph (a)(1) introductory text to read as follows:

§ 53.1440 Issuance of combined licenses.

(a)(1) The Commission may issue a COL if the Commission finds that—

* * * * *

§ 53.1470 [Amended]

- 30. In § 53.1470, remove paragraph (h) and redesignate paragraphs (i) and (j) as paragraphs (h) and (i).

Dated: April 13, 2026.

For the Nuclear Regulatory Commission.

Carrie Safford,

Secretary of the Commission.

[FR Doc. 2026–07301 Filed 4–14–26; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31660; Amdt. No. 591]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, May 14, 2026.

FOR FURTHER INFORMATION CONTACT: Rune Duke, Manager (Acting), Standards Section, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division,

Office of Safety Standards, Flight Standards Service, Aviation Safety, Federal Aviation Administration.
Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099.
Telephone (405) 954-1139.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to

the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a

regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on April 10, 2026.

Tom Carrigan,

*Manager Aeronautical Data System Team
AJV-A35, Federal Aviation Administration.*

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, 14 May 2026.

PART 95—IFR ALTITUDES

- 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113 and 14 CFR 11.49(b)(2)

- 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 591 effective date May 14, 2026]

From	To	MEA	MAA
§ 95.4000 High Altitude RNAV Routes			
§ 95.4121 RNAV Route Q121 Is Amended To Read in Part			
POCATELLO, ID VOR/DME * 18000—GNSS MEA * DME/DME/IRU MEA	STORZ, MT WP	* 24000	45000
§ 95.4151 RNAV Route Q151 Is Added To Read			
WINEN, UT WP * 18000—GNSS MEA * DME/DME/IRU MEA	PICHO, UT WP	* 20000	45000
PICHO, UT WP * 18000—GNSS MEA * DME/DME/IRU MEA	PATIO, UT WP	* 20000	45000
PATIO, UT WP * 18000—GNSS MEA * DME/DME/IRU MEA	BROPH, ID WP	* 20000	45000
BROPH, ID WP * 18000—GNSS MEA * DME/DME/IRU MEA	BOISE, ID VORTAC	* 20000	45000
BOISE, ID VORTAC * 18000—GNSS MEA * DME/DME/IRU MEA	HILIE, ID FIX	* 20000	45000
HILIE, ID FIX * 18000—GNSS MEA * DME/DME/IRU MEA	U.S. CANADIAN BORDER	* 20000	45000
§ 95.4156 RNAV Route Q156 Is Amended To Read in Part			
HEXOL, MT FIX * 18000—GNSS MEA * DME/DME/IRU MEA	STORZ, MT WP	* 24000	45000

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 591 effective date May 14, 2026]

From	To	MEA	MAA
STORZ, MT WP * 18000—GNSS MEA * DME/DME/IRU MEA	JELRO, SD FIX	* 28000	45000

§ 95.4842 RNAV Route Q842 Is Amended To Read in Part

WINEN, UT WP * 18000—GNSS MEA * DME/DME/IRU MEA	PICHO, UT WP	* 20000	45000
PICHO, UT WP * 18000—GNSS MEA * DME/DME/IRU MEA	PATIO, UT WP	* 20000	45000

From	To	MEA
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§ 95.6001 Victor Routes—U.S.

§ 95.6014 VOR Federal Airway V14 Is Amended To Delete

TERRE HAUTE, IN VORTAC	BRICKYARD, IN VORTAC	2700 MAA—17500
BRICKYARD, IN VORTAC	MUNCIE, IN VOR/DME	2900 MAA—17500
MUNCIE, IN VOR/DME	FLAG CITY, OH VORTAC	3000 MAA—17500

§ 95.6016 VOR Federal Airway V16 Is Amended To Read in Part

DILLI, TX FIX	CAVRN, TX FIX	UNUSABLE
CAVRN, TX FIX	WINK, TX VORTAC	UNUSABLE

§ 95.6044 VOR Federal Airway V44 Is Amended To Read in Part

PARKERSBURG, WV VOR/DME	BENDS, WV FIX	3000
	W BND	4000
	E BND	MAA—17500

§ 95.6054 VOR Federal Airway V54 Is Amended To Read in Part

FAYETTEVILLE, NC VOR/DME	MANWE, NC FIX	UNUSABLE
MANWE, NC FIX	KINSTON, NC VORTAC	2000 MAA—17500

§ 95.6080 VOR Federal Airway V80 Is Amended To Read in Part

AKRON, CO VOR/DME * 7000—MCA HOLYO, CO FIX, NE BND	* HOLYO, CO FIX	6400
HOLYO, CO FIX * 5100—MOCA * 6000—GNSS MEA	NORTH PLATTE, NE VOR/DME	MAA—17500 * 7000 MAA—17500

§ 95.6094 VOR Federal Airway V94 Is Amended To Read in Part

DILLI, TX FIX	CAVRN, TX FIX	UNUSABLE
CAVRN, TX FIX	WINK, TX VORTAC	UNUSABLE

§ 95.6114 VOR Federal Airway V114 Is Amended To Read in Part

PANHANDLE, TX VORTAC * 7500—MRA ** 5000—MOCA	* DOGIN, TX FIX	** 5400 MAA—17500
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§ 95.6123 VOR Federal Airway V123 Is Amended To Read in Part

HAARP, CT FIX * 3000—MCA RYMES, CT FIX, SW BND ** 2000—MOCA	* RYMES, CT FIX	** 3000 MAA—17500
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§ 95.6157 VOR Federal Airway V157 Is Amended To Read in Part

FAYETTEVILLE, NC VOR/DME	MANWE, NC FIX	UNUSABLE
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From	To	MEA
MANWE, NC FIX	KINSTON, NC VORTAC	2000 MAA—17500
§ 95.6192 VOR Federal Airway V192 Is Amended To Delete		
BRICKYARD, IN VORTAC	MUNCIE, IN VOR/DME	2900 MAA—17500
MUNCIE, IN VOR/DME	DAYTON, OH VOR/DME	2800 MAA—17500
§ 95.6204 VOR Federal Airway V204 Is Amended To Read in Part		
HOQUIAM, WA VORTAC	OLYMPIA, WA VORTAC	4500 MAA—17500
§ 95.6208 VOR Federal Airway V208 Is Amended To Read in Part		
JULIAN, CA VORTAC	* THERMAL, CA VORTAC	9000
* 7500—MCA THERMAL, CA VORTAC, SW BND		MAA—17500
THERMAL, CA VORTAC	TWENTYNINE PALMS, CA VORTAC	7100 MAA—17500
§ 95.6210 VOR Federal Airway V210 Is Amended To Delete		
BRICKYARD, IN VORTAC	MUNCIE, IN VOR/DME	2900 MAA—17500
MUNCIE, IN VOR/DME	ROSEWOOD, OH VORTAC	2800 MAA—17500
Is Amended To Read in Part		
LANCASTER, PA VOR/DME	* SPERY, PA FIX	2800
* 3500—MCA SPERY, PA FIX, E BND		MAA—17500
SPERY, PA FIX	YARDLEY, PA VOR/DME	3500 MAA—17500
§ 95.6221 VOR Federal Airway V221 Is Amended To Delete		
SHELBYVILLE, IN VOR/DME	MUNCIE, IN VOR/DME	* 2800 MAA—17500
* 2600—MOCA		
MUNCIE, IN VOR/DME	FORT WAYNE, IN VORTAC	2700
§ 95.6263 VOR Federal Airway V263 Is Amended To Read in Part		
CORONA, NM VORTAC	* ENCIA, NM FIX	10000
* 8600—MCA ENCIA, NM FIX, SE BND		MAA—17500
ENCIA, NM FIX	* ALBUQUERQUE, NM VORTAC	8000 MAA—17500
* 8300—MCA ALBUQUERQUE, NM VORTAC, N BND		
§ 95.6280 VOR Federal Airway V280 Is Amended To Read in Part		
MITBEE, OK VORTAC	* CARKO, KS FIX	4200
* 10000—MCA CARKO, KS FIX, NE BND		MAA—17500
CARKO, KS FIX	WIPET, KS FIX	* 10000 MAA—17500
* 3600—MOCA		
WIPET, KS FIX	HUTCHINSON, KS VOR/DME.	
	E BND	3400
	W BND	10000 MAA—17500
§ 95.6306 VOR Federal Airway V306 Is Amended To Read in Part		
NAVASOTA, TX VOR/DME	ZMSKL, TX FIX	* 3000 MAA—17500
* 2000—GNSS MEA		
§ 95.6328 VOR Federal Airway V328 Is Amended To Read in Part		
SKEED, CO FIX	POWDR, CO FIX	14700 MAA—17500

From	To	MEA	MAA
POWDR, CO FIX	MILE HIGH, CO VORTAC	14000	
	NE BND	14700	
	SW BND	MAA—17500	
§ 95.6394 VOR Federal Airway V394 Is Amended To Read in Part			
OASYS, NV FIX	LAS VEGAS, NV VORTAC	9600	
		MAA—17500	
§ 95.6483 VOR Federal Airway V483 Is Amended To Read in Part			
DEER PARK, NY VOR/DME	RYMES, CT FIX	* 2500	
* 2000—MOCA		MAA—17500	
§ 95.6514 VOR Federal Airway V514 Is Amended To Read in Part			
JULIAN, CA VORTAC	* THERMAL, CA VORTAC	9000	
* 7500—MCA THERMAL, CA VORTAC, SW BND		MAA—17500	
THERMAL, CA VORTAC	* TWENTYNINE PALMS, CA VORTAC	7100	
* 10200—MCA TWENTYNINE PALMS, CA VORTAC, NE BND		MAA—17500	
§ 95.6518 VOR Federal Airway V518 Is Amended To Read in Part			
FILLMORE, CA VORTAC	TWINE, CA FIX	6000	
		MAA—17500	
TWINE, CA FIX	* LANGE, CA FIX	** 7000	
* 11000—MCA LANGE, CA FIX, NE BND		MAA—17500	
* * 6300—MOCA			
§ 95.6527 VOR Federal Airway V527 Is Amended To Read in Part			
HOT SPRINGS, AR VOR/DME	ROVER, AR FIX	UNUSABLE	
ROVER, AR FIX	SCRAN, AR FIX	UNUSABLE	
§ 95.6560 VOR Federal Airway V560 Is Amended To Read in Part			
NEWMAN, TX VORTAC	* MAYFY, TX FIX	9300	
* 9500—MCA MAYFY, TX FIX, E BND		MAA—17500	
MAYFY, TX FIX	CONNE, TX FIX	* 10500	
* 9500—MOCA		MAA—17500	
* MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.			
§ 95.6423 Hawaii VOR Federal Airway V23 Is Amended To Read in Part			
UPOLU POINT, HI VORTAC	* FIRES, HI FIX	** 8000	
* 13000—MRA		MAA—45000	
* * 5600—MOCA			
§ 95.7001 Jet Routes			
§ 95.7034 Jet Route J34 Is Amended To Read in Part			
DRYER, OH VOR/DME	BELLAIRE, OH VOR/DME	UNUSABLE	
From	To	MEA	MAA
§ 95.7060 Jet Route J60 Is Amended To Read in Part			
HANKSVILLE, UT VORTAC	RED TABLE, CO VOR/DME	23000	45000
From	To	MEA	MAA
§ 95.7162 Jet Route J162 Is Amended To Read in Part			
DRYER, OH VOR/DME	BELLAIRE, OH VOR/DME	UNUSABLE	

From	To	MEA	MAA
§ 95.7517 Jet Route J517 Is Amended To Delete			
BOISE, ID VORTAC	SPOKANE, WA VORTAC	18000	45000
SPOKANE, WA VORTAC	U.S. CANADIAN BORDER	18000	45000
Airway segment		Changeover points	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Points V14 Is Amended To Delete Changeover Point			
MUNCIE, IN VOR/DME	FLAG CITY, OH VORTAC	44	MUNCIE
V16 Is Amended To Delete Changeover Point			
SALT FLAT, TX VORTAC	WINK, TX VORTAC	42	SALT FLAT
V94 Is Amended To Delete Changeover Point			
SALT FLAT, TX VORTAC	WINK, TX VORTAC	42	SALT FLAT
V527 Is Amended To Delete Changeover Point			
HOT SPRINGS, AR VOR/DME	RAZORBACK, AR VORTAC	42	HOT SPRINGS
§ 95.8005 Jet Routes Changeover Points J60 Is Amended To Modify Changeover Point			
HANKSVILLE, UT VORTAC	RED TABLE, CO VOR/DME	40	HANKSVILLE
J74 Is Amended To Add Changeover Point			
CORONA, NM VORTAC	TEXICO, TX VORTAC	40	CORONA
J517 Is Amended To Delete Changeover Point			
BOISE, ID VORTAC	SPOKANE, WA VORTAC	100	BOISE

[FR Doc. 2026-07284 Filed 4-14-26; 8:45 am]

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POSTAL REGULATORY COMMISSION**39 CFR Chapter III**

[Docket No. RM2026-3; Order No. 9514]

RIN 3211-AA41

Rules of Organization, Practice, and Procedure**AGENCY:** Postal Regulatory Commission.**ACTION:** Final rulemaking.

SUMMARY: The Final Rulemaking amends certain Commission rules for agency organization, as well as rules of practice and procedure. These amendments improve transparency of current Commission structure and organizational functions and promote efficiency for several internal Commission processes.

DATES: Effective: May 15, 2026.

ADDRESSES: For additional information, Order No. 9514 can be accessed electronically through the Commission's

website at <https://www.prc.gov>. The Rule Summary can be found on the Commission's Rule Summary Page at <https://www.prc.gov/rule-summary-page>.

FOR FURTHER INFORMATION CONTACT:

David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. Background
- II. Basis of Final Rules
- III. Final Rules

I. Background**A. Amendments Related to Organization Structure and Functions**

In accordance with 5 U.S.C. 552,¹ Commission regulations describe,

¹ Section 552 of the United States Code requires agencies to, among other things, "separately state and currently publish in the **Federal Register** for the guidance of the public" information such as the "descriptions of its central [] organization," as well as "statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available." See 5 U.S.C. 552(a)(1)(A) and (a)(1)(B).

among other things, the agency's central organization, as well as "the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available." See 39 CFR part 3000; see also 5 U.S.C. 552(a)(1)(A) and (B). Thus, revisions to agency regulations are necessary when an agency's structure or its organizational functions are modified internally or when other statutory changes are enacted that require revisions to agency regulations.

The Commission proposed rules that reflect the creation of the new Office of Budget and Finance (OBF), which was created to better align with federal agency best practices in organizing finance budget operations, including having a more appropriate separation of agency functions. In addition, to better reflect that certain filings are directed by and performed on behalf of the Commission or the Chairman, the Commission proposed to replace "the Secretary" with "the Commission" or "the Chairman" in discrete proposed rule amendments.

Moreover, consistent with statutory updates, the Commission proposed rules that revise Commission regulations regarding the Office of Inspector General (OIG), as the PSRA eliminated the requirement of a separate Commission OIG and effectively merged the legacy Commission OIG with the Postal Service OIG.²

B. Amendments Related to Internal Commission Processes

The Commission proposed ending its codification of both the Market Dominant and Competitive product lists. The Commission explained that the practice of codification was implemented in Docket No. R85–1 to make information on Postal Service product offerings more accessible and transparent, benefiting both the Postal Service and its customers.³ However, the Commission also noted that no statutory provision required codification of the Mail Classification Schedule (MCS) as part of the Code of Federal Regulations (CFR). Order No. 9467 at 9, 11. The statute only requires publication in the **Federal Register** when the Commission revises those lists. *See id.* at 11; *see also* 39 U.S.C. 3642(d)(2). Furthermore, the Commission explained that copies of the MCS are already maintained on its website, which includes each product list, along with product descriptions and rate information, making codification of the product lists unnecessary. Order No. 9467 at 13.

The Commission also proposed revisions to its product list regulations that better reflect the Commission's process related to these updates. As noted above, the CFR requires the publication of product list updates in the **Federal Register**. The CFR requires the notice to include: (1) the revised product list(s), and (2) how and when the previous list is superseded. *See* 39 U.S.C. 3642(d)(2). However, currently, each notice includes three items: (1) the revised product list(s), which include amendatory language necessary to update the CFR, (2) an indication of how and when the previous list is superseded, and (3) lists of every product addition and/or removal.⁴

Thus, the Commission proposed rule changes that remove unnecessary actions and information not required by statute and costly to the Commission.

C. Amendments Related to Federal Register Publications

The Administrative Procedure Act, Public Law 79–404, 60 Stat. 237 (1946) (APA), requires certain agency documents be published in the **Federal Register**. 5 U.S.C. 553 and 554. Generally, documents submitted to the **Federal Register** must include information used to develop the action, detail agency choices and reasoning, cite to important data, identify the applicable legal authority and, in the case of rulemakings, include affected regulatory text.⁵ For many years, a Commission's **Federal Register** submission and the Commission document prompting the **Federal Register** submission would match verbatim. However, Commission rulemaking proceedings can involve dense records and analysis, oftentimes containing in-depth discussion of all issues presented, even issues that may be outside the scope of that particular proceeding. Commission Orders often have information above and beyond the information required by the **Federal Register**. Therefore, the Commission proposed updates to certain regulations that clarify documents sent to the **Federal Register** may be summarized at the Commission's discretion, in compliance with all **Federal Register** requirements.

On March 2, 2026, the Commission issued a Notice of Proposed Rulemaking, inviting public comment.⁶ On April 3, 2026, the Public Representative filed comments.⁷ No other interested persons filed comments.

II. Basis of Final Rules

After considering comments received and the support of the Public Representative, the Commission adopts the amended rules, as proposed in Order No. 9467, with some revisions consistent with the Public Representative's recommendations.

As it relates to the Public Representative's recommended revisions to redesignated § 3040.101(b), while the Commission does not adopt

the Public Representative's suggestions precisely, it finds that additional clarity is appropriate in this instance and amends § 3040.101(b) to more closely mirror the relevant statutory language found in 39 U.S.C. 3642(d)(2) (*i.e.*, “the lists of products in the market-dominant or competitive category of mail”). *See* 39 U.S.C. 3642(d)(2).

As it relates to the Public Representative's recommended revisions to proposed §§ 3040.103(a) and (b) and 3040.105(b), the Commission finds that these recommended changes are appropriate, in part.⁸ The Commission notes circumstances may occur where a change's effective date falls outside of 6-month time limit imposed by current Commission regulations. While this occurrence may be rare, it is an unintended consequence of its current regulations and proposed amendments. Adopting the Public Representative's recommended changes to these specific regulations will provide the Commission with additional flexibility when MCS or product list updates are effective more than 6 months after a final order is issued. For these reasons, the Commission agrees that the Public Representative's recommended revisions clarify that the MCS or product lists must be updated within 6 months after a change takes effect as described in each Commission final order. The Commission amends §§ 3040.103 (a) and (b) and 3040.105(b) by adopting the Public Representative's suggested revisions to those provisions.

As explained in greater detail in Order No. 9514, the Commission declined to adopt other Public Representative recommendations because the Commission determined that the text as proposed was sufficiently clear, and more concise than the suggested revisions. The Commission provides no specific findings at this time as it relates to the Public Representative's recommendations regarding the Commission's website and the accessibility of the Market Dominant and Competitive product lists because the recommendations were not rule-related in nature.

III. Final Rules

List of Subjects

39 CFR Part 3000

Organization and functions, Seals and insignia.

⁸ The Commission declines to adopt the Public Representative's proposed revision to a portion of § 3040.103(a), which is described in more detail below. *See* page 10, *infra*.

² *See generally* PSRA, section 209(a)(1) and 209(a)(2)(A); *see also* 5 U.S.C. app. 3, § 8G.

³ *See generally* Docket No. RM85–1, Notice, May 20, 1985 (Docket No. RM85–1 Notice); Docket No. RM85–1, Order Adopting Final Rule, June 28, 1985 (Order No. 614) (“The Commission has decided to make the Domestic Mail Classification Schedule (DMCS) more readily available to interested persons by publishing it as Appendix A to Subpart C of Part 3001 of the Commission's rules of practice and procedure.” Order No. 614 at 1).

⁴ *See, e.g.*, Docket No. RM2020–8, Notice of Update to Product Lists, February 9, 2024.

⁵ *See generally* <https://www.federalregister.gov/>; *see also* <https://uploads.federalregister.gov/uploads/2013/09/The-Rulemaking-Process.pdf>.

⁶ Notice of Proposed Rulemaking on Amendments to Commission Rules of Organization, Practice, and Procedure, March 2, 2026 (Order No. 9467).

⁷ Public Representative Comments on Proposed Amendments to Commission Rules of Organization, Practice, and Procedure, April 3, 2026 (PR Comments).

39 CFR Part 3010

Administrative practice and procedure, Confidential business information, Freedom of information, Sunshine Act.

39 CFR Part 3013

Administrative practice and procedure, Confidential business information, Postal Service, Reporting and recordkeeping requirements.

39 CFR Part 3020

Administrative practice and procedure, Postal Service.

39 CFR Part 3030

Administrative practice and procedure, Fees, Postal Service.

39 CFR Part 3040

Administrative practice and procedure, Foreign relations, Postal Service.

39 CFR Parts 3041 and 3050

Administrative practice and procedure, Postal Service, Reporting and recordkeeping requirements.

39 CFR Part 3045

Administrative practice and procedure, Postal Service.

For the reasons stated in the preamble, the Commission proposes to amend 39 CFR chapter III as set forth below:

PART 3000—THE COMMISSION AND ITS OFFICES

■ 1. The authority citation for part 3000 is revised to read as follows:

Authority: 39 U.S.C. 503; 5 U.S.C. 552; 5 U.S.C. app. 3, 5, 8G.

■ 2. Amend § 3000.111 by revising paragraphs (b) and (e) to read as follows:

§ 3000.111 The Office of Secretary and Administration.

* * * * *

(b) The Office of Secretary and Administration is responsible for the Commission's strategic planning and serves as the point of contact for all Commission audits.

* * * * *

(e) The Office of Secretary and Administration is responsible for managing the Commission's operational and administrative functions, including the Commission's facilities and infrastructure. In this role, the Office of Secretary and Administration manages facility security; provides information technology, cybersecurity, and other support services essential to the efficient and effective conduct of operations.

■ 3. Revise § 3000.116 to read as follows:

§ 3000.116 The Inspector General of the Postal Service.

(a) The Inspector General of the Postal Service shall function as the Inspector General for the Commission and shall have equal responsibility over the Postal Service and the Commission in accordance with 5 U.S.C. app. 3, 8G and chapter I, subpart D of this title.

(b) The Governors and the members of the Commission shall appoint, by a favorable vote of a majority of the Governors in office and of a majority of the members of the Commission in office, the Inspector General. The Inspector General may be removed for cause with the written concurrence of at least 7 Governors and 3 members of the Commission.

(c) The Office of Inspector General shall comply with and adhere to the procedures governing the release of information maintained by the Commission as set forth in part 3006 of this title and related provisions of these regulations to the extent such procedures do not conflict with any provision in this part.

(d) Commission records in the custody of the Office of Inspector General that contain proprietary information will not be released by the Inspector General without consultation with the appropriate Commission official responsible for the record.

(e) All Commission employees shall cooperate with all audits, reviews, and investigations conducted by the Office of Inspector General. Deliberately submitting information known to be false or misleading to the Office of Inspector General or failing to cooperate with all audits, reviews, and investigations conducted by the Office of Inspector General may be grounds for disciplinary or other legal action.

(f) Any employee who has authority to take, direct another to take, recommend or approve any personnel action shall not retaliate against any employee as a reprisal for cooperating and assisting with any Office of Inspector General audit, review, or investigation (including reporting facts or information to the Office of Inspector General that leads to any audit, review, or investigation).

■ 4. Add § 3000.117 to read as follows:

§ 3000.117 The Office of Budget and Finance.

(a) The Office of Budget and Finance is responsible for ensuring the strategic and operational planning, establishment, execution, monitoring,

analysis and presentation of the Commission's budget.

(b) The Office of Budget and Finance manages budget planning. In this role, the Office of Budget and Finance determines future funding needs based on the Commission's strategic and operational plans, within fiscal constraints.

(c) The Office of Budget and Finance is responsible for budget establishment and execution, which involves the distribution and management of funds to accomplish the Commission's mission. In this role, the Office of Budget and Finance develops and enforces fiscal policies and guidelines in accordance with applicable regulations and laws for Commission fiscal operations. The Office of Budget and Finance ensures recognition of Commission approved requirements and executes according to established policies, guidelines, and financial targets.

(d) The Office of Budget and Finance manages accounting and performs financial management activities. In this role, the Office of Budget and Finance ensures accuracy, compliance, and timely payments, including those related to the payroll. This role includes personnel compensation management and monitoring, oversight and execution of funding requests, invoice and reimbursement processing, travel processing and management, expenditure tracking and reconciliation, and contract execution and management.

(e) The Office of Budget and Finance is responsible for the monitoring and presentation of budget data. In this role, the Office of Budget and Finance tracks, monitors, performs analysis on, and reports on the usage of fiscal resources that support the Commission's mission. This role also includes ensuring alignment of budget data with the Commission's strategic and operational goals and objectives as well as the intent of the Commission Chairman and Commissioners.

PART 3010—RULES OF PRACTICE AND PROCEDURE

■ 5. The authority citation for part 3010 continues to read as follows:

Authority: 39 U.S.C. 404(d); 503; 504; 3661.

■ 6. Amend § 3010.102 by revising paragraph (e) to read as follows:

§ 3010.102 Commission dockets.

* * * * *

(e) The Secretary's assignment of a docket designation does not, by itself, establish a docket or initiate a

proceeding. A docket is formally established and proceedings initiated only by the issuance of a Commission notice or order except for certain negotiated service agreements for which the authority to establish a docket and initiate a proceeding by issuance of a notice has been delegated to the Office of the General Counsel.

* * * * *

- 7. Amend § 3010.106 by revising paragraph (b) to read as follows:

§ 3010.106 Presiding officers.

* * * * *

(b) *Notice of designation.* The Chairman shall issue a notice of any decision to designate a presiding officer. The notice shall identify the presiding officer and the date of appointment. Any expansion or limitation on the presiding officer's authority, or specific direction to a presiding officer (such as specific direction to issue an intermediate decision for the Commission's consideration) not specified in this section shall be included in the notice.

* * * * *

- 8. Amend § 3010.142 by revising paragraph (c) to read as follows:

§ 3010.142 Parties to hearings on the record.

* * * * *

(c) *Form and time of filing.* Notices of intervention shall be filed no later than the date fixed for such filing by the Commission, unless for good cause shown, the Commission authorizes a late filing. Without a showing for good cause, late intervenors shall be subject to and may not challenge decisions by the Commission or presiding officer made prior to acceptance of the request for late intervention.

* * * * *

- 9. Amend § 3010.152 by revising paragraph (a) to read as follows:

§ 3010.152 Notices initiating dockets for consideration of negotiated service agreements.

(a) The Office of the General Counsel shall issue a notice to initiate a docket for each request that proposes the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list. Multiple requests may be combined into a single notice.

* * * * *

PART 3013—PROCEDURES FOR COMPELLING PRODUCTION OF INFORMATION BY THE POSTAL SERVICE

- 10. The authority citation for part 3013 continues to read as follows:

Authority: 39 U.S.C. 503; 504; 3651(c); 3652(d).

- 11. Amend § 3013.13 by revising paragraph (b)(1) to read as follows:

§ 3013.13 Subpoenas issued in response to a third-party request.

* * * * *

(b) * * *

(1) A request for the issuance of a subpoena shall be made by motion as provided by § 3010.160 of this chapter. A copy of the request shall be served upon the Postal Service as provided by § 3010.127 of this chapter and by forwarding a copy to the General Counsel of the Postal Service, or such other person authorized to receive process by personal service, by Express Mail or Priority Mail, or by First-Class Mail, Return Receipt requested. The Postal Service shall transmit a copy of the request to any covered person that it deems likely to be affected by the request and shall provide the person requesting the subpoena with the name, business address and business phone number of the persons to whom the request has been transmitted. Proof of service of the request shall be filed with the Secretary by the person requesting the subpoena. The Commission shall issue a notice of the filing of proof of service and the deadline for filing answers to the request.

* * * * *

PART 3020—RULES APPLICABLE TO POSTAL SERVICE REQUESTS FOR CHANGES IN THE NATURE OF POSTAL SERVICES

- 12. The authority citation for part 3020 continues to read as follows:

Authority: 39 U.S.C. 404(d); 503; 504; 3661.

- 13. Revise § 3020.112 to read as follows:

§ 3020.112 Filing of formal requests.

Whenever the Postal Service determines to request that the Commission issue an advisory opinion on a proposed change in the nature of postal services subject to this subpart, the Postal Service shall file with the Commission a formal request for such an opinion in accordance with the requirements of subpart B to part 3010 of this chapter and § 3020.113. The request shall be filed not less than 90 days before the proposed effective date

of the change in the nature of postal services involved. Within five days after the Postal Service has filed a formal request for an advisory opinion in accordance with this section, the Commission shall lodge a notice thereof for publication in the **Federal Register**.

PART 3030—REGULATION OF RATES FOR MARKET DOMINANT PRODUCTS

- 14. The authority citation for part 3030 continues to read as follows:

Authority: 39 U.S.C. 503; 3622.

- 15. Amend § 3030.263 by revising paragraph (a) and adding paragraph (h) to read as follows:

§ 3030.263 Dockets and notice.

(a) The Commission will establish a docket for each request to adjust rates due to extraordinary or exceptional circumstances and post the filing on its website at <http://www.prc.gov>. The notice shall include the items specified in paragraphs (b) through (g) of this section

* * * * *

(h) The notice, or an abstract thereof, shall be published in the **Federal Register**.

PART 3040—REGULATION OF RATES FOR MARKET DOMINANT PRODUCTS

- 16. The authority citation for part 3030 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

§ 3040.101 Applicability.

- 17. Revise § 3040.101 to read as follows:

(a) The rules in this part require the Commission to establish and maintain a Mail Classification Schedule.

(b) The Mail Classification Schedule shall provide lists of products in the Market Dominant and Competitive category of mail, as well as current price and classification information applicable to the products appearing on the product lists.

(c) Once established the Mail Classification Schedule and the product lists may be modified subject to the procedures specified in this part.

(d) Modification of the competitive product list to add a competitive negotiated service agreement is not governed by this part but is governed by part 3041 of this chapter. The rules in part 3041 of this chapter regarding removal of a negotiated service agreement from the competitive product list supersede any conflicting rules in this part.

- 18. Revise § 3040.102 to read as follows:

§ 3040.102 Product lists.

(a) The Commission shall maintain the product lists as part of the Mail Classification Schedule on its website at <http://www.prc.gov>. Copies of the Mail Classification Schedule, including each product list, shall be made available, upon request, during regular business hours for reference and public inspection at the Postal Regulatory Commission located at 901 New York Avenue NW, Suite 200, Washington, DC 20268–0001.

(b) The product lists shall categorize postal products as either market dominant or competitive. As established, the market dominant and competitive product lists shall be consistent with the market dominant products identified in 39 U.S.C. 3621(a) and the competitive products identified in 39 U.S.C. 3631(a). The market dominant and competitive product lists shall also include products identified as market tests pursuant to 39 U.S.C. 3641 and nonpostal pursuant to 39 U.S.C. 404(e).

■ 19. Revise § 3040.103 to read as follows:

§ 3040.103 Notice of product list change.

(a) Whenever the Commission issues a final order that modifies the list of products in the market dominant category or the competitive category, it shall revise the lists of products maintained as part of the Mail Classification Schedule within 6 months after the modifications take effect pursuant to the applicable final order that modifies the product lists.

(b) Notice of the revised lists of products shall be submitted to the **Federal Register** for publication within 6 months after the modifications take effect pursuant to the applicable final order that modifies the product lists.

(c) Modifications pending publication in the **Federal Register** are effective immediately upon written direction from the Commission.

(d) The **Federal Register** document shall:

- (1) Include the revised lists of products; and
- (2) Indicate how and when any previous product lists are superseded.

■ 20. Amend § 3040.104, by revising paragraphs (a), (b)(2)(i) and (b)(3)(i) to read as follows:

§ 3040.104 Mail Classification Schedule.

(a) The Commission shall publish a Mail Classification Schedule (including both current and previous versions) on its website at <http://www.prc.gov>. Copies of the Mail Classification Schedule also shall be available, upon request, during regular business hours

for reference and public inspection at the Postal Regulatory Commission located at 901 New York Avenue NW, Suite 200, Washington, DC 20268–0001.

(b) * * *

(2) * * *

(i) The market dominant product list; and

* * * * *

(3) * * *

(i) The competitive product list; and

* * * * *

■ 21. Amend § 3040.105, by revising paragraph (b) to read as follows:

§ 3040.105 Modification to the Mail Classification Schedule.

* * * * *

(b) Modifications to the Mail Classification Schedule shall be incorporated within 6 months after the modifications take effect pursuant to the applicable final order that modifies the Mail Classification Schedule.

* * * * *

Appendix A to Subpart A of Part 3040—Market Dominant Product List [Removed]

■ 22. Remove Appendix A to Subpart A of Part 3040.

Appendix B to Subpart A of Part 3040—Competitive Product List [Removed]

■ 23. Remove Appendix B to Subpart A of Part 3040.

■ 24. Revise § 3040.133 to read as follows:

§ 3040.133 Docket and notice.

(a) The Commission will establish a docket for each request to modify the market dominant list or the competitive product list and post the filing on its website at <http://www.prc.gov>. The notice shall include:

(1) The general nature of the proceeding;

(2) A reference to legal authority to which the proceeding is to be conducted;

(3) A concise description of the proposals for changes in the Mail Classification Schedule;

(4) The identification of an officer of the Commission to represent the interests of the general public in the docket;

(5) A specified period for public comment; and

(6) Such other information as the Commission deems appropriate.

(b) The notice, or an abstract thereof, shall be published in the **Federal Register**.

■ 25. Revise § 3040.153 to read as follows:

§ 3040.153 Docket and notice.

(a) The Commission will establish a docket for each request to modify the market dominant list or the competitive product list and post the filing on its website at <http://www.prc.gov>. The notice shall include:

(1) The general nature of the proceeding;

(2) A reference to legal authority to which the proceeding is to be conducted;

(3) A concise description of the proposals for changes in the Mail Classification Schedule;

(4) The identification of an officer of the Commission to represent the interests of the general public in the docket;

(5) A specified period for public comment; and

(6) Such other information as the Commission deems appropriate.

(b) The notice, or an abstract thereof, shall be published in the **Federal Register**.

■ 26. Revise § 3040.173 to read as follows:

§ 3040.173 Docket and notice.

(a) The Commission will establish a docket for each request to modify the market dominant list or the competitive product list and post the filing on its website at <http://www.prc.gov>. The notice shall include:

(1) The general nature of the proceeding;

(2) A reference to legal authority to which the proceeding is to be conducted;

(3) A concise description of the proposals for changes in the Mail Classification Schedule;

(4) The identification of an officer of the Commission to represent the interests of the general public in the docket;

(5) A specified period for public comment; and

(6) Such other information as the Commission deems appropriate.

(b) The notice, or an abstract thereof, shall be published in the **Federal Register**.

■ 27. Amend § 3040.182 by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 3040.182 Docket and notice of material changes to product descriptions.

(a) The Commission shall take the actions identified in paragraphs (b) through (f) of this section.

* * * * *

(f) Publish the notice, or an abstract thereof, in the **Federal Register**.

■ 28. Amend § 3040.191 by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 3040.191 Docket and notice of minor corrections to product descriptions.

(a) The Commission shall take the actions identified in paragraphs (b) through (f) of this section.

* * * * *

(f) Publish the notice, or an abstract thereof, in the **Federal Register**.

■ 29. Amend § 3040.211 by:

■ a. Revising paragraph (b);

■ b. Adding new paragraph (c); and

■ c. Redesignating paragraphs (c) and (d) as paragraphs (d) and (e).

The addition and revisions read as follows:

§ 3040.211 Limitations applicable to market dominant mail matter.

* * * * *

(b) The Commission shall provide notice of the proposed update and seek public comment on whether the proposed update is in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code.

(c) The notice, or an abstract thereof, shall be published in the **Federal Register**.

* * * * *

PART 3041—COMPETITIVE NEGOTIATED SERVICE AGREEMENTS

■ 30. The authority citation for part 3041 continues to read as follows:

Authority: 39 U.S.C. 503; 39 U.S.C. 3633.

■ 31. Amend § 3041.405 by revising paragraph (b) to read as follows:

§ 3041.405 Docket and notice.

* * * * *

(b) The Commission will promptly publish the notice, or an abstract thereof, in the **Federal Register**, and post the filing on its website at <http://www.prc.gov>.

* * * * *

PART 3045—RULES FOR MARKET TESTS OF EXPERIMENTAL PRODUCTS

■ 32. The authority citation for part 3045 continues to read as follows:

Authority: 39 U.S.C. 503; 3641.

■ 33. Amend § 3045.4 by revising paragraphs (a) introductory text and (b) to read as follows:

§ 3045.4 Review.

(a) The Commission will establish a docket for each market test initiated under this part and post the filing on its website at <http://www.prc.gov>. The notice shall:

* * * * *

(b) The notice, or an abstract thereof, shall be published in the **Federal Register**.

PART 3050—PERIODIC REPORTING

■ 34. The authority citation for part 3045 continues to read as follows:

Authority: 39 U.S.C. 503; 3651; 3652; 3653.

■ 35. Amend § 3050.11 by revising paragraph (d)(1) to read as follows:

§ 3050.11 Proposals to change an accepted analytical principle applies in the Postal Service's annual period reports to the Commission.

* * * * *

(d) * * *

(1) After the conclusion of discovery procedures, if any, the Commission shall determine whether to issue a notice of proposed rulemaking based on the petition and the supporting material received. Such notice shall be evaluated by procedures that are consistent with 5 U.S.C. 553. The notice, or an abstract thereof, shall be published in the **Federal Register**. Interested parties will be afforded an opportunity to present written comments and reply comments, and, if the Commission so orders, to present oral comments as well.

* * * * *

By the Commission.

Mallory S. Richards,

Attorney-Advisor.

[FR Doc. 2026-07331 Filed 4-14-26; 8:45 am]

BILLING CODE 7710-FW-P

Proposed Rules

Federal Register

Vol. 91, No. 72

Wednesday, April 15, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-3487; Project Identifier MCAI-2025-01261-R]

RIN 2120-AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350D, AS355E, AS355F, AS355F1, AS355F2, AS355N, AS355NP, EC120B, and EC130B4 helicopters. This proposed AD was prompted by a determination that the instructions on how to open the sliding door emergency exit on affected helicopters are insufficient. This proposed AD would require installing additional safety labels. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by June 1, 2026.

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

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

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

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

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

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket

No. FAA-2026-3487; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

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

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110.

FOR FURTHER INFORMATION CONTACT:

Katherine Le, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222-5178; email: katherine.le@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under **ADDRESSES**. Include “Docket No. FAA-2026-3487; Project Identifier MCAI-2025-01261-R” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Katherine Le, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025-0159, dated July 24, 2025 (EASA AD 2025-0159) (also referred to as the MCAI), to correct an unsafe condition on Airbus Helicopters Model AS350B, AS350BA, AS350BB, AS350B1, AS350B2, AS350B3, AS350D, EC120B, EC130B4, AS355E, AS355F, AS355F1, AS355F2, AS355N and AS355NP helicopters without modification 0720257 installed. The MCAI states a determination was made that the instructions on how to open the sliding door emergency exit on affected helicopters are insufficient. This condition, if not addressed, could hinder the opening of the door during an emergency, possibly resulting in injury to occupants.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-3487.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025-0159, which specifies procedures for installing additional safety labels providing sliding door opening and closing instructions. This material is reasonably available because the

interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

FAA’s Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2025–0159, described previously, as incorporated by reference, except for any differences identified as exceptions in the

regulatory text of this AD. See “Differences Between this Proposed AD and the MCAI” for a discussion of the general differences included in this proposed AD.

Differences Between This Proposed AD and the MCAI

The MCAI applies to Airbus Helicopters Model AS 350 BB helicopter, whereas this proposed AD does not because that model does not have an FAA type certificate.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some CAA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA incorporates EASA AD 2025–0159 by reference in the FAA final rule. This proposed AD would, therefore,

require compliance with EASA AD 2025–0159 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0159 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025–0159. Material referenced in EASA AD 2025–0159 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–3487 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,213 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Install new labels	1 work-hour × \$85 per hour = \$85	\$105	\$190	\$230,470

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the

national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters: Docket No. FAA–2026–3487; Project Identifier MCAI–2025–01261–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by June 1, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350D, AS355E, AS355F, AS355F1, AS355F2, AS355N, AS355NP, EC120B, and EC130B4 helicopters, certificated in any category, as identified in European Union Aviation Safety Agency AD 2025–0159, dated July 24, 2025 (EASA AD 2025–0159).

Note 1 to paragraph (c): Helicopters with AS350B3e designation are Model AS350B3 helicopters.

(d) Subject

Joint Aircraft System Component (JASC) Code 1100, Placards and Markings.

(e) Unsafe Condition

This AD was prompted by a determination that the instructions on how to open the sliding door emergency exit on affected helicopters are insufficient. The FAA is issuing this AD to ensure proper door operation. This condition, if not addressed, could hinder the opening of the door during an emergency, possibly resulting in injury to occupants.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with EASA AD 2025–0159.

(h) Exceptions to EASA AD 2025–0159

(1) Where EASA AD 2025–0159 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where the material referenced in EASA AD 2025–0159 specifies to “discard”, this AD requires replacing that text with “remove from service”.

(3) This AD does not adopt the “Remarks” section of EASA AD 2025–0159.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0159 specifies to submit certain information to the manufacturer, this AD does not require that action.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Additional Information

For more information about this AD, contact Katherine Le, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5178; email: katherine.le@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0159, dated July 24, 2025.

(ii) [Reserved]

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

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Parkway, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on April 13, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–07334 Filed 4–14–26; 8:45 am]

BILLING CODE 4910–13–P

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

[Docket No. FAA–2026–3485; Project Identifier MCAI–2025–00437–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A321–251NX, –252NX, –253NX, –271NX, and –272NX airplanes. This proposed AD was prompted by a review of the cold working process on the assembly line that detected a deviation to the manufacturing process. This proposed AD would require repetitive inspections for the nominal design condition of the fastener holes in certain center fuselage frame foot joint connections and, as applicable, an inspection for cracking at the frame foot joint connections and corrective actions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by June 1, 2026.

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

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

- **Fax:** 202–493–2251.

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

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

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–3485; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. It is also available at regulations.gov under Docket No. FAA–2026–3485.

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

FOR FURTHER INFORMATION CONTACT: Nicholas Benson, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3647; email: nicholas.h.benson@faa.gov.

SUPPLEMENTARY INFORMATION:**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include “Docket No. FAA–2026–3485; Project Identifier MCAI–2025–00437–T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other

information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Nicholas Benson, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3647; email: *nicholas.h.benson@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0067, dated March 28, 2025 (EASA AD 2025–0067) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A321–251NX, –252NX, –253NX, –271NX, and –272NX airplanes. The MCAI states that, during a review of the cold working process on the assembly line, a deviation to the manufacturing process was detected, which could adversely affect the fatigue life of the affected area (*i.e.*, center fuselage frame (FR) foot joint connections at FR37 to FR41 inclusive, between stringers (STR) STR21 to STR23, on both left-hand and right-hand

sides). This condition, if not detected and corrected, could lead to crack initiation and propagation, possibly resulting in reduced structural integrity of the airplane.

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

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–3485.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0067 specifies procedures for repetitive inspections for any discrepancy of the fastener holes, which consists of doing a check to determine if the fastener holes in the affected area are not in nominal design condition. Nominal design condition is that fasteners installed have a nominal diameter as specified in the material referenced in EASA AD 2025–0067. EASA AD 2025–0067 also specifies procedures for a rototest inspection of the fastener holes for any discrepancy (*i.e.*, cracking) at each affected area and corrective actions, as applicable. Corrective actions include contacting Airbus for approved repair instructions and accomplishing those instructions. EASA AD 2025–0067 also specifies procedures for repairing fastener holes, which would terminate the repetitive inspections.

EASA AD 2025–0067 also specifies accomplishment of a high frequency eddy current (HFEC) inspection around the fastener holes at an affected area is an acceptable method of compliance for the rototest inspection for that affected area.

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

FAA’s Determination

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2025–0067 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2025–0067 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0067 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0067 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025–0067. Material required by EASA AD 2025–0067 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–3485 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 22 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
23 work-hours × \$85 per hour = \$1,955	\$0	\$1,955	\$43,010

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

the results of any required actions. The FAA has no way of determining the

number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS *

Labor cost	Parts cost	Cost per product
60 work-hours × \$85 per hour = \$5,100 (rototest inspection)	\$884	\$5,984

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

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Action	Labor cost	Parts cost	Cost per product
Terminating action	15 work-hours × \$85 per hour = \$1,275	Negligible	\$1,275

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2026–3485; Project Identifier MCAI–2025–00437–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by June 1, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A321–251NX, –252NX, –253NX, –271NX, and –272NX airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0067, dated March 28, 2025 (EASA AD 2025–0067).

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a review of the cold working process on the assembly line that detected a deviation to the manufacturing process. The FAA is issuing this AD to address a deviation to the manufacturing process, which could adversely affect the fatigue life of the center

fuselage frame (FR) foot joint connections at FR37 to FR41 inclusive, between stringer (STR) STR21 to STR23. The unsafe condition, if not addressed, could lead to crack initiation and propagation, resulting in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0067.

(h) Exceptions to EASA AD 2025–0067

(1) Where paragraph (2) of EASA AD 2025–0067 specifies "any discrepancy is detected, as defined in the SB", this AD requires replacing that text with "any fastener hole is not in nominal design condition, as defined in the SB".

(2) Where paragraph (3) of EASA AD 2025–0067 specifies "no discrepancy is detected", this AD requires replacing that text with "fastener holes are in nominal design condition, as defined in the SB".

(3) Where paragraph (4) of EASA AD 2025–0067 specifies a "High Frequency Eddy Current (HFEC) inspection around the fastener holes at an affected area is an acceptable method", this AD requires replacing that text with "High Frequency Eddy Current (HFEC) inspection around the fastener holes at an affected area, in accordance with the instructions of the SB, is an acceptable method".

(4) Where paragraph (5) of EASA AD 2025–0067 specifies "any crack is detected, as defined in the SB, before next flight, contact Airbus for approved repair instructions and, within the compliance time specified therein, accomplish those instructions accordingly.", this AD requires replacing that text with "any crack is detected, the crack must be repaired before further flight using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature."

(5) Where paragraph (7) of EASA AD 2025–0067 specifies “no discrepancy”, this AD requires replacing that text with “no cracking”.

(6) This AD does not adopt the “Remarks” section of EASA AD 2025–0067.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0067 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC)*: Except as required by paragraphs (h)(3), (h)(4), and (j)(2) of this AD, if any material contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Additional Information

For more information about this AD, contact Nicholas Benson, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3647; email: nicholas.h.benson@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0067, dated March 28, 2025.

(ii) [Reserved]

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

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

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

Issued on April 10, 2026.

Brian Knaup,

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

[FR Doc. 2026–07297 Filed 4–14–26; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 25, 27, and 101

[GN Docket Nos. 18–122, 25–59; DA 26–341; FR ID 340668]

Wireless Telecommunications Bureau Refreshes Record on Lower C-Band Petitions for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks to refresh the record on pending petitions for reconsideration of the Commission’s 2020 Report and Order in the Expanding Flexible Use of the 3.7 to 4.2 GHz Band rulemaking (2020 C-band R&O) in light of certain technical proposals in the 2025 Notice of Proposed Rulemaking in the Upper C-band (3.98–4.2 GHz) rulemaking (Upper C-band NPRM) and the responsive record thereto, seeking a harmonized approach across the entire C-band.

DATES: Comments are due on or before May 5, 2026.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission’s rules, 47 CFR 1.415, 1.419, interested parties may file comments using the Commission’s Electronic Comment Filing System (ECFS). You may submit comments, identified by GN Docket Nos. 18–122

and 25–59, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the 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 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 FCC’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 deliveries not 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:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: 202–418–0530 or TTY: 202–418–0432. 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 & Governmental Affairs Bureau at 202–418–0530.

FOR FURTHER INFORMATION CONTACT: For additional information regarding this Public Notice, please contact Andrew McArdell of the Wireless Telecommunications Bureau, at (202) 418–1576 or Andrew.McArdell@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s document (*Public Notice*), in GN Docket Nos. 18–122 and 25–59; DA 26–341, released on April 10, 2026. This action was taken pursuant to delegated authority under 47 CFR 0.331. The full text of this document is available electronically via the FCC’s Electronic Document Management System (EDOCS) website at <https://www.fcc.gov/edocs> (search using DA number) or via the FCC’s Electronic Comment Filing System (ECFS) website at <https://www.fcc.gov/ecfs> (search using docket number). (Documents will

be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.)

Ex Parte Presentations. The Commission will treat this proceeding 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 47 CFR 1.1206(b). In proceedings governed by 47 CFR 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.

Initial Regulatory Flexibility Analysis. The *Upper C-band NPRM* included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to 5 U.S.C. 603, exploring the potential impact on small entities of the Commission’s proposals. We invite parties to file comments on the IRFA in light of this request to refresh the record.

Providing Accountability Through Transparency Act. Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this document will be

available on <https://www.fcc.gov/proposed-rulemakings>.

Paperwork Reduction Act. The *Public Notice* document may contain proposed new or modified information collections. 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 any information collections contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13.

Synopsis

1. By this *Public Notice*, the Wireless Telecommunications Bureau (Bureau) seeks to refresh the record on pending petitions for reconsideration of the Commission’s *2020 C-band R&O*, released on March 3, 2020 in this proceeding (85 FR 22804), in light of certain technical proposals in the *Upper C-band NPRM*, released on November 21, 2025 (90 FR 56076), and the responsive record thereto, seeking a harmonized approach across the entire C-band. In particular, we seek to refresh the record on a petition for partial reconsideration that was filed by the Aerospace Industries Association and others (AIA Petition) with respect to technical issues in the 3.7–3.98 GHz band (Lower C-band) context that have also been raised in the Commission’s *Upper C-band NPRM*. The AIA Petition asks that the Commission take “appropriate mitigation measures . . . including limitations on technical parameters,” with regard to terrestrial wireless operations in the Lower C-band in recognition of radio altimeter operations in the 4.2–4.4 GHz band. The Bureau also seeks to refresh the record on additional outstanding petitions for reconsideration of the *2020 C-band R&O*, to the extent they remain applicable.

2. In the *Upper C-band NPRM*, the Commission sought comment on proposed technical rules for the Upper C-band based on those that currently apply to the Lower C-band, and asked whether to harmonize the wireless operational environment across the entire C-band. In particular, the Commission asked whether the proposed Upper C-band technical rules, including power levels and OOB limits, should be adjusted to promote coexistence with radio altimeters in the 4.2–4.4 GHz band. With these goals in mind, the Bureau seeks to refresh the record in response to the AIA Petition and others in the Lower C-band proceeding on these technical issues. In specific, we seek to refresh the record on an appropriate limit on spurious

emissions into 4.2–4.4 GHz for Lower C-band operations in light of related discussions with respect to the Upper C-band, and proposals to adopt a 4 Watt Effective Isotropic Radiated Power (EIRP) limit for mobile devices across both bands. The Bureau also seeks to refresh the record on any other appropriate rule changes to align the wireless operational environment in the Lower C-band and Upper C-band. Commenters are encouraged to provide technical details in support of their submissions. Commenters should also address the costs and benefits of potentially changing any technical requirements currently applicable in the Lower C-band to better align with proposed requirements applicable to the Upper C-band.

Federal Communications Commission.

Amy Brett,

Chief of Staff, Wireless Telecommunications Bureau.

[FR Doc. 2026–07269 Filed 4–14–26; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 260410–0095; RTID 0648–XF376]

Fisheries of the Exclusive Economic Zone Off Alaska; Cook Inlet; Proposed 2026 Harvest Specifications for Salmon

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

ACTION: Proposed rule; harvest specifications and request for comments.

SUMMARY: NMFS proposes 2026 harvest specifications for the salmon fishery of the Cook Inlet exclusive economic zone (EEZ) Area. This action is necessary to establish harvest limits for salmon during the 2026 fishing year and to accomplish the goals and objectives of the Fishery Management Plan for Salmon Fisheries in the EEZ off Alaska (Salmon FMP). The intended effect of this action is to conserve and manage the salmon resources in Cook Inlet EEZ Area in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments must be received by April 30, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2026-0562>. You may submit comments on this document, identified by NOAA–NMFS–2026–0562, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA–NMFS–2026–0562 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

An electronic copy of the draft Environmental Assessment for the Harvest Specifications of the Cook Inlet Salmon Fisheries in the EEZ Off Alaska (EA) prepared for this action is available at <https://www.regulations.gov/docket/NOAA-NMFS-2026-0562>. The Environmental Assessment (EA)/Regulatory Impact Review for amendment 16 (A16 EA/RIR) to the Salmon FMP are available from the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/action/amendment-16-fmp-salmon-fisheries-alaska>. A preliminary Stock Assessment and Fishery Evaluation (SAFE) report was presented at the February 2026 North Pacific Fishery Management Council (Council) meeting, and NMFS incorporated the recommendations of the Council’s Scientific and Statistical Committee (SSC) and posted the final SAFE at <https://www.fisheries.noaa.gov/alaska/population-assessments/alaska-stock-assessments>.

FOR FURTHER INFORMATION CONTACT: Adam Zaleski, 907–206–5802, adam.zaleski@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS prepared the Salmon FMP under the

authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). Regulations governing U.S. fisheries and implementing the Salmon FMP appear at 50 CFR part 600 and 50 CFR part 679.

The proposed harvest specifications include catch limits that NMFS could implement subject to further consideration after public comment. Regulations at 50 CFR 679.118(b) require that NMFS consider public comment on the proposed harvest specifications and publish the final harvest specifications in the **Federal Register**. The final harvest specifications will take effect only after publication of a final rule. NMFS will publish the final 2026 harvest specifications after: (1) considering comments received within the comment period (see **DATES** section); (2) considering information presented in the draft EA (see **ADDRESSES** section); and (3) considering information presented in the final 2026 SAFE report prepared for the 2026 Cook Inlet EEZ Area salmon fisheries. See 50 CFR 679.118(b)(2) for additional considerations regarding the final harvest specifications.

Proposed 2026 Overfishing Limit (OFL), Acceptable Biological Catch (ABC), and Total Allowable Catch (TAC) Specifications

NMFS compiled and presented the preliminary 2026 SAFE report for the Cook Inlet EEZ Area salmon stocks and stock complexes, dated February 2026, at the February Council meeting. The SAFE report contains a review of the latest scientific analyses and estimates of biological parameters for seven stocks of Pacific salmon and provides recommendations to the SSC regarding the appropriate tiers for each stock, the status determination criteria (SDC) that will be used to evaluate overfishing (including OFL), and the appropriate ABC, which acts as a ceiling when NMFS specifies TACs.

The Salmon FMP specifies methods to calculate OFLs and ABCs for stocks harvested in the Cook Inlet EEZ Area. The methodology used to calculate OFL and ABC depends on the “tier” to which a stock or stock complex has been assigned, which is determined by the level of reliable information available. Tier 1 stocks have the highest level of information quality available, while tier 3 stocks have the lowest level of information quality available. NMFS uses this tier structure to calculate OFLs and ABCs for each salmon stock or stock complex (a stock complex is an aggregate of multiple stocks of a species) according to the methods specified in

the Salmon FMP and recommended by the SSC.

For tier 1 stocks as defined in the Salmon FMP, the SAFE report relies on forecasts of the coming year’s salmon runs as the basis for the recommended OFLs and ABCs, which are included in the 2026 SAFE report. For tier 1 stocks, SDC and harvest specifications are calculated in terms of potential yield for the Cook Inlet EEZ Area. The potential yield is the total forecasted run size minus the number of salmon required to achieve spawning escapement targets and the estimated mortality from other sources, including in other fisheries.

For 2026, no stocks were recommended to be tier 2.

For tier 3 stocks as defined in the Salmon FMP, NMFS used fishery catch estimates from prior years to inform the 2026 harvest specifications.

The Salmon FMP also lays out considerations for the specification of TACs, which are set at the species level. TACs must be less than or equal to the ABCs established for each stock and stock complex and their estimated proportional contribution to total catch and account for allowable de minimis harvest amounts and projected removals from the recreational salmon fishery. TACs may be reduced from ABC if warranted on the basis of concerns about the harvest of weak salmon stocks, bycatch considerations, management uncertainty, ecosystem requirements, or social and economic considerations.

The SSC and Council reviewed NMFS’s preliminary 2026 SAFE report for the Cook Inlet EEZ Area salmon fishery in February 2026. From these data and analyses, the SSC recommended an OFL and ABC for each managed salmon stock or stock complex. After considering the SSC’s recommendations, the Council unanimously took action to recommend TACs for the Cook Inlet EEZ Area salmon fishery, which also include a buffer to reduce TACs from ABCs to account for management uncertainty. A primary source of management uncertainty is whether, upon nearing a TAC, NMFS will have sufficient time to publish a notice of fishery closure in the **Federal Register** before additional fishing openers occur. As such, the TAC buffers and resulting proposed TACs were calculated to ensure that even if a TAC level is reached, two additional fishing openers occurring before the fishery could be closed would not result in any ABC being exceeded. The TAC buffers were derived by calculating the maximum daily harvest after July 15 in 2024 and 2025, expressing that harvest as a percentage of the 2026 ABC, and

doubling it to account for two openers of fishing at that level. For the Aggregate Coho salmon stock complex, given that spawning escapement targets have not been achieved during recent years for the indicator stocks, the Council recommended a larger management buffer such that the proposed 2026 TAC is very similar to the 2025 TAC, and NMFS agrees this level of precaution is warranted in light of ecosystem concerns regarding a data-poor stock complex. Through this action, NMFS is proposing to implement the OFLs and ABCs recommended by the SSC and TACs consistent with the Council's recommendations.

Following the February Council meeting, NMFS updated the 2026 SAFE report to incorporate SSC recommendations (see **ADDRESSES** section). The proposed specifications are based on SSC recommendations contained in the 2026 SAFE report, which represents the best scientific information available on the biological condition of salmon stocks in Cook Inlet.

NMFS is required to publish and solicit public comment on proposed

annual specifications as soon as practicable after consultation with the Council (see 50 CFR 679.118(b)(1)); the proposed harvest specifications are included in table 1 of this proposed rule. The recommended specifications of OFL, ABC, and TAC are consistent with the harvest strategy outlined in the Salmon FMP, the biological condition of salmon as described in the 2026 SAFE report, SSC and Council recommendations, and the Magnuson-Stevens Act, including the National Standards. The recommended ABCs would be less than the OFLs for each stock or stock complex. TACs would be established for species rather than stocks or stock complexes because it is not possible to differentiate among stocks of the same species through catch accounting during the fishing season. The proposed TACs for each species are less than the aggregate ABC for each component stock and stock complex, and these TACs would account for the assumed contribution of each stock or stock complex to total catch to ensure ABC is not exceeded for any stock and stock complex. NMFS will rely on its

experience managing the fishery and inseason management authority to close the fishery when it determines a TAC has been or is likely to be reached.

The proposed 2026 OFLs, ABCs, and TACs are based on the best scientific information available, primarily the 2026 SAFE report. The SAFE report was subject to peer review by the SSC, which recommended the ABCs and OFLs that NMFS proposes in table 1, consistent with 50 CFR 600.310(f)(3) and 600.315(c) through (d). These proposed TACs account for other relevant biological and social and economic considerations presented in the resource assessment documents (*i.e.*, the 2026 SAFE report) (see § 679.118(a)(2)), management uncertainty, and the estimated contribution of each stock or stock complex to total catch of a species and would prevent catch in the Cook Inlet EEZ Area from exceeding the ABC for any stock or stock complex. These proposed OFLs, ABCs, and TACs are subject to change pending consideration of public comment.

TABLE 1—PROPOSED 2026 COOK INLET EEZ AREA SALMON OFLs, ABCs, AND TACs IN NUMBERS OF FISH

Stock or stock complex ¹	OFL	ABC	TAC
Kenai River Late-Run sockeye salmon	1,284,478	937,993	1,487,153
Kasilof River sockeye salmon	617,006	489,936	
Aggregate Other sockeye salmon	181,351	154,149	
Aggregate Chinook salmon	373	261	240
Aggregate coho salmon	67,013	26,805	16,619
Aggregate chum salmon	97,508	78,006	68,645
Aggregate pink salmon	141,406	127,266	124,721

¹ The TAC for sockeye salmon is combined for Kenai River Late-Run, Kasilof River, and Aggregate Other sockeye salmon because it is not possible to differentiate among stocks of sockeye at the time they are caught.

Directed Fishing Closures and Inseason Adjustments

In accordance with 50 CFR 679.118(c)(1)(i), NMFS will prohibit fishing for salmon in the Cook Inlet EEZ Area if NMFS determines that any salmon TAC has been or may be reached for any salmon species or stock. NMFS may also make adjustments to a TAC for any salmon species or stock or open or close a season in the Cook Inlet EEZ Area if necessary to prevent overfishing, among other reasons, consistent with 50 CFR 679.25. Changes to the salmon fisheries in the Cook Inlet EEZ Area will be announced in the **Federal Register** and posted under the Alaska filter for Management Areas at <https://www.fisheries.noaa.gov/news-and-announcements/bulletins>.

Classification

NMFS is issuing this proposed rule pursuant to section 305(d) of the Magnuson-Stevens Act. Through previous actions, the Salmon FMP and regulations are designed to authorize NMFS to take this action (see 50 CFR 679.118). The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Magnuson-Stevens Act, the Salmon FMP, and other applicable laws, subject to further consideration after public comment.

NMFS finds that a comment period of 15 days for this action provides a reasonable opportunity for public participation pursuant to Administrative Procedure Act section 553(c) (5 U.S.C. 553(c)). Section 4.2.3 of the Salmon FMP notes the public review and comment period on the proposed harvest specifications will be

at least 15 days. This year a 15-day comment period is necessary to ensure the final harvest specifications publish no later than June 19, 2026, while providing the public with a meaningful opportunity for review and comment. The subject of this proposed rule—the annual harvest specifications—is based on the established harvest specifications process and tier system in the Salmon FMP. NMFS was unable to publish the proposed rule any earlier and afford a longer comment period due to the timing of the February Council meeting. A longer comment period and subsequent potential delay in the implementation of this action before the Cook Inlet EEZ Area commercial salmon fishery season opens on June 22, 2026, would be contrary to public interest and could result in the closure of the Cook Inlet EEZ Area salmon fishery until the

final 2026 harvest specifications are published.

This action is exempt from review under Executive Orders 12866 and 14192.

NMFS prepared the draft EA for the 2026 harvest specifications of the Cook Inlet EEZ Area salmon fishery, which incorporates by reference the EA/RIR for amendment 16 to the Salmon FMP and the 2026 SAFE report (see **ADDRESSES** section). These analyses evaluate the potential environmental and socioeconomic impacts of three alternative catch limits for the Cook Inlet EEZ Area salmon fishery, as is consistent with the National Environmental Policy Act.

Initial Regulatory Flexibility Analysis (IRFA)

This IRFA was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 603), to describe the economic impact that this proposed rule, if adopted, would have on small entities.

The IRFA: (1) describes the action; (2) the reasons why this proposed rule is proposed; (3) the objectives and legal basis for this proposed rule; (4) the estimated number and description of directly regulated small entities to which this proposed rule would apply; (5) the recordkeeping, reporting, and other compliance requirements of this proposed rule; and (6) the relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule. The IRFA also describes significant alternatives to this proposed rule that would accomplish the stated objectives of the Magnuson-Stevens Act, and any other applicable statutes, and that would minimize any significant economic impact of this proposed rule on small entities. The description of the proposed action, its purpose, and the legal basis are explained earlier in the preamble and are not repeated here.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System (NAICS) code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of 11 million dollars for all its affiliated operations worldwide. In addition, the Small Business Administration (SBA) has established a small business size

standard applicable to charter fishing vessels (NAICS code 713990) of 9 million dollars.

Number and Description of Small Entities Regulated by This Proposed Rule

This proposed rule directly regulates commercial salmon fishing vessels that operate in the Cook Inlet EEZ Area and charter guides and charter businesses fishing for salmon in the Cook Inlet EEZ Area. Because NMFS expects the State of Alaska to maintain current requirements for commercial salmon fishing vessels landing any salmon in Upper Cook Inlet to hold a Commercial Fisheries Entry Commission (CFEC) drift gillnet (S03H) permit, NMFS does not expect participation from non-S03H permit holders in the federally managed salmon fishery in the Cook Inlet EEZ Area. Therefore, the number of S03H permit holders represents the maximum number of directly regulated entities for the commercial salmon fishery in the Cook Inlet EEZ Area. From 2020 to 2024, there was an average of 544 S03H permits in circulation, with an average of 292 active permit holders, all of which are considered small entities based on the 11-million-dollar threshold. The evaluation of the number of directly regulated small entities and their revenue was conducted via custom query by staff of the Alaska Fish Information Network utilizing both Alaska Department of Fish & Game and Fish Ticket revenue data and the CFEC permits database. Revenue data is not yet available for Salmon Federal Fisheries Permits (SFFP) permit holders. The draft EA provides the most recent tabulation of commercial charter vessels that could potentially fish for salmon within the Cook Inlet EEZ Area (see **ADDRESSES** section).

The commercial fishing entities directly regulated by the salmon harvest specifications are the entities operating vessels with SFFPs catching salmon in Federal waters. For purposes of this analysis, NMFS assumes that the number of small entities with SFFPs that are directly regulated by the salmon harvest specifications is the average number of S03H permits in circulation (*i.e.*, 544 permits). This may be an overstatement of the number of directly-regulated small entities since some entities may hold more than one permit.

The commercial charter fishing entities directly regulated by the salmon harvest specifications are the entities that hold commercial charter licenses and that choose to fish for salmon in the Cook Inlet EEZ Area where these harvest specifications will apply. Salmon charter operators are required to

register with the State of Alaska annually and the numbers of registered charter operators in the Cook Inlet area varies. Available data indicates that, from 2019 to 2023, the total number of directly regulated charter vessel small entities that have participated in the Cook Inlet EEZ Area was 209. However, from 2019 to 2023, there was an annual average of 92 charter guides that fished for salmon at least once in the Cook Inlet EEZ Area. All of these entities, if they choose to fish in the Cook Inlet EEZ Area, are directly regulated by this action and all are considered small entities based on the 9-million-dollar threshold. Updated charter vessel counts for 2024 to present have not yet been published.

This action is economically beneficial to entities operating in the Cook Inlet EEZ Area salmon fishery, including small entities. The action proposes TACs for commercially valuable salmon stocks that allow for the prosecution of the salmon fishery in the Cook Inlet EEZ Area, thereby creating the opportunity for fishery revenue. The TACs proposed for each salmon stock or stock complex, except for aggregate coho, are higher than the recent 10-year average harvest estimated to have occurred in the Cook Inlet EEZ Area, which may help to reduce foregone yield and allow for additional harvest opportunity.

Recordkeeping, Reporting, and Other Compliance Requirements and Relevant Federal Rules That May Duplicate, Overlap, or Conflict With This Rule

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

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

The action under consideration is the proposed 2026 harvest specifications for the Cook Inlet EEZ Area salmon fishery. This action is necessary to establish harvest limits for Cook Inlet salmon harvested within the EEZ during the 2026 fishing year and is taken in accordance with the Salmon FMP and pursuant to the Magnuson-Stevens Act. The establishment of the harvest specifications is governed by the process for determining harvest levels for salmon in the Cook Inlet EEZ Area in the Salmon FMP and regulations. Under this process, harvest specifications typically will be made annually for specifying the OFL, ABC, and TAC for each salmon stock or stock complex. This includes identifying the stocks and stock complexes for which specifications are made. Salmon stocks

or stock complexes may be split or combined based on several biological, management, or fishery considerations, including for purposes of establishing a new harvest specification unit if such action is desirable based on the commercial importance of a stock or stock complex, or if sufficient biological information is available to manage a stock or stock complex as a single unit. Stocks and stock complexes are separated into three tiers based on the level of information available for each stock and stock complex, and the corresponding tier is used to calculate OFL and ABC.

For each stock and stock complex, NMFS establishes harvest specifications prior to the commercial salmon fishing season. To inform the harvest specifications, NMFS prepares the annual SAFE report, based on the best scientific information available at the time it is prepared, for review by the SSC and the Council. The SAFE report provides information needed for: (1) determining annual harvest specifications; (2) documenting significant trends or changes in the stocks, marine ecosystem, and fisheries over time; and (3) assessing the performance of the Federal fishery management program. The SAFE report provides a summary of the most recent biological condition of the salmon stocks.

For the proposed 2026 harvest specifications, NMFS prepared the preliminary 2026 SAFE report and consulted with the Council consistent with the Salmon FMP and implementing regulations. The proposed TACs recommended by the Council are based on the preliminary SAFE report, which represents the best

scientific information available at that time for the stock and stock complexes identified by NMFS. In February 2026, the SSC reviewed the preliminary 2026 SAFE report and recommended buffers that reduce ABCs from the OFLs for all stocks. The Council unanimously recommended the harvest specifications with buffers to reduce TACs from the aggregate ABCs of component stocks for all salmon species. In light of the manner in which the fishery will operate, including the limited number of openers and NMFS's ability to monitor the TAC for each salmon species and implement closures in-season, NMFS has determined that the proposed TACs will prevent exceeding the ABC (and therefore ACL) for any stock or stock complex and prevent overfishing.

Under this action, the ABCs reflect harvest amounts that are less than the specified OFLs, and the TACs are set less than the biological reference points (*i.e.*, the ABCs and OFLs) recommended by the SSC. The Salmon FMP specifies that the Council's annual TAC recommendations should account for the estimated proportional contribution of component stocks to total catch of each species and may account for social and economic considerations. These considerations include the need to promote efficiency in the utilization of fishery resources (*e.g.*, minimizing costs); the desire to conserve, protect, and rebuild depleted salmon stocks; the importance of the salmon fishery to harvesters, processors, local communities, and other salmon users in Cook Inlet; and the need to promote utilization of certain species (see 50 CFR 679.118(a)(2)(ii)). The proposed TACs

account for such considerations. TACs cannot be set higher than the ABCs. Moreover, management measures must be consistent with the governing FMP. The proposed harvest specifications are the only alternatives that are consistent with the process described above, the Salmon FMP, and the MSA.

Based upon the best scientific information available and in consideration of the objectives for this proposed action and after a public process during which the Council and NMFS solicited public input and consultation with the Council, NMFS has concluded that there are no significant alternatives to this proposed rule for salmon harvest specifications that have the potential to comply with the Salmon FMP, accomplish the stated objectives of the Magnuson-Stevens Act or any other statutes, and minimize any significant economic impact of the action on small entities while preventing overfishing.

Paperwork Reduction Act

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

Authority: 16 U.S.C. 773 *et seq.*; 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 3631 *et seq.*; Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: April 10, 2026.

Samuel D. Rauch, III,

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

[FR Doc. 2026–07292 Filed 4–14–26; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 91, No. 72

Wednesday, April 15, 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 AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by May 15, 2026 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Specified Risk Materials.

OMB Control Number: 0583–0129.

Summary of Collection: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18 and 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*). This statute mandates that FSIS protect the public by verifying that meat products are safe, wholesome, and properly labeled. FSIS is requesting a renewal of the approved information collection regarding specified risk materials (SRMs) in cattle.

Need and Use of the Information: FSIS requires official establishments that slaughter cattle or process carcasses or parts of cattle to develop written procedures for the removal, segregation, and disposition of SRMs. The Agency requires that these establishments maintain daily records to document the implementation and monitoring of their procedures for the removal, segregation, and disposition of SRMs, as well as any corrective actions that they take to ensure that the procedures are effective (9 CFR 310.22(e)).

FSIS also requires official slaughter establishments that transport carcasses or parts of cattle 30 months of age and older and containing vertebral columns to other federally inspected establishments to ensure that the carcasses and parts are accompanied by documentation stating that they contain vertebral columns from such cattle, to maintain records identifying the establishments that receive the carcasses and parts, and to maintain records verifying that the receiving establishments removed and properly disposed of the portions of the vertebral column designated as SRMs (9 CFR 310.22(g)).

Description of Respondents: Business or other for-profit.

Number of Respondents: 3,512.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 123,916.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–07317 Filed 4–14–26; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket No. RBS–2–6BUSINESS–0015]

Notice of Rescission of Funding Opportunity for the Rural Energy for America Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBCS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA) issued a Notice of Funding Opportunity (NOFO) published in the **Federal Register** (FR) at 89 FR 83449 on October 16, 2024 to announce acceptance of grant, guaranteed loan, and combined grant and guaranteed loan applications under the Rural Energy for America Program (REAP). The NOFO was issued for Fiscal Years (FY) 2025, 2026, and 2027. The purpose of this notice is to rescind the October 16, 2024, NOFO. The Agency is currently promulgating regulatory changes to the REAP program and available funding will be announced after publication of said changes. Applicants who previously submitted applications will be required to submit a new application and must comply with the new regulation. This applies to any applicant that does not possess a fully executed Financial Assistance Agreement. As provided for in 7 CFR 4280.122 and 7 CFR 4280.156, the Agency, by this notice, is providing alternate procedures for processing applications. Grant applications will be processed according to the funding notice that will be available on the Agency website after the new regulations are issued.

DATES: The rescission of the NOFO published on October 16, 2024, [89 FR 83449] is effective immediately. The Agency will announce the acceptance of new REAP applications after the updated regulation has been published.

FOR FURTHER INFORMATION CONTACT: Please refer to the Frequently Asked Questions (FAQs) on our website at <https://www.rd.usda.gov/programs-services/energy-programs/rural-energy-america-program-renewable-energy-systems-energy-efficiency-improvement>.

grants. USDA is an equal opportunity provider, employer, and lender.

Jeremy Claeys,

Administrator, Rural Business-Cooperative Service, USDA Rural Development.

[FR Doc. 2026-07332 Filed 4-14-26; 8:45 am]

BILLING CODE 3410-XY-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-847, A-475-840]

Forged Steel Fluid End Blocks From the Federal Republic of Germany and Italy: Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders

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

SUMMARY: As a result of these expedited subset reviews, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders on forged steel fluid end blocks from the Federal Republic of Germany (Germany) and Italy would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the “Final Results of Sunset Review” section of this notice.

DATES: Applicable April 15, 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 January 29, 2021, Commerce published the *Orders* in the **Federal Register**.¹ On December 1, 2025, Commerce published the notice of initiation of these first sunset reviews of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930 (the Act).²

On December 11, 2025, Commerce received a timely and complete notice of intent to participate in the sunset reviews for domestic interested parties within the deadline specified in the 19

CFR 351.218(d)(1)(i).³ The domestic interested party claimed the interested party status within the meaning of section 771(9)(E) of the Act as an *ad hoc* trade association, a majority of whose members are domestic producers of FEBs.⁴ On December 23, 2025, Commerce notified the U.S. International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested parties.⁵

On December 22, 2025, pursuant to 19 CFR 351.218(d)(3)(i), domestic interested parties filed timely and adequate substantive responses.⁶ Commerce did not receive a substantive response from any respondent interested party. On January 26, 2026, Commerce notified the ITC that it did not receive substantive response from any respondent interested parties.⁷ 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*.

Scope of the Orders

The product covered by these *Orders* is forged steel fluid end blocks from Germany and Italy. For the full description of the scope of the *Orders*, see the Issues and Decisions Memorandum.⁸

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including

³ See Domestic Interested Party's Letter, “Five-Year (“Sunset”) Review of Antidumping Duty Order on Forged Steel Fluid End Blocks from Germany: Notice of Intent to Participate,” dated December 11, 2025, and Domestic Interested Party's Letter, “Five-Year (“Sunset”) Review of Antidumping Duty Order on Forged Steel Fluid End Blocks from Italy: Notice of Intent to Participate,” dated December 11, 2025.

⁴ *Id.* at 2.

⁵ See Commerce's Letter, “Sunset Reviews Initiated on December 1, 2025,” dated December 23, 2025.

⁶ See Domestic Interested Party's Letter, “Five-Year (“Sunset”) Review of Antidumping Duty Order on Forged Steel Fluid End Blocks from Germany: Substantive Response of FEB Coalition to Commerce's Notice of Initiation,” dated December 22, 2025 (Substantive Response—Germany) and Domestic Interested Party's Letter, “Five-Year (“Sunset”) Review of Antidumping Duty Order on Forged Steel Fluid End Blocks from Italy: Substantive Response of FEB Coalition to Commerce's Notice of Initiation,” dated December 22, 2025 (Substantive Response—Italy).

⁷ See Commerce's Letter, “Sunset Reviews Initiated on December 1, 2025,” dated January 23, 2026.

⁸ See Memorandum, “Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders on Forged Steel Fluid End Blocks from the Federal Republic of Germany and Italy” dated concurrently with, and hereby adopted by, this notice.

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 accompanying Issues and Decision Memorandum.⁹ A list of the topics discussed in the Issues and Decision Memorandum is attached in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be 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 78.36 percent for Germany and 58.48 percent for Italy.

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition 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: April 10, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary

⁹ *Id.*

¹ See *Forged Steel Fluid End Blocks from the Federal Republic of Germany and Italy: Amended Final Antidumping Duty Determination for the Federal Republic of Germany and Antidumping Duty Orders*, 86 FR 7528 (January 29, 2021) (*Germany Order* and *Italy Order*) (collectively, *Orders*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 55084 (December 1, 2025).

- 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

[FR Doc. 2026–07313 Filed 4–14–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–943]

Certain Oil Country Tubular Goods From the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order

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) order on certain oil country tubular goods (OCTG) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the “Final Results of Sunset Review” section of this notice.

DATES: Applicable April 15, 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 May 21, 2010, Commerce published the AD order on OCTG from China in the **Federal Register**.¹ On December 1, 2025, Commerce published the notice of initiation of this third sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), with an effective initiation date of November 3, 2025.²

On December 9 and 16, 2025, Commerce received timely and

complete notices of intent to participate in the sunset review from the domestic interested parties³ within the deadline specified in the 19 CFR

351.218(d)(1)(i).⁴ USSTP claimed interested party status within the meaning of section 771(9)(C) of the Act as a trade or business association, all of whose members producer the domestic like product in the United States.⁵ USOMA claimed interested party status within the meaning of section 771(9)(E) of the Act as a U.S. producer of the domestic like product.⁶ On December 23, 2025, Commerce notified the U.S. International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested parties.⁷

On December 30, 2025, pursuant to 19 CFR 351.218(d)(3)(i), the domestic interested parties filed a timely and adequate substantive response.⁸ Commerce did not receive a substantive response from any respondent interested party. On January 23, 2026, Commerce notified the ITC that it did not receive substantive response from any respondent interested parties.⁹ 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 an expedited (120-day) sunset review of the *Order*.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.¹⁰ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and

³ The domestic interested parties are United States Steel Tubular Products, Inc. (USSTP) and U.S. OCTG Manufacturers Association (USOMA).

⁴ See USSTP's Letter, “Third Five-Year (“Sunset”) Review of Antidumping and Countervailing Duty Orders on Oil Country Tubular Goods from China: Notice of Intent to Participate,” dated December 9, 2025 (USSTP NIP); see also USOMA's Letter, “Five-Year (“Sunset”) Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from the People's Republic of China: Domestic Interested Parties' Notice of Intent to Participate,” dated December 16, 2025 (USOMA NIP).

⁵ See USSTP NIP at 2.

⁶ See USOMA NIP at 2.

⁷ See Commerce's Letter, “Sunset Reviews Initiated on November 3, 2025,” dated December 23, 2025.

⁸ See Domestic Interested Parties' Letter, “Five-Year (“Sunset”) Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from the People's Republic of China: Domestic Interested Parties' Substantive Response,” dated December 30, 2025.

⁹ See Commerce's Letter, “Sunset Review Initiated on December 1, 2025,” dated January 23, 2026.

¹⁰ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

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.¹¹ Accordingly, the deadline for these final results is now April 14, 2026.

Scope of the Order

The product covered by this *Order* is OCTG from China. For a full description of the scope of the *Order*, see the Issues and Decisions Memorandum.¹²

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Order* and the magnitude of the margins likely to prevail if the *Order* were to be revoked, is provided in the Issues and Decision Memorandum.¹³ A list of the topics discussed in the Issues and Decision Memorandum is attached in the appendix to this notice. 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 directly accessed at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1), and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* 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 99.14 percent.

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

¹¹ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

¹² See Memorandum, “Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from the People's Republic of China,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

¹³ *Id.*

¹ See *Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 75 FR 28551 (May 21, 2010) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 55086 (December 1, 2025).

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: April 10, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margin of Dumping Likely to Prevail
- VII. Final Results of Sunset Review
- VIII. Recommendation

[FR Doc. 2026–07316 Filed 4–14–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–937]

Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order

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) order on citric acid and certain citrate salts (citric acid) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping at the levels indicated in the “Final Results of Sunset Review” section of this notice.

DATES: Applicable April 15, 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 May 29, 2009, Commerce published the *Order* in the **Federal Register**.¹ On December 1, 2025, Commerce published the notice of initiation of this third sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² On December 16, 2025, Commerce received a timely and complete notice of intent to participate in the sunset review from domestic interested parties³ within the deadline specified in the 19 CFR 351.218(d)(1)(i).⁴ The domestic interested parties claimed interested party status within the meaning of section 771(9)(C) of the Act as manufacturers of the domestic like product.⁵ On December 23, 2025, Commerce notified the U.S. International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested parties.⁶

On December 22, 2025, pursuant to 19 CFR 351.218(d)(3)(i), the domestic interested parties filed a timely and adequate substantive response.⁷ Commerce did not receive a substantive response from any respondent interested party. On January 23, 2026, 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 an expedited (120-day) sunset review of the *Order*.

Due to a backlog of documents that were electronically filed via

¹ See *Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Antidumping Duty Orders*, 74 FR 25703 (May 29, 2009) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 55084 (December 1, 2025).

³ The domestic interested parties are Archer-Daniels-Midland Company, Cargill, Inc., and Primary Products Ingredients Americas LLC.

⁴ See Domestic Interested Party's Letter, “Third Five-Year (“Sunset”) Review of Antidumping and Countervailing Duty Orders on Citric Acid and Certain Citrate Salts from the People's Republic of China: Domestic Industry's Notice of Intent to Participate,” dated December 16, 2025.

⁵ *Id.* at 2.

⁶ See Commerce's Letter, “Sunset Reviews Initiated on December 1, 2025,” dated December 23, 2025.

⁷ See Domestic Interested Party's Letter, “Third Five-Year (“Sunset”) Review of Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China: Domestic Industry's Substantive Response,” dated December 22, 2025.

⁸ See Commerce's Letter, “Sunset Review Initiated on December 1, 2025,” dated January 23, 2026.

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.⁹ Accordingly, the deadline for these final results is now April 14, 2026.

Scope of the Order

The product covered by this *Order* is citric acid from China. For a full description of the scope of the *Order*, see the Issues and Decisions Memorandum.¹⁰

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Order* and the magnitude of the margins likely to prevail if the *Order* were to be revoked, is provided in the accompanying Issues and Decision Memorandum.¹¹ A list of the topics discussed in the Issues and Decision Memorandum is attached in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be directly accessed at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* 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 156.87 percent.

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

⁹ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

¹⁰ See Memorandum, “Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

¹¹ *Id.*

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: April 10, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- 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 Review
- VIII. Recommendation

[FR Doc. 2026-07308 Filed 4-14-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-891, A-580-904]

Forged Steel Fittings From India and the Republic of Korea: Final Results of the Expedited First 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 forged steel fittings from India and the Republic of Korea (Korea) 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 April 15, 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 December 11, 2020, Commerce published the *Orders* in the **Federal Register**.¹ On December 1, 2025, Commerce published the notice of initiation of this first sunset review of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930 (the Act).²

On December 8, 2025, Commerce received a timely and complete notice of intent to participate in the sunset reviews for domestic interested parties³ within the deadline specified in the 19 CFR 351.218(d)(1)(i).⁴ The domestic interested parties claimed interested party status within the meaning of section 771(9)(C) of the Act as manufacturers, producers, or wholesalers of the domestic like product and 771(9)(D) of the Act as a certified union in the manufacture, production, or wholesale of a domestic like product.⁵ On December 23, 2025, Commerce notified the U.S.

International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested parties.⁶

On December 30, 2025, pursuant to 19 CFR 351.218(d)(3)(i), domestic interested parties filed a timely and adequate substantive response.⁷

¹ See *Forged Steel Fittings from India and the Republic of Korea: Antidumping Duty Order*, 85 FR 80014 (December 11, 2020), corrected in *Forged Steel Fittings from India and the Republic of Korea: Notice of Correction to the Antidumping Duty and Countervailing Duty Orders*, 85 FR 81876 (December 17, 2020) (*Orders*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 55086 (December 1, 2025).

³ The domestic interested parties are Bonney Forge Corporation, Phoenix Forging Company/Capital Manufacturing Company, LLC, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC.

⁴ See Domestic Interested Parties' Letter, "Notice of Intent to Participate in the Five-Year Review of the Antidumping Duty Order on Forged Steel Fittings from India," dated December 8, 2025, and Domestic Interested Parties' Letter, "Notice of Intent to Participate in the First Five-Year Review of the Antidumping Duty Order on Forged Steel Fittings from the Republic of Korea," dated December 8, 2025.

⁵ *Id.* at 1.

⁶ See Commerce's Letter, "Sunset Reviews Initiated on November 3, 2025," dated December 23, 2025.

⁷ See Domestic Interested Parties' Letter, "Forged Steel Fittings from India: Domestic Interested Party's Substantive Response to the Notice of Initiation," dated December 30, 2025 and Domestic Interested Parties' Letter, "Forged Steel Fittings from Korea: Domestic Interested Party's Substantive Response to the Notice of Initiation," dated December 30, 2025.

Commerce did not receive a substantive response from any respondent interested party. On January 23, 2026, 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 an expedited (120-day) sunset review 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 is now April 14, 2026.

Orders

The product covered by these *Orders* is forged steel fittings from India and Korea. 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 this sunset review, 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 accompanying Issues and Decision Memorandum.¹² A list of the topics discussed in the Issues and Decision Memorandum is attached in the Appendix to this notice. 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

⁸ See Commerce's Letter, "Sunset Reviews Initiated on December 1, 2025," dated January 23, 2026.

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 First Sunset Review of the Antidumping Duty Order on Forged Steel Fittings from India and the Republic of Korea," dated concurrently with, and hereby adopted by, this notice.

¹² *Id.*

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 293.40 percent for India and 198.38 percent for Korea.

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective order (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: April 10, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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

[FR Doc. 2026–07314 Filed 4–14–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–818]

Mattresses From Malaysia: Preliminary Results and Rescission, in Part, of Antidumping Administrative Review; 2024–2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that companies under review made sales of mattresses from Malaysia at prices below normal value (NV) during the period of review (POR) of May 1, 2024, through April 30, 2025. Commerce is rescinding this administrative review, in part, with respect to certain companies that had no entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable April 15, 2026.

FOR FURTHER INFORMATION CONTACT: Dennis McClure at (202) 482–5973, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2021, Commerce published in the **Federal Register** the antidumping duty order on mattresses from Malaysia.¹ On May 5, 2025, Commerce published a notice of opportunity to request an administrative review of the *Order* for the POR.² On June 2, 2025, the petitioners filed a timely request for review with respect to 19 companies.³ Pursuant to this request, on June 25, 2025, in Commerce

¹ See *Mattresses from Cambodia, Indonesia, Malaysia, Serbia, Thailand, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders and Amended Final Affirmative Antidumping Determination for Cambodia*, 86 FR 26460 (May 14, 2021) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List*, 90 FR 18962 (May 5, 2025).

³ The petitioners are: Brooklyn Bedding, Carpenter Company, Future Foam, Inc., FXI, Inc., Kolcraft Enterprises, Inc., Leggett & Platt, Incorporated, Serta Simmons Bedding, LLC, Tempur Sealy International, Inc., the International Brotherhood of Teamsters, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO. See Petitioners' Letter, "Mattress Petitioners' Request for Administrative Review of Antidumping Duty Order," dated June 2, 2025.

published the *Initiation Notice* in the **Federal Register**.⁴

In the *Initiation Notice*, Commerce indicated that, in the event that Commerce limited the respondents for individual examination in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act), Commerce intended to select respondents for individual examination based on U.S. Customs and Border Protection (CBP) data.⁵ On July 10, 2025, Commerce released CBP entry data to interested parties and provided interested parties the opportunity to comment on the CBP data and respondent selection.⁶

On August 8, 2025, Commerce selected CS Vision Supply SDN BHD (CS Vision) and Premier High Ventures (Premier High) as mandatory respondents in this review⁷ and issued AD Questionnaire to CS Vision and Premier High.⁸ Because CS Vision and Premier High did not timely respond, or request an extension of time to respond to Commerce's AD Questionnaire,⁹ on September 16, 2025, Commerce selected Pinnacle Salute SDN BHD (Pinnacle Salute) and Weld Tack Industries (Weld Tack) as additional mandatory respondents¹⁰ and issued the AD Questionnaire to these companies.¹¹ Pinnacle Salute and Weld Tack likewise did not timely respond or request an extension of time to respond to Commerce's AD Questionnaire;¹² thus, on December 1, 2025, Commerce selected Lion YTT World (Lion World) and Orient GIC Global (Orient Global) as additional mandatory respondents¹³ and issued the AD Questionnaire to

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 26967 (June 25, 2025) (*Initiation Notice*).

⁵ *Id.*

⁶ See Memorandum, "Release of Customs Data from U.S. Customs and Border Protection," dated July 10, 2025 (CBP Data Memo).

⁷ See Memorandum, "Respondent Selection," dated August 8, 2025.

⁸ See Commerce's Letters, "Request for Information," dated August 12, 2025 (AD Questionnaires).

⁹ See Memorandum, "Questionnaire Deadline for CS Vision Supply SDN BHD," dated September 5, 2025; see also Memorandum, "Questionnaire Deadline for Questionnaire Deadline for Premier High Ventures," dated September 5, 2025.

¹⁰ See Memorandum, "Additional Respondent Selection," dated September 16, 2025 (Additional Respondent Selection Memorandum).

¹¹ See Commerce's Letters, "Request for Information," dated September 16, 2025.

¹² See Memorandum, "Questionnaire Deadline for Pinnacle Salute SDN BHD," dated November 19, 2025; see also Memorandum, "Questionnaire Deadline for Questionnaire Deadline for Weld Tack Industries," dated November 19, 2025.

¹³ See Memorandum, "Second Additional Mandatory Respondents," dated December 1, 2025.

them.¹⁴ Lion World and Orient Global were unreachable at the addresses provided by the petitioners.¹⁵ Additionally, Lion World and Orient Global did not timely respond, or request an extension of time to respond to Commerce's AD questionnaire.¹⁶

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days,¹⁷ and, 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.¹⁸ Accordingly, the deadline for these preliminary results is now April 9, 2026.

Scope of the Order

The merchandise covered by this Order is mattresses from Malaysia. For a full description of the scope of this Order, see Appendix I.

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an antidumping duty order when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.¹⁹ Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate calculated for the review period.²⁰ Therefore, for an administrative review to be conducted, there must be at least one reviewable, suspended entry that Commerce can instruct CBP to liquidate at the antidumping duty assessment rate calculated for the review period.²¹

There were no entries of subject merchandise during the POR for eight companies under review.²² As a result, on February 2, 2026, Commerce notified all interested parties of its intent to rescind this review, in part, with respect to these eight companies.²³ On February 9, 2026, the petitioners filed comments regarding our intent to rescind memorandum, stating the absence of an exporter's name in the CBP data does not reliably indicate the absence of exports of subject merchandise during the POR and requesting that Commerce send quantity and value questionnaires to certain exporters.²⁴ However, Commerce's practice is to rely on CBP entry data for respondent selection and for evidence of entries of subject merchandise during the POR.²⁵ Commerce does not require the mere exportation of subject merchandise, but the entry of subject merchandise during the POR. Additionally, Commerce found the CBP data reliable and relied on it for respondent selection in this administrative review so finds it not appropriate at this time to send quantity and value questionnaires to exporters at this stage of the review.

Therefore, because Commerce finds the CBP data reliable and the following companies had no evidence of an entry of subject merchandise during the POR, we are rescinding this review with respect to the eight companies listed in Appendix III. The administrative review remains active with respect to the other 11 companies.²⁶

Methodology

Commerce is conducting this review in accordance with section 751(a)(1) of the Act and 19 CFR 351.213. Additionally, given that the analysis underlying these preliminary results of review are contained herein, no decision memoranda accompany this **Federal Register** notice.

Facts Available With Adverse Inferences

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, Commerce shall apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been

requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

Section 776(b) of the Act provides that Commerce may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a weighted average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.²⁷ Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the AD investigation, a previous administrative review, or other information placed on the record.²⁸ The SAA explains that Commerce may employ an adverse inference "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."²⁹ Further, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference.³⁰

Section 776(c) of the Act provides that, in general, when Commerce relies

²⁷ See sections 776(b)(1)(B) and 776(d)(3)(A) of the Act.

²⁸ See 19 CFR 351.308(c).

²⁹ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, 103d Cong., 2d Session, vol. 1 (1994) (SAA) at 870.

³⁰ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); *Antidumping Duties, Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997); *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003).

¹⁴ See Commerce's Letters, "Request for Information," dated December 1, 2025.

¹⁵ See Memorandum, "Delivery of Initial Questionnaires," dated January 8, 2026.

¹⁶ See Memoranda, "Questionnaire Deadline for Lion YTT World" and "Questionnaire Deadline for Orient GIC Global," dated January 8, 2026.

¹⁷ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

¹⁸ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

¹⁹ See e.g., *Dioctyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2021-2022*, 88 FR 24758 (April 24, 2023); see also *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020-2021*, 88 FR 4157 (January 24, 2023).

²⁰ See 19 CFR 351.212(b)(1).

²¹ See 19 CFR 351.213(d)(3).

²² See CBP Data Memo.

²³ See Memorandum, "Notice of Intent to Rescind Review, In Part," dated February 2, 2026.

²⁴ See Petitioners' Letter, "Comments on Notice of Intent to Rescind Review, In Part," dated February 9, 2026.

²⁵ See *Certain Steel Nails from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review; 2023-2024*, 90 FR 14633 (April 3, 2025).

²⁶ See *Initiation Notice*, 90 FR at 26969.

on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.³¹ Secondary information is defined as information derived from the petition that gave rise to the investigation, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.³² When selecting facts available with an adverse inference, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.³³

Pursuant to sections 776(a)(1) and 776(a)(2)(A)–(C) of the Act, Commerce is preliminarily relying upon facts otherwise available to assign estimated dumping margins to mandatory respondents CS Vision, Orient Global, Pinnacle Salute, Premier High, Lion World, and Weld Tack because all six companies were unresponsive to our requests for information, thereby withholding necessary information that was requested by Commerce, failing to provide the information requested by the specified deadlines in the form and manner requested, and significantly impeding the conduct of the review. Further, Commerce preliminarily finds that CS Vision, Orient Global, Pinnacle Salute, Premier High, Lion World, and Weld Tack failed to cooperate by not acting to the best of their ability to comply with requests for information and, thus, Commerce is applying an adverse inference in selecting among the facts available, in accordance with section 776(b) of the Act. As adverse facts available (AFA), we are assigning these companies a rate of 42.92 percent, which is the highest rate applied in any segment of this proceeding.³⁴ This rate was applied as AFA in the investigation of this *Order* because it was the only dumping margin alleged in the Petition and Commerce corroborated this rate to the extent practicable within the meaning of section 776(c) of the Act.³⁵

Rate for Non-Examined Companies

The statute and Commerce’s regulations do not address the

establishment of a weighted-average dumping margin to be determined for 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 an antidumping duty investigation, for guidance when determining the weighted-average dumping margin 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 and *de minimis* margins, and any margins determined entirely {on the basis of facts available}.” However, pursuant to section 735(c)(5)(B) of the Act, “if the estimated weighted average dumping margins established for all exports and producers initially investigated are zero or *de minimis* margins, or are determined entirely {on the basis of facts available}, {Commerce} may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated.”

In this review, the preliminary weighted-average dumping margin for CS Vision, Orient Global, Pinnacle Salute, Premier High, Lion World, and Weld Tack are based entirely on AFA. Therefore, under section 735(c)(5)(B) of the Act, Commerce may use any “reasonable method” to establish the estimated all-others rate. Commerce finds it appropriate to assign the non-selected companies an average of the mandatory respondents’ AFA rate.³⁶ As such, we are preliminarily assigning the rate of 42.92 percent for the non-examined companies.

Preliminary Results

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist for the period, May 1, 2024, through April 30, 2025:

Producer or exporter	Weighted-average dumping margin (percent)
CS Vision Supply SDN BHD	42.92
Orient GIC Global	42.92
Pinnacle Salute SDN BHD	42.92
Premier High Ventures	42.92
Lion YTT World	42.92
Weld Tack Industries	42.92
Non-Examined Companies ³⁷	42.92

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with 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 the notice of preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the six mandatory respondents, in accordance with section 776 of the Act, there are no calculations to disclose.

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to Commerce no later than 21 days after the date of publication of this notice.³⁸ 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.³⁹ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.⁴⁰

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.⁴¹ 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 review. We request that interested parties include

³⁷ See Appendix II for a list of these companies.

³⁸ See 19 CFR 351.303 (for general filing requirements).

³⁹ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

⁴⁰ See 19 CFR 351.309(c)(2) and (d)(2).

⁴¹ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

³¹ See 19 CFR 351.308(d).

³² See SAA at 870.

³³ See section 776(d)(3)(B) of the Act.

³⁴ See *Mattresses from Malaysia: Final Affirmative Determination of Sales at Less Than Fair Value*, 88 FR 15901 (March 25, 2021) (*Final Determination*).

³⁵ *Id.*, at 88 FR 15902.

³⁶ See *Albemarle Corp. v. United States*, 821 F.3d 1345, 1357 (Fed. Cir. 2016), (in reference to a circumstance in which the use of data from a prior period may be reasonable, the Federal Circuit has noted that “in the Adverse Facts Available (‘AFA’) context, where Commerce is allowed to consider deterrence as a factor, we have upheld Commerce’s use of data from a previous {proceeding}”).

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).⁴²

Pursuant to 19 CFR 351.310(c), 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. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS within 30 days after the date of publication of this notice. If a request for a hearing is made, Commerce intends to hold a hearing at a time and date to be determined.⁴³ Parties should confirm the date, time, and location of the hearing two days before the scheduled date. All submissions, including case and rebuttal briefs, as well as hearing requests, should be filed using ACCESS.⁴⁴ An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Assessment Rates

Consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(1), upon issuing the final results of this review, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.⁴⁵ Commerce intends to issue assessment instructions to CBP for companies for which the review remains active 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).

With respect to the companies for which we have rescinded this review, Commerce will instruct CBP to assess antidumping duties on all appropriate entries at rates equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or

withdrawal from warehouse, for consumption, during the POR, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

Cash Deposit Instructions

The following cash deposit requirements will be effective upon publication in the **Federal Register** of the notice of final results of administrative review for all shipments of mattresses from Malaysia entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for CS Vision, Orient Global, Pinnacle Salute, Premier High, Lion World, and Weld Tack will be equal to weighted-average dumping margin established in the final results of this review; (2) for merchandise exported by a company not covered in this review but covered in a prior completed 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 or another completed segment of this proceeding, but the producer is, then the cash deposit rate will be the company-specific rate established for the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 42.92 percent, the all-others rate established in the less than fair value investigation.⁴⁶ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of the Review

Unless the deadline is otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised by interested parties in the written briefs, within 120 days after the date of publication of this notice in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice 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 POR. 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 preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(d)(4), 351.213(h), and 351.221(b)(4).

Dated: April 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 I

Scope of the Order

The products covered by this *Order* are all types of youth and adult mattresses. The term "mattress" denotes an assembly of materials that at a minimum includes a "core," which provides the main support system of the mattress, and may consist of innersprings, foam, other resilient filling, or a combination of these materials. Mattresses may also contain: (1) "upholstery," the material between the core and the top panel of the ticking on a single-sided mattress; or between the core and the top and bottom panel of the ticking on a double-sided mattress; and/or (2) "ticking," the outermost layer of fabric or other material (*e.g.*, vinyl) that encloses the core and any upholstery, also known as a cover.

The scope of this *Order* is restricted to only "adult mattresses" and "youth mattresses." "Adult mattresses" are frequently described as "twin," "extra-long twin," "full," "queen," "king," or "California king" mattresses. "Youth mattresses" are typically described as "crib," "toddler," or "youth" mattresses. All adult and youth mattresses are included regardless of size and size description.

The scope encompasses all types of "innerspring mattresses," "non-innerspring mattresses," and "hybrid mattresses." "Innerspring mattresses" contain innersprings, a series of metal springs joined together in sizes that correspond to the dimensions of mattresses. Mattresses that contain innersprings are referred to as "innerspring mattresses" or "hybrid mattresses." "Hybrid mattresses" contain two or more support systems as the core, such as layers of both memory foam and innerspring units.

"Non-innerspring mattresses" are those that do not contain any innerspring units. They are generally produced from foams (*e.g.*, polyurethane, memory (viscoelastic), latex foam, gel-infused viscoelastic (gel foam), thermobonded polyester, polyethylene) or other resilient filling.

Mattresses covered by the scope of this *Order* may be imported independently, as

⁴² See *APO and Service Final Rule*.

⁴³ See 19 CFR 351.310(d).

⁴⁴ See 19 CFR 351.303.

⁴⁵ See 19 CFR 351.212(b).

⁴⁶ See *Final Determination*.

part of furniture or furniture mechanisms (e.g., convertible sofa bed mattresses, sofa bed mattresses imported with sofa bed mechanisms, corner group mattresses, day-bed mattresses, roll-away bed mattresses, high risers, trundle bed mattresses, crib mattresses), or as part of a set in combination with a “mattress foundation.” “Mattress foundations” are any base or support for a mattress. Mattress foundations are commonly referred to as “foundations,” “boxsprings,” “platforms,” and/or “bases.” Bases can be static, foldable, or adjustable. Only the mattress is covered by the scope if imported as part of furniture, with furniture mechanisms, or as part of a set in combination with a mattress foundation.

Excluded from the scope of this *Order* are “futon” mattresses. A “futon” is a bi-fold frame made of wood, metal, or plastic material, or any combination thereof, that functions as both seating furniture (such as a couch, love seat, or sofa) and a bed. A “futon mattress” is a tufted mattress, where the top covering is secured to the bottom with thread that goes completely 11 through the mattress from the top through to the bottom, and it does not contain innersprings or foam. A futon mattress is both the bed and seating surface for the futon.

Also excluded from the scope are airbeds (including inflatable mattresses) and waterbeds, which consist of air- or liquid-filled bladders as the core or main support system of the mattress.

Also excluded is certain multifunctional furniture that is convertible from seating to sleeping, regardless of filler material or components, where that filler material or components are upholstered, integrated into the design and construction of, and inseparable from, the furniture framing, and the outermost layer of the multifunctional furniture converts into the sleeping surface. Such furniture may, and without limitation, be commonly referred to as “convertible sofas,” “sofabeds,” “sofa chaise sleepers,” “futons,” “ottoman sleepers” or a like description.

Also excluded from the scope of this *Order* are any products covered by the existing antidumping duty orders on uncovered innerspring units from China or Vietnam. See *Uncovered Innerspring Units from the People’s Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009); *Uncovered Innerspring Units from the Socialist Republic of Vietnam*, 73 FR 75391 (December 11, 2008).

Also excluded from the scope of this *Order* are bassinet pads with a nominal length of less than 39 inches, a nominal width less than 25 inches, and a nominal depth of less than 2 inches.

Additionally, also excluded from the scope of this *Order* are “mattress toppers.” A “mattress topper” is a removable bedding accessory that supplements a mattress by providing an additional layer that is placed on top of a mattress. Excluded mattress toppers have a height of four inches or less.

The products subject to this *Order* are currently properly classifiable under HTSUS subheadings: 9404.21.0010, 9404.21.0013, 9404.29.1005, 9404.29.1013, 9404.29.9085, and 9404.29.9087. Products subject to this

investigation may also enter under HTSUS subheadings: 9404.21.0095, 9404.29.1095, 9404.29.9095, 9401.40.0000, 9401.41.0000, 9401.49.0000, 9401.90.5081 and 9401.99.9081. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this *Order* is dispositive.

Appendix II

Companies Not Selected for Individual Examination

1. Hestart Venture
2. Kin Heng Furniture SDN BHD
3. Maxmatt Industries SDH BHD
4. Oyxen Ventures
5. Perniagaan Jaya Nokkorn

Appendix III

Companies Rescinded From Review

1. APM Auto Parts Marketing
2. Comfort Coil Technology SDN BHD
3. Delandis Furniture (M) SDN BHD
4. Ever Want (M) SDN BHD
5. Far East Foam, Industries SDN BHD
6. GGC Global
7. Irama Furniture SDN BHD
8. Vision Foam Ind. SDN BHD

[FR Doc. 2026–07302 Filed 4–14–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order

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) order on certain frozen fish fillets (fish fillets) from the Socialist Republic of Vietnam (Vietnam) would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the “Final Results of Sunset Review” section of this notice.

DATES: Applicable April 15, 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 August 12, 2003, Commerce published the *Order* in the **Federal Register**.¹ On December 1, 2025, Commerce published the notice of initiation of this fourth sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), with an effective initiation date of November 3, 2025.²

On December 16, 2025, Commerce received a timely and complete notice of intent to participate in the sunset review for domestic interested parties³ within the deadline specified in the 19 CFR 351.218(d)(1)(i).⁴ The domestic interested parties claimed interested party status within the meaning of section 771(9)(G) of the Act as a trade association representative of U.S. catfish farmers, processors, and producers.⁵ On December 23, 2025, Commerce notified the U.S. International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested parties.⁶

On December 31, 2025, pursuant to 19 CFR 351.218(d)(3)(i), domestic interested parties filed a timely and adequate substantive response.⁷ Commerce did not receive a substantive response from any respondent interested party. On January 23, 2026, 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 an expedited (120-day) sunset review of the *Order*.

Due to the lapse in appropriations and Federal Government shutdown, on

¹ See *Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 55086 (December 1, 2025).

³ The domestic interested parties are the Catfish Farmers of America and individual U.S. catfish processors 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.

⁴ See Domestic Interested Parties’ Letter, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Intent to Participate in Sunset Review,” dated December 16, 2025.

⁵ *Id.* at 2.

⁶ See Commerce’s Letter, “Sunset Reviews Initiated on November 3, 2025,” dated December 23, 2025.

⁷ See Domestic Interested Party’s Letter, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Substantive Response to Notice of Initiation of Sunset Review,” dated December 31, 2025 (Substantive Response).

⁸ See Commerce’s Letter, “Sunset Reviews Initiated on December 1, 2025,” dated January 23, 2026.

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 is now April 14, 2026.

Scope of the Order

The product covered by this *Order* is fish fillets from Vietnam. For the full description of the scope of the *Order*, see the Issues and Decisions Memorandum.¹¹

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Order* and the magnitude of the margins likely to prevail if the *Order* were to be revoked, is provided in the accompanying Issues and Decision Memorandum.¹² A list of the topics discussed in the Issues and Decision Memorandum is attached in the Appendix to this notice. 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 directly accessed at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* 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 63.88 percent.

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 Order on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by, this notice.

¹² Id.

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective order (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: April 10, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- 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 Review
- VIII. Recommendation

[FR Doc. 2026–07309 Filed 4–14–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–116, C–428–848, C–533–894, C–475–841]

Forged Steel Fluid End Blocks From the People's Republic of China, the Federal Republic of Germany, India, and Italy: Final Results of the Expedited First Sunset Reviews of the Countervailing 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 countervailing duty (CVD) orders on forged steel fluid end blocks from the People's Republic of

China (China), the Federal Republic of Germany (Germany), India, and Italy would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the "Final Results of Sunset Reviews" section of this notice.

DATES: Applicable April 15, 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 January 29, 2021, the U.S. Department of Commerce (Commerce) published the *Orders* on forged steel fluid end blocks from China, Germany, India, and Italy.¹ On December 1, 2025, Commerce published the notice of initiation of the first sunset review 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 December 11, 2025, Commerce received notices of intent to participate in this review from the Coalition for Fair Trade in Forged Steel Fluid End Blocks³ (the domestic interested party), within the deadline specified in 19 CFR 351.218(d)(1)(i).⁴ The domestic interested party claims that it has interested party status within the

¹ See *Forged Steel Fluid End Blocks from the People's Republic of China, the Federal Republic of Germany, India, and Italy: Countervailing Duty Orders, and Amended Final Affirmative Countervailing Duty Determination for the People's Republic of China*, 86 FR 7535 (January 29, 2021), as corrected in *Forged Steel Fluid End Blocks from the People's Republic of China, the Federal Republic of Germany, India, and Italy: Correction to Countervailing Duty Orders*, 86 FR 10244 (February 19, 2021) (*China Order*, *Germany Order*, *India Order*, and *Italy Order*) (collectively, *Orders*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 55084 (December 1, 2025).

³ The Coalition for Fair Trade in Forged Steel Fluid End Blocks is comprised of Ellwood City Forge Company, Ellwood Quality Steels Company, Ellwood National Steel Company, and A. Finkl & Sons.

⁴ See Domestic Interested Party's Letter, "Five-Year ("Sunset") Review of Countervailing Duty Order on Forged Steel Fluid End Blocks from China: Notice of Intent to Participate," dated December 11, 2025; Domestic Interested Party's Letter, "Five-Year ("Sunset") Review of Countervailing Duty Order on Forged Steel Fluid End Blocks from Germany: Notice of Intent to Participate," dated December 11, 2025; Domestic Interested Party's Letter, "Five-Year ("Sunset") Review of Countervailing Duty Order on Forged Steel Fluid End Blocks from India: Notice of Intent to Participate," dated December 11, 2025; and Domestic Interested Party's Letter, "Five-Year ("Sunset") Review of Countervailing Duty Order on Forged Steel Fluid End Blocks from Italy: Notice of Intent to Participate," dated December 11, 2025.

meaning of section 771(9)(E) of the Act as an *ad hoc* trade association, a majority of whose members are domestic producers of FEBs.⁵

On December 22, 2025, Commerce received adequate substantive responses from the domestic interested party, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁶ Commerce did not receive a substantive response from either the Governments of the relevant countries or a respondent interested party in this proceeding. On January 23, 2026, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.⁷ As a result, Commerce conducted an expedited (120-day) sunset review of the *Order*, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2).

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 Accordingly, the deadline for these final results is now April 14, 2026.

Scope of the Orders

The product covered by these *Orders* is forged steel fluid end blocks from China, Germany, India, and Italy. For the full description of the scope of the *Orders*, see the Issues and Decisions Memorandum.⁹

Analysis of Comments Received

A complete discussion of all issues raised in these sunset reviews, including the likelihood of continuation or recurrence of subsidization, the nature of the subsidies and the countervailable subsidy rates likely to prevail if the *Orders* were to be revoked,

is contained in the accompanying Issues and Decision Memorandum.¹⁰ 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 Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at <https://access.trade.gov>. In addition, complete versions of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Reviews

Pursuant to sections 751(c) and 752(b) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Exporter/producer	Subsidy rate (percent <i>ad valorem</i>)
China:	
Nanjing Develop Advanced Manufacturing Co., Ltd. ¹¹	16.80
Shanghai Qinghe Machinery Co., Ltd. ¹²	19.88
China Machinery Industrial Products Co., Ltd	337.07
Anhui Tianyu Petroleum Equipment Manufacturing Co., Ltd	
CNCCC Sichuan Imp & Exp Co., Ltd	
GE Petroleum Equipment (Beijing) Co., Ltd	
Jiaxing Shenghe Petroleum Machinery Co., Ltd	
Ningbo Minmetals & Machinery Imp & Exp Co., Ltd	
Qingdao RT G&M Co., Ltd	
Shandong Fenghuang Foundry Co., Ltd	
Shandongshengjin Ruite Energy Equipment Co., Ltd. (part of Shengli Oilfield R&T Group)	
Shanghai Baisheng Precision Machine	
Shanghai Boss Petroleum Equipment	
Shanghai CP Petrochemical and General Machinery Co., Ltd	
Suzhou Douson Drilling & Production Equipment Co., Ltd	
Zhangjiagang Haiguo New Energy Equipment Manufacturing Co., Ltd	
Anhui Yingliu Electromechanical Co., Ltd	
Daye Special Steel Co., Ltd., (Citic Specific Steel Group)	
Suzhou Fujie Machinery Co., Ltd., (Fujie Group)	
All Others	19.52
Germany:	
BGH Edelstahl Siegen GmbH ¹³	7.10
Schmiedewerke Gröditz GmbH ¹⁴	7.93
voestalpine Bohler Group	14.74
All Others	7.52
India:	
Bharat Forge Limited ¹⁵	5.92
All Others	5.92
Italy:	

⁵ *Id.*

⁶ See Domestic Interested Party's Letter, "Five-Year ("Sunset") Review of Countervailing Duty Order on Forged Steel Fluid End Blocks from China: Substantive Response of FEB Coalition to Commerce's Notice of Initiation," dated December 22, 2025 (Substantive Response—China); Domestic Interested Party's Letter, "Five-Year ("Sunset") Review of Countervailing Duty Order on Forged Steel Fluid End Blocks from Germany: Substantive Response of FEB Coalition to Commerce's Notice of Initiation," dated December 22, 2025 (Substantive Response—Germany); Domestic Interested Party's

Letter, "Five-Year ("Sunset") Review of Countervailing Duty Order on Forged Steel Fluid End Blocks from India: Substantive Response of FEB Coalition to Commerce's Notice of Initiation," dated December 22, 2025 (Substantive Response—India); and Domestic Interested Party's Letter, "Five-Year ("Sunset") Review of Countervailing Duty Order on Forged Steel Fluid End Blocks from Italy: Substantive Response of FEB Coalition to Commerce's Notice of Initiation," dated December 22, 2025 (Substantive Response—Italy).

⁷ See Commerce's Letter, "Sunset Review Initiated December 1, 2025," dated December 23, 2026.

⁸ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁹ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Reviews of the Countervailing Duty Orders on Forged Steel Fluid End Blocks from the People's Republic of China, the Federal Republic of Germany, India, and Italy," dated concurrently with, and hereby adopted by, this notice.

¹⁰ *Id.*

Exporter/producer	Subsidy rate (percent <i>ad valorem</i>)
Lucchini Mame Forge S.p.A. ¹⁶	18.49
Metalcam S.p.A. ¹⁷	13.40
All Others	15.95
Companies Subject to AFA (non-respondent companies): Forge Mochieri S.p.A.; Imer International S.p.A.; Galperti Group, Mimest S.p.A.; P. Technologies S.r.L	44.86

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to

¹¹ Commerce has found the following company to be cross-owned with Nanjing Develop Advanced Manufacturing Co., Ltd.: Nanjing Develop Industrial and Commercial Co., Ltd. *See Forged Steel Fluid End Blocks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 85 FR 80020, 80021 (December 11, 2020) (*China Final Determination*).

¹² Commerce has found the following companies to be cross-owned with Shanghai Qinghe Machinery Co., Ltd.: Haimo Technologies Group Corp.; and Lanzhou Chenglin Oil Drilling Equipment Co., Ltd. *See China Final Determination*, 85 FR at 80021.

¹³ Commerce found the following companies to be cross-owned with BGH Edelstahl Siegen GmbH: Boschgotthardshütte O. Breyer GmbH; BGH Edelstahlwerke GmbH, Rohstoff-, Press- und Schneidbetrieb Siegen GmbH; and SRG Schrott und Recycling GmbH. *See Forged Steel Fluid End Blocks from the Federal Republic of Germany: Final Affirmative Countervailing Duty Determination*, 85 FR 80011, 80012 (December 11, 2020) (*Germany Final Determination*).

¹⁴ Commerce found the following companies to be cross-owned with Schmiedewerke Gröditz GmbH: GMH Schmiedetechnik GmbH; Georgsmarienhütte Holding GmbH; and GHM Recycling GmbH. *See Germany Final Determination*, 85 FR at 80012.

¹⁵ Commerce found the following company to be cross-owned with Bharat Forge Limited: Saarloha Advanced Materials Private Limited. The name of this company was also inadvertently omitted from the final determination notice. *See Forged Steel Fluid End Blocks from India: Final Affirmative Countervailing Duty Determination*, 85 FR 79999 (December 11, 2020) (*India Final Determination*), and accompanying Issues and Decision Memorandum (IDM). It was listed in the preliminary determination notice, and there were no changes which impacted this cross-ownership determination for the final determination. *See Forged Steel Fluid End Blocks from India: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 31452, 31453 (May 26, 2020); *see also India Final Determination* IDM at 3.

¹⁶ Commerce has found the following companies to be cross-owned with Lucchini Mame Forge S.p.A.: Lucchini RS S.p.A.; Lucchini Industries; Bicomet S.p.A.; and Setrans SrL. The names of these companies were also inadvertently omitted from the final determination notice. *See Forged*

administrative protective order (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(b), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

Dated: April 10, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary

Steel Fluid End Blocks from Italy: Final Affirmative Countervailing Duty Determination, 85 FR 80022 (December 11, 2020) (*Italy Final Determination*), and accompanying IDM. They were listed in the preliminary determination notice, and there were no changes which impacted this cross-ownership determination for the final determination. *See Forged Steel Fluid End Blocks from Italy: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 31460, 31461 (May 26, 2020) (*Italy Prelim Determination*); *see also Italy Final Determination* IDM at 3.

¹⁷ Commerce has found the following companies to be cross-owned with Metalcam S.p.A.: Adamello Meccanica S.r.l.; and B.S. S.r.l. The names of these companies were also inadvertently omitted from the final determination notice. *See Italy Final Determination* IDM. They were listed in the preliminary determination notice, and there were no changes which impacted this cross-ownership determination for the final determination. *See Italy Prelim Determination*, 85 FR at 31461; *see also Italy Final Determination* IDM at 3.

- 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 a Countervailable Subsidy
 - 2. Net Countervailable Subsidy Rates Likely to Prevail
 - 3. Nature of the Subsidies
 - VII. Final Results of Sunset Reviews
 - VIII. Recommendation
- [FR Doc. 2026–07315 Filed 4–14–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–892]

Forged Steel Fittings From India: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on forged steel fittings from India would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the “Final Results of Sunset Review” section of this notice.

DATES: Applicable April 15, 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 December 11, 2020, the U.S. Department of Commerce (Commerce) published the *Order* on forged steel fittings from India.¹ On December 1, 2025, Commerce published the notice of initiation of the first sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930 (the Act) and 19 CFR 351.218(c).²

On December 8, 2025, Commerce received a notice of intent to participate in this review from the domestic interested parties,³ within the deadline specified in 19 CFR 351.218(d)(1)(i).⁴ The domestic interested parties claim to have interested party status within the meaning of section 771(9)(C) of the Act and 19 CFR 351.102(b)(29)(C) as a producer of the domestic like product and 19 CFR 351.102(b)(29)(D) as a certified union in the manufacture, production, or wholesale of the domestic like product.⁵

On December 30, 2025, Commerce received an adequate substantive response from the domestic interested parties, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁶ Commerce did not receive a substantive response from either the Government of India or a respondent interested party to

this proceeding. On January 23, 2026, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.⁷ As a result, Commerce conducted an expedited (120-day) sunset review of the *Order*, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2).

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁸ 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.⁹ Accordingly, the deadline for these final results is now April 14, 2026.

Scope of the Order

The product covered by this *Order* is forged steel fittings from India. For the full description of the scope of the

Order, see the Issues and Decisions Memorandum.¹⁰

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of subsidization and the countervailable subsidy rates likely to prevail if the *Order* were to be revoked, is contained in the accompanying Issues and Decision Memorandum.¹¹ 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, which is available to registered users at <https://access.trade.gov>. In addition, complete versions of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c) and 752(b) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Producers/exporters	Net countervailable subsidy rate (percent <i>ad valorem</i>)
Shakti Forge Industries Pvt. Ltd. and Shakti Forge (collectively, Shakti)	2.64
Nikoo Forge Pvt. Ltd., Pan International, Patton International Limited, Sage Metals Limited, Kirtanlal Steel Private Limited, Disha Auto Components Private Limited, Dynamic Flow Products, Sara Sae Private Limited, and Parveen Industries Private Limited	300.77
All Others	2.64

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(b), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

¹ See *Forged Steel Fittings from India: Countervailing Duty Order*, 85 FR 80016 (December 11, 2020), as corrected *Forged Steel Fittings from India and the Republic of Korea: Notice of Correction to the Antidumping Duty and Countervailing Duty Orders*, 85 FR 81876 (December 17, 2020) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 55086 (December 1, 2025).

³ The domestic interested parties are Bonney Forge Corporation, Phoenix Forging Company/Capitol Manufacturing Company, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC.

⁴ See Domestic Interested Parties' Letter, "Notice of Intent to Participate in the First Five-Year Review of the Countervailing Duty Order on Forged Steel Fittings from India," dated December 8, 2025.

⁵ *Id.* at 1.

⁶ See Domestic Interested Parties' Letter, "Forged Steel Fittings from India: Domestic Interested Party's Substantive Response to the Notice of Initiation," dated December 30, 2025 (Substantive Response).

⁷ See Commerce's Letter, "Sunset Reviews Initiated on December 1, 2025," dated January 23, 2026.

Dated: April 10, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix**List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*

⁸ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁹ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

¹⁰ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Countervailing Duty Order on Forged Steel Fittings from India," dated concurrently with, and hereby adopted by, this notice.

¹¹ *Id.*

V. Legal Framework

VI. Discussion of the Issues

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
2. Net Countervailable Subsidy Rates Likely To Prevail
3. Nature of the Subsidies

VII. Final Results of Sunset Review

VIII. Recommendation

[FR Doc. 2026-07312 Filed 4-14-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-944]

Oil Country Tubular Goods From the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on oil country tubular goods (OCTG) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the "Final Results of Sunset Review" section of this notice.

DATES: Applicable April 15, 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 January 20, 2010, the U.S. Department of Commerce (Commerce) published the *Order* on OCTG from China.¹ On December 1, 2025, Commerce published the notice of initiation of the third sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930 (the Act) and 19 CFR 351.218(c).²

¹ See *Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 3203 (January 20, 2010) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 55086 (December 1, 2025).

On December 9, 2025, and December 16, 2025, Commerce received a notice of intent to participate in this review from United States Steel Tubular Products (USSTP)³ and U.S. OCTG Manufacturers Association (USOMA)⁴ (collectively, the domestic interested parties), respectively, within the deadline specified in 19 CFR 351.218(d)(1)(i). USSTP claims that it has interested party status within the meaning of section 771(9)(C) of the Act and 19 CFR 351.102(b)(29)(v) as a producer of the domestic like product.⁵ USOMA claims that it has interested party status within the meaning of section 771(9)(C) of the Act and 19 CFR 351.102(b)(29)(v) and (vii), as a trade or business association, all of whose members produce the domestic like product.⁶

On December 30, 2025, Commerce received an adequate substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁷ Commerce did not receive a substantive response from either the Government of China or a respondent interested party to this proceeding. On January 23, 2026, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.⁸ As a result, Commerce conducted an expedited (120-day) sunset review of the *Order*, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2).

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 is now April 14, 2026.

Scope of the Order

The product covered by this *Order* is OCTG from China. For the full description of the scope of the *Order*, see the Issues and Decisions Memorandum.¹¹

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of subsidization and the countervailable subsidy rates likely to prevail if the *Order* were to be revoked, is contained in the accompanying 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, which 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>.

Final Results of Sunset Review

Pursuant to sections 751(c) and 752(b) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

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 Third Sunset Review of the Countervailing Duty Order on Oil Country Tubular Goods from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice.

¹² *Id.*

Producers/exporters	Net countervailable subsidy rate (percent <i>ad valorem</i>)
Jiangsu Changbao Steel Tube Co. and Jiangsu Changbao Precision Steel Tube Co., Ltd	22.87
Tianjin Pipe (Group) Co., Tianjin Pipe Iron Manufacturing Co., Ltd., Tianguan Yuanlong Pipe Product Co., Ltd., Tianjin Pipe International Economic and Trading Co. Ltd., and TPCO Charging Development Co. Ltd	20.90
Wuxi Seamless Pipe Co. Ltd., Jiansu Fanli Steel Pipe Co., Ltd., Tuoketuo County Mengeng Special Steel Co. Ltd	25.36
Zhejiang Jianli Enterprise Co. Ltd., Zhejiang Jianli Steel Tube Co. Ltd., Zhuji Jiansheng Machinery Co. Ltd., and Zhejiang Jianli Industry Group Co. Ltd	26.19
All Others	23.82

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective order (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(b), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

Dated: April 10, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
 2. Net Countervailable Subsidy Rates Likely To Prevail
 3. Nature of the Subsidies
- VII. Final Results of Sunset Review
- VIII. Recommendation

[FR Doc. 2026-07310 Filed 4-14-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-938]

Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on citric acid and certain citrate salts (citric acid) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the "Final Results of Sunset Review" section of this notice.

DATES: Applicable April 15, 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 May 29, 2009, Commerce published the *Order* on citric acid from China.¹ On December 1, 2025, Commerce published the notice of initiation of the third sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(c).²

On December 16, 2025, Commerce received a notice of intent to participate in this review from Archer-Daniels-Midland Company, Cargill, Incorporated, and Primary Products

Ingredients Americas LLC (collectively, the domestic interested parties), within the deadline specified in 19 CFR 351.218(d)(1)(i).³ The domestic interested parties claimed interested party status within the meaning of section 771(9)(C) of the Act and 19 CFR 351.102(b)(29)(v) as manufacturers, producers, or wholesalers in the United States of a domestic like product.⁴

On December 22, 2025, Commerce received an adequate substantive response from the domestic interested parties, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁵ Commerce did not receive a substantive response from either the Government of China or a respondent interested party in this proceeding. On January 23, 2026, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.⁶ As a result, Commerce conducted an expedited (120-day) sunset review of the *Order*, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2).

Scope of the Order

The product covered by this *Order* is citric acid from China. For the full description of the scope of the *Order*, see the Issues and Decisions Memorandum.⁷

³ See Domestic Interested Parties' Letter, "Third Five-Year ("Sunset") Review of Antidumping and Countervailing Duty Orders on Citric Acid and Certain Citrate Salts From the People's Republic of China: Domestic Industry's Notice of Intent To Participate," dated December 16, 2025.

⁴ *Id.* at 2.

⁵ See Domestic Interested Parties' Letter, "Third Five-Year ("Sunset") Review Of The Countervailing Duty Order On Citric Acid And Certain Citrate Salts from the People's Republic of China: Domestic Industry's Substantive Response," dated December 22, 2025.

⁶ See Commerce's Letter, "Sunset Reviews Initiated December 1, 2025," dated January 23, 2026.

⁷ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

¹ See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Notice of Countervailing Duty Order*, 74 FR 25705 (May 29, 2009) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 55084 (December 1, 2025).

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of subsidization and the countervailable subsidy rates likely to prevail if the *Order* were to be revoked, is contained in the Issues and Decision Memorandum.⁸ 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 Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at <https://access.trade.gov>. In addition, complete versions of the Issues and Decision Memorandum can be accessed directly

at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c) and 752(b) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Producers/exporters	Net countervailable subsidy rate (percent <i>ad valorem</i>)
TTCA Co., Ltd. (a.k.a. Shandong TTCA Biochemistry Co., Ltd.)	60.07
Yixing Union Biochemical Co., Ltd.; and Yixing Union Cogeneration Co., Ltd	52.22
Anhui BBKA Biochemical Co., Ltd	166.34
All Others	55.53

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(b), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

Dated: April 10, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues
 - 1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
 - 2. Net Countervailable Subsidy Rates Likely To Prevail

- 3. Nature of the Subsidies
 - VII. Final Results of Sunset Review
 - VIII. Recommendation
- [FR Doc. 2026–07311 Filed 4–14–26; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE
International Trade Administration
[C–570–968]

Aluminum Extrusions From the People’s Republic of China: Preliminary Results and Rescission, in Part, of Countervailing Duty Administrative Review; 2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies were provided to certain producers and/or exporters of aluminum extrusions from the People’s Republic of China (China) during the period or review (POR) January 1, 2024, through December 31, 2024. In addition, Commerce is rescinding this review, in part. Interested parties are invited to comment on these preliminary results.

DATES: Applicable April 15, 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; telephone: (202) 482–4834.

SUPPLEMENTARY INFORMATION:

Background

On May 26, 2011, Commerce published in the **Federal Register** the countervailing duty (CVD) order on aluminum extrusions from China.¹ On May 5, 2025, Commerce published the notice of the opportunity to request a review of the *Order*.² On June 25, 2025, based on timely requests for review, Commerce published the notice of initiation of this administrative review.³

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceeding by 47 days,⁴ and, 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.⁵

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁶ A list of topics included in the Preliminary Decision Memorandum is provided as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically

⁸ *Id.*
¹ *See Aluminum Extrusions from the People’s Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (*Order*).
² *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 90 FR 18962 (May 5, 2025).
³ *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 26967 (June 25, 2025).
⁴ *See* Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.
⁵ *See* Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁶ *See* Memorandum, “Decision Memorandum for the Preliminary Results of the Administrative Review of the Countervailing Duty Order on Aluminum Extrusions from the People’s Republic of China; 2024,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

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 products covered by the *Order* are aluminum extrusions from China. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

In accordance with 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if all parties that requested the review withdraw their requests within 90 days of the date of publication of the notice of initiation of the requested review. On September 23, 2025, the petitioner⁷ submitted a timely letter withdrawing its requests for review of 79 companies.⁸ Because the withdrawal of review requests was timely filed, and no other parties requested a review of these companies, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review of the *Order* with respect to these 79 companies. For a list of these companies for which all requests for review were timely withdrawn, see Appendix II.

Additionally, pursuant to 19 CFR 351.213(d)(3), Commerce will rescind an administrative review when there are no reviewable suspended entries. Based on our analysis of U.S. Customs and Border Protection (CBP) information, we preliminarily determine that 12 companies subject to outstanding requests for review had no entries of subject merchandise during the POR. On December 10, 2025, we notified parties that we intended to rescind this administrative review with respect to the 12 companies which have no reviewable suspended entries.⁹ No parties commented on the notification of intent to rescind the review, in part. We are, therefore, rescinding the administrative review of these companies which have no reviewable suspended entries. For further information, see the Preliminary Decision Memorandum at the “Partial Rescission of Administrative Review” section. For a list of these companies

with no reviewable suspended entries, see Appendix III.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily find that there is a subsidy, *i.e.*, a financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.¹⁰

In accordance with 19 CFR 351.221(b)(4)(i), Commerce determined a countervailable subsidy rate for the following six exporters and/or producers of aluminum extrusions from China that refused delivery of and/or did not respond to the quantity and value (Q&V) questionnaire: (1) Anji Chang Hong Chain Manufacturing, (2) Assa Abloy (Zhongshan) Security Technology, (3) Dezhou Huoamei Windows and Doors, (4) Ewellix Motion Technologies, (5) Ningbo Lianda Winch, and (6) Shanghai Zesheng Automotive Technology. We determined the countervailable subsidy rate for these non-responsive companies based entirely on facts available with adverse inferences, in accordance with sections 776(a) and 776(b) of the Act.

For a full description of the methodology underlying our conclusions, including our reliance, on facts otherwise available with adverse inferences pursuant to sections 776(a) and (b) of the Act, see the Preliminary Decision Memorandum.

Preliminary Results of Review

We preliminarily determine the following net countervailable subsidy rates for the period January 1, 2024, through December 31, 2024:

Company	Subsidy rate (percent <i>ad valorem</i>)
Anji Chang Hong Chain Manufacturing	164.29
Assa Abloy (Zhongshan) Security Technology	164.29
Dezhou Huoamei Windows and Doors	164.29
Ewellix Motion Technologies	164.29
Ningbo Lianda Winch	164.29
Shanghai Zesheng Automotive Technology	164.29

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in 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 the notice of preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce relied entirely on facts available with adverse inferences to select subsidy rates, there are no company-specific calculations to disclose.

Public Comment

Pursuant to 19 CFR 351.309(c), 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.¹¹ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹² 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.¹³ 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 results in this administrative review. 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).¹⁴

Pursuant to 19 CFR 351.310(c), 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 by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests

¹¹ 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*).

¹² See 19 CFR 351.309(c)(2) and (d)(2).

¹³ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁴ See *APO and Service Procedures*.

⁷ The petitioner is the Aluminum Extrusions Fair Trade Committee.

⁸ See Petitioner’s Letter, “Partial Withdrawal of Request for Administrative Review,” dated September 23, 2025.

⁹ See Memorandum, “Notice of Intent to Rescind, In Part,” dated December 10, 2025.

¹⁰ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.¹⁵

Assessment Rates

Consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), upon issuance of the final results, Commerce will determine, and the U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. We intend to issue these 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).

For the companies listed in Appendix II and III for which the review is being rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period of January 1, 2024 through December 31, 2024, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

For the companies remaining under review, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at the subsidy rates calculated in the final results of this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**.

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount indicated above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this

review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit instructions, 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 the issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: April 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 I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Rescission of Administrative Review, in Part
- V. Use of Facts Otherwise Available and Application of Adverse Inferences
- VI. Recommendation

Appendix II

List of Companies for Which All Review Requests Were Withdrawn

1. AD Solutions
2. Anji Dingze Technology Co., Ltd
3. Baolide Window & Door Accessories
4. Beijing Hongyi Denon International
5. Beijing Kangtengwei International Trade Co.
6. Cargo Services Group Limited
7. Changchun Tianlong Automotive Components Co., Ltd
8. Chengde Greenlife Home Product Co., Ltd.
9. Chengdu Metalware Trading Co., Ltd.
10. Chongqing Chaoli Electric Appliance
11. Chongqing Millison Technologies Inc
12. CMECH Ltd.
13. Dongguan Kowin Metal Precision Fabrication Co., Ltd.
14. Ener Technology Co. Limited
15. Foshan Kinghorn Machinery Co., Ltd.
16. Foshan Zhongfeixin Technology Co., Ltd.
17. Green & Light Automotive Components
18. Guangdong Xiongjin Metal Products
19. Guangzhou Valeo Engine Cooling Co. Ltd.
20. Hangzhou Douhao Import and Export Co. Ltd.

21. Hangzhou Susan IE Co., Ltd.
22. Hangzhou Xline Machinery & Equipment Co., Ltd.
23. Huzhou Minghua Auto Parts and Co., Ltd.
24. IKD Co., Ltd.
25. Jiangsu Tongshun Power Technology Co., Ltd.
26. Jiangsu Wenhui Steel Engineering
27. Jianxin Zhao's Technology Co., Ltd.
28. JOC Machinery Co., Ltd.
29. KECO Metal Manufacturing (HK) Co., Limited
30. Lancham International Trade Co., Ltd.
31. Liberty Lift Solution Shandong Oilfield Equipment Manufacturing Co., Ltd.
32. Lifestyle Metal Co., Ltd.
33. Maxwell China Technology Co., Ltd.
34. Nantong Jianghua Machinery Co., Ltd.
35. Ningbo Allart International Trade Co.
36. Ningbo Best Hardware Products Co., Ltd.
37. Ningbo Daye Garden Industry Co., Ltd.
38. Ningbo Dugyi & Yulian Casting Co., Ltd.
39. Ningbo Harsco Machinery Co., Ltd
40. Ningbo Mogb Machinery Import & Export Co., Ltd.
41. Ningbo Wubian Rubber and Plastic Co., Ltd.
42. Ningbo Yongsheng Metal Manufacturing Co., Ltd.
43. Ningbo Zhenlong Auto Parts Co., Ltd.
44. Oubao Security Technology Co., Ltd.
45. Pan Jack Industrial Co., Ltd.
46. Puhui Home and Leisure Goods Company
47. Pxi Auto Components (Suzhou) Co., Ltd.
48. Qingdao Hisense Mould Co., Ltd.
49. Qingdao Sanheshan Precision Casting
50. Rainbird Irrigation Equipment Shanghai
51. Relux Products Ltd.
52. Shanghai Homeland Info Tech Co., Ltd.
53. Shanghai Hongji Metal Products Co., Ltd.
54. Shanghai Shinekin Automotive Technology Co., Ltd.
55. Shenzhen Wulup S.C.M. Co., Ltd.
56. Shunde Native Produce Import & Export Co. Ltd.
57. Sunrise Machinery Co., Ltd.
58. Suzhou Quality Import and Export Co.
59. Suzhou Shida Tongtai Automotive Components Co., Ltd.
60. Tianjin Wanda Tyre Group Co., Ltd.
61. United Precision Casting Development Co., Ltd.
62. Usual Material Group Limited
63. Via Asia Supply Chain Management Co., Ltd
64. Wisdom Electronics (Huizhou) Co., Ltd.
65. Wuxi Bangde Machine Co., Ltd.
66. Wuxi Dongpeng Metal Products Co., Ltd.
67. Wuxi Huaguang Car Parts Co., Ltd.
68. Xiamen Xianghao Trading Co., Ltd.
69. Yakima (Nanjing) Precision Industry Co
70. Yuhuan Huachao Machine Co., Ltd.
71. Yuyao Nuohai Metalwork Co., Ltd.
72. Zenith Industry (Shanghai) Co., Ltd.
73. Zhangqiu Copper and Aluminum Casting
74. Zhaoqing City Zhisheng Door Control
75. Zhejiang Dongfeng Refrigeration Components Co., Ltd.
76. Zhejiang Rongtai Electric Material Co., Ltd.
77. Zhongce Rubber Group Co., Ltd.
78. Zhongnan Industrial Group Limited
79. Zhongshan Huaguan Hardware Co., Ltd.

¹⁵ See 19 CFR 351.310(d).

Appendix III**Partial Rescission****Companies With No Reviewable Suspended Entries**

1. Assa Abloy Entrance Systems Suzhou
2. Assa Abloy Global Solutions (Shanghai)
3. Citic Dicastal Co., Ltd.
4. Damco China Limited Ningbo Branch
5. Hebei Jinshi Industrial Metal Co., Ltd.
6. Modine Thermal Systems (Changzhou)
7. Ningbo Yesheng Precision Technical
8. SAIC Volkswagen Automotive Co., Ltd.
9. Synergy Architectural Hardware Limited
10. Techno Precision (Shen Zhen) Co., Ltd.
11. Zhongnan Aluminum Wheel
12. ZZF Fence Technology Co., Ltd.

[FR Doc. 2026-07303 Filed 4-14-26; 8:45 am]

BILLING CODE 3510-DS-P

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

[RTID 0648-XF638]

Taking and Importing of Marine Mammals

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

ACTION: Notice; new 5-year affirmative finding for Panama.

SUMMARY: The NMFS Assistant Administrator (Assistant Administrator) has issued a new 5-year affirmative finding for the Government of Panama under the Marine Mammal Protection Act (MMPA). This affirmative finding will allow the importation into the United States of yellowfin tuna and yellowfin tuna products harvested in the eastern tropical Pacific Ocean (ETP), in compliance with the Agreement on the International Dolphin Conservation Program (AIDCP), by purse seine vessels operating under Panamanian jurisdiction or exported from Panama. NMFS bases the affirmative finding determination on reviews of documentary evidence submitted by the Government of Panama and of information obtained from the Inter-American Tropical Tuna Commission (IATTC).

DATES: This new affirmative finding is effective for the 5-year period of April 1, 2026, through March 31, 2031.

FOR FURTHER INFORMATION CONTACT: Justin Greenman, West Coast Region, NMFS, by mail: 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802, email: justin.greenman@noaa.gov, or phone: (562) 980-3264.

SUPPLEMENTARY INFORMATION: The MMPA, 16 U.S.C. 1361 *et seq.*, allows

for importation into the United States of yellowfin tuna harvested by purse seine vessels in the ETP from a nation with jurisdiction over purse seine vessels with carrying capacity greater than 400 short tons that harvest tuna in the ETP only if the nation has an “affirmative finding” issued by the NMFS Assistant Administrator. *See* section 101(a)(2)(B) of the MMPA, 16 U.S.C. 1371(a)(2)(B); *see also* 50 CFR 216.24(f)(6)(i). If requested by the government of such a nation, the Assistant Administrator will determine whether to make an affirmative finding based upon documentary evidence provided by the government, IATTC, or the Department of State.

The affirmative finding process requires that the harvesting nation is meeting its obligations under AIDCP and its obligations of membership in IATTC. Every 5 years, the government of the harvesting nation must request a new affirmative finding and submit the required documentary evidence directly to the Assistant Administrator. On an annual basis, NMFS must determine whether the harvesting nation continues to meet the requirements of its 5-year affirmative finding. NMFS does this by reviewing the documentary evidence from the last year. A nation may provide information related to compliance with AIDCP and IATTC measures directly to NMFS on an annual basis or may authorize IATTC to release the information to NMFS to annually renew an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f) are no longer being met or that a nation is consistently failing to take enforcement actions on violations, thereby diminishing the effectiveness of AIDCP.

As a part of the affirmative finding process set forth in 50 CFR 216.24(f)(8), the Assistant Administrator considered documentary evidence submitted by the Government of Panama and obtained from IATTC and has determined that Panama has met the MMPA’s requirements to receive a new 5-year affirmative finding.

After consultation with the Department of State, the Assistant Administrator issued a new 5-year affirmative finding to Panama, allowing the importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by purse seine vessels operating under Panamanian jurisdiction or exported from Panama. Issuance of a

new 5-year affirmative finding for Panama does not affect implementation of an intermediary nation embargo under 50 CFR 216.24(f)(9), which applies to exports from a nation that exports to the United States yellowfin tuna or yellowfin tuna products that was subject to a ban on importation into the United States under section 101(a)(2)(B) of the MMPA, 16 U.S.C. 1371(a)(2)(B).

This new affirmative finding for Panama is for the 5-year period of April 1, 2026, through March 31, 2031, subject to subsequent annual reviews by NMFS.

Dated: April 6, 2026.

Eugenio Piñeiro Soler,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2026-07298 Filed 4-14-26; 8:45 am]

BILLING CODE 3510-22-P

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

[RTID 0648-XF636]

Taking and Importing of Marine Mammals

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

ACTION: Notice; Affirmative finding annual renewals for Colombia, Ecuador, El Salvador, Guatemala, Mexico, Peru, and Spain.

SUMMARY: The NMFS Assistant Administrator (Assistant Administrator) has issued affirmative finding annual renewals for the Governments of Colombia, Ecuador, El Salvador, Guatemala, Mexico, Peru, and Spain (referred to hereafter as “The Nations”) under the Marine Mammal Protection Act (MMPA). This affirmative finding will allow the importation into the United States of yellowfin tuna and yellowfin tuna products harvested in the eastern tropical Pacific Ocean (ETP), in compliance with the Agreement on the International Dolphin Conservation Program (AIDCP), by purse seine vessels operating under The Nations’ jurisdiction or exported from The Nations. NMFS bases the affirmative finding determination on reviews of documentary evidence submitted by the Governments of The Nations and of information obtained from the Inter-American Tropical Tuna Commission (IATTC).

DATES: These affirmative finding annual renewals are effective for the 1-year

period of April 1, 2026, through March 31, 2027.

FOR FURTHER INFORMATION CONTACT:

Justin Greenman, West Coast Region, NMFS, by mail: 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802, email: justin.greenman@noaa.gov, or phone: (562) 980-3264.

SUPPLEMENTARY INFORMATION: The MMPA, 16 U.S.C. 1361 *et seq.*, allows for importation into the United States of yellowfin tuna harvested by purse seine vessels in the ETP from a nation with jurisdiction over purse seine vessels with carrying capacity greater than 400 short tons that harvest tuna in the ETP only if the nation has an “affirmative finding” issued by the NMFS Assistant Administrator. See section 101(a)(2)(B) of the MMPA, 16 U.S.C. 1371(a)(2)(B); see also 50 CFR 216.24(f)(6)(i). If requested by the government of such a nation, the Assistant Administrator will determine whether to make an affirmative finding based upon documentary evidence provided by the government, IATTC, or the Department of State.

The affirmative finding process requires that the harvesting nation is meeting its obligations under AIDCP and its obligations of membership in IATTC. Every 5 years, the government of the harvesting nation must request a new affirmative finding and submit the required documentary evidence directly to the Assistant Administrator. On an annual basis, NMFS must determine whether the harvesting nation continues to meet the requirements of its 5-year affirmative finding. NMFS does this by reviewing the documentary evidence from the last year. A nation may provide information related to compliance with AIDCP and IATTC measures directly to NMFS on an annual basis or may authorize IATTC to release the information to NMFS to annually renew an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f) are no longer being met or that a nation is consistently failing to take enforcement actions on violations, thereby diminishing the effectiveness of AIDCP.

As a part of the affirmative finding process set forth in 50 CFR 216.24(f)(8), the Assistant Administrator considered documentary evidence submitted by the Governments of The Nations and obtained from IATTC and has determined that The Nations have each met the MMPA’s requirements to

receive an affirmative finding annual renewal.

After consultation with the Department of State, the Assistant Administrator issued affirmative finding annual renewals to each of The Nations, allowing the importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by purse seine vessels operating under The Nations’ jurisdiction or exported from The Nations. Issuance of this affirmative finding annual renewal for each of The Nations does not affect implementation of an intermediary nation embargo under 50 CFR 216.24(f)(9), which applies to exports from a nation that exports to the United States yellowfin tuna or yellowfin tuna products that was subject to a ban on importation into the United States under section 101(a)(2)(B) of the MMPA, 16 U.S.C. 1371(a)(2)(B).

These affirmative finding annual renewals for each of The Nations are for the 1-year period of April 1, 2026, through March 31, 2027, subject to subsequent annual reviews by NMFS.

Dated: April 7, 2026.

Eugenio Piñeiro Soler,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

[FR Doc. 2026-07293 Filed 4-14-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF521]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Aak’w Landing Development Project in Juneau, Alaska

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from Turnagain Marine Construction (TMC) for authorization to take marine mammals incidental to the Aak’w Landing Development Project in Juneau, Alaska. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue the requested Incidental Harassment Authorization (IHA). NMFS is also requesting comments on a possible one-time, 1-year renewal of the

IHA, if issued, under certain circumstances, provided all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the IHA. Agency responses to substantive public comments received in response to this notice will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than May 15, 2026.

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

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

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are

proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

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

- *U.S. Citizen*—individual U.S. citizens or any corporation or similar entity if it is organized under the laws of the United States or any governmental unit defined in 16 U.S.C. 1362(13); 50 CFR 216.103);

- *Take*—to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal (16 U.S.C. 1362(13); 50 CFR 216.3);

- *Incidental harassment, Incidental taking, and incidental, but not intentional, taking*—an accidental taking. This does not mean that the taking is unexpected, but rather it includes those takings that are infrequent, unavoidable or accidental (50 CFR 216.103);

- *Level A harassment*—any act of pursuit, torment, or annoyance which has the potential to injure a marine mammal or marine mammal stock in the wild (16 U.S.C. 1362(18); 50 CFR 216.3);

- *Level B harassment*—any act of pursuit, torment, or annoyance which has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (16 U.S.C. 1362(18); 50 CFR 216.3).

National Environmental Policy Act

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

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

Summary of Request

On August 1, 2025, NMFS received a request from TMC for an IHA authorizing the take by Level B harassment of six species of marine mammals and, additionally, take by Level A harassment of five of those species, incidental to the Aak’w Landing Development Project. Following NMFS’ review of the application, TMC submitted a revised application on December 23, 2025, and February 19, 2026. NMFS deemed the application adequate and complete on March 9, 2026.

The specified activities include pile removal, vibratory and impact pile driving, down-the-hole (DTH) drilling, and DTH anchoring. These activities have the potential to result in Level A harassment and Level B harassment of six species of marine mammals. Serious injury or mortality is neither anticipated nor proposed to be authorized; therefore, an IHA is appropriate. The IHA would be valid for the statutory maximum of 1 year from the date of effectiveness and would become effective upon written notification from TMC to NMFS, but not beginning later than 1 year from the date of issuance or extending beyond 2 years from the date of issuance.

Description of Proposed Activity

Overview

The proposed Aak’w Landing Development Project is part of a larger effort developing dining, retail, and event spaces, as well as an indigenous knowledge, science, and cultural learning center. The purpose of the project is to construct a cruise ship dock and seawalk adjacent to downtown Juneau. TMC would remove the existing Standard Oil Pier and construct a dock and seawalk as well as restraint and mooring dolphins. TMC would utilize impact and vibratory pile driving, DTH drilling, and DTH anchoring to

complete the planned work which may result in marine mammal harassment.

Dates and Duration

The IHA would be effective upon written notification from TMC to NMFS, but not beginning later than 1 year from the date of issuance or extending beyond 2 years from the date of issuance. The specified activities are currently scheduled to begin September 1, 2026, and would occur on approximately 226 days (potentially non-consecutive). However, project delays may occur due to several factors, including project funding, permitting requirements, equipment and/or material availability, weather-related delays, equipment maintenance and/or repair, and other contingencies. Pile removal and installation would occur during daylight hours only, which ranges from 8 to 18 hours per day depending upon the season. No in-water work will occur from April 15 to June 1 to protect out-migrating salmon smolt.

Specific Geographic Region

The project is located adjacent to downtown Juneau on the eastern shore of Gastineau Channel. Comprising part of Southeast Alaska’s Inside Passage, Gastineau Channel is a U-shaped, glacier-carved, fjord and narrow channel that, at its approximate midpoint, runs between Juneau (on mainland Alaska) and Douglas Island. The channel is approximately 16 miles (25.7 km) long and its width varies between 4,000 to 6,000 feet (ft) (1219 to 1829 m). The southern end of Gastineau Channel meets Stephens Passage, and the northern, shallower end opens into Auke Bay and Lynn Canal. Gastineau Channel experiences tidal ranges of 16.3 ft (4.9 m) (NOAA, 2025). There are 12 documented anadromous fish streams in the vicinity of the project (Alaska Department of Fish and Game [ADF&G] 2025a); each supporting at least one species of Pacific salmon.

The Juneau waterfront is heavily influenced by industrialization, characterized by a blend of heavy marine industrial activities and significant tourism infrastructure. The waterfront supports commercial seafood processing, fishing, and, historically, major mining operations. Marine mammals within the area are consistently subjected to commercial and recreational vessel traffic, most notably large cruise ships.



Figure 1 -- Aak'w Landing Development Project Location

Detailed Description of the Specified Activity

TMC is proposing to construct a new dock, seawalk, and associated infrastructure in Juneau, Alaska. The new dock would accommodate a class of increasingly larger cruise ships, provide additional safe harbor in Juneau, and reduce marine traffic congestion in Gastineau Channel by allowing docked ships to spread out across the waterfront and eliminating ship-to-shore boat trips. More details on the purpose and need of the project can be found in section 1.2.2 of TMC's application.

To complete the project, TMC would remove the existing Standard Oil Pier, install and remove temporary template piles, and install permanent piles using a vibratory hammer, impact hammer, and drilled shaft (table 1) to construct a dock, seawalk, vehicle trestle, pedestrian walking trestle, mooring trestle, restraint dolphins, and mooring dolphins. In total, up to 160 existing wood piles would be removed, up to

160 temporary template piles would be installed and subsequently removed, and 268 permanent piles would be installed. Below we provide a summary of the planned work; please see sections 1.2.3 and 1.2.4 of TMC's application for more details.

Removal of Standard Oil Pier

The existing Standard Oil Pier, comprised of 281 20-in wood piles, would be removed using a dead pull method via a crane or, if this is not feasible, by vibrating out the piles using a vibratory hammer. TMC expects that it will take approximately 5 minutes to remove each pile and up to 20 piles per day could be removed resulting in approximately 15 days of work. Because the dead-pull method would not generate in-water noise, only use of the vibratory hammer has the potential to result in take, by Level B harassment, of marine mammals. Level A harassment from pile removal is not anticipated or proposed to be authorized. For purposes of their application, TMC conservatively assumes all piles would need to be

removed using a vibratory hammer; however, this is unlikely.

Permanent Pile Installation

Permanent piles would be installed to construct the dock (n=66), seawalk (n=78), and restraint and mooring dolphins (n=16 and 12, respectively). In addition, to construct the vehicle trestle and pedestrian walkway, 68 piles would be installed and, to construct the mooring trestle, 28 piles would be installed. All permanent piles will be installed by vibrating and impact hammering and, where they are installed below -60 ft, DTH drilling to break up the bedrock layer. Additionally, all the 42-in piles and 28 of the 48-in piles would have tension anchors installed using DTH anchoring methods (referred to hereafter as DTH anchoring). First, piles would be vibrated into place. Each piling would then be driven to tip elevation using an impact hammer to seat the piling into the bedrock. Once the 42- and 48-inch piles achieve tip elevation, a DTH hammer would be placed inside the

piling to install tension anchors. Piles would be installed to a depth to be determined by geotechnical investigation. The pile would then be anchored with concrete.

Temporary Pile Installation and Removal

Pile templates would be constructed by installing temporary pilings to be used as a guide for positioning permanent pilings. Not all permanent piles will require temporary piles to aid

in their installation; however, the exact number of temporary piles necessary to support the permanent piles is currently unknown. TMC will assess the need for temporary piles during construction; however, for purposes of their application, they assume no more than 160 temporary piles will be required.

Piles installed below – 60 ft would also require DTH drilling given the bedrock layer is shallow, and therefore vibratory and impact driving alone is

insufficient to drive the piles to their needed depth. Unlike permanent piles, the piles would not be anchored using a DTH drilling method as they are temporary. In their application, TMC assumes all 160 piles require DTH drilling. Temporary piles would be extracted using the vibratory hammer. Details regarding pile installation and removal specifications are provided in table 1.

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Table 1 -- Aak'w Landing Development Project Pile Installation and Removal Summary

	Pile Removal (wood)	Temporary Pile Installation	Temporary Pile Removal	Permanent Pile Installation	Permanent Pile Installation	Permanent Pile Installation
Diameter of Steel Pile (in)	20	36	36	36	42	48
Vibratory Pile Driving/Removal						
Total Quantity	281	160	160	146	28	94
Expected # Piles Vibrated per Day	20	10	10	10	8	6
Vibratory Time per Pile (minutes)	5	15	15	15	25	35
Expected Number of Days	15	16	16	15	4	16
Impact Pile Driving						
Total Quantity	-	160	-	146	28	94
Expected # Piles Impacted per Day	-	8	-	6	4	4
Number of strikes per Pile	-	1,250	-	2,500	2,500	2,500
Impact Time per Pile (minutes)	-	45	-	60	90	120
Expected Number of Days	-	20	-	25	7	24
Down-the-Hole Drilling¹						
Total Quantity	-	160	-	-	-	-
Expected # Piles Installed per Day	-	4	-	-	-	-
Total Drilling Time Per Pile (minutes)	-	120	-	-	-	-
Expected Number of Days	-	40	-	-	-	-
Down-the-Hole Drilling/Anchoring¹						
Total Quantity	-	-	-	-	28	28
Expected # Piles Installed per Day	-	-	-	-	2	2
Anchor Time Per Pile (minutes)	-	-	-	-	300	360
Expected Number of Days	-	-	-	-	14	14

¹ DTH drilling for temporary and permanent piles is needed to break through bedrock. DTH anchoring for permanent piles is also needed to install the anchors which secure piles in place.

Proposed mitigation, monitoring, and reporting measures are described in

detail later in this document (please see

Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of TMC's application summarize available information regarding the status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all this information, and we refer the reader to these descriptions in the application instead of reprinting the information. Additional information on population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>), and more general information about these species (*e.g.*, physical and behavioral descriptions) may be found on NMFS' website

(<https://www.fisheries.noaa.gov/find-species>).

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

status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographical area, if known, that comprises that stock. For some species, this area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Alaska SARs (Carretta *et al.*, 2025). All values presented in table 2 are the most recent available at the time of publication, including from the draft 2024 SARs, and are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

Table 2 -- Species, Stocks, and the Status of Marine Mammals for Which Take Proposed to be Authorized

Common name	Scientific name ¹	Stock	ESA/MMP A status; Strategic (Y/N) ²	Stock abundance (CV; N _{min} ; most recent abundance survey) ³	PBR	Annual M/SI ⁴
Order Artiodactyla—Infraorder Cetacea—Mysticeti (baleen whales)						
Family Balaenopteridae (rorquals):						
Humpback whale	Megaptera novaeangliae	Hawai'i ⁵	-, -, N	11,278 (0.56, 7,265, 2020)	127	27.09
		Mex-North Pacific ⁵	T, D, Y	918 (N/A, N/A, 2006)	UND	0.57
Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Killer whale	Orcinus orca	Eastern North Pacific (ENP) Alaska Resident	-, -, N	1,920, (N/A, 1,920, 2019) ⁷	19	1.3
		ENP Northern Resident	-, -, N	587 (N/A, 587, 2012)	5.9	0.8
		West Coast Transient	-, -, N	349 (N/A, 349, 2018)	3.5	0.4
Family Phocoenidae (porpoises):						
Dall's porpoise	Phocoenoides dalli	Alaska	-, -, N	N/A (N/A, N/A, 2015)	UND	37
Harbor porpoise	Phocoena phocoena	Northern Southeast Alaska Inland Waters	-, -, N	N/A (N/A, N/A, 1997)	UND	22.5
Order - Carnivora – Pinnipedia						
Family Otariidae (eared seals and sea lions)						
Steller sea lion	Eumetopias jubatus	Eastern	-, -, N	36,308 (N/A, 36,308, 2022) ⁶	2,178 ⁷	92.3

		Western	T, D, Y	49,837 (N/A, 49,837 ⁷ , 2022) ⁶	299 ⁷	267
<i>Family Phocidae (earless seals)</i>						
Harbor seal	<i>Phoca vitulina</i>	Prince William Sound	-, -, N	44,756 (N/A, 41,776, 2015)	1,253	413

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

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

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

⁴ These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strikes). Annual M/SI is often not precisely determined and is sometimes reported as a minimum value or a range.

⁵ The majority of humpback whales (98 percent) present in Southeast Alaska are likely to be from the recovered Hawaii stock (Hawaii DPS), about 2 percent are likely to be from the threatened Mexico-North Pacific stock (Mexico DPS), and none are likely to be from the endangered WNP stock (Wade 2021).

⁶ N_{best} is best estimate of counts, which have not been corrected for animals at sea during abundance surveys.

⁷ Value is for U.S. only, not range wide.

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As indicated above, table 2 lists the 6 species (10 total stocks) that temporally and spatially co-occur with the specified activities to the degree that incidental take could potentially occur. TMC's application provides general information on each species and stock provided in table 2 as well as more site-refined information as it relates to the analysis, including information on biologically important areas (BIAs) near the project area. In summary, the occurrence of marine mammals in the project area is species specific with some species (e.g., Dall's porpoise, killer whales) occasionally present while others exhibit more frequent occurrence (e.g., pinnipeds). Marine mammals utilize the project area primarily for foraging and transiting. The northern portion of the Frederick Sound and Stephens Passage humpback whale foraging BIA, which is active June through October, overlaps with the ensonified areas for all DTH drilling activities and vibratory pile driving of

48-in piles. NMFS incorporates this information by reference and therefore does not repeat it here. Please see section 4 in TMC's application for more detailed information on each species.

Marine Mammal Hearing

Hearing is the most vital sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of sound exposure, it is necessary to understand the frequency ranges that marine mammals can hear. Not all marine mammal species have equal hearing capabilities or hear over the same frequency range (e.g., Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007; 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral

response data, anatomical modeling, *etc.*). Subsequently, NMFS (2018, 2024) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65-decibel (dB) threshold from the normalized composite audiograms, except for lower limits for low-frequency cetaceans, where the lower bound was deemed to be biologically implausible, and the lower bound from Southall *et al.* (2007) was retained. In October 2024, NMFS published its 2024 Updated Technical Guidance, which includes updated thresholds and weighting functions to inform auditory injury estimates and replaces the 2018 Technical Guidance referenced above. This 2024 Updated Technical Guidance represents the best available science. Marine mammal hearing groups and their associated hearing ranges are provided in table 3.

Table 3 -- Marine Mammal Hearing Groups (NMFS, 2024)

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

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

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

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

There are a variety of types and degrees of effects on marine mammals, prey species, and habitats that could result from the project. Below is a brief description of the sound sources the projects would generate, the general impacts of these activities, and an analysis of the anticipated impacts on marine mammals from the projects, with consideration of the proposed mitigation measures.

Description of Sound Sources

Impact hammers typically operate by repeatedly dropping and/or pushing a heavy piston onto a pile to drive the pile into the substrate. Sound generated by

impact hammers is impulsive, characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper, 2005). Vibratory hammers install piles by vibrating them and allowing the hammer's weight to drive them into the substrate. Vibratory hammers typically produce less sound (*i.e.*, lower levels) than impact hammers. Peak SPLs may be 180 dB or greater but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.*, 2009; California Department of Transportation (CALTRANS), 2015; 2020). Sounds produced by vibratory hammers are non-impulsive; compared to sounds produced by impact hammers, the rise time is slower, reducing the probability and severity of injury, and the sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.*, 2005).

DTH systems use a combination of percussive and drilling mechanisms, with the hammer acting directly on the rock to advance a hole into the rock, and also advance the pile into that hole. The hammer drills through the bedrock using a rotating function like a normal drill, in concert with a hammering mechanism operated by a pneumatic (or sometimes hydraulic) component integrated into the DTH hammer to increase speed of progress through the substrate (*i.e.*, it is similar to a "hammer drill" hand tool). Therefore, DTH systems include both impulsive and continuous components. For this project, TMC would utilize DTH drilling

and DTH anchoring methods to install 42- and 46-in piles.

Potential Effects of Underwater Sound on Marine Mammals

The introduction of anthropogenic noise into the aquatic environment from vibratory pile removal, vibratory and impact pile installation, and the DTH drilling and DTH anchoring are the means by which marine mammals may be harassed from TMC's specified activities. Anthropogenic sounds span a broad range of frequencies and sound levels and can have highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and other factors. Broadly, underwater sound from active acoustic sources, such as those in these projects, can potentially result in one or more of the following: temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.*, 1995; Nowacek *et al.*, 2007; Southall *et al.*, 2007; Götz *et al.*, 2009).

We describe the more severe effects of certain non-auditory physical or physiological effects only briefly, as we do not expect that the use of impact/vibratory hammers is reasonably likely to result in such effects (see below for further discussion).

Potential physiological effects from sound sources, particularly impulsive sound, can range from behavioral disturbance or tactile perception to physical discomfort, slight injury to the internal organs and the auditory system,

or mortality (Yelverton *et al.*, 1973). Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (e.g., change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.*, 2006; Southall *et al.*, 2007; Zimmer and Tyack, 2007; Tal *et al.*, 2015). However, the Project activities considered here do not involve the use of devices such as explosives or mid-frequency tactical sonar that are associated with these types of effects.

In general, animals exposed to natural or anthropogenic sound may experience physical and psychological effects, ranging in magnitude from none to severe (Southall *et al.*, 2007, 2019). Exposure to anthropogenic noise can result in auditory threshold shifts and behavioral responses (e.g., avoidance, temporary cessation of foraging and vocalizing, changes in dive behavior). It can also lead to non-observable physiological responses, such as increased stress hormone levels. Additional noise in a marine mammal's habitat can mask acoustic cues used in daily functions, such as communication and predator and prey detection.

The degree of effect of an acoustic exposure on marine mammals is dependent on several factors, including, but not limited to, sound type (e.g., impulsive vs. non-impulsive), signal characteristics, the species, age, and sex class (e.g., adult male vs. mom with calf), duration of exposure, the distance between the noise source and the animal, received levels, behavioral state at time of exposure, and previous history with exposure (Wartzok *et al.*, 2004; Southall *et al.*, 2007). In general, sudden, high-intensity sounds can cause hearing loss, as can longer exposures to lower-intensity sounds. Moreover, any temporary or permanent loss of hearing, if it occurs at all, would occur almost exclusively for noise within an animal's hearing range. We describe below the specific manifestations of acoustic effects that may occur from the specified activities.

Richardson *et al.* (1995) described zones of increasing effect intensity that might be expected to occur with distance from a source, assuming that the signal is within an animal's hearing range. First (at the greatest distance) is the area within which the acoustic signal would be audible (potentially perceived) to the animal but not strong enough to elicit any overt behavioral or

physiological response. The next zone (closer to the receiving animal) corresponds to the area where the signal is audible to the animal and sufficiently intense to elicit behavioral or physiological responsiveness. The third is a zone within which, for high-intensity signals, the received level is sufficient to cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to some extent is the area within which masking (i.e., when a sound interferes with or masks an animal's ability to detect a signal of interest above the absolute hearing threshold) may occur; the masking zone may vary widely in size.

Hearing Threshold Shifts

NMFS defines a noise-induced threshold shift (TS) as a change, usually an increase, in the audibility threshold at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2018, 2024). The amount of threshold shift is customarily expressed in dB. A TS can be permanent or temporary. As described in NMFS (2018, 2024), there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal temporal pattern (e.g., impulsive or non-impulsive), the likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, the time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (i.e., spectral content), the hearing frequency range of the exposed species relative to the signal's frequency spectrum (i.e., how the animal uses sound within the frequency band of the signal; e.g., Kastelein *et al.*, 2014), and the overlap between the animal and the source (e.g., spatial, temporal, and spectral).

Temporary Threshold Shift

A temporary threshold shift (TTS) is a temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2024) and is not considered an auditory injury (AUD INJ). Based on data from marine mammal TTS measurements (see Southall *et al.*, 2007, 2019), a TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Finneran *et al.*, 2000, 2002; Schlundt *et al.*, 2000). As described in Finneran (2015), marine mammal studies have shown that the amount of

TTS increases with the 24-hour cumulative sound exposure level (SEL₂₄) in an accelerating fashion: at low exposures with lower SEL₂₄, the amount of TTS is typically small, and the growth curves have shallow slopes. At higher SEL₂₄ exposures, the growth curves become steeper and approach a linear relationship with the sound exposure level (SEL).

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

Many studies have examined noise-induced hearing loss in marine mammals (see Finneran (2015) and Southall *et al.* (2019) for summaries). TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 2013). While experiencing TTS, the hearing threshold rises, so the sound must be louder to be heard. In terrestrial and marine mammals, TTS can last from minutes to hours (in cases of strong TTS) (Finneran, 2015). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. For cetaceans, published data on the onset of TTS are limited to captive bottlenose dolphin (*Tursiops truncatus*), beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiatica*) (Southall *et al.*, 2019). For pinnipeds in water, measurements of TTS are limited to harbor seals, northern elephant seals, bearded seals (*Erignathus barbatus*), and California sea lions (Kastak *et al.*, 1999, 2007; Kastelein *et al.*, 2019b, 2019c, 2021, 2022a, 2022b; Reichmuth *et al.*, 2019; Sills *et al.*, 2020). TTS was not observed in spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to single airgun impulse sounds at levels

matching previous predictions of TTS onset (Reichmuth *et al.*, 2016). These studies examine hearing thresholds in marine mammals before and after exposure to intense or long-duration sound. The difference between the pre-exposure and post-exposure thresholds can be used to determine the amount of threshold shift at various post-exposure times.

The amount and onset of TTS depend on the exposure frequency. Sounds below the region of best sensitivity for a species or hearing group are less hazardous than those near the region of best sensitivity (Finneran and Schlundt, 2013). At low frequencies, onset-TTS exposure levels are higher compared to those in the region of best sensitivity (*i.e.*, a low frequency noise would need to be louder to cause TTS onset when TTS exposure level is higher), as shown for harbor porpoises and harbor seals (Kastelein *et al.*, 2019a, 2019c). Note that in general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran, 2015). In addition, TTS can accumulate across multiple exposures, but the resulting TTS would be lower than that from a single, continuous exposure with the same SEL (Mooney *et al.*, 2009; Finneran *et al.*, 2010; Kastelein *et al.*, 2014, 2015). This means that TTS predictions based on the total, SEL₂₄, will overestimate the amount of TTS from intermittent exposures, such as sonars and impulsive sources. Nachtigall *et al.* (2018) describe measurements of hearing sensitivity of multiple odontocete species (bottlenose dolphin, harbor porpoise, beluga, and false killer whale (*Pseudorca crassidens*)) when a warning sound preceded a relatively loud sound. These captive animals were shown to reduce hearing sensitivity when warned of an impending intense sound. Based on these experimental observations of captive animals, the authors suggest that wild animals may dampen their hearing during prolonged exposures or if conditioned to anticipate intense sounds. Another study showed that echolocating animals (including odontocetes) might have anatomical specializations that enable conditioned hearing reduction and filtering of low-frequency ambient noise, including increased stiffness and control of middle ear structures, as well as placement of inner ear structures (Ketten *et al.*, 2021). Data available on noise-induced hearing loss for mysticetes are currently lacking (NMFS, 2024). Additionally, the existing marine mammal TTS data come from a limited

number of individuals within these species.

Relationships between TTS and PTS thresholds have not been studied in marine mammals, and there are no measured PTS data for cetaceans, but such relationships are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several dB above that inducing mild TTS (*e.g.*, a 40-dB threshold shift approximates PTS onset (Kryter *et al.*, 1966; Miller, 1974), while a 6-dB threshold shift approximates TTS onset (Southall *et al.*, 2007, 2019). Based on data from terrestrial mammals, a precautionary assumption is that the AUD INJ thresholds for impulsive sounds (such as impact pile driving pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis, and AUD INJ cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.*, 2007, 2019). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that AUD INJ could occur.

Auditory Injury and Permanent Threshold Shift

NMFS (2024) defines AUD INJ as damage to the inner ear that can result in tissue destruction, such as loss of cochlear neuron synapses or auditory neuropathy (Houser, 2021; Finneran, 2024). AUD INJ may or may not result in a permanent threshold shift (PTS). PTS is defined as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2024). PTS generally affects only a limited frequency range, and animals with PTS have some level of hearing loss at the relevant frequencies; typically, animals with PTS or other AUD INJ are not functionally deaf (Au and Hastings, 2008; Finneran, 2016). Available data from humans and other terrestrial mammals indicate that a 40-dB threshold shift approximates the onset of PTS (see Ward *et al.*, 1958, 1959; Ward, 1960; Kryter *et al.*, 1966; Miller, 1974; Ahroon *et al.*, 1996; Henderson *et al.*, 2008). However, a variety of terrestrial and marine mammal studies (see Ward *et al.*, 1958; Ward *et al.*, 1959; Ward, 1960; Miller *et al.*, 1963; Kryter *et al.*, 1966; Finneran *et al.*, 2007; Kastelein *et al.*, 2013) indicate that threshold shifts of up to 40 to 50 dB (measured a few minutes after exposure) may be induced without

resulting in PTS. PTS levels for marine mammals are estimates; with the exception of a single study unintentionally inducing PTS in a harbor seal (Kastak *et al.*, 2008), no empirical data measure PTS in marine mammals largely due to the fact that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing AUD INJ are not typically pursued or authorized (NMFS, 2024). NMFS has set the PTS onset as an initial threshold shift of 40 dB.

However, after sound exposure ceases or between successive sound exposures, the potential for recovery from hearing loss exists. Thus, because a threshold shift is measured a few minutes after noise exposure does not mean that those initial shifts are persistent (*i.e.*, no recovery). When initial threshold shifts fully recover back to baseline hearing levels, these are considered TTS. PTS indicates there is no full recovery back to baseline hearing levels; however, it does not mean there is no recovery. Rather, PTS indicates incomplete recovery of hearing. Recovery depends on the initial threshold shift amount, the frequency at which the shift occurred, the temporal pattern of exposure (*e.g.*, exposure duration; continuous vs. intermittent exposure), and the physiological mechanisms underlying the shift (*e.g.*, mechanical vs. metabolic). Since recovery is complicated, our current AUD INJ onset criteria do not account for the potential for recovery.

Behavioral Effects

Exposure to noise can also behaviorally disturb marine mammals to a level that rises to the definition of harassment under the MMPA. Generally speaking, NMFS considers a behavioral disturbance that rises to the level of harassment under the MMPA a non-minor response. In other words, not every response qualifies as a behavioral disturbance, and for responses that do, those of higher level or longer duration have the potential to affect foraging, reproduction, or survival. Behavioral disturbance may include subtle changes (*e.g.*, minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses may include changing durations of surfacing and dives, changing direction and/or speed; reducing/increasing vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); eliciting a visible startle

response or aggressive behavior (such as tail/fin slapping or jaw clapping); and avoiding of areas where sound sources are located. In addition, pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006).

Behavioral responses to sound are highly variable and context-specific, and any reactions depend on numerous intrinsic and extrinsic factors (e.g., species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (e.g., Richardson *et al.*, 1995; Wartzok *et al.*, 2004; Southall *et al.*, 2007, 2019; Weilgart, 2007; Archer *et al.*, 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.*, 2012), and can vary depending on characteristics associated with the sound source (e.g., whether it is moving or stationary, number of sources, distance from the source). In general, pinnipeds seem more tolerant of, or at least habituate more quickly to, potentially disturbing underwater sound than do cetaceans, and generally seem to be less responsive to exposure to industrial sound than most cetaceans. Please see Appendices B and C of Southall *et al.* (2007) and Gomez *et al.* (2016) for reviews of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.*, 2004). Animals are most likely to habituate to predictable, unvarying sounds. It is important to note that habituation is appropriately considered as a "progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial," rather than as, more generally, moderation in response to human disturbance (Bejder *et al.*, 2009). The opposite process is sensitization, in which an unpleasant experience leads to subsequent responses, often in the form of avoidance, at lower levels of exposure.

As noted above, behavioral state may affect the type of response. For example, resting animals may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.*, 1995; Wartzok *et al.*, 2004; National Research Council (NRC), 2005). Controlled experiments with captive marine mammals have shown

pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.*, 1997; Finneran *et al.*, 2003). Observed responses of wild marine mammals to loud pulsed sound sources (e.g., seismic airguns) have been varied but often consist of avoidance behavior or other behavioral changes (Richardson *et al.*, 1995; Morton and Symonds, 2002; Nowacek *et al.*, 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal (e.g., Erbe *et al.*, 2019). If a marine mammal briefly reacts to an underwater sound by changing its behavior or moving a small distance, the resulting change is unlikely to be significant to the individual, let alone the stock or population. If a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects on breathing, interference with or alteration of vocalization, avoidance, and flight.

Avoidance and Displacement

Changes in dive behavior can vary widely and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (e.g., Frankel and Clark, 2000; Costa *et al.*, 2003; Ng and Leung, 2003; Nowacek *et al.*, 2004; Goldbogen *et al.*, 2013a, 2013b; Blair *et al.*, 2016). Variations in dive behavior may reflect interruptions in biologically significant activities (e.g., foraging) or they may be of little biological significance. The impact of an alteration in dive behavior resulting from acoustic exposure depends on what the animal is doing at the time of exposure and on the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (e.g., bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in

response in any given circumstance (e.g., Croll *et al.*, 2001; Nowacek *et al.*, 2004; Madsen *et al.*, 2006; Yazvenko *et al.*, 2007). A determination of whether foraging disruptions incur fitness consequences would require information on, or estimates of, the energetic requirements of the affected individuals, the relationship between prey availability, foraging effort, and success, and the animal's life history stage.

Respiration rates vary naturally with different behaviors, and alterations in breathing rate, as a function of acoustic exposure, can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance of understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (e.g., Kastelein *et al.*, 2001; 2005; 2006; Gailey *et al.*, 2007). For example, harbor porpoise respiration rates increased in response to pile driving sounds at and above a received broadband SPL of 136 dB (zero-peak SPL: 151 dB re 1 μ Pa; SEL of a single strike (SEL_{ss}): 127 dB re 1 μ Pa²-s) (Kastelein *et al.*, 2013).

Avoidance is the displacement of an individual from an area or migration path due to the presence of a sound or other stressors and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.*, 1995). Avoidance may be short-term, with animals returning to the area once the noise has ceased (e.g., Bowles *et al.*, 1994; Goold, 1996; Stone *et al.*, 2000; Morton and Symonds, 2002; Gailey *et al.*, 2007). Longer-term displacement is possible, however, which may lead to changes in the abundance or distribution patterns of the affected species in the affected region if habituation to the sound does not occur (e.g., Blackwell *et al.*, 2004; Bejder *et al.*, 2006; Teilmann *et al.*, 2006).

A flight response is a dramatic change in normal movement, with directed, rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in its intensity (e.g., directed movement and travel rate). Relatively little information exists on the flight responses of marine mammals to anthropogenic signals, although observations of flight

responses to the presence of predators have been made (Connor and Heithaus, 1996; Bowers *et al.*, 2018). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (England *et al.*, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also affect marine mammals in more subtle ways. Increased vigilance may incur costs from the diversion of attention (*i.e.*, when a response requires heightened vigilance, it may come at the expense of reduced attention to other critical behaviors, such as foraging or resting). These effects have generally not been demonstrated in marine mammals, but studies of fishes and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.*, Beauchamp and Livoreil, 1997; Fritz *et al.*, 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reductions in fitness (*e.g.*, declines in body condition) and subsequent reductions in reproductive success, survival, or both (*e.g.*, Harrington and Veitch, 1992; Daan *et al.*, 1996; Bradshaw *et al.*, 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a 5-day period did not result in sleep deprivation or stress.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors, such as sound exposure, is more likely to be significant if it lasts more than one diel cycle or recurs on subsequent days (Southall *et al.*, 2007). Consequently, a behavioral response lasting less than 1 day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.*, 2007). Note that there is a difference between multi-day substantive (*i.e.*, meaningful) behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts multiple days does not necessarily mean that individual animals are exposed to activity-related stressors for multiple days, or, further, exposed in a manner that results in sustained, multi-day, substantive behavioral responses.

Physiological Stress Responses

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

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress, including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in pituitary hormone secretion have been implicated in reproductive failure, altered metabolism, reduced immune competence, and behavioral disturbances (*e.g.*, Moberg, 1987; Blecha, 2000). Increases in glucocorticoid levels are also associated with stress (Romano *et al.*, 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and “distress” is the cost of the response. During a stress response, an animal uses its glycogen stores, which can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energy reserves to a sufficient level to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.*, Holberton *et al.*, 1996; Hood *et al.*, 1998; Jessop *et al.*, 2003; Krausman *et al.*, 2004; Lankford *et al.*, 2005; Ayres *et al.*, 2012; Yang *et al.*, 2021). Stress responses to exposure to anthropogenic sounds or other stressors, and their effects on marine mammals, have also been reviewed (Fair and Becker, 2000; Romano *et al.*, 2002b) and, more rarely,

studied in wild populations (*e.g.*, Romano *et al.*, 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. In addition, Lemos *et al.* (2022) observed a correlation between higher levels of fecal glucocorticoid metabolite concentrations (indicative of a stress response) and vessel traffic in gray whales. Yang *et al.* (2021) studied behavioral and physiological responses in captive bottlenose dolphins exposed to playbacks of “pile-driving-like” impulsive sounds, finding significant changes in cortisol and other physiological indicators, but only minor behavioral changes. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors, and that some of these responses may be classified as “distress.” In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2005); however, distress is unlikely to result from these projects based on observations of marine mammals during previous, similar construction projects in southeast Alaska.

Vocalizations and Auditory Masking

Since many marine mammals rely on sound to find prey, moderate social interactions, and facilitate mating (Tyack, 2008), noise from anthropogenic sound sources can interfere with these functions, but only if the noise spectrum overlaps with the hearing sensitivity of the receiving marine mammal (Southall *et al.*, 2007; Clark *et al.*, 2009; Hatch *et al.*, 2012). Chronic exposure to excessive, though not high-intensity, noise could cause masking at specific frequencies for marine mammals that rely on sound for vital biological functions (Clark *et al.*, 2009). Acoustic masking is when other noises, such as from human sources, interfere with an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.*, those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.*, 1995; Erbe *et al.*, 2016).

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect the detection of mysticete communication calls and other potentially important natural sounds

such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (e.g., Clark *et al.*, 2009), and may result in energetic or other costs as animals change their vocalization behavior (e.g., Miller *et al.*, 2000; Foote *et al.*, 2004; Parks *et al.*, 2007; Di Iorio and Clark, 2010; Holt *et al.*, 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.*, 1995), through amplitude modulation of the signal, or through other compensatory behaviors, including modifications of the acoustic properties of the signal or the signaling behavior (Hotchkiss and Parks, 2013). Masking can be tested directly in captive species (e.g., Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. Few studies have addressed real-world masking sounds likely to be experienced by marine mammals in the wild (e.g., Branstetter *et al.*, 2013).

Masking occurs in the frequency band that the animals use and is more likely to occur in the presence of broadband, relatively continuous noise sources such as vibratory pile removal or installation. The energy distribution of pile-driving sound spans a broad frequency spectrum and is expected to fall within the audible range of marine mammals present in the project areas. Since noises generated from the proposed construction activities are mostly concentrated at low frequencies (<2 kHz), these activities likely have less effect on mid-frequency echolocation sounds produced by odontocetes (toothed whales). However, lower-frequency noises are more likely to affect the detection of communication calls and other potentially important natural sounds, such as surf and prey noise. Low-frequency noise may also affect communication signals when they occur near the noise band, thereby reducing the communication space of animals (e.g., Clark *et al.*, 2009) and increasing stress levels (e.g., Holt *et al.*, 2009). Unlike TS, masking, which can occur over large temporal and spatial scales, can potentially affect the species at population, community, or even ecosystem levels, in addition to individual levels. Masking affects both senders and receivers of signals, and at higher levels and for longer durations could have long-term chronic effects on marine mammal species and populations. However, the noise generated by the TMC's proposed

activities would occur only intermittently across 226 days in a relatively small area focused around the proposed construction sites. Thus, while the TMC's proposed activities may mask some acoustic signals relevant to the daily behavior of marine mammals, the short-term duration and limited areas affected make it very unlikely that the fitness of individual marine mammals would be affected.

The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (e.g., signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (e.g., sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age, or TTS hearing loss), and existing ambient noise and propagation conditions (Hotchkiss and Parks, 2013).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur across any of these modes and may result from a need to compete with increased background noise, or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.*, 2000; Frstrup *et al.*, 2003) or vocalizations (Foote *et al.*, 2004), respectively, while North Atlantic right whales (*Eubalaena glacialis*) have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.*, 2007). Fin whales (*Balaenoptera physalus physalus*) have also been documented to lower the bandwidth, peak frequency, and center frequency of their vocalizations in the presence of increased background noise from large vessels (Castellote *et al.*, 2012). Other alterations to communication signals have also been observed. For example, gray whales, in response to playback experiments that exposed them to vessel noise, have been observed to increase their vocalization rate and produce louder signals during periods of increased outboard engine noise (Dahlheim and Castellote, 2016). Alternatively, in some cases, animals may cease sound production during the production of aversive signals (Bowles *et al.*, 1994; Wisniewska *et al.*, 2018).

Under certain circumstances, marine mammals that experience significant

masking could also be impaired in maximizing their performance fitness for survival and reproduction. Therefore, when the coincident (masking) sound is human-made, it may be considered harassment if it disrupts or alters critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect but rather a potential behavioral effect (though not necessarily one associated with harassment). Therefore, under certain circumstances, marine mammals whose acoustic sensors or environment are severely masked could also be impaired in maximizing their performance fitness for survival and reproduction.

Airborne Acoustic Effects

Pinnipeds occurring near the project site could be exposed to airborne sounds associated with construction activities, depending on their distance from these activities, which could cause behavioral harassment. Airborne noise would primarily be an issue for pinnipeds that are swimming or hauled out near either project site, within the range of noise levels elevated above the airborne acoustic harassment criteria. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment as defined under the MMPA.

We recognize that pinnipeds in the water may be exposed to airborne sound that could result in behavioral harassment when they lift their heads above the water or when they haul out. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled-out pinnipeds to exhibit changes in their normal behavior, such as a reduction in vocalizations, or to flush from haulouts, temporarily abandon the area, and/or move further from the source. However, these animals previously would have been "taken" because of exposure to underwater sound above the behavioral harassment thresholds, which are, in all cases, larger than those associated with airborne sound. Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Therefore, authorization of additional incidental take resulting from airborne sound for pinnipeds was not requested by TMC and NMFS has

determined is not warranted; airborne sound is not discussed further here.

Potential Effects on Marine Mammal Habitat

TMC's specified activities could have localized, temporary impacts on marine mammal habitat, including prey, due to increased in-water noise levels and water quality degradation. Increased noise levels may affect the acoustic habitat and adversely affect marine mammal prey in the vicinity of the project areas (see discussion below). Elevated levels of underwater noise would ensonify the project areas where both fishes and mammals occur and could affect foraging success. Additionally, marine mammals may avoid the area during the proposed construction activities; however, any displacement due to noise is expected to be temporary and not to result in long-term effects on individuals or populations.

The total area impacted by TMC's proposed activities is relatively small compared to the available habitat within southeast Alaska. While marine mammals may forage in Gastineau Channel near the project area, the waters ensonified do not contain unique or particularly important habitat relative to other waters in southeast Alaska. Moreover, the Juneau waterfront area where the project would occur is industrialized.

Avoidance by potential prey (*i.e.*, fish) of the immediate areas due to increased noise is possible. The duration of fish and marine mammal avoidance of this area after construction stops is unknown, but a rapid return to normal recruitment, distribution, and behavior is anticipated. Any behavioral avoidance by fish or marine mammals of either disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity.

The proposed project would occur within the same footprint as existing marine infrastructure. The nearshore and intertidal habitats where the proposed projects would occur are in industrialized areas with relatively high marine vessel traffic. Temporary, intermittent, and short-term habitat alteration may result from increased noise levels during the proposed construction activities. Effects on marine mammal habitat would be limited to temporary displacement from pile removal and installation noise, and effects on prey species would be similarly limited in time and space.

Water Quality

Temporary and localized reduction in water quality would occur as a result of in-water construction activities. Most of this effect would occur during the removal and installation of piles, when bottom sediments are disturbed, and may temporarily increase suspended sediment in the project area. During pile extraction, sediment attached to the pile moves vertically through the water column causing a sediment plume. However, since currents are so strong in the area, following the completion of sediment-disturbing activities, suspended sediment in the water column should dissipate and quickly return to background levels across all construction scenarios.

Turbidity in the water column can reduce dissolved oxygen levels and irritate the gills of prey fish in the proposed project areas. Studies of the effects of turbid water on fish (marine mammal prey) suggest that concentrations of suspended sediment can reach thousands of milligrams per liter before an acute toxic reaction is expected (Burton, 1993). However, turbidity plumes associated with the projects would be temporary and localized, and fish in the proposed project areas would be able to move away from and avoid the areas where plumes may occur.

Overall, the water quality in the immediate area that is likely impacted by the proposed construction activities for both projects is relatively small compared to the available marine mammal habitat within and surrounding Juneau. Therefore, it is expected that water quality impacts on prey fish species due to turbidity, and therefore on marine mammals, would be minimal and temporary.

Potential Effects on Prey

Sound may affect marine mammals by altering the abundance, behavior, or distribution of prey species (*e.g.*, crustaceans, cephalopods, fishes, zooplankton). Marine mammal prey varies by species, season, and location, and for some, it is not well documented. Studies regarding the effects of noise on known marine mammal prey are described here.

Fishes use the soundscape and components of sound in their environment to perform important functions such as foraging, predator avoidance, mating, and spawning (*e.g.*, Zelick *et al.*, 1999; Fay, 2009). Depending on their hearing anatomy and peripheral sensory structures, which vary among species, fishes hear sounds using pressure- and particle-

motion sensitivity and detect the motion of surrounding water (Fay *et al.*, 2008). The potential effects of noise on fishes depends on the overlapping frequency range, distance from the sound source, water depth of exposure, and species-specific hearing sensitivity, anatomy, and physiology. Key impacts on fishes may include behavioral responses, hearing damage, barotrauma (pressure-related injuries), and mortality.

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

SPLs of sufficient strength have been known to cause injury to fishes and fish mortality (summarized in Popper *et al.*, 2014). However, in most fish species, hair cells in the ear continuously regenerate, and loss of auditory function is likely restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012b) showed that a TTS of 4–6 dB was recoverable within 24 hours in one species. Impacts would be most severe when the individual fish is near the source, and the exposure duration is long. Injury caused by barotrauma can range from slight to severe and cause death; risk of injury is higher for fish with swim bladders. Barotrauma injuries have been documented during controlled exposure to impact pile driving (Halvorsen *et al.*, 2012a; Casper *et al.*, 2013, 2017).

Fish populations in the proposed project area that serve as prey for marine mammals could be temporarily affected by noise from pile removal and

installation. The frequency range in which fishes generally perceive underwater sounds is 50 to 2,000 Hz, with peak sensitivities below 800 Hz (Popper and Hastings, 2009). Fish behavior or distribution may change, especially in response to strong and/or intermittent sounds that could harm fish. High underwater SPLs have been documented to alter behavior, cause hearing loss, and injure or kill individual fish by causing serious internal injury (Hastings and Popper, 2005).

Zooplankton is a food source for several marine mammal species, as well as a food source for fish that are then preyed upon by marine mammals. Population effects on zooplankton could indirectly affect marine mammals. Data are limited on the effects of underwater sound on zooplankton species, particularly sound from construction (Erbe *et al.*, 2019). Popper and Hastings (2009) reviewed information on the effects of human-generated sound and concluded that no substantive data are available on whether sound levels from pile driving, seismic activity, or other human-made sources would have physiological effects on invertebrates. Any such effects would be limited to the area very near (1 to 5 m) the sound source and would result in no population effects because of the relatively small area affected at any one time and the reproductive strategy of most zooplankton species (short generation, high fecundity, and very high natural mortality). No adverse impact on zooplankton populations is expected from the specified activities, due in part to their large reproductive capacity and naturally high levels of predation and mortality. Any mortalities or impacts that might occur would be negligible.

The greatest potential impact on marine mammal prey during construction would occur during impact pile driving. Vibratory pile removal/installation may elicit behavioral responses in fishes, such as temporary avoidance of the area, but is unlikely to cause injuries to fishes or have persistent effects on local fish populations. In-water construction activities would only occur during daylight hours, allowing fish to forage and transit the project area in the evening. Construction would also have minimal permanent and temporary impacts on benthic invertebrate species, a marine mammal prey source.

Potential Effects on Foraging Habitat

The proposed projects are not expected to result in any habitat-related effects that could cause significant or

long-term negative consequences for individual marine mammals or their populations, since removal and installation of in-water piles would be temporary and intermittent. The areas affected by these projects are relatively small compared to the available habitat just outside the project areas, and neither project would affect any areas of particular importance. Any behavioral avoidance by fish in the disturbed areas would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity. As described in the preceding, the potential for the TMC's activities to affect the availability of prey to marine mammals or to meaningfully impact the quality of physical or acoustic habitat is considered to be insignificant. Therefore, the impacts of the projects are not likely to adversely affect marine mammal foraging habitat in the proposed project areas.

In summary, given the relatively small areas being affected, as well as the temporary and mostly transitory nature of the proposed construction activities, any adverse effects from TMC's activities on prey habitat or prey populations are expected to be minor and temporary. The most likely impact on fishes at the project sites would be temporary avoidance of the area. Any behavioral avoidance by fish in the disturbed areas would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity. Thus, we conclude that the impacts of the specified activities are not likely to have more than short-term adverse effects on any prey habitat or populations of prey species. Further, any impacts on marine mammal habitat are not expected to result in significant or long-term consequences for individual marine mammals or to contribute to adverse impacts on their populations.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes proposed for authorization which, in part, informs NMFS' consideration of "small numbers," the negligible impact determination, and effects on the availability of marine mammals for subsistence use.

Harassment is the only type of take expected to result from these activities. Except for certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a

marine mammal or marine mammal stock in the wild by disrupting behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

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

As previously described, no serious injury or mortality is anticipated or proposed to be authorized for either proposed activity. Below, we describe how the proposed take numbers are estimated.

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

Acoustic Criteria

NMFS recommends the use of acoustic criteria that identify the received level of underwater sound above which exposed marine mammals would reasonably expect to be behaviorally harassed (equated to Level B harassment) or incur AUD INJ of some degree (equated to Level A harassment). Below, we describe the thresholds used by TMC and NMFS for this analysis.

Level B Harassment

Though significantly driven by the received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors. These factors are related to the source or exposure

context (*e.g.*, frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.*, bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.*, Southall *et al.*, 2007; Ellison *et al.*, 2012). Based on available science and the practical need to use a threshold based on a predictable, measurable metric for most activities, NMFS typically uses a generalized acoustic threshold based on the received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared sound pressure levels (RMS SPL) of 120 dB re 1 μ Pa for continuous (*e.g.*, vibratory pile driving, drilling) and

above RMS SPL 160 dB re 1 μ Pa for non-explosive impulsive (*e.g.*, seismic airguns) or intermittent (*e.g.*, scientific sonar) sources. Level B harassment estimates based on these behavioral harassment thresholds potentially include TTS, as, in most cases, TTS likely occurs at distances from the source less than those at which behavioral harassment may occur. TTS of sufficient degree can manifest as behavioral harassment and reduced hearing sensitivity, and the potential reduction in opportunities to detect important signals (conspecific communication, predators, prey) may result in behavior patterns that would not otherwise occur.

TMC's proposed activities include continuous (vibratory pile driving, DTH drilling and DTH anchoring) and intermittent (impact pile driving, DTH drilling, DTH anchoring) sources. Therefore, the Level B harassment thresholds of 120 dB and 160 dB re 1 μ Pa are applicable.

Level A Harassment

NMFS' Updated Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 3.0) (NMFS, 2024) identifies dual criteria to assess AUD INJ (Level A harassment) to five different underwater marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). It includes updated thresholds and updated weighting functions for each hearing group, provided in table 4 below. The references, analysis, and methodology used to develop the criteria are described in NMFS' 2024 Updated Technical Guidance, available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools>.

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Table 4 -- Thresholds Identifying the Onset of Auditory Injury

Hearing Group	AUD INJ Onset Acoustic Thresholds* (Received Level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	<i>Cell 1</i> $L_{pk,flat}$: 222 dB $L_{E,LF,24h}$: 183 dB	<i>Cell 2</i> $L_{E,LF,24h}$: 197 dB
High-Frequency (HF) Cetaceans	<i>Cell 3</i> $L_{pk,flat}$: 230 dB $L_{E,HF,24h}$: 193 dB	<i>Cell 4</i> $L_{E,HF,24h}$: 201 dB
Very High-Frequency (VHF) Cetaceans	<i>Cell 5</i> $L_{pk,flat}$: 202 dB $L_{E,VHF,24h}$: 159 dB	<i>Cell 6</i> $L_{E,VHF,24h}$: 181 dB
Phocid Pinnipeds (PW) (Underwater)	<i>Cell 7</i> $L_{pk,flat}$: 223 dB $L_{E,PW,24h}$: 183 dB	<i>Cell 8</i> $L_{E,PW,24h}$: 195 dB
Otariid Pinnipeds (OW) (Underwater)	<i>Cell 9</i> $L_{pk,flat}$: 230 dB $L_{E,OW,24h}$: 185 dB	<i>Cell 10</i> $L_{E,OW,24h}$: 199 dB
*Dual metric criteria for impulsive sounds: Use whichever criterion results in the larger isopleth for calculating AUD INJ onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level criteria associated with impulsive sounds, the PK SPL criteria are recommended for consideration for non-impulsive sources. Note: Peak sound pressure level ($L_{p,0-pk}$) has a reference value of 1 μPa, and weighted cumulative sound exposure level ($L_{E,p}$) has a reference value of 1 μPa²s. In this table, criteria are abbreviated to better reflect International Organization for Standardization (ISO) standards (ISO, 2017). The subscript “flat” is being included to indicate that peak sound pressures are flat weighted or unweighted within the generalized hearing range of marine mammals underwater (<i>i.e.</i>, 7 Hz to 165 kHz). The subscript associated with cumulative sound exposure level criteria indicates the designated marine mammal auditory weighting function (LF, HF, and VHF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The weighted cumulative sound exposure level criteria could be exceeded in a multitude of ways (<i>i.e.</i>, varying exposure levels and durations, duty cycle). When possible, action proponents should indicate the conditions under which these criteria would be exceeded.		

BILLING CODE 3510-22-P*Ensonified Area*

Here, we describe the operational and environmental parameters of the activity

used to estimate the area ensonified above the acoustic thresholds, including source levels and the transmission loss coefficient.

Source levels applied to this project were derived from acoustic data collected during installation of identical or similar sized piles in Alaska and the U.S. west coast (table 5).

Table 5 -- Proxy Sound Source Levels for Pile Sizes and Driving Methods

Method and Pile Type	Source Level @ 10m			Reference
Vibratory	dBrms			
20-in wood	162			Caltrans 2020
36-in steel	166			PR1 2023 Calculations ¹
42-in steel	170			PR1 2023 Calculations ¹
48-in steel	171			PR1 2023 Calculations ¹
Impact	dB rms	dB SEL	dB peak	
36-in steel	193	183	210	Caltrans 2015, 2020
42-in steel	192	179	213	Caltrans 2020
48-in steel	192	179	213	Caltrans 2020
DTH Drilling & DTH Anchoring	dB rms	dB SEL	dB peak	
36-in steel	174	164	194	NMFS 2022a
42-in steel	174	164	194	NMFS 2022a
48-in steel	178	168	-	NMFS 2022a

¹ Source level estimation methodology followed Navy (2015) and included available data from Puget Sound, WA and Southern Alaska.

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, bottom composition, and topography. The general formula for underwater TL is:

$$TL = B * \log_{10} (R_1/R_2),$$

Where:

TL = transmission loss in dB

B = transmission loss coefficient; for practical spreading equals 15

R₁ = the distance of the modeled SPL from the driven pile, and

R₂ = the distance from the driven pile of the initial measurement.

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

water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of 15 is often used in coastal waters, such as those found in the Aak'w Landing project area. In these environments, sound waves repeatedly reflect off the surface and bottom, reflecting an expected propagation environment between spherical and cylindrical spreading-loss conditions. Therefore, the default coefficient of 15 is used to calculate distances to the Level A harassment and Level B harassment isopleths.

Assuming practicable spreading and other assumptions regarding the source characteristics and operational logistics (e.g., source level, number of strikes per pile, number of piles per day), TMC calculated distances to the Level A harassment and Level B harassment isopleths and associated ensonified areas. Because an ensonified area associated with Level A harassment is more technically challenging to predict given the accounting for a cumulative energy component that changes over time and animal movement, NMFS developed an optional User Spreadsheet tool to assist applicants in assessing the potential for Level A harassment without the need for complex modeling ([https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-](https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools)

[guidance-other-acoustic-tools](https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools)). This relatively simple tool can be used to calculate a Level A harassment isopleth distance for use in conjunction with marine mammal density or occurrence data to predict the amount of take that may occur incidental to an activity. The resulting isopleth does not account for animal movement and represents the distance at which an individual would have to remain for the entire duration of pile driving or DTH within a day. As the amount of time considered in the calculation becomes longer, the likelihood of an individual accumulating noise energy above threshold at that distance becomes less realistic. However, individuals may approach a source more closely than the calculated distance in which case the amount of time needed to elicit the onset of AUD INJ decreases. While the risk of AUD INJ is low overall due to expected avoidance behavior, the User Spreadsheet offers a practical alternative for estimating isopleth distances when more sophisticated modeling methods are unavailable or are impractical.

Using the practical spreading model and assumptions identified in tables 1 and 5, TMC calculated, and NMFS has carried forward into this analysis, the distances to the Level A harassment and Level B harassment thresholds for marine mammals (table 6).

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Table 6 -- Calculated Distances to Level A Harassment and Level B Harassment Acoustic Thresholds and Associated Ensonified Areas

Activity	Threshold Distance (m) (Ensonified Area (km ²))					
	Level A harassment					Level B harassment
	LFC	HFC	VHFC	PH	OT	
Vibratory Pile Driving/Removal						
20-inch wood pile removal	15.1 (0.019)	5.8 (0.007)	12.3 (0.015)	19.5 (0.025)	6.5 (0.012)	6,309.6 (5.779)
36-inch steel temporary pile installation	36.6 (0.047)	14.1 (0.017)	29.9 (0.038)	47.1 (0.062)	15.9 (0.020)	11,659.1 (10.350)
36-inch steel temporary pile removal	36.6 (0.047)	14.1 (0.017)	29.9 (0.038)	47.1 (0.062)	15.9 (0.020)	11,659.1 (10.350)
36-inch steel permanent pile installation	36.6 (0.047)	14.1 (0.017)	29.9 (0.038)	47.1 (0.062)	15.9 (0.020)	11,659.1 (10.350)
42-inch steel permanent pile installation	81.9 (0.112)	31.5 (0.049)	66.9 (0.090)	105.5 (0.148)	35.5 (0.046)	21,544.3 (24.010)
48-inch steel permanent pile installation	98.7 (0.137)	37.9 (0.049)	80.6 (0.110)	127.0 (0.182)	42.8 (0.056)	25,118.9 (30.602)
Impact Pile Driving						
36-inch steel temporary pile installation	4,618.4 (4.664)	589.3 (1.291)	7,147.0 (6.343)	4,102.0 (4.305)	1,529.3 (2.645)	1,584.9 (2.700)
36-inch steel permanent pile installation	6,051.8 (5.618)	772.1 (1.710)	9,365.2 (8.127)	5,376.2 (5.211)	2,004.0 (3.113)	1,584.9 (2.700)
42-inch steel permanent pile installation	2,499.3 (3.462)	318.9 (0.566)	3,867.7 (4.158)	2,220.3 (3.297)	827.6 (1.821)	1,359.4 (2.50)
48-inch steel permanent pile installation	2,499.3 (3.462)	318.9 (0.566)	3,867.7 (4.158)	2,220.3 (3.297)	827.6 (1.821)	1,359.4 (2.50)
Down-the-Hole Drilling/Anchoring						
36-inch temporary pile installation	2,348.3 (3.382)	299.6 (0.522)	3,634.0 (4.020)	2,086.1 (3.187)	777.6 (1.721)	39,811 ¹ (37.487)
42-inch permanent pile installation	2,725.0 (3.560)	347.7 (0.635)	4,216.9 (4.381)	2,420.7 (3.424)	902.3 (1.958)	39,811 ¹ (37.487)
48-inch permanent pile installation	5,686.1 (5.404)	725.5 (1.612)	8,799.2 (7.652)	5,051.3 (4.981)	1,882.9 (2.995)	73,564 ¹ (37.487)

¹ Land truncates the calculated distance to approximately 30.5km resulting in an ensonified area of 37.5km².

BILLING CODE 3510-22-C*Marine Mammal Occurrence*

In this section, we provide information on the anticipated occurrence of marine mammals present in the project area that informs the take

calculations in the following section (see Take Estimation and table 8).

Density estimates are not readily available for the project area; therefore, TMC reviewed scientific literature and marine mammal occurrence data collected previously by IHA holders

conducting monitoring in the same area. They also consulted local Juneau marine mammal subject matter experts to estimate the occurrence of marine mammals that may be taken incidental to the specified activities (table 7). More information regarding literature and

sources cited can be found in section 6.1 of TMC's application.

Further, NMFS consulted information available for past projects conducted at the Juneau waterfront and determined the TMC's proposed occurrence rate of harbor seals is likely an underestimate and modified, in coordination with TMC, the harbor seal occurrence rate for this proposed IHA. In their application, TMC assumed 4 harbor seals per day

may be within the ensonified area based on data from Auke Bay which is located to the northwest of the project area. However, in 2019, NMFS received a request for an IHA modification that contained harbor seal monitoring data collected prior to the Downtown Waterfront Improvements Project, Juneau; the data indicated an average of 26 seals/day were observed between November 4 and 14, 2019 ([https://](https://www.fisheries.noaa.gov/action/incidental-take-authorization-juneau-waterfront-improvement-project-juneau-alaska)

www.fisheries.noaa.gov/action/incidental-take-authorization-juneau-waterfront-improvement-project-juneau-alaska). Because the 2019 data were collected essentially at the same location as the Aak'w Landing location, NMFS has applied those data to the take estimates. TMC agreed this approach was appropriate to ensure MMPA compliance (*i.e.*, enough take is authorized) during the project.

Table 7 -- Estimated Occurrence of Marine Mammals, by Species, near Juneau

Species	Occurrence	Frequency	Group Size	No. of Animals Expected
humpback whale	infrequent	4 groups/month	2	8/month
killer whale	infrequent	1 group/month	6	6/month
Dall's porpoise	infrequent	1 group/month	6	6/month
harbor porpoise	infrequent	1 group/month	2	2/month
harbor seal	common	26/day	n/a	26/day
Steller sea lion ¹	common	2 groups/day	2	4/day

¹ TMC assumes 4 Steller sea lions may be within the ensonified area per day based on data from Auke Bay. However, they also recognize that additional sea lions from the Circle Point haulout may transit through the Level B harassment zone during the specified activities. Please see the estimated take section below for more information on how the presence of sea lions at this haulout were factored into the take calculations.

Take Estimation

In this section, we describe how the project scope, ensonified area, and species occurrence information provided above are used to produce a quantitative estimate of the take that could occur and is proposed for authorization.

As described above, density is not available in the project area; therefore, TMC applied a simplistic approach which assumed that all animals potentially within the project area on any given day may be taken by harassment. Overall, the resulting formula for determining the number of takes that may occur incidental to the project is:

Total take by harassment = *occurrence estimate (in days) × pile activity days*

For species where a number of individuals per month was estimated based on the best available science, TMC used the same approach; however, to compensate for the monthly estimate, they applied a 30-day correction factor to convert the number of animals observed per month into a daily sighting rate (*e.g.*, 30 harbor seals per month equates to 1 harbor seal per day).

For vibratory pile driving, it is unlikely that Level A harassment would

occur; therefore, all takes calculated incidental to this activity were attributed to Level B harassment. Moreover, for killer whales and harbor porpoise, Level A harassment incidental to impact pile driving and DTH activities is also unlikely. The calculated distance to Level A harassment thresholds for killer whales is relatively short (see table 6) and represents extended durations. Because an animal is unlikely to remain in such close proximity to the piles for that time, AUD INJ is unlikely to occur. Further, killer whales are a highly visible species such that PSOs are likely to detect them and implement mitigation to avoid Level A harassment. The best available science demonstrates that harbor porpoises are behaviorally sensitive species and exhibit strong reactions to impulsive noise such as impact pile driving. For example, displacement of harbor porpoises has been observed during impact pile driving associated with the construction at multiple offshore wind projects (Tougaard *et al.*, 2009; Bailey *et al.*, 2010; Dähne *et al.*, 2013; Lucke *et al.*, 2012; Haelters *et al.*, 2015; Brandt *et al.*, 2018). These studies document long-distance (*i.e.*, several kilometers) displacement; however, the duration of displacement has been documented to

generally be temporary. The piles involved in coastal construction projects are smaller than those in these studies; however, other data support predicted avoidance responses wherein porpoise move away from a man-made sound source; thereby reducing accumulated noise energy. For example, Kok *et al.* (2018) found that two captive harbor porpoises spatially avoided a noisy pool when exposed to intermittent or continuous sound stimuli. In summary, harbor porpoises are likely to avoid coastal construction-related sound sources associated with the project to the degree that AUD INJ is unlikely. For these reasons, NMFS is not proposing to authorize Level A harassment for killer whales and harbor porpoise.

For those species where Level A harassment is expected to occur, TMC assumed that all animals present within the project area on days when activities with the potential for Level A harassment occurs (*i.e.*, impact hammering and DTH activities; 144 days) could incur Level A harassment. The remaining takes, based on the total amount of take calculated, are predicted to result in Level B harassment only.

To understand the potential for the total number of takes incidental to impact pile driving and DTH activities to be by Level A harassment for

humpback whales, harbor seals, and Steller sea lions, TMC considered the number of days these activities may occur ($n = 144$) and calculated take using this value:

$$\text{Level A harassment} = \text{occurrence estimate (in days)} \times 144 \text{ days}$$

To estimate the number of takes by Level B harassment incidental to impact pile driving and DTH activities, TMC subtracted the number of takes by Level A harassment from the total takes calculated via the equation above. NMFS acknowledges that the number of estimated exposures above higher threshold criteria using the methodology (e.g., sound exposures exceeding Level A harassment criteria), also encompasses the potential for less impactful effects (e.g., Level B harassment). An individual exposure exceeding a Level A harassment criterion may not result in actual AUD INJ, yet the individual may have experienced Level B harassment. This outcome is accounted for in our authorization of potential higher-level takes and in our analysis.

$$\text{Level B harassment} = \text{Total take by harassment} - \text{Level A harassment}$$

For Steller sea lions, TMC also considered the presence of a nearby haulout site. Circle Point, a minor haulout approximately 27.80 km to the southeast of the project site, is within the DTH drilling and DTH anchoring Level B harassment zones. A minor haulout is one that supports fewer than 200 animals or is used irregularly. Given the haulout is used intermittently, when used may support anywhere from 1 to 199 individuals, and is located relatively far from the project site (although within the Level B harassment zone), TMC has added 199 exposures to the calculated total take estimate for this species. Given the variability in haulout use, TMC determined, and NMFS agrees, that assuming 199 animals would be exposed during every day that DTH activities would occur would be a gross overestimate of take and that the resulting number of takes using this method is reasonable. Methods for attributing a proportion of those takes to Level A harassment incidental to impact pile driving and DTH drilling and DTH anchoring follows the methodology

described above. Remaining takes are attributed to Level B harassment.

Using the calculations described above, TMC has requested, and NMFS proposes to authorize, the number of takes identified in table 8. The proportion of the stock values presented in table 8 reflects the assumption that each take is of a different individual and, where takes may occur to any stock of a given species, that all takes proposed to be authorized are attributed to each stock. For porpoise and killer whales which tend to transit through the area, it is possible that takes are of unique individuals. However, for species which demonstrate some residency or persistence (humpback whales and pinnipeds), it is likely that fewer number of individuals than the number of takes proposed to be authorized will be harassed repeatedly. Further, for humpback whales, killer whales, and Steller sea lions, it is unlikely that all takes authorized would occur to only one stock. For these reasons, the proportion of stock values in table 8 are likely overestimates for all species except porpoises.

Table 8 -- Number of Takes, by Level A harassment and Level B harassment, Proposed to be Authorized.

Species	Stock	Proposed Take		Total Take	Percent of Stock ¹
		Level A	Level B		
Humpback whale	Hawaii	38	21	59	<1
	Mexico-N. Pacific ²	1	1	2	7
Killer whale	East coast transient	0	46	46	13
	Eastern North Pacific Northern Resident				15
	Eastern North Pacific Alaska Resident				2
Dall's porpoise	Alaska	29	17	46	<1
Harbor porpoise	Northern Southeast Alaska Inland Waters	0	16	16	<1
Harbor seal	Lynn Canal/Stephens Passage	3,744	2,132	5,876	44
Steller sea lion	Eastern	568	441	1,009	3
	Western ³	8	6	14	2

¹ The values presented here are based on calculations assuming all takes were to a different individual. However, repeated takes of the same individual are more likely to occur for species remaining within the area to forage (e.g., humpback whales) and those displaying increased site fidelity (e.g., harbor seals, Steller sea lions). Therefore, the actual percentage of the population taken is less than provided here.

² Approximately 2.4 percent of the humpbacks encountered during the project are expected to belong to the Mexico DPS. Therefore, NMFS expects one take by Level A harassment and one take by Level B harassment for the Mexico-North Pacific stock.

³ Approximately 1.4 percent of Steller sea lions encountered during the project are expected to belong with the Western DPS. Therefore, NMFS expects eight takes of the western stock by Level A harassment and six takes by Level B harassment.

Proposed Mitigation

To issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations (ITA) to include information about the availability and feasibility (economic and technological) of equipment, methods, and the manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where

applicable, NMFS considers two primary factors:

(1) How and to what degree the successful implementation of the measure(s) is expected to reduce impacts on marine mammal species or stocks and their habitat. This considers the nature of the potential adverse impact being mitigated (its likelihood, scope, and range). It further considers the likelihood that the measure would be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability of implementation as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

The number and/or intensity of incidents of takes will be minimized through the incorporation of the mitigation measures that were proposed by TMC. TMC has agreed that all of the mitigation measures are practicable and NMFS agrees that these measures are sufficient to achieve the least

practicable adverse impact on the affected marine mammal species or stocks and their habitat and have included them in the IHA as proposed mitigation requirements.

Establishment of Clearance and Shutdown Zones

TMC proposed, and NMFS would require, the establishment of clearance and shutdown zones identified in table 10 for pile removal, installation, DTH drilling, and DTH anchoring. The purpose of "clearance" of a particular zone is to prevent potential instances of auditory injury and more severe behavioral disturbance the maximum extent practicable by delaying the commencement of impact pile driving if marine mammals are detected within certain pre-defined distances from the pile being installed. The purpose of a shutdown is to prevent a specific acute impact, such as auditory injury or severe behavioral disturbance of sensitive species, by halting the activity. Additionally, to avoid unauthorized takes, TMC would delay an activity or shut down in the event that a species for

which take is not authorized or for which take has been reached is observed within or entering any designated harassment zone. If pile driving or DTH activities are delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the clearance and shutdown zones indicated in table 9 or 15 minutes have passed without re-detection of the animal.

In-water construction activities that do not include the specified activities but require heavy equipment will also shut down if a marine mammal approaches within 10 m to avoid direct interaction.

In general, the clearance and shutdown zones represent the calculated Level A harassment distance rounded up for ease of implementation. However, a maximum shutdown zone of 2,000 m for low frequency cetaceans and 300 m for very high frequency cetaceans and pinnipeds will be maintained due to detectability and/or practicability. In addition, NMFS is proposing a maximum 25m clearance and shutdown zone be maintained for harbor seals. Data collected by the City and Borough of Juneau in 2019 indicates that extended mitigation zones would not be practicable as harbor seals are frequently observed in close proximity (within 130 m) to the project site such that the specified activities would not be able to commence or continue to the

degree that the project could be completed within reasonable time frames. For the City and Borough of Juneau, harbor seal presence close to the pile driving location resulted in a need for a modified IHA to reduce original shutdown zone sizes (<https://www.fisheries.noaa.gov/action/incidental-take-authorization-juneau-waterfront-improvement-project-juneau-alaska>). NMFS has applied that experience to this Aak'w Landing project. NMFS notes that TMC's application proposed a 300m shutdown for harbor seals; however, TMC was unaware these data existed during development of their application nor of the prior need for the City and Borough of Juneau's modified IHA (85 FR 18562, April 2, 2020).

Table 9 – Clearance, Shutdown, and Level B Harassment Zones

Activity	Clearance and Shutdown Distances from Source (m)					Level B harassment zone (km) ¹
	LFC	HFC	VHFC	PH	OT	
Vibratory Pile Driving/Removal						
20-inch wood (removal)	20	10	15	25	10	6.3
36-inch steel (temporary/permanent)	40	15	30	25	20	11.7
42-inch steel	85	35	70	25	40	21.5
48-inch steel	100	40	85	25	45	25.1
Impact Pile Driving						
36-inch steel (temporary)	2,000	590	300	25	300	1.6
36-inch steel (permanent)		780				
42-inch steel (permanent)		320				1.4
48-inch steel (permanent)						
DTH Drilling and Anchoring						
36-inch steel (temporary)	2,000	300	300	25	300	30.5
42-inch steel (permanent)		350				
48-inch steel (permanent)		730				

Soft-Start

TMC would use soft-start procedures for impact pile driving to provide additional protection to marine mammals by issuing a warning and/or

giving them a chance to leave the area before the hammer operates at full capacity. Soft-start requires contractors to provide an initial set of three strikes at reduced energy, followed by a 30-second waiting period, then two

subsequent reduced-energy strike sets. This soft-start would be implemented at the start of each day's impact pile driving and at any time following cessation of this activity for a period of 30 minutes or longer within a day.

Bubble Curtains

TMC has not proposed to use a bubble curtain during pile installation, due to economic and temporal impracticability. In general, bubble curtains reduce noise levels near the source, minimizing exposure levels. However, requiring use of a bubble curtain would reduce the number of piles that could be installed in a day due to the time it takes to install and move the device. Therefore, the duration (months) over which the project would occur would be extended, increasing project costs and exposing marine mammals to underwater sound over longer time periods. For these reasons, TMC has determined, and NMFS agrees, that use of a bubble curtain is not practicable.

Vessel Strike Avoidance

Implementation of the vessel strike avoidance measures proposed by TMC is expected to reduce the risk of vessel strike to the degree that vessel strike would be avoided. While the likelihood of a vessel strike is generally low without these measures, vessel interaction is one of the most common ways that marine mammals are seriously injured or killed by human activities. TMC vessels will adhere to the Alaska Humpback Whale Approach Regulations (50 CFR 216.18, 223.214, and 224.103(b)) when transiting to and from the project site and operate at a slow, safe speed when near a humpback whale (33 CFR 83.06).

All specific proposed monitoring, and reporting requirements can be found in a draft IHA for this action at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>.

Based on our evaluation of TMC's proposed mitigation measures, NMFS has preliminarily determined that the proposed mitigation measures provide

the means of effecting the least practicable impact on the affected species or stocks and their habitat, with particular focus on rookeries, mating grounds, and similar areas of significance.

Proposed Monitoring and Reporting

To issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical to both compliance and ensuring the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should help improve the understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (e.g., presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (e.g., source characterization, propagation, ambient noise); (2) affected species (e.g., life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (e.g., age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological)

to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (e.g., marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

The monitoring and reporting requirements described in the following were proposed by TMC in its adequate and complete application TMC has agreed to the requirements. NMFS describes these below as requirements and has included them in the proposed.

TMC would abide by all monitoring and reporting measures contained within the IHA, if issued, and their Protected Species Monitoring Plans (see NMFS' website at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>).

At least two PSOs will be on duty during pile driving and at least three PSOs will be on-duty during DTH drilling and DTH anchoring. TMC would also employ one PSO during times when non-pile related in-water work is occurring. The locations of PSOs will be chosen based on site accessibility and field of vision and are designed to monitor to the maximum extent practicable. PSO locations include Harris Harbor (Station 1), on the beach in front of the Juneau Seawalk (Station 2), Coast Guard dock (Station 3), and Sheep Creek Beach and Fishing Area (Station 4). PSO scenarios are summarized in table 10.

Table 10 -- PSO Location Scenarios

Scenario	Activity	PSO Location	# of PSOs
1	non-pile related in-water construction	Station 2 or 4	1
2	vibratory or impact pile driving	Station 2 and 4	2
3	DTH drilling/anchoring	Station 1, 3 and 4	3

Monitoring would take place from 30 minutes prior to initiation of pile driving or removal and DTH activities through 30 minutes post-completion of

pile driving activity. Monitoring would be conducted during periods of sufficient visibility for the lead PSO to determine that the clearance and

shutdown zones indicated in table 10 are clear of marine mammals. All PSOs must be NMFS-approved and have no other assigned tasks during

monitoring periods. At least one PSO must have prior experience performing the duties of a PSO during the specified activities. At least two PSOs will be on duty during pile driving activities and at least three PSOs will be on-duty during DTH drilling and DTH anchoring. Where a team of three or more PSOs is required, a lead observer or monitoring coordinator would be designated. The lead observer must have prior experience working as a marine mammal observer during construction. Additional PSOs may be employed during periods of low or obstructed visibility to ensure the entirety of the shutdown zone is monitored.

TMC would submit a draft report on all construction activities and marine mammal monitoring results to NMFS within 90 days of the completion of monitoring, or 60 days prior to the requested issuance of any subsequent IHAs or similar activity at the same location, whichever comes first. TMC will provide a final report to NMFS within 30 days following resolution of NMFS' comments on the draft report.

The information required to be collected and reported to NMFS is included in the draft IHA available at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. In summary, the report would include, but not be limited to, information regarding activities that occurred, marine mammal sighting data, and whether mitigative actions were taken or could not be taken. TMC would also be required to submit reports on any observed injured or dead marine mammals. If the death or injury was clearly caused by a specified activity, the TMC would immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHA. TMC would not resume its activities until notified by NMFS.

Specific proposed monitoring, and reporting requirements can be found in the draft IHA found at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>.

Negligible Impact Analysis and Determination

NMFS defines negligible impact as an effect of the specified activity that cannot reasonably be expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact

finding is based on the absence of likely adverse effects on annual recruitment or survival rates (*i.e.*, population-level effects). An estimate of the number of takes alone is insufficient to support an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating them against population status. Consistent with the 1989 preamble to NMFS' implementing regulations (54 FR 40338, September 29, 1989), impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their effects on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the following analysis applies to all species listed in table 8 given that the anticipated effects of TMC's activities on this different marine mammal stocks are expected to be similar. There is little information on the nature or severity of the impacts, or on the size, status, or structure of any of these species or stocks, which would lead to a different analysis for this activity.

Specifically, the specified activities may result in take, in the form of Level A harassment and/or Level B harassment, from underwater sounds generated from pile driving and removal. Potential takes could occur if individuals of these species are present in zones ensounded above the thresholds for Level A harassment and/or Level B harassment identified above when these activities are underway. TMC would implement mitigation measures designed to reduce the potential for and severity of harassment that effect the least practicable adverse impact on the affected marine mammal species and stocks during the specified activities. Given the nature of the proposed activities, NMFS does not anticipate serious injury or mortality due to TMC's specified activities, even in the absence of required mitigation.

For all species and stocks, take is expected to occur within a limited, confined area (adjacent to the project site) of the species' range, including Southeast Alaska. The intensity and

duration of take by Level A harassment and/or Level B harassment would be minimized through the proposed mitigation measures described herein. Furthermore, the number of takes proposed for authorization is small compared to the relative stock's abundance, even assuming that every take for any particular species could wholly occur to individuals of an individual stock.

NMFS is proposing to authorize take, by Level A harassment, for four marine mammal species incidental to the specified activities. As described in the Potential Effects to Marine Mammals and Their Habitat section, the impacts could be a small degree of AUD INJ which may or may not manifest as PTS. Should PTS occur, at most, NMFS anticipates it would be of a small degree; therefore, NMFS anticipates a sound would have to be only slightly louder for it to be heard by an individual that may incur PTS from the project. Further, PTS would only occur within the frequency range of the source (*i.e.*, impact pile driving, DTH activities) which does not cover any species complete hearing range. For most species, the frequency range of the noise produced by the specified activities is outside their primary hearing range. While the noise sources most overlap with low frequency cetaceans, NMFS is proposing to authorize only 39 instances of AUD INJ for this hearing group.

Additionally, as noted previously, some subset of individuals who are behaviorally harassed during the activities could also simultaneously incur some small degree of TTS for a short duration. However, because of the anticipated small degree of possible overlap of sound exposure, duration, and hearing frequency with species occurrence, any TTS is expected to be limited.

Behavioral responses of marine mammals to pile removal and installation activities in the project area, if any, are expected to be mild, short-term, and temporary. Marine mammals within the Level B harassment zones may not show any visual cues that they are disturbed by activities, or they may become alert, avoid the area, leave the area, or display other mild responses that are not observable, such as changes in vocalization patterns. Additionally, many of the species present in the region would be present only temporarily, based on seasonal patterns or during active transit between other habitats. Most likely, during the specified activities, individuals are expected to move away from the sound source until the source ceases. An avoidance response is most likely to

occur if an animal is in close proximity to a source, most notably impact pile driving, DTH drilling, and DTH anchoring. At distance, the severity of any behavioral response is likely to be diminished from all of the specified activities. It is possible that avoidance or other behavioral responses do not occur, especially for non-impulsive sources such as vibratory pile removal and driving, given marine mammals in the Juneau area are consistently exposed to anthropogenic noise sources like vessel traffic. Regardless, NMFS conservatively assumes animals disturbed by project sounds would be expected to avoid the area and use nearby higher-quality habitats. Further, pinnipeds in the area would be able to haul out to avoid underwater noise exposure.

The potential for all harassment is minimized by implementing the proposed mitigation measures. During all pile removal and installation activities, TMC would delay commencement of or shutdown activities if a marine mammal is observed within designates zones to minimize instance and severity of behavioral harassment and injury. These zones would be monitored by NMFS-approved PSOs. Further, prior to impact pile driving, TMC will implement a soft-start of the equipment prior to operating at maximum energy. Given sufficient notice through soft start, marine mammals are expected to move away from a sound source to avoid the loudest noise exposure; thereby, reducing the intensity of any behavioral reactions or injury that may occur.

Any impact on marine mammal habitat, including prey, from TMC's proposed activities would primarily have temporary effects primarily resulting in increased turbidity and avoidance of the immediate vicinity around the project site by prey. Addition of the new dock would result in permanent impacts; however, these and the expected temporary impacts are not expected to adversely affect the degree to which marine mammals can efficiently forage.

In summary, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No mortality or serious injury is anticipated or proposed for authorization, and no Level A harassment (AUD INJ) is anticipated or proposed for authorization incidental to the Aak'w Landing Development Project;

- Any Level A harassment (AUD INJ) is anticipated to be slight AUD INJ, including slight PTS of a few decibels within the lower frequencies associated with pile driving and not encompassing a species' full hearing range;

- The anticipated incidents of Level B harassment would result in, at worst, temporary modifications in behavior or a small degree of TTS that would resume to baseline at the cessation of activities or as animals move away from the source;

- The project area is located in a highly industrialized and commercial bay; therefore, species taken are likely acclimated to anthropogenic activities and behavioral reactions are expected to be minor (if at all);

- Take could occur within a very small area affected by the specified activity relative to the overall habitat ranges of all species, does not include any rookeries nor ESA-designated critical habitat;

- Effects on species that serve as prey for marine mammals from the activities are primarily expected to be short-term and, therefore, any associated impacts on marine mammal feeding are not expected to result in significant or long-term consequences for individuals, or to accrue adverse impacts on their populations;

- The proposed mitigation measures, such as soft-starts and shutdowns, are expected to reduce the effects of the specified activity to the least practicable adverse impact level; and

- TMC would employ NMFS-approved PSOs to monitor for marine mammals and call for implementation of applicable mitigation measures; TMC would report PSO observations to NMFS.

Based on the analysis contained herein of the likely effects of the specified activities on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the specified activities would have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under section 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers, so, in practice, when estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate abundance estimate for the relevant

species or stock in determining whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers (see 86 FR 5322, January 19, 2021). Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The percentage of the population that may be harassed incidental to the specified activities assuming each take is of a different individual is provided in table 8. The total amount of take proposed to be authorized is less than one-third for 9 of the 10 stocks impacted (see table 8). The total number of takes proposed to be authorized for the Lynn Canal/St. Stephens Passage stock of harbor seals is approximately 44 percent of the total stock abundance estimate (13,388), assuming each take is to a different individual (*i.e.*, no repeated takes to the same individual). However, it is likely that a relatively small subset of harbor seals would be incidentally harassed repeatedly by the specified activities, and therefore, the number of individuals taken is likely less than one-third of our stock. The stock range extends over approximately 4500 km² and harbor seals are known to exhibit residency patterns such that repeated exposures are a likely outcome. Overall, NMFS anticipates this percentage to be lower than provided in table 8 for most species as repeated takes of individuals is likely to occur given known persistence in the area, particularly for pinnipeds.

Based on the analysis contained herein of the proposed activities (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

In order to issue an IHA, NMFS must find that the specified activity will not have an "unmitigable adverse impact" on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined "unmitigable adverse impact" in 50 CFR 216.103 as an impact resulting from the specified activity: (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) causing the marine mammals to abandon or avoid hunting areas; (ii) directly displacing

subsistence users; or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Alaska Natives have traditionally harvested subsistence resources, including sea lions and harbor seals, in Southeast Alaska. Since surveys of harbor seal and sea lion subsistence harvest in Alaska began in 1992, there have been declines in the number of households hunting and harvesting pinnipeds in Southeast Alaska while the number of household hunting and harvesting sea lions has remained relatively constant at low levels (Wolfe *et al.*, 2013). Subsistence harvest data for the Lynn Canal/Stephens Passage stock indicates an average annual harvest in the years 2004–2008 of 69 harbor seals; in 2011, 42 seals were harvested, and 24 seals were harvested in 2012 (summarized in Muto *et al.*, 2016 from Wolfe *et al.*, 2013). In 2012, the community of Juneau had an estimated subsistence take of zero Steller sea lion (Wolfe *et al.*, 2013).

The Alaska Department of Fish and Game has designated the area around Juneau, including ensonified waters from the project, a non-subsistence area which is defined as an area where dependence upon subsistence (customary and traditional uses of fish and wildlife) is not a principal characteristic of the economy, culture, and way of life (AS 16.05.258(c)). Regardless, the impact of the project on marine mammals is expected to be primarily limited to mild behavioral reactions such as temporary avoidance during pile activities, increased swim speeds, cessation of vocalizations such that it would not affect their availability for subsistence use.

TMC's application indicates that in June 2025, they contacted various tribal entities including the Central Council of the Tlingit and Haida Indian Tribes of Alaska, the Douglas Indian Association, and the Bureau of Indian Affairs without response.

Given all this information, NMFS has preliminarily determined that authorizing the take requested by TMC is not likely to adversely affect the availability of any marine mammal species/stocks that would traditionally be used for subsistence purposes, or would affect any subsistence harvest.

- The proposed construction activities are spatially localized within an existing waterfront development wherein marine mammals have become acclimated to human activity;

- The proposed activities are temporary in nature;
- TMC would implement mitigation measures that minimize any harassment to marine mammals in the action area, including traditionally harvested species;
- NMFS expects that most of the effects on marine mammals would not rise above behavioral impacts (*i.e.*, Level B harassment) and would be temporary in nature and any AUD INJ (*i.e.*, Level A harassment) that may occur would be a slight threshold shift and would be limited to a few instances of take; and
- No serious injury or mortality is expected or proposed to be authorized.

For these reasons, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses from authorizing the requested take that may occur incidental to TMC's specified activities.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance in issuing an ITA, NMFS consults internally whenever we propose to authorize take of ESA-listed species, in this case with the NMFS Alaska Regional Office (AKRO).

NMFS is proposing to authorize the take of the Mexico-North Pacific stock of humpback whales and western stock of Steller sea lions, which are listed under the ESA. The NMFS Office of Protected Resources has requested the initiation of ESA section 7 consultation with AKRO for the issuance of this IHA. NMFS would conclude the ESA consultation before reaching a determination regarding the issuance of the proposed IHA.

Proposed Authorizations

As a result of these preliminary determinations, NMFS proposes to issue an IHA to TMC provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>.

Request for Public Comments

We request comments on our analyses, the proposed authorization, and any other aspect of this notice. We also request comments on the potential

renewal of the IHA, if issued, as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for these IHA or a subsequent IHA renewal.

On a case-by-case basis, NMFS may issue a one-time, 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA). The request for renewal must include (1) an explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take); and (2) a preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized; and

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: April 13, 2026.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2026-07295 Filed 4-14-26; 8:45 am]

BILLING CODE 3510-22-P

CONSUMER PRODUCT SAFETY COMMISSION**[Docket No. CPSC–2026–0067]****Request for Information Regarding Consumer Product Recall Fraud****AGENCY:** Consumer Product Safety Commission.**ACTION:** Notice of request for information.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) is requesting information on fraudulent or abusive conduct associated with the redemption of consumer product recall remedies (recall fraud). Recall fraud may undermine the effectiveness of recalls, increase compliance costs for firms, distort recall performance data, and reduce consumer participation in corrective action plans. This information-gathering effort is intended to inform the Commission's ongoing work to improve recall effectiveness and reduce unnecessary burdens associated with the administration of recall programs. Through this Request for Information, the Commission seeks input on the scope of recall fraud, its impact on recall effectiveness, and potential approaches to mitigate such conduct while preserving consumer access to effective recall remedies.

DATES: Submit comments by June 15, 2026.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2026–0067, 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 email, except as described below.

Mail/Hand Delivery/Courier/Confidential Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, 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 to 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–2026–0067, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Blake Rose, Director, Resources Management and Fast Track Recalls Division, Office of Compliance and Field Operations, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7613; email: brose@cpsc.gov.

SUPPLEMENTARY INFORMATION:**I. Introduction**

The CPSC is charged with protecting the public from unreasonable risks of injury or death associated with consumer products under its jurisdiction. *See* 15 U.S.C. 2051, *et seq.* Consumer product–related incidents result in significant deaths, injuries, and property damage and impose substantial costs on the U.S. economy. To carry out its mission, the Commission uses a range of regulatory and enforcement tools, including the approval and oversight of corrective action plans (CAPs) with manufacturers, importers, distributors, and retailers of consumer products that fail to comply with applicable consumer product safety rules, voluntary standards relied upon by the Commission, or that contain a defect that could create a substantial product hazard or an unreasonable risk of serious injury. *See, e.g.,* 15 U.S.C. 2064.

Corrective action plans may include repair, replacement, or refund of the purchase price of the product, less a reasonable allowance for use in appropriate circumstances. *See* 15 U.S.C. 2064(d). These remedies are intended to promote the prompt removal of hazardous products from commerce and consumer use. Refunds, in particular, function as an incentive mechanism to encourage consumer participation in recalls and to reduce

ongoing exposure to hazardous products. The Commission recognizes that this structure may incentivize the legitimate aggregation of recalled products by third parties, which may advance the Commission's interest in maximizing recall effectiveness, provided such activity reflects efforts to remove hazardous products from consumer use rather than to exploit recall remedies for improper financial gain. In calendar year 2025, approximately 60 percent of Commission-approved recalls included full or partial refunds as part of the corrective action plan, reflecting the Commission's recognition of the important role such remedies play in incentivizing the removal of hazardous products from the marketplace.

II. Background

For purposes of this Request for Information, the term “recall fraud” refers to fraudulent or abusive conduct associated with the redemption of recall remedies, including the submission of false or misleading information, fraudulent redemptions, or other schemes to abuse recall programs.

The Commission is aware of indications of recall fraud, particularly in recalls offering monetary refunds. Recall fraud may be perpetrated by individual actors as well as by organized or coordinated networks, including networks that operate across jurisdictions or national boundaries and engage in systematic abuse of recall programs. Such schemes may exploit online submission processes or other automated mechanisms associated with modern recall administration. Such conduct may also increase compliance costs for recalling firms, undermine the effectiveness of recalls, and discourage firms from voluntarily agreeing to refund-based or other consumer-friendly corrective actions. In response to concerns about recall fraud, recalling firms may implement additional verification or documentation requirements to protect against improper payments. While such measures may deter fraudulent activity, they may also impose burdens on legitimate consumers and reduce recall participation, thereby diminishing the public safety benefits of corrective action plans.

The Commission recognizes that recall remedies are not intended to provide compensation in a traditional damages framework, but rather to incentivize the removal of hazardous products from the marketplace and from consumer use. Practices that undermine this incentive structure, whether through recall fraud or through

excessive barriers to redemption, may reduce the effectiveness of recalls and compromise consumer safety outcomes.

Accurate measurement of recall performance is an important component of the Commission's oversight of corrective action plans. The Commission therefore has an interest in assessing the effectiveness of the recalls it approves, including consumer participation rates and the extent to which hazardous products are removed from use. Recall fraud may distort redemption data and frustrate the Commission's ability to accurately assess the effectiveness of approved recalls, including whether hazardous products are being removed from the marketplace.

III. Information Requested

The Commission seeks information from manufacturers, importers, distributors, retailers, recall administrators, consumer advocates, and members of the public regarding the scope of recall fraud and potential approaches to mitigate such conduct. Comments should address, but are not limited to, the following:

1. Observed Recall Fraud

- Submission of altered, fabricated, or artificially generated images or other documentation purporting to demonstrate product destruction or eligibility for recall remedies.

- Fraudulent redemption attempts by a single individual or entity exceeding the number of products reasonably in possession.

- Other indicators or patterns suggesting fraudulent or abusive redemption behavior, including activity associated with organized or systematic schemes.

- The extent to which coordinated or commercial acquisition of recalled products affects recall effectiveness, including any associated benefits or risks.

2. Impacts of Recall Fraud

- Compliance costs associated with recall fraud.

- Effects on firms' willingness to agree voluntarily to refund-based or other corrective action plan remedies.

- Impacts on consumer participation rates and overall recall effectiveness.

3. Fraud Mitigation Measures

- Existing tools, technologies, or practices used to detect or deter recall fraud.

- Measures that reduce recall fraud without materially increasing burdens on legitimate consumers.

- Observed tradeoffs between fraud prevention and consumer access to recall remedies.

4. Potential Commission Actions

- Suggested steps the Commission could take, consistent with its statutory authorities, to reduce recall fraud.

- Identification of any legal, regulatory, or operational constraints relevant to addressing recall fraud.

The Commission encourages commenters to provide supporting data, examples, or analysis where practicable. Comments should explain the basis for any assertions regarding the prevalence, costs, or impacts of recall fraud. Instructions for submitting comments are provided in the **ADDRESSES** section of this document.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2026-07328 Filed 4-14-26; 8:45 am]

BILLING CODE 6355-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-23]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of the attached Transmittal 26-23, Policy Justification, and Sensitivity of Technology.

Dated: April 10, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEPARTMENT OF STATE

TRANSMITTAL NO RSAT 26-23

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) *Prospective Purchaser:* Government of Jordan

(ii) Total Estimated Value:

Major Defense Equipment *	\$ 0
Other	\$280 million
TOTAL	\$280 million

Funding Source: Foreign Military Financing (FMF)

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):
None

Non-Major Defense Equipment:

The following non-MDE items will be included: Ku band multi-function radio frequency system radar and command and control system; generators; global positioning system receivers; spare and repair parts; special tools and test equipment; technical manuals and publications; training devices; new equipment training; U.S. Government and contractor technical, engineering, and logistics personnel services; concurrent spare parts, systems integration, and checkout support; field service representative support; contractor logistics support; program management reviews; and other related elements of logistics and program support.

(iv) *Military Department:* Army (JO-B-YFX)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* February 26, 2026

* as defined in Section 47(6) of the Arms Export Control Act

POLICY JUSTIFICATION

Jordan—Ku band multi-function radio frequency system radars

The Government of Jordan has requested to buy Ku band multi-function radio frequency system (KuMRFS) radars and command and control system; generators; global positioning system receivers; spare and repair parts; special tools and test equipment; technical manuals and publications; training devices; new equipment training; U.S. Government and contractor technical, engineering, and logistics personnel services; concurrent spare parts, systems integration, and checkout support; field service representative support; contractor logistics support; program management reviews; and other related

elements of logistics and program support. The estimated total cost is \$280 million.

This proposed sale will support the foreign policy and national security objectives of the United States by helping to improve the security of a Major Non-NATO Ally that is an important force for political stability and economic progress in the Middle East.

The proposed sale will improve Jordan's capability to meet current and future threats by sustaining a credible force that can deter adversaries and participate in CENTCOM operations. Jordan will have no difficulty absorbing these articles into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be RTX Missile Defense Technologies, located in Tucson, AZ. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will require the temporary assignment of thirteen U.S. Government and twenty-four contractor representatives to Jordan for a duration of up to five years to support fielding, training, and sustainment activities.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 26–23

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Ku band multi-function radio frequency system (KuMRFS) is a multi-function radar. The radar is capable of providing simultaneous counter-unmanned aircraft systems and counter-rocket, artillery, and mortar air surveillance, and effector support missions. The system leverages M-code global positioning system technology ensuring secure and precise navigation and timing. KuMRFS radar provides three-dimensional target location data enhancing situational awareness for command-and-control systems.

2. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software

elements, the information could be used to develop countermeasures that might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Jordan can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Jordan.

[FR Doc. 2026–07278 Filed 4–14–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 0M–25]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695–6233, urooj.zahra.civ@mail.mil, or dscn.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 0M–25.

Dated: April 10, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 0M–25

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(A), AECA)

(i) *Prospective Purchaser:* Government of Kuwait

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 20–19

Date: December 28, 2020

Implementing Agency: Army

Funding Source: National Funds

(iii) *Description:* On December 28, 2020, Congress was notified by congressional certification transmittal

number 20–19 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of eight (8) AH 64E Apache Longbow Attack Helicopters and the remanufacture sixteen (16) of their AH–64D Apache Longbow Attack Helicopters to the AH–64E configuration consisting of: eight (8) AH–64E Apache Helicopters (new procurement); sixteen (16) AH–64E Apache Helicopters (remanufacture); twenty-two (22) T700–GE 701D engines; thirty-six (36) remanufactured T700–GE 701D engines; twenty-seven (27) AN/AAR–57 Counter Missile Warning Systems (CMWS); eighteen (18) Embedded Global Position Systems with Inertial Navigation (EGI) with Multi-Mode Receiver (MMR); thirty-six (36) remanufactured EGIs with MMR; eight (8) AN/ASQ–170(V) Modernized Target Acquisition and Designation Sight/AN/AAQ–11 Pilot Night Vision Sensor (MTADS/PNVIS); seventeen (17) AN/APG–78 Longbow Fire Control Radars (FCR) with Radar Electronics Units (REU); seventeen (17) APR–48B Modernized Radar Frequency Interferometers (M–RFI); eighteen (18) M299 AGM–114 Hellfire Missile Launchers; four (4) remanufactured M299 AGM–114 Hellfire Missile Launchers; eighteen (18) Hydra 70 (70mm) 2.75 Inch Rocket M260 Rocket Launchers; four (4) remanufactured Hydra 70 (70mm) 2.75 Inch Rocket M260 Rocket Launchers; nine (9) M230El 30mm Chain Gun M139 Area Weapons System (AWS) Guns; two (2) remanufactured M230El 30mm Chain Gun M139 AWS Guns; one (1) Longbow Crew Trainer (LCT); and one (1) remanufactured LCT. Also included were fifty-four (54) AN/ARC 201 non-COMSEC Very-High Frequency/Frequency Modulation (VHF/FM) radios; fifty-four (54) Ultra High Frequency (UHF) radios (AN/ARC 231 or MXF 4027); twenty-eight (28) Identify Friend or Foe Transponders (APX 123 or APX 119); twenty-seven (27) IDM 401 (Improved Data Modem); twenty-seven (27) Link 16 Datalinks; twenty-seven (27) AN/APR–39D (V)2 Radar Warning Receivers; twenty-seven (27) AN/AVR–2 Laser Warning Receivers; twenty-seven (27) Infrared Countermeasures Dispensers (2 flares, 1 chaff); nine (9) AN/ASN–157 Doppler Radar Velocity Sensors; nine (9) AN/ARN–149(V)3 Automatic Direction Finders (ADF); sixteen (16) remanufactured AN/ARN–149 (V)3 ADFs; nine (9) AN/APN–209 Radar Altimeters; twenty-seven (27) AN/ARN–153 Tactical Airborne Navigation (TACAN) systems; sixteen (16) Manned-Unmanned Teaming International (MUM-Ti) (UPR) Air-to-

Air-to Ground Data Link Systems; twenty-four (24) MUM-Ti (Ground) Air to Air to Ground Data Link Systems; twenty-four (24) 100 gallon Internal Auxiliary Fuel Systems (IAFS); twenty-four (24) 125 gallon Reduced Capacity Crashworthy External Fuel Systems (RCEFS); two (2) IAFS Spares; two (2) IAFS Publications; six (6) IAFS Ground Support Equipment (GSE) Apache Magazine and Auxiliary Tank Transfer Systems (AMATTS); five (5) IDM Software Loader Verifiers (SLV); training devices; helmets; simulators; generators; transportation; wheeled vehicles and organizational equipment; spare and repair parts; support equipment; tools and test equipment; technical data and publications; personnel training and training equipment; U.S. government and contractor engineering, technical, and logistics support services; and other related elements of logistics support. The total estimated program cost was \$4.0 billion. Major Defense Equipment (MDE) constituted \$2.0 billion of this total.

On September 27, 2022, Congress was notified by congressional certification transmittal number 22–01 of the possible sale, under Section 36(b)(5)(C) of the Arms Export Control Act, of MDE items that were previously reported as non-MDE items: fifty-four (54) AN/ARC–231A (RT–1987) radios. The following non-MDE items were also included: M261 2.75-inch Rocket launchers; and AN/AVS–6 Aviator Night Vision Devices (NVDs). The estimated total value of these items was \$39 million. The total MDE value was increased by \$27 million to a total MDE value of \$2.027 billion. The estimated total non-MDE value was decreased by \$15 million (after deducting MDE values previously notified as non-MDE and adding new non-MDE costs), resulting in a total non-MDE value of \$1.985 billion. The total estimated case value was increased to \$4.012 billion. MDE constituted \$2.027 billion of this total.

This transmittal notifies an adjustment to the following previously reported MDE item: the remanufactured Embedded Global Position Systems with Inertial Navigation (EGI) with Multi-Mode Receiver (MMR) are being replaced with thirty-six (36) EGIs with MMR from new procurement. This transmittal also notifies an adjustment to the following previously reported non-MDE item: the remanufactured Longbow Crew Trainer (LCT) is being replaced with a LCT from new procurement. The estimated total value of the new items is \$49.43 million. The estimated MDE value will increase by \$12.4 million to a revised \$2.04 billion.

The estimated non-MDE value will increase by \$37.03 million to a revised \$2.02 billion. The estimated total case value will increase by \$49.43 million to a revised \$4.06 billion.

(iv) *Significance*: The inclusion of this MDE represents an increase in capability over what was previously notified.

(v) *Justification*: This proposed sale will support the foreign policy and national security objectives of a major non-NATO ally that has been an important force for political stability and economic progress in the Middle East.

(vi) *Sensitivity of Technology*:

The Sensitivity of Technology Statement contained in the original notification applies to items reported here.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) *Date Report Delivered to Congress*: January 30, 2026

[FR Doc. 2026–07280 Filed 4–14–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–0C]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695–6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 26–0C.

Dated: April 9, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEPARTMENT OF STATE

TRANSMITTAL NO. 26–0C

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY PURSUANT TO SECTION 36(b)(5)(C) OF THE ARMS EXPORT CONTROL ACT)

(i) *Prospective Purchaser*: Government of the United Kingdom

(ii) *Sec. 36(b)(1), AECA Transmittal No.*: 25–45

Date: August 26, 2025

Implementing Agency: Air Force

Funding Source: National Funds

(iii) *Description*: On August 26, 2025, Congress was notified by congressional certification transmittal number 25–45 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of engine components, parts, and accessories; major and minor modifications; computer program identification numbers; spare parts, consumables and accessories, and repair and return support; classified and unclassified software delivery and support; classified and unclassified publications and technical documentation; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost was \$861 million. There was no major defense equipment (MDE) associated with this sale.

This transmittal reports on the inclusion of the following non-MDE items: contractor logistics support and other related elements of programmatic, technical, and logistics support. The estimated total value of the new items is \$379 million. The estimated non-MDE value will increase by \$379 million to a revised \$1.24 billion. There is no MDE associated with this potential sale.

(iv) *Significance*: The proposed sale will sustain the United Kingdom's capability to meet current and future threats by ensuring the operational readiness of the Royal Air Force.

(v) *Justification*: This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a key NATO Ally that is an important force for political stability and economic progress in Europe.

(vi) *Sensitivity of Technology*:

The Sensitivity of Technology Statement contained in the original

notification applies to additional items mentioned.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) *Date Report Delivered to Congress*: March 6, 2026

[FR Doc. 2026-07271 Filed 4-14-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-0G]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of the attached Transmittal 26-0G.

Dated: April 10, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEPARTMENT OF STATE

TRANSMITTAL NO. RSAT 26-0G

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY PURSUANT TO SECTION 36(b)(5)(C) OF THE ARMS EXPORT CONTROL ACT

(i) *Prospective Purchaser*: Government of Belgium

(ii) *Sec. 36(b)(1), AECA Transmittal No.*: 17-80

Date: January 18, 2018

Implementing Agency: Air Force

(i) *Description*: On January 18, 2018, Congress was notified by congressional

certification transmittal number 17-80 of the possible sale under Section 36(b)(1) of the Arms Export Control Act of thirty-four (34) F-35 joint strike fighter conventional takeoff and landing (CTOL) aircraft; and thirty-eight (38) Pratt & Whitney F-135 engines (34 installed, 4 spares). Also included were electronic warfare systems; command, control, communications, computer and intelligence/communications, navigational, and identification; autonomic logistics global support system; autonomic logistics information system; full mission trainer; weapons employment capability, and other subsystems, features, and capabilities; F-35 unique infrared flares; reprogramming center; F-35 performance based logistics; software development/integration; aircraft ferry and tanker support; support equipment; tools and test equipment; communications equipment; spares and repair parts; personnel training and training equipment; publications and technical documents; U.S. Government and contractor engineering and logistics personnel services; and other related elements of logistics and program support. The estimated total value was \$6.53 billion. Major Defense Equipment (MDE) constituted \$4.53 billion of this total.

This transmittal notifies the inclusion of the following MDE items: eleven (11) F-35 joint strike fighter conventional takeoff and landing (CTOL) aircraft; and twelve (12) Pratt & Whitney F-135 engines (11 installed, 1 spare). The following non-MDE items will also be included: drag chute system integration kits; and other related elements of logistics and program support. The estimated total value of the new items is \$3.3 billion. The estimated MDE value will increase by \$1.7 billion to a revised \$6.23 billion. The estimated non-MDE value will increase by \$1.6 billion to a revised \$3.6 billion. The estimated total case value will increase by \$3.3 billion to a revised \$9.83 billion. MDE constitutes \$6.23 billion of this total.

(ii) *Significance*: This notification accounts for requested additional MDE and non-MDE items not included in the original notification. The proposed articles and/or services will provide Belgium with a credible defense

capability to deter aggression in the region and ensure interoperability with U.S. forces.

(iii) *Justification*: This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a NATO Ally which is an important force for political stability and economic progress in Europe.

(iv) *Sensitivity of Technology*:

The Sensitivity of Technology Statement contained in the original notification applies to items reported here.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(v) *Date Report Delivered to Congress*: February 26, 2026

[FR Doc. 2026-07277 Filed 4-14-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25-1S]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 25-1S.

Dated: April 10, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

FEB 05 2026

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(5)(C) of the Arms Export Control Act (AECA), as amended, we are forwarding Transmittal No. 25-1S. This notification relates to enhancements or upgrades from the level of sensitivity of technology or capability described in the Section 36(b)(1) AECA certification 13-33 of July 29, 2013.

Sincerely,

Michael F. Miller
Director

Enclosures:

1. Transmittal
2. Regional Balance (Classified document provided under separate cover)

BILLING CODE 6001-FR-C

Transmittal No. 25-1S

**REPORT OF ENHANCEMENT OR
UPGRADE OF SENSITIVITY OF
TECHNOLOGY OR CAPABILITY (SEC.
36(B)(5)(C), AECA)**

(i) *Prospective Purchaser:* Government of Qatar

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 13-33

Date: July 29, 2013

Implementing Agency: Air Force

Funding Source: National Funds

(iii) *Description:* On July 29, 2013, Congress was notified by congressional certification transmittal number 13-33 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of one (1) A/N FPS-132 Block 5 Early Warning Radar (EWR) to include Prime Mission Equipment package, technical and support facilities, communication equipment, encryption devices, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering,

technical and logistics support services; and related elements of logistics and program support. The estimated cost was \$1.1 billion. Major Defense Equipment (MDE) constituted \$800 million of this total.

On December 8, 2015, Congress was notified by congressional certification transmittal number 0A-16 of the possible sale, under Section 36(b)(5)(A) of the Arms Export Control Act, of replacement of the original AN/FPS-132 Block 5 EWR with the AN/FPS-132 Block 15 EWR. The total cost of the new MDE item was \$800 million, increasing the total estimated MDE value to \$1.6 billion. The total case value increased to \$2.0 billion.

This transmittal notifies the addition of the following non-MDE items: contractor logistics support (CLS); repair and return support; transportation support; and other related elements of logistics and program support. The estimated total cost of the new items is \$1.6 billion. The estimated total case value will increase by \$1.6 billion to a revised \$3.6 billion. There is no MDE associated with this potential sale.

(iv) *Significance:* The proposed sale will strengthen Qatar's capability to counter current and future threats in the region and reduce dependence on United States forces.

(v) *Justification:* This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a friendly country that continues to be an important force for political stability and economic progress in the Middle East.

(vi) Sensitivity of Technology:

The Sensitivity of Technology Statement contained in the original notification applies to items reported here.

The highest level of classification of defense articles, components, and services included in this potential sale is UNCLASSIFIED.

(vii) *Date Report Delivered to Congress:* February 5, 2026

[FR Doc. 2026-07275 Filed 4-14-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Transmittal No. 26–0F]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695–6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 26–0F.

Dated: April 10, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEPARTMENT OF STATE**TRANSMITTAL NO. 26–0F**

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY PURSUANT TO SECTION 36(b)(5)(C) OF THE ARMS EXPORT CONTROL ACT

(i) *Prospective Purchaser:* Government of the Netherlands

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 24–78

Date: September 6, 2024

Implementing Agency: Navy

(iii) *Description:* On September 6, 2024, Congress was notified by congressional certification transmittal number 24–78 of the possible sale under Section 36(b)(1) of the Arms Export Control Act of two hundred forty-six

(246) AIM 9X Sidewinder Block II tactical missiles; six (6) AIM 9X Block II Sidewinder captive air training missiles (CATM); two (2) AIM 9X Block II Sidewinder special air training missiles; fourteen (14) AIM 9X Block II Sidewinder tactical guidance units; and two (2) AIM 9X Block II Sidewinder CATM guidance units. Also included were missile containers; spares; personal training and training equipment; classified and unclassified publications and technical documents; warranties; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of program and logistics support. The total estimated value was \$691 million. Major Defense Equipment (MDE) constituted \$591.7 million of this total.

This transmittal notifies the inclusion of the following MDE items: up to eighty-seven (87) AIM 9X Sidewinder Block II tactical missiles; and up to ten (10) AIM 9X Block II Sidewinder captive air training missiles (CATM). The following non-MDE items will also be included: additional support equipment; missile support; and technical assistance. The estimated total value of the new items is \$65 million. The estimated MDE value will increase by \$60 million to a revised \$651.7 million. The estimated non-MDE value will increase by \$5 million to a revised \$104.3 million. The estimated total case value will increase by \$65 million to a revised \$756 million. MDE constitutes \$651.7 million of this total.

(iv) *Significance:* This notification accounts for requested additional MDE and non-MDE items not included in the original notification. The inclusion of this MDE and non-MDE represents an increase in capability over what was previously notified.

(v) *Justification:* This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a NATO Ally which is an important

force for political stability and economic progress in Europe.

(vi) *Sensitivity of Technology:*

The Sensitivity of Technology Statement contained in the original notification applies to items reported here.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) *Date Report Delivered to Congress:* March 6, 2026

[FR Doc. 2026–07282 Filed 4–14–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Transmittal No. 25–105]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695–6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 25–105 and Policy Justification.

Dated: April 10, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001–FR–P



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

February 6, 2026

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 25-105, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Ukraine for defense articles and services estimated to cost \$185 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

Michael F. Miller
Director

Enclosures:

1. Transmittal
2. Policy Justification

BILLING CODE 6001-FR-C

Transmittal No. 25-105

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Ukraine

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ 0
Other	\$185 million
TOTAL	\$185 million

Funding Source: Foreign Military Financing

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):
None

Non-Major Defense Equipment:

The following non-MDE items will be included: Class IX spare parts in support of U.S. Army-supplied vehicles and weapon systems and other related elements of logistics and program support.

(iv) *Military Department:* Army (UP-B-BAF)

(v) *Prior Related Cases, if any:* KA-B-WDA, NX-B-VGH

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* February 6, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Ukraine—Class IX Spare Parts

The Government of Ukraine has requested to buy Class IX spare parts in support of U.S. Army-supplied vehicles and weapon systems, as well as other related elements of logistics and program support. The estimated total cost is \$185 million.

This proposed sale will support the foreign policy and national security

objectives of the United States by improving the security of a partner country that is a force for political stability and economic progress in the Europe.

Ukraine has an urgent need to strengthen local sustainment capabilities to maintain high operational rates for U.S.-provided vehicles and weapon systems. The spare parts will directly contribute to battlefield effectiveness with higher overall operational rates, improved logistics, and a reduced financial burden as a result of a more resilient and rapid repair cycle.

The proposed sale of this equipment and support will not alter the military balance in the region.

The principal contractor(s) will be determined from approved vendors. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. government or contractor representatives to Ukraine.

There will be no adverse impact on defense readiness as a result of this proposed sale.

[FR Doc. 2026-07276 Filed 4-14-26; 8:45 am]
BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25-70]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).
ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:
Urooj Zahra at (703) 695-6233,
urooj.zahra.civ@mail.mil, or
dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of the attached Transmittal 25-70, Policy Justification, and Sensitivity of Technology.

Dated: April 9, 2026.
Stephanie J. Bost,
Alternate OSD Federal Register Liaison
Officer, Department of Defense.

Transmittal No. RSAT 25-70

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of the United Arab Emirates

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$0.95 billion
Other	\$1.15 billion

TOTAL \$2.10 billion

Funding Source: National Funds.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* The Government of United Arab Emirates has requested to buy ten (10) Fixed Site-Low, Slow, Small Unmanned Aircraft System Integrated Defeat System (FS-LIDS), Systems of Systems to include:

Major Defense Equipment (MDE):
Two hundred forty (240) Coyote Block 2 All-Up-Rounds
Non-Major Defense Equipment:

The following non-MDE items will also be included: Ku Band Multi-Function Radio Frequency System (KuMRFS) radars; Coyote launcher systems (4-pack launcher); Electro Optical Infrared (EO/IR) cameras; AN/PYQ-10 Simple Key Loaders; Forward Area Air Defense Command and Control (FAAD C2) systems; support and test equipment; integration and test support; spare and repair parts; communications equipment; software delivery and support; facilities and construction support; publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; studies and surveys; maintenance services; and other related elements of logistics and program support.

(iv) *Military Department:* Army (AE-B-ZEF)

(v) *Prior Related Cases, if any:* None
(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* March 19, 2026

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

United Arab Emirates—Fixed Site-Low, Slow, Small Unmanned Aircraft Integrated Defeat System

The Government of the United Arab Emirates has requested to buy ten (10) Fixed Site—Low, Slow, Small Unmanned Aircraft Integrated Defeat System (FS-LIDS) System of Systems, to include: two hundred forty (240) Coyote Block 2 All-Up-Rounds; Ku Band Multi-Function Radio Frequency System (KuMRFS) radars; Coyote launcher systems (4-pack launcher); Electro Optical Infrared (EO/IR) Cameras; AN/PYQ-10 Simple Key Loaders; Forward Area Air Defense Command and Control (FAAD C2) systems; support and test equipment; integration and test support; spare and repair parts; communications equipment; software delivery and support; facilities and construction support; publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; studies and surveys; maintenance services; and other related elements of logistics and

program support. The estimated total cost is \$2.10 billion.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a major defense partner. The UAE is a force for political stability and economic progress in the Middle East.

The proposed sale will improve the United Arab Emirates' ability to defend its sovereignty and territorial integrity to meet its national defense requirements. The United Arab Emirates will have no difficulty absorbing this equipment and services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be RTX Corporation, located in Tewksbury, MA; Northrop Grumman, located in Huntsville, AL; and SRC Corporation, located in Syracuse, NY. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will require the temporary assignment of four U.S. Government and eight U.S. contractor representatives to the UAE for a duration of five years to support fielding, training, and sustainment activities.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 25-70

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Fixed Site-Low, Slow, Small Unmanned Aircraft Integrated Defeat System (FS-LIDS) is a Counter Unmanned Aircraft System of Systems capable of detecting and defeating evolving and proliferating unmanned aircraft system threats through both kinetic and electromagnetic warfare means.

2. The Ku Band Multifunction Radio Frequency System (KuMURFS) is a multi-function radar. The radar is capable of providing simultaneous C-UAS and Counter-Rocket, Artillery and Mortar (C-RAM) Air Surveillance and effector support missions. It provides three-dimensional target location to provide situational awareness for command-and-control systems and

guidance used by the Block-2 Interceptor.

3. The Coyote Launcher is a rail launching kinetic defeat system that deploys interceptors from an A-size sonobuoy tube or Common Launch Tube. The launch system is designed for distributed system setup ensuring maximum base and critical site protection.

4. The Coyote Interceptor is a high speed, highly maneuverable, semi-active guided airframe with a proximity blast fragmentation warhead. It provides a kinetic defeat capability with a proximity blast fragmentation warhead against Counter Unmanned Aircraft threats. It contains an Electronic Safe and Arming Device (ESAD) fuze, providing extensive environmental safety features including terminal air arming and re-attack to increase probability of kill.

5. The Electro-Optical/Infra-Red (EO/IR) camera used to identify Unmanned Aircraft System tracks through enhanced visual identification. It provides secondary location verification, identification and classification of the Unmanned Aircraft Systems and ground stations. The camera contains plug-and-flight, open architecture, is mission configurable, and offers a day and night surveillance system.

6. The AN/PYQ-10 (C) Simple Key Loader (SKL) is a ruggedized, portable, hand-held fill device used for securely receiving, storing, and transferring electronic key material and data between compatible end cryptographic units (ECU) and communications equipment. It supports both the DS-101 and DS-102 interfaces, as well as the Crypto Ignition Key and is compatible with existing ECUs.

7. The Forward Area Air Defense Command and Control (FAAD C2) is a command-and-control station that provides engagement operations, aircraft avoidance and fratricide prevention. FAAD C2 enables Air Defense mission

command system integration and Tactical Data Link interoperability with Link 16. FAAD C2 is the integration point for a single operator to receive detection alerts and information from connected peripherals like radar, radio frequency detector antennas and external data feeds, activate mitigation techniques that include kinetic and non-kinetic options and provides situational awareness, alerts, and battlefield dissemination as directed. FAAD C2 supports integration of multiple weapon systems, to include the High Energy Laser Weapon System (HELWS) being purchased by the United Arab Emirates via Direct Commercial Sales (DCS). As requested, the scope of this proposed sale will be limited to only the integration of the DCS HELWS component by which the FAAD C2 operator tracks incoming CUAS threats and issues commands to the HELWS operator station to then initiate engagements.

8. The Air and Missile Defense Workstation (AMDWS) is the force operations software that provides planning and situational awareness capabilities for air-defense sensor/weapon emplacement; projects Airspace Control Measures (ACM) to create a near-real time, three-dimensional Single Integrated Air Picture (SIAP); and connects air-defense systems to facilitate Joint and Multinational interoperability.

9. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

10. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

11. A determination has been made that the United Arab Emirates can

provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

12. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of United Arab Emirates.

[FR Doc. 2026-07242 Filed 4-14-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25-90]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 25-90 and Policy Justification.

Dated: April 10, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

FEB 05 2026

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 25-90, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Iraq for defense articles and services estimated to cost \$90 million. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

Michael F. Miller
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Regional Balance (Classified document provided under separate cover)

BILLING CODE 6001-FR-C

Transmittal No. 25-90

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Iraq

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$ 0
Other	\$90 million
TOTAL	\$90 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):
None

Non-Major Defense Equipment:

Extension of Contracted Logistical Services (CLS), including 24/7 help desk service, for two years in support of the Ministry of Interior's Vehicle and Cargo Inspection

System (VACIS) XPL passenger vehicle scanning systems; corrective and preventive maintenance; spare and repair parts; software updates, remote monitoring; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Army (IQ-B-ZCR)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* February 5, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Iraq—Contracted Logistical Services for VACIS XPL Passenger Vehicle Scanning Systems

The Government of Iraq has requested the extension of Contracted Logistical Services (CLS), including 24/7 help desk service, for two years in support of the Ministry of Interior's VACIS XPL passenger vehicle scanning systems; corrective and preventive maintenance; spare and repair parts; software updates, remote monitoring; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$90 million.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a partner country that is a force for political

stability and economic progress in Middle East.

The proposed sale will improve Iraq's capability to meet current and future threats by providing continuation of CLS for these scanning systems, enabling border forces to detect the inflow of weapons; chemical, biological, radiological, and nuclear (CBRN) agents; narcotics; and other forms of contraband at Iraq's borders. Iraq will have no difficulty absorbing these articles and services into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Leidos, located in Reston, VA. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Iraq.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2026-07274 Filed 4-14-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-00]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of the attached Transmittal 26-00.

Dated: April 9, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEPARTMENT OF STATE

TRANSMITTAL NO. 26-00

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY PURSUANT TO SECTION 36(b)(5)(C) OF THE ARMS EXPORT CONTROL ACT

(i) *Prospective Purchaser:* Government of Israel

(ii) *Sec. 36(b)(1), AECA Transmittal No:* 24-13

Date: February 7, 2025
Implementing Agency: Air Force
Funding Source: Foreign Military Financing

(iii) *Description:* On February 7, 2025, Congress was notified by congressional certification transmittal number 24-13 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of two thousand one hundred sixty-six (2,166) GBU-39/B Small Diameter Bombs increment 1 (SDB-I); two thousand eight hundred (2,800) MK 82 General Purpose, 500-pound bomb bodies; thirteen thousand (13,000) KMU-556E/B, or KMU-556H/B with SABR-Y, KMU-556F/B, or KMU-556J/B Joint Direct Attack Munition (JDAM) guidance kits for the MK-84 bomb body; three thousand four hundred seventy-five (3,475) KMU-557E/B, or KMU-557F/B, or KMU-557H/B with SABR-Y, or KMU-557J/B JDAM guidance kits for the BLU-109 bomb body; one thousand four (1,004) KMU-572E/B, or KMU-572F/B, KMU-572H/B with SABR-Y, or KMU-572J/B JDAM guidance kits for GBU-38v1; and seventeen thousand four hundred seventy-five (17,475) FMU-152A/B fuzes. The following non-MDE items were also included: FMU-139 fuzes; bomb components; munitions support and support equipment; spare parts, consumables and accessories, and repair and return support; U.S. Government and contractor engineering, logistics, and support services; and other related elements of logistics and program support. The estimated total cost was \$6.75 billion. Major defense equipment (MDE) constituted \$5.61 billion of this total.

This transmittal notifies the inclusion of the following MDE items: ten thousand (10,000) BLU-111 500-pound general purpose bombs. The following non-MDE items will also be included: other related elements of logistics and program support. The estimated total cost of the new items is \$209 million. The estimated MDE value will increase

by \$170 million to a revised \$5.78 billion. The estimated non-MDE value will increase by \$39 million to a revised \$1.179 billion. The estimated total case value will increase by \$209 million to a revised \$6.959 billion. MDE constitutes \$5.78 billion of this total.

(iv) *Significance:* This notification accounts for requested additional MDE items not included in the original notification. The inclusion of this MDE represents an increase in capability over what was previously notified. The proposed articles and services will improve Israel's capability to meet current and future air-to-air and air-to-ground threats, strengthen its homeland defense, and serve as a deterrent to regional threats.

(v) *Justification:* This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a strategic regional partner that has been, and continues to be, an important force for political stability and economic progress in the Middle East.

(vi) *Sensitivity of Technology:*

The BLU-111 is a 500-pound (nominal weight) general-purpose bomb with identical casing, shape, and flight characteristics, designed for use against soft, fragment-sensitive targets.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) *Date Report Delivered to Congress:* March 6, 2026

[FR Doc. 2026-07243 Filed 4-14-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25-103]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of

Representatives with attached
Transmittal 25-103 and Policy
Justification.

Dated: April 10, 2026.
Stephanie J. Bost,
*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*
BILLING CODE 6001-FR-P



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

FEB 03 2026

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 25-103, concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Kingdom of Saudi Arabia for defense articles and services estimated to cost \$3.0 billion. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

Michael F. Miller
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Regional Balance (Classified document provided under separate cover)

BILLING CODE 6001-FR-C

Transmittal No. 25-103

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Kingdom of Saudi Arabia

(ii) *Total estimated value:*

Major Defense Equipment *	\$0
Other	\$3.0 billion
TOTAL	\$3.0 billion

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):
None

Non-Major Defense Equipment:

The following non-MDE items will be included: spares and repair parts, consumables and accessories, and repair and return support; ground and personnel equipment; classified and unclassified software and software support; classified and unclassified publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Air Force
(v) *Prior Related Cases, if any:* SR-D-GAK, SR-D-SAI, SR-D-SAN, SR-D-

SAO, SR-D-SAP, SR-D-QBP, SR-D-QBI, SR-D-QDR, SR-D-QDJ, SR-D-QBW, SR-D-QTP, SR-D-QAT, SR-D-QDQ, SR-D-QAY, SR-D-QAH, SR-D-QDZ

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* February 3, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**Kingdom of Saudi Arabia—F-15 Sustainment**

The Kingdom of Saudi Arabia has requested to buy the following non-major defense equipment items: spares and repair parts, consumables and accessories, and repair and return support; ground and personnel equipment; classified and unclassified software and software support; classified and unclassified publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$3.0 billion.

This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a Major non-NATO Ally that is a force for political stability and economic progress in the Gulf Region.

The proposed sale will enhance Saudi Arabia's capability to deter current and future threats by providing sustainment and training support for the Royal Saudi Air Force's F-15 fleet. The Kingdom of Saudi Arabia will have no difficulty absorbing this equipment and services into its armed forces.

The proposed sale of this equipment and support will not alter the military balance in the region.

There will be various contractors associated with the provision of equipment and services involved with this case, and there is no prime contractor. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and contractor.

Implementation of this proposed sale may require the assignment of a small number of additional long-term U.S. civilian contractor or military personnel in the Kingdom of Saudi Arabia. The current number of contractors already performing the requested logistical support in-country will remain relatively stable.

There will be no adverse impact on defense readiness as a result of this proposed sale.

[FR Doc. 2026-07273 Filed 4-14-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID: DOD-2026-OS-0826]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the OUSD(P&R) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 15, 2026.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Under

Secretary of Defense, Military Personnel Policy, 1500 Defense Pentagon, Washington, DC 20301-4000, Ronald Garner, (703) 693-1059.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: "Data for Payment of Retired Pay" DD Form 2656, "Reserve Component Survivor Benefit Plan (RCSBP) Election Certificate" DD Form 2656-5, "Survivor Benefit Plan (SBP)/Reserve Component Survivor Benefit Plan (RCSBP) Election Change Certificate" DD Form 2656-6, "Verification for Survivor Annuity" DD Form 2656-7, "Survivor Benefit Plan (SBP)/Reserve Component Survivor Benefit Plan (RCSBP)—Automatic Coverage Fact Sheet" DD Form 2656-8, "Survivor Benefit Plan (SBP) Former Spouse Request for Deemed Election" DD Form 2656-10, OMB Control Number 0704-0569.

Needs and Uses: This information collection requirement is necessary for the Department of Defense to collect information regarding a uniformed service member's military retired pay and their election to participate in and designate beneficiaries under the Survivor Benefit Plan (SBP or RCSBP), as well as elections of the eligible family member(s) or Insurable Interest Beneficiary to receive coverage under Survivor Benefit Plan (SBP or RCSBP).

Affected Public: Individuals or households.

Annual Burden Hours: 27,738.

Number of Respondents: 110,950.

Responses per Respondent: 1.

Annual Responses: 110,950.

Average Burden per Response: 15 minutes.

Frequency: As required.

Dated: April 13, 2026.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026-07307 Filed 4-14-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Transmittal No. 26-0D]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695-6233,

urooj.zahra.civ@mail.mil, or
dsca.ncr.rsrmgmt.list.cns-mbx@
mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 26–0D.

Dated: April 10, 2026.

Stephanie J. Bost,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

DEPARTMENT OF STATE

TRANSMITTAL NO. RSAT 26–0D

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY PURSUANT TO SECTION 36(b)(5)(C) OF THE ARMS EXPORT CONTROL ACT

(i) *Prospective Purchaser:* Government of Lithuania

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 22–60

Date: November 9, 2022

Implementing Agency: Army

Funding Source: National Funds and Foreign Military Financing

(iii) *Description:* On November 9, 2022, Congress was notified by Congressional certification transmittal number 22–60 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of eight (8) M142 High Mobility Artillery Rocket System (HIMARS) Launchers; thirty-six (36) M30A2 Guided Multiple Launch Rocket System (GMLRS) Alternative Warhead (AW) Missile Pods with Insensitive Munitions Propulsion System (IMPS); thirty-six (36) M31A2 GMLRS Unitary High Explosive (HE) Missile Pods; thirty-six (36) XM403 Extended Range GMLRS (ER GMLRS) Alternative Warhead (AW) Missile Pods with IMPS; thirty-six (36) XM404 Extended Range GMLRS (ER GMLRS) Unitary Pods with IMPS; and eighteen (18) M57 Army Tactical Missile System (ATACMS) Missile Pods. Also included were M28A2 Low Cost Reduced Range Practice Rocket (LCRRPR) pods; International Field Artillery Tactical Data System (IFATDS); battle management system Vehicle Integration Kits; ruggedized laptops; training equipment publications for HIMARS and munitions; and other related elements of program and logistics support. The estimated total case value was \$495 million. Major Defense Equipment (MDE) constituted \$440 million of this total.

On April 24, 2025, Congress was notified by Congressional certification

transmittal number 0B–25 of a correction to the previous designation of the IFATDS from non-MDE to MDE.

Because reporting the quantity of MDE items is required, this transmittal also reported the quantity of eighteen (18) for the IFATDS. The following non-MDE items were also included:

communications equipment, including AN/PRC–160 and AN/PRC–167 radios and associated accessories and training; Defense Advanced Global Positioning System (GPS) Receivers (DAGRs); AN/PYQ–10 Simple Key Loaders; and other related elements of program and logistics support. The estimated total cost of the new items was \$21.5 million. The estimated total cost of the new MDE items was \$11.5 million but did not result in a net increase in total cost of MDE, which remained at \$440 million. The estimated total cost of new non-MDE items was \$10 million but did not result in a net increase in total cost of non-MDE, which remained at \$55 million. The estimated total case value remained at \$495 million.

This transmittal notifies the addition of the following MDE items: eight (8) M142 HIMARS launchers; thirty-six (36) M30A2 GMLRS AW missile pods with IMPS; thirty-six (36) M31A2 GMLRS Unitary HE missile pods; and eight (8) IFATDS. The following non-MDE items will also be included: battle management system Vehicle Integration Kits; M28A2 LCRRPR pods; ruggedized laptops; training equipment publications for HIMARS and munitions; communications equipment, including the AN/PRC–160, AN/PRC–163, AN/PRC–167 radios, and associated accessories and training; KIK–11 and AN/PYQ–10 simple key loaders; and other related elements of program and logistics support. The estimated total value of new items is \$360.3 million. The estimated MDE value will increase by \$247.8 million to a revised \$687.8 million. The estimated non-MDE value will increase by \$112.5 million to a revised \$167.5 million. The estimated total case value will increase by \$360.3 million to a revised \$855.3 million. MDE constitutes \$687.8 million of this total.

(iv) *Significance:* The inclusion of this MDE represents an increase in capability over what was previously notified. The proposed sale will contribute to Lithuania's military goals of updating its capability while further enhancing interoperability with the United States and other allies. Lithuania intends to use these defense articles and services to modernize its armed forces and expand its capability to strengthen its homeland defense and deter regional threats.

(v) *Justification:* This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a NATO Ally that is an important force for ensuring peace and stability in Europe.

(vi) *Sensitivity of Technology:*

The AN/PRC–163 multi-channel handheld radio is a versatile, secure solution that leverages crossbanding to provide simultaneous data and voice across satellite communications (SATCOM), line-of-sight, and mobile ad-hoc networking modes. As mission needs evolve, this software-defined handheld supports fast, in-field updates to new capabilities. An external mission module hardware interface allows warfighters to quickly add options including intelligence, surveillance, and reconnaissance video and SATCOM.

The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

(vii) *Date Report Delivered to Congress:* February 27, 2026

[FR Doc. 2026–07281 Filed 4–14–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–13]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The DoD is publishing unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695–6233,
urooj.zahra.civ@mail.mil, or
dsca.ncr.rsrmgmt.list.cns-mbx@
mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives with attached Transmittal 26–13, Policy Justification, and Sensitivity of Technology.

Dated: April 10, 2026.

Stephanie J. Bost,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

BILLING CODE 6001–FR–P



DEFENSE SECURITY COOPERATION AGENCY
2800 Defense Pentagon
Washington, DC 20301-2800

January 30, 2026

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 26-13, concerning the Army's proposed Letter(s) of Offer and Acceptance to the Kingdom of Saudi Arabia for defense articles and services estimated to cost \$9.0 billion. We will issue a news release to notify the public of this proposed sale upon delivery of this letter to your office.

Sincerely,

Michael F. Miller
Director

Enclosures:

1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified document provided under separate cover)

BILLING CODE 6001-FR-C

Transmittal No. 26-13

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Kingdom of Saudi Arabia

(ii) *Total Estimated Value:*

Major Defense Equipment *	\$7.0 billion
Other	\$2.0 billion
TOTAL	\$9.0 billion

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Seven hundred thirty (730) PATRIOT Advanced Capability-3 Missile Segment Enhancement (PAC-3 MSE) missiles

Non-Major Defense Equipment:

The following non-MDE items will be included: PAC-3 MSE missile launcher conversion kits; PATRIOT

automated logistics systems kits; PAC-3 telemetry kits; PAC-3 MSE shorting plug accumulation kit; PAC-3 MSE missile skid kits; PAC-3 MSE missiles round trainer; PAC-3 MSE empty round trainer; PAC-3 missile and ground support equipment spare parts; PAC-3 missile canister consumables; PAC-3 field surveillance program; integration and test support and equipment; munitions support and support equipment; spare parts, consumables, accessories, and repair and return support; classified software delivery and support; classified and unclassified publications and technical documentation; personnel training and training equipment; studies and surveys; contractor logistics support; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Army (SR-B-ZBK)

(v) *Prior Related Cases, if any:* None
(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* January 30, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kingdom of Saudi Arabia—PATRIOT Advanced Capability-3 Missile Segment Enhancement Missiles

The Kingdom of Saudi Arabia has requested to buy seven hundred thirty (730) PATRIOT Advanced Capability-3 Missile Segment Enhancement (PAC-3 MSE) missiles. The following non-major defense equipment items will be included: PAC-3 MSE missile launcher

conversion kits; PATRIOT automated logistics systems kits; PAC-3 telemetry kits; PAC-3 MSE shorting plug accumulation kit; PAC-3 MSE missile skid kits; PAC-3 MSE missile round trainer; PAC-3 MSE empty round trainer; PAC-3 missile and ground support equipment spare parts; PAC-3 missile canister consumables; PAC-3 field surveillance program; integration and test support and equipment; munitions support and support equipment; spare parts, consumables, accessories, and repair and return support; classified software delivery and support; classified and unclassified publications and technical documentation; personnel training and training equipment; studies and surveys; contractor logistics support; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$9.0 billion.

This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a partner country that is a force for political stability and economic progress in the Gulf Region.

The proposed sale will improve Saudi Arabia's capability to meet current and future threats by providing advanced air defense missiles as part of an upgraded integrated air and missile defense (IAMD), system thereby enhancing its air defense capability. This enhanced capability will protect land forces of Saudi Arabia, the United States, and local allies and will significantly improve Saudi Arabia's contribution to IAMD in the CENTCOM region. Saudi Arabia will have no difficulty absorbing these articles and services into its armed forces.

The proposed sale of this equipment and support will not alter the military balance in the region.

The principal contractor will be Lockheed-Martin Corporation, located in Dallas, TX. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Saudi Arabia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 26-13

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

Sensitivity of Technology:

1. The PATRIOT Advanced Capability-3 Missile Segment Enhancement (PAC-3 MSE) missile is a small, highly agile, kinetic kill interceptor for defense against tactical ballistic missiles, cruise missiles, and air-breathing threats. The MSE variant of the PAC-3 missile represents the next generation in hit-to-kill interceptors and provides expanded battlespace against evolving threats. The PAC-3 MSE missile improves upon the original PAC-3 capability with a higher performance solid rocket motor, modified lethality enhancer, more responsible control surfaces, upgraded guidance software, and insensitive munitions improvements.

2. The PAC-3 MSE missile has sensitive/critical technology, primarily in the area of design and production know-how inherent to development and manufacturing data related to certain components.

3. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

5. A determination has been made that Saudi Arabia can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

6. All defense articles and services listed in this transmittal have been authorized for release and export to the Kingdom of Saudi Arabia.

[FR Doc. 2026-07279 Filed 4-14-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF EDUCATION

National Assessment Governing Board

Committee and Quarterly Board Meetings

AGENCY: National Assessment Governing Board, Department of Education.

ACTION: Notice of open and closed meetings.

SUMMARY: This notice sets forth the agenda, time, and instructions to access the National Assessment Governing Board's (hereafter referred to as the Board or Governing Board) standing committee meetings and quarterly Governing Board meeting. This notice provides information to members of the public who may be interested in attending the meetings and/or providing written comments related to the work of the Governing Board. The meetings will be held either in person and/or virtually, as noted below. Members of the public, whether participating in person or virtually must register in advance. A registration link will be posted on the Governing Board's website, www.nagb.gov, no later than five (5) business days prior to each meeting.

DATES: The Quarterly Board Meeting and Standing Committee meetings will be held on the following dates:

Quarterly Board Meeting

May 14, 2026, from 9:00 a.m. to 5:30 p.m., EDT
May 15, 2026, from 9:30 a.m. to 12:00 p.m., EDT

Standing Committee Meetings

Executive Committee

May 14, 2026, from 8:30 a.m. to 9:00 a.m., EDT

Assessment Development Committee

May 14, 2026, from 3:30 p.m. to 5:30 p.m., EDT

Committee on Standards, Design and Methodology

May 14, 2026, from 3:30 p.m. to 5:30 p.m., EDT

Reporting and Dissemination Committee

May 14, 2026, from 3:30 p.m. to 5:30 p.m., EDT

Nominations Committee

May 15, 2026, from 8:30 a.m. to 9:20 a.m., EDT

ADDRESSES: The Bethesda Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT:

Angela Scott, Designated Federal Officer (DFO) for the Governing Board, 400 Maryland Avenue SW, Washington, DC 20202, telephone: (202) 245-6234, email: Angela.Scott@ed.gov.

SUPPLEMENTARY INFORMATION:

Statutory Authority and Function: The Governing Board is established under the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9621). Information on the Governing Board and its work can be found at www.nagb.gov. Notice of the meetings is required under section 1009(a)(2) of 5 U.S.C. chapter 10 (commonly known as the Federal Advisory Committee Act). The Governing Board formulates policy for the National Assessment of Educational Progress (NAEP) administered by the National Center for Education Statistics (NCES). The Governing Board's responsibilities include:

(1) selecting the subject areas to be assessed; (2) developing appropriate student achievement levels; (3) developing assessment objectives and testing specifications that produce an assessment that is valid and reliable, and are based on relevant widely accepted professional standards; (4) developing a process for review of the assessment which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public; (5) designing the methodology of the assessment to ensure that assessment items are valid and reliable, in consultation with appropriate technical experts in measurement and assessment, content and subject matter, sampling, and other technical experts who engage in large scale surveys; (6) measuring student academic achievement in grades 4, 8, and 12 in the authorized academic subjects; (7) developing guidelines for reporting and disseminating results; (8) developing standards and procedures for regional and national comparisons; (9) taking appropriate actions needed to improve the form, content use, and reporting of results of an assessment; and (10) planning and executing the initial public release of NAEP results.

Standing Committee Meetings

The Governing Board's standing committees will meet to conduct regularly scheduled work. Standing committee meeting agendas and meeting materials will be posted on the Governing Board's website, www.nagb.gov, no later than five (5) business days prior to the meetings. Members of the public may attend the open sessions and may register via the

website. Minutes of prior standing committee meetings are available at <https://www.nagb.gov/governing-board/quarterly-board-meetings.html>.

Standing Committee Meetings

Thursday, May 14, 2026

Executive Committee (In-Person)

8:30 a.m.–9:00 a.m. (EDT), Open Session

The Executive Committee will meet in open session on Thursday, May 14, 2026, from 8:30 a.m. to 9:00 a.m. From 8:30 a.m. to 8:45 a.m., the Committee will consider and take formal action on the Trial Urban District Assessment (TUDA) policy. From 8:45 a.m. to 9:00 a.m., the Committee will consider and take action on the NAEP Assessment Schedule.

Thursday, May 14, 2026

Assessment Development Committee (In-Person)

3:30 p.m.–5:30 p.m. (EDT), Closed Session

The Assessment Development Committee will meet in closed session on Thursday, May 14, 2026, from 3:30 p.m. to 5:30 p.m. to review assessment items for the 2027 NAEP Science Pilot at grade 8. This meeting must be closed because it will involve discussion of assessment items that are not publicly available. Public disclosure of this confidential material would significantly impede the implementation and integrity of the NAEP assessment program if discussed in open session. These matters are protected from public release under exemption 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b.

Committee on Standards, Design and Methodology (In-Person)

3:30 p.m.–5:30 p.m. (EDT), Open Session

The Committee on Standards, Design and Methodology will meet on Thursday, May 14, 2026, in open session from 3:30 p.m. to 5:30 p.m. to receive an update on activities related to achievement levels and methodology and to discuss exclusion rates.

Reporting and Dissemination Committee (In-Person)

3:30 p.m.–5:30 p.m. (EDT)
3:30 p.m.–4:15 p.m., (Open Session)
4:15 p.m.–5:00 p.m., (Closed Session)
5:00 p.m.–5:30 p.m., (Open Session)

The Reporting and Dissemination Committee will meet on Thursday, May 14, 2026, in open session from 3:30 p.m. to 4:15 p.m., and from 5:00 p.m. to 5:30 p.m. to 5:00 p.m.

From 3:30 p.m. to 3:45 p.m., the committee chair will welcome the group and provide an overview of the agenda. From 3:45 p.m. to 4:15 p.m., the committee will receive a strategic communications update. The committee will meet in closed session from 4:15 p.m. to 5:00 p.m., to discuss plans for reporting and disseminating the 2025 NAEP Long-Term Trend data. This session must be closed because the results have not been released to the public. Public disclosure of this confidential information would significantly impede implementation of the NAEP assessment program if conducted in open session. These matters are protected from public disclosure under exemption 9(B) of the Government Sunshine Act, 5 U.S.C. 552b.

The meeting will conclude in open session from 5:00 p.m. to 5:30 p.m. to allow members to discuss various topics related to the committee's work.

Friday, May 15, 2026

Nominations Committee (In-Person)

8:30 a.m.–9:20 a.m. (EDT), Open Session

The Nominations Committee will meet in open session on Friday, May 15, 2026, from 8:30 a.m. to 9:20 a.m. The committee chair will open the meeting and provide an overview of the agenda from 8:30 a.m. to 8:35 a.m. From 8:35 a.m. to 8:40 a.m., the committee will receive an update on the current cycle of nominations. From 8:40 a.m. to 9:15 a.m., the committee will discuss the outreach strategy for the 2027 categories, followed by a review of next steps from 9:15 a.m. to 9:20 a.m.

Quarterly Governing Board Meeting

The plenary sessions of the Governing Board's May 2026 quarterly meeting will be held on the following dates and times:

Thursday, May 14, 2026

9:00 a.m.–5:30 p.m. (EDT), (Hybrid Meeting)

9:00 a.m.–11:30 a.m. (EDT), Open Session

11:30 a.m.–2:00 p.m. (EDT), Closed Session

2:00 p.m.–3:20 p.m. (EDT), Open Session

On Thursday, May 14, 2026, the Board will meet in open session, from 9:00 a.m. to 11:30 a.m., and 2:00 p.m. to 3:20 p.m., and in closed session from 11:30 a.m. to 2:00 p.m. Mark White, Chair of the Governing Board, will welcome members, review and approve the May 2026 agenda, and approve the March 2026 meeting minutes. From 9:15 a.m. to 9:45 a.m., Lesley Muldoon,

Governing Board Executive Director, will provide updates on the Board's work and the Next Generation NAEP project. Matthew Soldner, Acting Commissioner, NCES, will report on key NAEP activities from 9:45 a.m. to 10:00 a.m. From 10:00 a.m. to 11:15 a.m., the Board will receive updates from the Council of Chief State School Officers (CCSSO) and the Trial Urban District Assessment (TUDA) Task Forces. Following a transitional break from 11:15 a.m. to 11:30 a.m., the Board will convene in closed session from 11:30 a.m. to 2:00 p.m. From 11:30 a.m. to 12:30 p.m., Matthew Soldner and Gina Ruehl, NCES, will provide an update and discuss the NAEP Budget and Assessment Schedule. From 12:30 p.m. to 2:00 p.m., the Board will receive a briefing on the 2025 Long-Term Trend Results. These discussions will include confidential budget, procurement, and unreleased assessment information. Public disclosure of this information would reveal proprietary contract costs of the current NAEP contractors, independent government cost estimates for future assessments, and unreleased assessment content, and would have an adverse financial effect and significantly impede the implementation of future assessments if conducted in open session. These matters are protected from public disclosure under exemption 9(B) of the Government Sunshine Act, 5 U.S.C. 552b.

Following a fifteen-minute transitional break from 2:00 p.m. to 2:15 p.m., the Board will convene in open session. From 2:15 p.m. to 3:00 p.m., the Board will consider and take action on the TUDA Eligibility Criteria. A member discussion on topics of interest will follow from 3:00 p.m. to 3:20 p.m. The plenary session on Thursday, May 14, 2026, will adjourn at 3:20 p.m.

Friday, May 15, 2026

9:30 a.m.–12:00 p.m. (EDT), (Hybrid Meeting)

9:30 a.m.–12:00 p.m. (EDT), Open Session

On Friday, May 15, 2026, the Board will convene in open session from 9:30 a.m. to 12:00 p.m. From 9:30 a.m. to 11:15 a.m., the Board will discuss and take action on three items:

- 9:30 a.m. to 10:30 a.m. Charge to the NAEP Civics Framework Panel
- 10:30 a.m. to 10:45 a.m. 2025 Long-Term Trend Release Plan
- 10:45 a.m. to 11:15 a.m. NAEP Assessment Schedule

From 11:15 a.m. to 12:00 p.m., the Board will receive reports from its standing committees. The May 2026

Governing Board meeting will adjourn at 12:00 p.m.

Instructions for Accessing and Attending the Meetings

Registration: Members of the public may attend open sessions of the standing committee meetings and the full Governing Board on May 14–15, 2026, either in person or virtually. A link to the final meeting agenda and information on how to register for the open and closed sessions will be posted on the Governing Board's website, www.nagb.gov, no later than five (5) business days prior to the meeting. Registration is required to attend the meeting, whether in person or virtually.

Public Comment: Written comments related to the work of the Governing Board and its standing committees may be submitted to the attention of the DFO, either via email to Angela.Scott@ed.gov or in hard copy to the address listed above in the For Further Information Contact section. Written comments related to the standing committee meetings and the full Governing Board meeting should be submitted no later than close of business five days prior to each meeting and should reference the relevant agenda item.

Access to Records of the Meeting: Pursuant to 5 U.S.C. 1009, the public may inspect the meeting materials and other Governing Board records at 400 Maryland Avenue SW, Washington, DC 20202, by emailing Angela.Scott@ed.gov to schedule an appointment. The official verbatim transcripts of the open meeting sessions will be available for public inspection no later than 30 calendar days following each meeting. Requests for the verbatim transcriptions may be made via email to the DFO.

Reasonable Accommodations: The meeting location is accessible to individuals with disabilities. If you need an auxiliary aid or service to participate in the meeting (for example, an interpreter, assistive listening device, or materials in alternate format), notify the DFO listed in this notice by close of business on May 7, 2026.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via GovInfo at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the Adobe

website. You may also access documents of the Department published in the **Federal Register** by using the article search feature at:

www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Pub. L. 107–279, title III, section 301—National Assessment of Educational Progress Authorization Act (20 U.S.C. 9621).

Lesley Muldoon,

Executive Director, National Assessment Governing Board (NAGB), U.S. Department of Education.

[FR Doc. 2026–07306 Filed 4–14–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1354]

Agency Information Collection Activities; Comment Request; Foreign Gifts and Contracts Disclosures

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before June 15, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2026–SCC–1354. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the www.regulations.gov site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to Carolyn Rose, U.S. Department of Education, Federal

Student Aid, 400 Maryland Avenue SW, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carolyn Rose, 202-453-5967.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Foreign Gifts and Contracts Disclosures.

OMB Control Number: 1845-0172.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 10,413.

Total Estimated Number of Annual Burden Hours: 5,207.

Abstract: FSA, in partnership with the Office of the General Counsel (OGC) of ED, is requesting the renewal of Foreign Gifts and Contracts Disclosures, 1845-0172, to continue to collect the required information from institutions of higher education regarding foreign gifts and contracts as specified in the Higher Education Act of 1965 (HEA), as amended. Section 117 of the HEA, codified at 20 U.S.C. 1011f, provides that institutions of higher education must file a disclosure report with the Secretary of Education on January 31 or July 31, whichever is sooner, under certain circumstances.

In June of 2020, ED established a collection of information, Foreign Gifts and Contracts Disclosures, 1801-0006, through ED's Partner Enterprise Business Collaboration (PEBC) system. That collection was under an OMB control number for OGC. The PEBC collection provided for collection of the data elements that ED believes are necessary to ensure institutions provide Congressionally-mandated transparency with respect to covered gifts from and contracts with foreign sources. In June of 2023, a new collection of information, Foreign Gifts and Contracts Disclosures, 1845-0172, was approved with the same PEBC collection portal, with a few minimal changes, but returning the collection of information to FSA. OGC and FSA have worked closely over the course of these previous two information requests. FSA is seeking renewal for substantially the same information collection, utilizing a new, more user-friendly portal located at <https://www.foreignfunding.highered.gov>.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026-07304 Filed 4-14-26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

[Docket No. 26-32-LNG]

Corpus Christi Liquefaction, LLC; Corpus Christi Liquefaction Stage IV, LLC; and Cheniere Marketing, LLC; Application for Long-Term Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations

AGENCY: Hydrocarbons and Geothermal Energy Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: The Hydrocarbons and Geothermal Energy Office (HGEO) (formerly the Office of Fossil Energy and Carbon Management (FECM)) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed by Corpus Christi Liquefaction, LLC, Corpus Christi Liquefaction Stage IV, LLC, and Cheniere Marketing, LLC (collectively, CCL Stage IV) on March 19, 2026. CCL Stage IV requests long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in a volume equivalent to approximately 1,200 billion cubic feet (Bcf) of natural gas per year (Bcf/yr) from the proposed CCL Stage 4 Project (Stage 4 Project), an

expansion of the existing Corpus Christi LNG terminal (CCL Terminal), to be located in San Patricio and Nueces Counties, Texas. CCL Stage IV filed the Application under the Natural Gas Act (NGA).

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed electronically as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, June 15, 2026.

ADDRESSES:

Electronic Filing by email (Strongly encouraged): fergas@hq.doe.gov.

Postal Mail, Hand Delivery, or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (EX-31), Office of Global Energy Security, Hydrocarbons and Geothermal Energy Office, Forrestal Building, Room 3E-056, 1000 Independence Avenue SW, Washington, DC 20585.

Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit filings electronically to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT:

Jennifer Wade or Peri Ulrey, U.S. Department of Energy (EX-31), Office of Global Energy Security, Office of Strategic Resources, Hydrocarbons and Geothermal Energy Office, Forrestal Building, Room 3E-042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586-4749 or (202) 586-7893, jennifer.wade@hq.doe.gov or peri.ulrey@hq.doe.gov.

Ajoke Agboola, U.S. Department of Energy (GC-76), Office of the Assistant General Counsel for Energy Delivery and Resilience, Forrestal Building, Room 6D-033, 1000 Independence Avenue SW, Washington, DC 20585, (240) 805-2147, ajoke.agboola@hq.doe.gov.

SUPPLEMENTARY INFORMATION: CCL Stage IV requests authorization to export domestically produced LNG from the proposed Stage 4 Project to be constructed on land currently owned by Cheniere Land Holdings, LLC, adjacent to the existing CCL Terminal, on the La Quinta Ship Channel in San Patricio and Nueces Counties, Texas.¹ CCL Stage IV states that the proposed Stage 4 Project will add four new liquefaction trains, two storage tanks, three ground flares, a third marine berth, a terminal supply line, and other associated

¹ Corpus Christi Liquefaction, LLC, *et al.*, Application for Authorizations to Export Liquefied Natural Gas to Free Trade and Non-Free Trade Agreement Nations, Docket No. 26-32-LNG, at 1, 7 (Mar. 19, 2026) [hereinafter App.].

infrastructure.² CCL Stage IV states that the Stage 4 Project will be operated on an integrated basis and also leverage existing supporting infrastructure as part of the existing CCL Terminal.

CCL Stage IV requests authorization to export the LNG in a volume equivalent to 1,200 Bcf/yr of natural gas by ocean-going vessel on a non-additive basis to: (i) any country with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries), and (ii) any other country with which trade is not prohibited by U.S. law or policy (non-FTA countries).³ This Notice applies only to the portion of the Application requesting authority to export LNG to non-FTA countries pursuant to section 3(a) of the NGA.⁴ DOE will review CCL Stage IV's request for authorization to export LNG to FTA countries separately pursuant to NGA section 3(c).⁵

CCL Stage IV seeks this authorization on its own behalf and as agent for other entities that will hold title to the LNG at the time of export. CCL Stage IV requests authorization for a 25-year term following the commencement of commercial operation of the Stage 4 Project.⁶

Additional details can be found in CCL Stage IV's Application, posted on the DOE website at <https://www.energy.gov/sites/default/files/2026-03/CCL%20Stage%204%20DOE%20Application.pdf>.

DOE Evaluation

In reviewing the Application, DOE will consider any issues required by law or policy under NGA section 3(a), DOE's regulations, and any other documents deemed appropriate.

Parties that may oppose the Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of

intervention, as applicable, addressing the Application. Interested parties will be provided 60 days from the date of publication of this Notice in the **Federal Register** in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to this proceeding evaluating the Application must file a motion to intervene or notice of intervention.⁷ The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to this proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by DOE's regulations in 10 CFR part 590, including the service requirements.

Filings may be submitted using one of the following methods:

(1) Submitting the filing electronically at fergas@hq.doe.gov;

(2) Mailing the filing to the Office of Global Energy Security at the address listed in the **ADDRESSES** section; or

(3) Hand delivering the filing to the Office of Global Energy Security at the address listed in the **ADDRESSES** section.

For administrative efficiency, DOE prefers filings to be filed electronically. All filings must include a reference to "Docket No. 26-32-LNG" or "Corpus Christi Liquefaction, LLC *et al.* Application" in the title line. Filings must be submitted in English to be considered.⁸

For electronic submissions: Please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner.

The Application, and any filed protests, motions to intervene, notices of intervention, and comments will be available electronically on the DOE website at www.energy.gov/hgeo/regulation.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments

and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this Notice, in accordance with 10 CFR 590.316.

Signed in Washington, DC, on April 10, 2026.

Amy Sweeney,

Director, Office of Global Energy Security, Office of Strategic Resources.

[FR Doc. 2026-07249 Filed 4-14-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/livestreamed meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Tuesday, May 19, 2026; 9 a.m.–4 p.m. EDT.

ADDRESSES: Advanced Manufacturing Collaborative, 4345 Trolley Line Road, Aiken, South Carolina 29801. This meeting will be held in-person at the Advanced Manufacturing Collaborative and streamed on YouTube, no registration is necessary. The link for the livestream can be found on the following website: <https://www.youtube.com/@SRSCAB/streams>.

FOR FURTHER INFORMATION CONTACT: James Tanner, Office of External Affairs, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 646-2167; or Email: james.tanner@srs.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: At the request of the Assistant Secretary or Field Managers, the Board may provide community-based advice and recommendations concerning any EM program activities, such as clean-up activities and environmental restoration; waste management and disposition; excess facilities; future land use and long-term stewardship;

² *Id.* at 7.

³ *Id.* at 1–2.

⁴ 15 U.S.C. 717b(a).

⁵ *Id.* 717b(c).

⁶ App. at 9.

⁷ 10 CFR 590.303.

⁸ Executive Order 14224 of March 1, 2025, *Designating English as the Official Language of the United States*, 90 FR 11363 (Mar. 6, 2025).

communications; and budget priorities. The Board also provides an avenue to fulfill public participation requirements outlined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERLA), the Resource Conservation and Recovery Act (RCRA), Federal Facility Agreements, Consent Orders, Consent Decrees and Settlement Agreements.

Tentative Agenda: (agenda topics are subject to change; please contact Juanita Campbell at juanita.campbell@srs.gov for the most current agenda).

- Chair Update
- Agency Updates
- Program Presentations to the Board
- Board Business
- Public Comments

Public Participation: The meeting is open to the public and public comment can be given orally or in writing. Fifteen minutes are allocated during the meeting for public comment and those wishing to make oral comment will be given a minimum of two minutes to speak. Written comments received at least two working days prior to the meeting will be provided to the members and included in the meeting minutes. Written comments received within two working days after the meeting will be included in the minutes. For additional information on public comment and to submit written comment, please contact srscitizensadvisoryboard@srs.gov. The EM SSAB, Savannah River Site, welcomes the attendance of the public at its meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact srscitizensadvisoryboard@srs.gov at least seven days in advance of the meeting.

Meeting conduct: The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Questioning of board members or presenters by the public is not permitted.

Minutes: Minutes will be available at the following website: www.cab.srs.gov.

Signing Authority: This document of the Department of Energy was signed on April 10, 2026, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal

Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on April 13, 2026.

Jennifer Hartzell,

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

[FR Doc. 2026-07296 Filed 4-14-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26-2-000]

Enable Mississippi River Transmission, LLC; Notice of Availability of the Environmental Assessment for the Proposed Ameren—Emrt Big Hollow Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Ameren—EMRT Big Hollow Project, proposed by Enable Mississippi River Transmission, LLC (EMRT) in the above-referenced docket.¹ EMRT requests authorization to construct and operate certain natural gas pipeline and appurtenant facilities in Monroe and Jefferson counties in the states of Illinois and Missouri. EMRT states the project purpose is to provide about 200,000 million standard cubic feet of natural gas per day to Ameren's Big Hollow Energy Center to facilitate the new gas-fired generation at the site of their retired Rush Island Energy Center.

Any person wishing to comment on the EA may do so. To ensure consideration of your comments on the proposal prior to making a decision on the project, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on May 11, 2026. Instructions for filing comments are provided on page 3.

FERC is the lead federal agency for authorizing interstate natural gas transmission facilities under the Natural Gas Act of 1938 (NGA) and the lead federal agency for preparation of the EA. The EA assesses the potential

environmental effects of the Ameren—EMRT Big Hollow Project in accordance with the requirements of the National Environmental Policy Act (NEPA)² and the Commission's implementing regulations.³ The principal purposes of the EA are to: identify and assess the potential effects on the natural and human environment; describe and evaluate reasonable alternatives; identify and recommend mitigation measures; and facilitate public involvement in the environmental review process. The EA concludes that approval of the proposed project would not constitute a major federal action significantly affecting the quality of the human environment.

The EA addresses the potential environmental effects of the construction and operation of the following project facilities:

- an approximate 9.6-mile-long, 20-inch-diameter lateral pipeline, from a point of interconnection on EMRT's existing mainlines in Monroe County, Illinois to the existing Big Hollow Energy Center site in Jefferson County, Missouri;

- a measurement and regulation station located downstream of the tie-in with Ameren's proposed Big Hollow Energy Center; and

- appurtenant pipeline facilities.

The Commission mailed a copy of the *Notice of Availability* of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and libraries in the project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (www.ferc.gov), on the natural gas environmental documents page (<https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents>). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (<https://elibrary.ferc.gov/elibrary/search>), select "General Search" and enter the docket number in the "Docket Number" field, excluding the last three digits (*i.e.*, CP26-2). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or toll free

² National Environmental Policy Act of 1969, as amended (Public Law [Pub. L.] 91-190, 42 U.S.C. 4321-4347, as amended by Pub. L. 94-52, July 3, 1975; Pub. L. 94-83, August 9, 1975; Pub. L. 97-258, 4(b), September 13, 1982; Pub. L. 118-5, June 3, 2023; Pub. L. 119-21, July 4, 2025).

³ 18 Code of Federal Regulations (CFR) 380.

¹ For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX-019-20-000-1739964549

at (866) 208–3676, or for TTY, contact (202) 502–8659.

The EA is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Under section 7(c) of the NGA, the Commission determines whether interstate natural gas transportation facilities are in the public convenience and necessity and, if so, grants a Certificate of Public Convenience and Necessity to construct and operate them. The Commission bases its decisions on both economic issues, including need, and environmental effects.

Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental effects. The more specific your comments, the more useful they will be. For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or FercOnlineSupport@ferc.gov. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (www.ferc.gov) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (www.ferc.gov) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP26–2–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory

Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission's Rules of Practice and Procedures (18 CFR 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to intervene are more fully described at <https://www.ferc.gov/how-intervene>.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov. Additional information about the project is available from the FERC website (www.ferc.gov) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

(Authority: 18 CFR 2.1)

Dated: April 10, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–07326 Filed 4–14–26; 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 Accounting Request filings:

Docket Numbers: AC26–40–000.
Applicants: Jersey Central Power & Light Company.
Description: Jersey Central Power & Light Company submits proposed

journal entries requesting to use Account 439 and Account 108 to record a one-time cumulative correction.

Filed Date: 4/10/26.

Accession Number: 20260410–5176.

Comment Date: 5 p.m. ET 4/17/26.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC26–75–000.

Applicants: Tonopah Solar Energy, LLC.

Description: Amendment to 03/20/2026, Application for Authorization Under Section 203 of the Federal Power Act of Tonopah Solar Energy, LLC.

Filed Date: 4/9/26.

Accession Number: 20260409–5178.

Comment Date: 5 p.m. ET 4/20/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1838–013; ER19–2231–010; ER19–2232–010; ER18–552–006; ER24–762–002; ER10–1967–014; ER10–1968–013; ER10–1616–021; ER22–46–009; ER22–1402–006; ER22–1404–006; ER22–2713–004; ER10–1990–013; ER18–1821–013; ER10–1993–013.

Applicants: Waymart Wind Farm, L.P., Walleye Power, LLC, Somerset Windpower, LLC, Parkway Generation Sewaren Urban Renewal Entity LLC, Parkway Generation Operating LLC, Parkway Generation Keys Energy Center LLC, Parkway Generation Essex, LLC, New Covert Generating Company, LLC, Mill Run Windpower, LLC, Meyersdale Windpower LLC, Elevate Renewables F7, LLC, Clean Energy Future-Lordstown, LLC, Chief Keystone Power II, LLC, Chief Conemaugh Power II, LLC, Backbone Mountain Windpower, LLC.

Description: Response to 10/31/2024, Deficiency Letter of Backbone Mountain Windpower, LLC, et al.

Filed Date: 4/9/26.

Accession Number: 20260409–5185.

Comment Date: 5 p.m. ET 4/30/26.

Docket Numbers: ER23–2469–008.
Applicants: Lost Creek Wind, LLC.
Description: Compliance filing:

Response to Deficiency Letter to be effective 7/22/2023.

Filed Date: 4/9/26.

Accession Number: 20260409–5162.

Comment Date: 5 p.m. ET 4/30/26.

Docket Numbers: ER24–2171–003.
Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Settlement Compliance Filing to be effective 1/1/2026.

Filed Date: 1/14/26.

Accession Number: 20260114–5108.

Comment Date: 5 p.m. ET 2/4/26.

Docket Numbers: ER25–170–005.

Applicants: SunZia Transmission, LLC.
Description: Compliance filing: Effective Date for SunZia Trans, LLC—Transmission Owner Tariff (ER25–170–) to be effective 4/9/2026.
Filed Date: 4/10/26.
Accession Number: 20260410–5089.
Comment Date: 5 p.m. ET 5/1/26.
Docket Numbers: ER25–1989–001; ER23–2759–003.
Applicants: Mammoth North LLC, Great Bend Solar, LLC.
Description: Notice of Non-Material Change in Status of Great Bend Solar, LLC, et al.
Filed Date: 4/9/26.
Accession Number: 20260409–5180.
Comment Date: 5 p.m. ET 4/30/26.
Docket Numbers: ER25–3553–001; ER25–3557–001.
Applicants: Salt Branch Solar, LLC, Huckleberry Solar, LLC.
Description: Notice of Change in Status of Huckleberry Solar, LLC, et al.
Filed Date: 4/8/26.
Accession Number: 20260408–5232.
Comment Date: 5 p.m. ET 4/29/26.
Docket Numbers: ER26–1164–001.
Applicants: Bolt Energy Marketing, LLC.
Description: Tariff Amendment: Response to Request for Additional Information to be effective 1/30/2026.
Filed Date: 4/9/26.
Accession Number: 20260409–5154.
Comment Date: 5 p.m. ET 4/30/26.
Docket Numbers: ER26–1165–001.
Applicants: Columbia Energy LLC.
Description: Tariff Amendment: Response to Request for Additional Information to be effective 1/30/2026.
Filed Date: 4/9/26.
Accession Number: 20260409–5155.
Comment Date: 5 p.m. ET 4/30/26.
Docket Numbers: ER26–1167–001.
Applicants: LS Power Marketing, LLC.
Description: Tariff Amendment: Response to Request for Additional Information to be effective 1/30/2026.
Filed Date: 4/9/26.
Accession Number: 20260409–5156.
Comment Date: 5 p.m. ET 4/30/26.
Docket Numbers: ER26–1168–001.
Applicants: REV Energy Marketing, LLC.
Description: Tariff Amendment: Response to Request for Additional Information to be effective 1/30/2026.
Filed Date: 4/9/26.
Accession Number: 20260409–5157.
Comment Date: 5 p.m. ET 4/30/26.
Docket Numbers: ER26–1216–002.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: 4617 Municipal Energy Agency of Nebraska

NITSA and NOA to be effective 4/1/2026.
Filed Date: 4/10/26.
Accession Number: 20260410–5083.
Comment Date: 5 p.m. ET 5/1/26.
Docket Numbers: ER26–1218–003.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: 4618 Municipal Energy Agency of Nebraska NITSA and NOA Amended to be effective 4/1/2026.
Filed Date: 4/10/26.
Accession Number: 20260410–5087.
Comment Date: 5 p.m. ET 5/1/26.
Docket Numbers: ER26–1563–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Amendment to Proposed Tariff Amendments for Expedited Interconnection Track to be effective 6/10/2026.
Filed Date: 4/10/26.
Accession Number: 20260410–5085.
Comment Date: 5 p.m. ET 5/1/26.
Docket Numbers: ER26–2106–000.
Applicants: Jackson County Solar, LLC.
Description: 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/9/26.
Accession Number: 20260409–5137.
Comment Date: 5 p.m. ET 4/30/26.
Docket Numbers: ER26–2107–000.
Applicants: Sycamore Creek Solar, LLC.
Description: 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/9/26.
Accession Number: 20260409–5142.
Comment Date: 5 p.m. ET 4/30/26.
Docket Numbers: ER26–2108–000.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: 205(d) Rate Filing: WPC Amendments Sched E to Ex B to be effective 6/9/2026.
Filed Date: 4/9/26.
Accession Number: 20260409–5147.
Comment Date: 5 p.m. ET 4/30/26.
Docket Numbers: ER26–2109–000.
Applicants: NorthWestern Corporation.
Description: 205(d) Rate Filing: SA 1032—First Revised Firm PTP with Puget Sound to be effective 4/1/2026.
Filed Date: 4/9/26.
Accession Number: 20260409–5152.
Comment Date: 5 p.m. ET 4/30/26.
Docket Numbers: ER26–2110–000.
Applicants: NorthWestern Corporation.
Description: 205(d) Rate Filing: SA 1038—Conditional Firm PTP with

Energy Keepers, Inc. to be effective 4/1/2026.
Filed Date: 4/9/26.
Accession Number: 20260409–5163.
Comment Date: 5 p.m. ET 4/30/26.
Docket Numbers: ER26–2111–000.
Applicants: American Transmission Systems, Incorporated.
Description: 205(d) Rate Filing: ATSI submits a Construction Agmt—SA No. 7364 to be effective 6/10/2026.
Filed Date: 4/10/26.
Accession Number: 20260410–5000.
Comment Date: 5 p.m. ET 5/1/26.
Docket Numbers: ER26–2112–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Original NSA, Service Agreement No. 7978 Queue No. AE2–131 to be effective 6/10/2026.
Filed Date: 4/10/26.
Accession Number: 20260410–5030.
Comment Date: 5 p.m. ET 5/1/26.
Docket Numbers: ER26–2113–000.
Applicants: NorthWestern Corporation.
Description: 205(d) Rate Filing: SA 1033—Conditional Firm PTP with Basin Elec Power Coop to be effective 4/1/2026.
Filed Date: 4/10/26.
Accession Number: 20260410–5044.
Comment Date: 5 p.m. ET 5/1/26.
Docket Numbers: ER26–2114–000.
Applicants: PacifiCorp.
Description: 205(d) Rate Filing: Surplus Engineering & Procurement Agreement (RS No. 809) to be effective 6/9/2026.
Filed Date: 4/10/26.
Accession Number: 20260410–5090.
Comment Date: 5 p.m. ET 5/1/26.
Docket Numbers: ER26–2115–000.
Applicants: SunZia Transmission, LLC.
Description: Tariff Amendment: Notice of Cancellation of Open Access Transmission Tariff to be effective 4/9/2026.
Filed Date: 4/10/26.
Accession Number: 20260410–5091.
Comment Date: 5 p.m. ET 5/1/26.
Docket Numbers: ER26–2116–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 205(d) Rate Filing: 2026–04–10_SA 4738 METC–River Fork Storage GIA (S1058) to be effective 4/2/2026.
Filed Date: 4/10/26.
Accession Number: 20260410–5106.
Comment Date: 5 p.m. ET 5/1/26.
Docket Numbers: ER26–2117–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 58 to be effective 6/10/2026.

Filed Date: 4/10/26.

Accession Number: 20260410–5119.

Comment Date: 5 p.m. ET 5/1/26.

Docket Numbers: ER26–2118–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to GIA, SA No. 7453; Project Identifier Nos. AF2–150/AG1–039 to be effective 6/10/2026.

Filed Date: 4/10/26.

Accession Number: 20260410–5134.

Comment Date: 5 p.m. ET 5/1/26.

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: April 10, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–07327 Filed 4–14–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–162–000]

Texas Eastern Transmission, LP; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on March 31, 2026, Texas Eastern Transmission, LP (Texas Eastern), 915 North Eldridge Parkway, Suite 1100, Houston, Texas 77079, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.216 of the

Commission's regulations under the Natural Gas Act (NGA), and Texas Eastern's blanket certificate issued in Docket No. CP82–535–000, for authorization to decommission and abandon in place 13.45 miles of its currently idle 24-inch-diameter lateral Line 40–B–4–D segment 9888 located in federal waters in the Gulf of America near Louisiana (Offshore Abandonment Project). The project will allow Texas Eastern to eliminate the need for capital expenditures associated with the ongoing maintenance and repair of facilities that are no longer required for gas transportation service. The estimated cost for the project is \$39,600,000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

Any questions concerning this request should be directed to Arthur Diestel, Director, Regulatory, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251–1642, by phone at (713) 627–5116, or by email at arthur.diestel@enbridge.com.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on June 9, 2026. How to

file protests, motions to intervene, and comments is explained below.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation (OPP) at (202) 502–6595 or OPP@ferc.gov.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,¹ any person² or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,³ and must be submitted by the protest deadline, which is 5:00 p.m. Eastern Time on June 9, 2026. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is 5:00 p.m. Eastern Time on June 9, 2026. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to/intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before 5:00 p.m. Eastern Time on June 9, 2026. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP26–162–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Protest", "Intervention", or "Comment on a Filing"; or⁶

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference

the Project docket number CP26–162–000.

To file via USPS: Debbie-Anne A. Reese, Secretary Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other method: Debbie-Anne A. Reese, Secretary Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either by mail at: Arthur Diestel, Director, Regulatory, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251–1642, by phone at (713) 627–5116, or by email (with a link to the document) at arthur.diestel@enbridge.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from OPP at (202) 502–6595 or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

(Authority: 18 CFR 2.1)

Dated: April 10, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–07325 Filed 4–14–26; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–13238–02–OAR]

Allocations of Cross-State Air Pollution Rule Allowances From New Unit Set-Asides for 2025 Control Periods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: The U.S Environmental Protection Agency (EPA) is providing notice of the availability of data on emission allowance allocations to certain units under the Cross-State Air Pollution Rule (CSAPR) trading programs. The EPA has completed final calculations for the allocations of allowances from the new unit set-asides (NUSAs) for the 2025 control periods and posted spreadsheets with these calculations on the Agency's website. The EPA has also completed final calculations for the allocations of allowances of the remaining 2025 NUSA allowances to existing units and posted spreadsheets with these calculations on the Agency's website.

DATES: April 15, 2026.

FOR FURTHER INFORMATION CONTACT: For information about this notice, contact Morgan Riedel at telephone number: (202) 564–0421 or email address: riedel.morgan@epa.gov.

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this document the use of "we," "us," or "our" refers to the EPA. The EPA uses multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CFR Code of Federal Regulations
CSAPR Cross-State Air Pollution Rule
EPA Environmental Protection Agency
FR Federal Register
NODA notice of data availability
NO_x nitrogen oxides
NUSA new unit set-asides
SO₂ sulfur dioxide

Background and Rationale. When the EPA is responsible for determining emission allowance allocations in a CSAPR trading program, a NUSA reserves a portion of each state's emissions budget, during each control period of the program, for allocation to certain units that would not otherwise receive allowance allocations. In addition, under most of the trading programs, there is a separate Indian country NUSA for states containing Indian country within their borders. The

⁶ Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

CSAPR trading program regulations set forth procedures for identifying eligible units during each control period and for allocating allowances from the NUSAs and Indian country NUSAs to these units.^{1 2} Each NUSA allowance allocation process involves allocations to eligible units, termed “new” units, followed by allocations to “existing” units of any remaining allowances.

This notice concerns the EPA’s final calculations for the NUSA allowance allocations for the 2025 control periods. Generally, under the allocation procedures, each eligible new unit receives a 2025 NUSA allocation equal to its 2025 control period emissions as reported under 40 CFR part 75. If the total of such allocations to all eligible units exceeds the amount of allowances in the NUSA, the EPA reduces the allocations on a pro-rata basis. The EPA does not consider a unit’s emissions that occur before its monitor certification deadline as occurring during a control period and thus does not include these emissions for determining NUSA allocations.³ After allocating allowances to eligible new units in a state (or Indian country), the EPA allocates remaining allowances to the state’s existing units in proportion to those units’ previous allocations from the portion of the state’s emissions budget for the control period that was not reserved in a NUSA (or Indian country NUSA).

On March 2, 2026, the EPA published a notice of data availability (NODA) in the **Federal Register** announcing the preliminary NUSA allowance allocations for the 2025 control periods and explaining how to submit objections.⁴ The EPA received no objections to the March 2, 2026, NODA. This NODA provides the final NUSA allowance allocations. The EPA made

no changes between the preliminary and final 2025 NUSA sheets.

The EPA sets forth detailed, unit-by-unit data and final allowance allocation calculations for new units in Excel spreadsheets titled “CSAPR_NUSA_2025_NO_x_Annual_Final_Data_New_Units,” “CSAPR_NUSA_2025_NO_x_OS_Final_Data_New_Units,” and “CSAPR_NUSA_2025_SO₂_Final_Data_New_Units,” which are available online at <https://www.epa.gov/csapr/csapr-allowance-allocations#nusa>. Each spreadsheet contains a separate worksheet for every state covered by that program and shows, for each unit identified as eligible for a NUSA allocation, (1) the unit’s emissions in the 2025 control period (annual or ozone season, as applicable), (2) the maximum 2025 NUSA allowance allocation for the unit (typically the unit’s emissions in the 2025 control period), (3) various adjustments to the unit’s maximum allocation if the NUSA pool is oversubscribed, and (4) the final calculation of the unit’s 2025 NUSA allowance allocation.

Each state worksheet for new units also contains a summary showing (1) the quantity of allowances initially available in that state’s 2025 NUSA, (2) the sum of the 2025 NUSA allowance allocations to new units in that state, assuming that there are no corrections to the data, and (3) the quantity of allowances that would remain in the 2025 NUSA for allocation to existing units, assuming that there are no corrections to the data.

The EPA sets forth final calculations of allocations of the remaining unallocated allowances to existing units in Excel spreadsheets titled “CSAPR_NUSA_2025_NO_x_Annual_Final_Data_Existing_Units,” “CSAPR_NUSA_2025_NO_x_OS_Final_Data_Existing_Units,” and “CSAPR_NUSA_2025_SO₂_Final_Data_Existing_Units,” which are available at the same online location.

The EPA notes that an allocated allowance, or lack thereof, to a given unit under a CSAPR trading program does not constitute a determination that the trading program does or does not apply to the unit. The EPA also notes that, under 40 CFR 97.411(c), 97.511(c), 97.611(c), 97.711(c), and 97.811(c), allocations are subject to potential correction if a unit with allocated allowances for a given control period is not an affected unit as of the start of that control period.

(Authority: 40 CFR 97.411(b), 97.511(b), 97.611(b), 97.711(b), and 97.811(b).)

David Cozzie,

Acting Director, Industrial Processing and Power Division, Office of Clean Air Programs, Office of Air and Radiation.

[FR Doc. 2026–07299 Filed 4–14–26; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at Secretary@fmc.gov, or by mail, Federal Maritime Commission, 800 North Capitol Street, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**, and the Commission requests that comments be submitted within 7 days on agreements that request expedited review. Copies of agreements are available through the Commission’s website (www.fmc.gov) or by contacting the Office of General Counsel at (202) 523–5740 or GeneralCounsel@fmc.gov.

Agreement No.: 012312–005.

Agreement Name: Grimaldi Euromed S.p.A./Mitsui O.S.K. Lines Ltd.

Parties: Grimaldi Euromed S.p.A./Mitsui O.S.K. Lines Ltd.

Filing Party: Rebecca Fenneman, Jeffrey/Fenneman Law and Strategy PLLC.

Synopsis: The Amendment removes Nissan Motor Car Carrier Co., Ltd. as a party and makes conforming changes. The Amendment also updates the address of Mitsui O.S.K. Lines, Ltd.

Proposed Effective Date: 4/9/2026.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/183>.

Agreement No.: 012437–002.

Agreement Name: MOL/WWOCEAN Space Charter Agreement.

Parties: Mitsui O.S.K. Lines Ltd.; and Wallenius Wilhelmsen Ocean AS.

Filing Party: Rebecca Fenneman, Jeffrey/Fenneman Law and Strategy PLLC.

Synopsis: The Amendment removes Nissan Motor Car Carrier Co., Ltd. as a party and makes conforming revisions.

Proposed Effective Date: 4/9/2026.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1905>.

Agreement No.: 012453–002.

¹ See 40 CFR 97.411(b) and 97.412 (Nitrogen Oxide (NO_x) Annual), 97.511(b) and 97.512 (NO_x Ozone Season Group 1), 97.611(b) and 97.612 (Sulfur Dioxide (SO₂) Group 1), 97.711(b) and 97.712 (SO₂ Group 2), and 97.811(b) and 97.812 (NO_x Ozone Season Group 2, including units using Original Group 2 allowances and units using Expanded Group 2 allowances).

² The EPA has no plans to determine NUSA allowance allocations for the 2025 control period under the CSAPR NO_x Ozone Season Group 3 Trading Program regulations at 40 CFR 97.1012. In response to judicial stay orders, the EPA has administratively stayed the implementation of that program for all sources for the 2024 control period. This program implementation will remain stayed for future control periods unless and until provided otherwise in a future rulemaking. See 88 **Federal Register** (FR) 49295 (July 31, 2023); 88 FR 67102 (September 29, 2023); 89 FR 87960 (November 6, 2024).

³ See 40 CFR 97.406(c)(3), 97.506(c)(3), 97.606(c)(3), 97.706(c)(3), and 97.806(c)(3).

⁴ 91 FR 10090 (March 2, 2026).

Agreement Name: MOL/KL Space Charter Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd.; and Mitsui O.S.K. Lines Ltd.

Filing Party: Rebecca Fenneman, Jeffrey/Fenneman Law and Strategy PLLC.

Synopsis: The Amendment removes Nissan Motor Car Carrier Co., Ltd. as a party and makes conforming revisions.

Proposed Effective Date: 4/1/2026.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1937>.

Agreement No.: 012454-002.

Agreement Name: MOL/SCC Space Charter Agreement.

Parties: Mitsui O.S.K. Lines Ltd.; and Siem Car Carriers AS.

Filing Party: Rebecca Fenneman, Jeffrey/Fenneman Law and Strategy PLLC.

Synopsis: The Amendment removes Nissan Motor Car Carrier Co., Ltd. as a party and makes conforming revisions.

Proposed Effective Date: 4/9/2026.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1939>.

Agreement No.: 201273-002.

Agreement Name: MOL/Glovis Space Charter Agreement.

Parties: and Mitsui O.S.K. Lines Ltd.; and Hyundai Glovis.

Filing Party: Rebecca Fenneman, Jeffrey/Fenneman Law and Strategy PLLC.

Synopsis: The Amendment removes Nissan Motor Car Carrier Co., Ltd., makes conforming revisions, and updates Glovis' address.

Proposed Effective Date: 4/1/2026.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/16284>.

Dated: April 10, 2026.

Jennifer Everling,

Assistant Secretary.

[FR Doc. 2026-07266 Filed 4-14-26; 8:45 am]

BILLING CODE 6730-02-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as

other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than April 30, 2026.

A. Federal Reserve Bank of San Francisco: (Keith Dudley, Vice President) 101 Market Street, San Francisco, California 94105-1579. Comments can also be sent electronically to *mail to: SF.Supervision.Comments.Applications@sf.frb.org*.

1. *Nir Zuk, Los Altos Hills, California:* to acquire voting shares of DMG Bancshares, Inc., and thereby indirectly acquire voting shares of Liberty Bank N.A., both of Irvine, California.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026-07323 Filed 4-14-26; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 242 3093]

TruHeight; Analysis of Proposed 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 or

deceptive acts or practices. The attached Analysis of Proposed 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 May 15, 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 “TruHeight; File No. 242 3093” 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: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Ave. NW, Mail Stop H-144 (Annex T), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Robert Van Someren Greve (phone: 202-326-2523), Attorney, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave. 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 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 at <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before May 15, 2026. Write “TruHeight; File No. 242 3093” 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.

We encourage you to submit comments through the <https://www.regulations.gov> website. Postal mail addressed to the Commission will be subject to delay because of heightened security screening. If you prefer to file your comment on paper, write “TruHeight; File No. 242 3093” on

your comment and on the envelope, and send it via overnight service to: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H-144 (Annex T), 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 the <https://www.regulations.gov> website—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 the proposed settlement. 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 May 15, 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 Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an agreement containing a consent order from Vanilla Chip LLC, which does business as TruHeight ("TruHeight"), Eden Stelmach, and Justin Rapoport (collectively, "Respondents"). The proposed consent order ("proposed order") 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 again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns TruHeight's marketing and sale of a line of dietary supplements (the "TruHeight Products"). The complaint alleges that Respondents deceptively advertised the TruHeight Products, in violation of sections 5 and 12 of the FTC Act and the Reviews and Testimonials Rule. It alleges that Respondents made unsubstantiated claims that TruHeight Products cause increased height and height growth in children and teenagers, and that clinical studies showed that TruHeight Products were effective. The complaint also alleges that Respondents used fake consumer reviews and fake social media profiles to market TruHeight Products and offered consumers incentives (including discounts and free products) in return for leaving positive reviews of TruHeight Products on Respondents' website and on third-party platforms.

The proposed order includes injunctive relief that prohibits these alleged violations and fences in similar and related conduct. The provisions of the order apply to any dietary supplement, food, or drug marketed or sold by Respondents.

Provision I prohibits representations about increased height and height growth unless they are non-misleading and substantiated by competent and reliable scientific evidence. Provision II prohibits representations about the

health benefits, performance, efficacy, safety, or side effects of covered products other than those covered by Provision I, unless they are non-misleading and supported by competent and reliable scientific evidence.

Provision III sets forth document preservation obligations regarding any competent and reliable scientific evidence proposed respondents would rely on to satisfy their obligations under Provisions I and II of the order. Provision IV contains a standard carve-out to Provisions I and II for FDA-approved claims.

Provision V prohibits misrepresentations about the existence of reviewers and testimonialists, and their experience with covered products. Provision VI prohibits providing compensation or other incentives to consumers in return for writing a consumer review conditioned on expressing a particular sentiment.

Provision VII requires Respondents to pay the Commission \$750,000, to be paid in three installments. Upon making the required payment, the remainder of Respondents' liability will be suspended. Provision VIII sets out additional requirements related to the monetary relief. Provision IX requires the respondents to provide customer information to facilitate consumer redress.

Provisions X through XIII of the proposed order contain reporting and compliance provisions. Provision X mandates that Respondents acknowledge receipt of the order, distribute the order to principals, officers, and certain employees and agents, and obtain signed acknowledgments from them. Provision XI requires them to submit compliance reports to the Commission one year after the order's issuance and submit notifications when certain events occur. Under Provision XII, they must create certain records for ten years and retain them for five years. Provision XIII provides for the Commission's continued compliance monitoring of the respondents' activity during the order's effective dates.

Finally, Provision XIV provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,
Secretary.

Statement of Chairman Andrew N. Ferguson Joined by Commissioner Mark R. Meador

Today, the Commission approves the filing of an administrative complaint and proposed consent order for public comment¹ resolving allegations that respondents² violated section 5 of the Federal Trade Commission Act³ and the Reviews and Testimonials Rule.⁴ We applaud staff for their energetic resolution of this matter and write separately only to reinforce the importance of the Commission's enforcement efforts here.

Respondents TruHeight and the individual respondents⁵ create, develop, and sell TruHeight Products,⁶ which respondents have advertised to “cause increased height of, and increase height growth in, children and teenagers.”⁷ They sold, for example, a “Max Height Kit” for \$120 per bundle⁸ that contains “one bottle of TruHeight Growth Gummies, one bottle of TruHeight Sleep Gummies, and one container of TruHeight Protein Shake.”⁹ To induce consumers to purchase those products, respondents made several representations, including that their products “[h]elp your child grow taller,” produce “Real Results,” and are “clinically” or “scientifically proven to help height growth.”⁹ Respondents’ website also contained positive reviews and testimonials from children or teenage users of TruHeight’s Products (or parents of those users) who claimed

those products helped children grow as much as six inches in just one year.¹⁰

Under section 5, all advertising claims must have a reasonable basis before being disseminated.¹¹ Health claims are no different. Claims about products’ health benefits must be substantiated by competent and reliable scientific evidence, as has been routinely expected by the Commission in past enforcement actions and investigations.¹² This is particularly true when those health claims involve children’s health, as they do here.¹³ As “the Trump Administration has made . . . clear,” “the health and flourishing of our children is not a bargaining chip”¹⁴ and we must “ensure that children are protected.”¹⁵

The complaint alleges, however, that respondents failed adequately to substantiate their height-related claims. Instead, they “rel[ie]d on a single, company-sponsored study . . . [with] substantial flaws” to substantiate their

¹⁰ *Id.* ¶ 10 & Exhibits 4–6; see also *id.* ¶¶ 17, 20, 22–25 (alleging that respondents also farmed fake social media comments and interaction by fake Facebook and Instagram profiles for their social media pages).

¹¹ FTC Policy Statement Regarding Advertising Substantiation, 104 F.T.C. 839 (Nov. 23, 1984) (appended to *Thompson Med. Co.*, 104 F.T.C. 648 (1984)).

¹² See, e.g., *Pom Wonderful LLC v. FTC*, 777 F.3d 478, 504–05 (D.C. Cir. 2015) (affirming Commission holding that competent and reliable scientific evidence consisting of RCTs is needed for disease-related claims); *FTC v. COORGA Nutraceuticals Corp.*, 201 F. Supp. 3d 1300 (D. Wyo. 2016) (final judgment and order requiring human clinical testing for claims that product reverses or prevents formation of gray hair); *FTC v. Nat’l Urological Grp.*, 645 F. Supp. 2d 1167, 1202–03 (N.D. Ga. 2008) (accepting undisputed expert testimony that erectile dysfunction claims require well-designed, placebo-controlled, randomized, double-blind clinical trials for substantiation); *FTC v. Direct Mktg. Concepts, Inc.*, 569 F. Supp. 2d 185, 303 (D. Mass. 2008) (“[I]t seems well-accepted that double-blind, placebo-controlled studies are necessary to substantiate health-related efficacy claims.”); *Removatron Int’l Corp.*, 111 F.T.C. 206 (1988), *aff’d*, 884 F.2d 1489, 1498 (1st Cir. 1989) (requiring “adequate and well-controlled clinical testing” to substantiate claims about hair removal product); *Thompson Med. Co.*, 104 F.T.C. at 826 (requiring well-controlled clinical studies to substantiate certain analgesic drug claims).

¹³ Specifically, in this matter, respondents’ claims about their products’ ability to cause increased height of and increase height growth in children and teens are claims related to pediatric endocrinology, the medical specialization that typically treats growth issues in children and teenagers. E.g., What is a Pediatric Endocrinologist?, Pediatric Endocrine Society (last visited Apr. 8, 2026), <https://pedsendo.org/patient-resources/what-is-a-pediatric-endocrinologist/>.

¹⁴ Cf. Keynote Speech of Chairman Andrew N. Ferguson at 4, *The Attention Economy: How Big Tech Firms Exploit Children and Hurt Families* (June 4, 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/andrew-n-ferguson-keynote-attention-economy-06-04-25.pdf.

¹⁵ Cf. Exec. Order No. 14365, *Ensuring a National Policy Framework for Artificial Intelligence*, 90 FR 58499 (Dec. 11, 2025).

claims about TruHeight Products.¹⁶ “Among other things,” the Commission alleges, “the study is of insufficient size and duration, lacked proper randomization, [and] failed to control for [potentially confounding factors, such as] participants’ sleep and nutritional intake.”¹⁷ While respondents relied on that single study for their representations as to all TruHeight Products, in reality that study “only evaluated a single TruHeight Product.”¹⁸

What is more, the complaint alleges the consumer testimonials and reviews respondents placed on their website were fake or purchased without proper disclosure. Some “were not written or created by actual, existing consumers, but instead by Vanilla Chip employees.”¹⁹ While others may have come from actual consumers, at least some of those consumers received “incentives” to “[le]ave . . . requested 5-star reviews,” such as “reimburse[ments]” for TruHeight Products or “10 percent discount[s] on their next order,” on third-party sites like Amazon.²⁰

The Commission is deeply concerned about the use of unsubstantiated health claims used to induce consumers into paying hard-earned money in the hopes of obtaining health benefits for their children. Tricking parents and children to fall (and thus pay money) for unsubstantiated health claims about products that have no effect on children is bad enough. But it is even worse when the unsubstantiated health claims are for products, services, or treatments that harm children, either temporarily

¹⁶ Compl. ¶ 12. While here the Commission alleges this single, company-sponsored study was insufficient to substantiate respondents’ health claims, the Commission today takes no dispositive position on whether any single, company-sponsored study can ever provide the legally required substantiation. Nor should anyone read this statement as taking such a position. Even so, potential conflicts of interest and whether a study is replicable or has been successfully replicated are factors the Commission may consider when evaluating the sufficiency of a health claim’s substantiation. See Conflicts of Interest, RCR, HHS (last visited Apr. 8, 2026), https://ori.hhs.gov/education/products/columbia_wbt/rcr_conflicts/foundation/index.html (explaining the issues with conflicts of interest, such as “a situation in which financial or other personal considerations have the potential to compromise or bias professional judgment and objectivity,” when it comes to medical and health research); F. Alahab, et. al., Are these results trustworthy? A guide for reading the medical literature, NIH (Apr. 2017), <https://pmc.ncbi.nlm.nih.gov/articles/PMC5398002/> (explaining that certain health decisions “should be based on a body of evidence” but single studies can and should be evaluated for trustworthiness).

¹⁷ Compl. ¶ 12.

¹⁸ *Ibid.*

¹⁹ *Id.* ¶ 19.

²⁰ *Id.* ¶¶ 13–16.

¹ The Commission proceeds through administrative proceedings by respondents’ choice.

² Respondents are Vanilla Chip or TruHeight, a Nevada limited liability company, and individual respondents Eden Stelmach and Justin Rapoport, who are both co-founders, co-owners, and co-Chief Executive Officers of TruHeight. Compl. ¶¶ 1–3 (alleging that Stelmach and Rapoport have each “formulated, directed, controlled, had the authority to control, or participated in the acts and practices . . . described in the complaint”).

³ *Id.* ¶¶ 25–31.

⁴ *Id.* ¶¶ 32–39.

⁵ *Supra* n.2.

⁶ TruHeight Products are sold in bottles or containers of TruHeight Growth Capsules, TruHeight Growth Gummies, TruHeight Sleep Gummies, TruHeight Protein Shake, TruHeight Plant Protein Shake, TruHeight Kids Brain Gummies, TruHeight Kids Bone Gummies, TruHeight Appetite Booster Gummies, TruHeight Prebiotic Gummies, TruHeight Sleep Tincture, and TruHeight Toddler Advanced Formula+, which cost consumers between \$25 to \$45 per bottle or container. Compl. ¶ 6.

⁷ *Id.* ¶ 9.

⁸ *Id.* ¶ 6.

⁹ *Id.* ¶ 10 & Exhibits 1–3.

or permanently. In such cases, families suffer not only financial harm, as here, but also harm to their children's physical safety and development, mental well-being, and "health and flourishing."²¹

The proposed consent order announced today would obtain all the consumer redress that respondents are able to pay and forbid respondents from continuing their allegedly unlawful conduct. The Commission looks forward to hearing from the public about the proposed administrative order resolving those allegations.

[FR Doc. 2026-07333 Filed 4-14-26; 8:45 am]

BILLING CODE 6750-01-P

FEDERAL TRADE COMMISSION

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this

waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED

[March 1, 2026, through March 31, 2026]

03/03/2026

20260608	G	Veolia Environnement S.A.; Enviri Corporation; Veolia Environnement S.A.
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03/06/2026

20260835	Y	KCP Sod Holdings LP; Heartwood Partners III, L.P.; KCP Sod Holdings LP.
20260846	G	SCF Holdings I-B (Lux) SCSp; Chicago Parking Meters, LLC; SCF Holdings I-B (Lux) SCSp.
20260862	G	Janus Henderson Group plc; Richard Bernstein; Janus Henderson Group plc.
20260904	G	Thompson Street Capital Partners VI, L.P.; Jeffery L. Karpel; Thompson Street Capital Partners VI, L.P.

03/11/2026

20260849	G	KKR Management LLP; Ian H. Charles; KKR Management LLP.
20260858	G	Averill Fund, Ltd.; Veradermics, Incorporated; Averill Fund, Ltd.
20260877	G	SoftBank Group Corp; DigitalBridge Group, Inc.; SoftBank Group Corp.
20260880	G	WH Topco, L.P.; Edward S. Lampert; WH Topco, L.P.
20260884	G	Elon University; Queens University of Charlotte; Elon University.
20260889	G	Genius Sports Limited; Nicholas Kisberg; Genius Sports Limited.
20260906	G	Blackstone Energy Transition Partners IV AIV L.P.; Arlington Holdco Inc.; Blackstone Energy Transition Partners IV AIV L.P.
20260909	G	ESAB Corporation; Eddyfi Holding Inc.; ESAB Corporation.
20260910	G	HVPT ICON GP LLC; Kevin J. Leary; HVPT ICON GP LLC.
20260912	G	KKR Management LLP; Keurig Dr Pepper Inc.; KKR Management LLP.
20260915	G	Valmet Oyj; Blue Water Energy Fund II, L.P.; Valmet Oyj.
20260916	G	Ares Credit Acquisition Fund 15 Vector LP; Antares Senior Loan Parallel Master Fund LP; Ares Credit Acquisition Fund 15 Vector LP.
20260917	G	Ares Credit Acquisition Fund 15 Vector LP; Antares Senior Loan Master Fund LP; Ares Credit Acquisition Fund 15 Vector LP.
20260924	G	Mubadala Investment Company PJSC; Vista Foundation Fund IV, L.P.; Mubadala Investment Company PJSC.
20260927	G	Valor Equity Partners VI L.P.; Elon Musk; Valor Equity Partners VI L.P.
20260929	G	VG 1.0 L.P.; Elon Musk; VG 1.0 L.P.
20260930	G	VGX 1.0 L.P.; Elon Musk; VGX 1.0 L.P.
20260932	G	Tesla, Inc.; Elon R. Musk; Tesla, Inc.
20260934	G	DFJ Growth V, L.P.; Elon R. Musk; DFJ Growth V, L.P.
20260943	G	Stone Ridge Energy Acquisition Fund III LP; Orintiv Inc.; Stone Ridge Energy Acquisition Fund III LP.

03/13/2026

20260890	G	Allegiant Travel Company; Sun Country Airlines Holdings, Inc.; Allegiant Travel Company.
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03/17/2026

20260899	G	Peak Rock Capital Fund IV LP; Underwriters Laboratories Inc.; Peak Rock Capital Fund IV LP.
20260920	G	Lone Star Fund XII, L.P.; AG AGI Aggregator Holdings, L.P.; Lone Star Fund XII, L.P.
20260946	G	Samsung Electronics Co., Ltd.; ZF Friedrichshafen AG; Samsung Electronics Co., Ltd.
20260948	G	Omnispace LLC; Lynk Global, Inc.; Omnispace LLC.
20260949	G	Lynk Global, Inc.; Omnispace LLC; Lynk Global, Inc.

²¹ Keynote Speech of Chairman Andrew N. Ferguson, *supra* n.14 at 4; see Chairman Andrew N. Ferguson, Directive Regarding Healthcare Task

Force (Mar. 20, 2026), https://www.ftc.gov/system/files/ftc_gov/pdf/Memorandum-Ferguson-re-Healthcare-Task-Force.pdf (explaining the

importance of quality, access, and transparency in our healthcare markets to consumers).

EARLY TERMINATIONS GRANTED—Continued

[March 1, 2026, through March 31, 2026]

20260959	G	Blackstone Energy Transition Partners IV L.P.; Advanced Cooling Technologies, Inc.; Blackstone Energy Transition Partners IV L.P.
20260963	G	Olympus Growth Fund VIII, L.P.; Michael Glick; Olympus Growth Fund VIII, L.P.
20260967	G	Generac Holdings Inc.; Lawrence E. Tangel; Generac Holdings Inc.
20260973	G	Blue Bird Corporation; Andre Girardin; Blue Bird Corporation
20260977	G	EQT AB; Jeremy Collier; EQT AB.
20260980	G	Haveli VC Gaming Fund I, L.P.; General Atlantic Partners AIV-1 B, L. P.; Haveli VC Gaming Fund I, L.P.
20260981	G	Gee LLC; Robert H. Tuttle and Maria D. Hummer-Tuttle; Gee LLC.
20260986	G	Gigafund 0.25, LP; Elon Musk; Gigafund 0.25, LP.
20260991	G	Smiths Group Plc.; Humberto Suarez 2010 Irrevocable Trust; Smiths Group Plc.
20260995	G	H.I.G. Middle Market LBO Fund IV, L. P.; Inventus Power Holdings, LLC; H.I. G. Middle Market LBO Fund IV, L.P.
20260998	G	Audax Private Equity Fund VII-B, L.P.; D. Aerospace, LLC; Audax Private Equity Fund VII-B, L.P.
20261003	G	Saltchuk Holdings, Inc.; Great Lakes Dredge & Dock Corporation; Saltchuk Holdings, Inc.
20261010	G	Compagnie Generale Des Etablissements Michelin SCA; Bridgepoint Europe IV Investments (2) S.a r.l.; Compagnie Generale Des Etablissements Michelin SCA.

03/19/2026

20252003	G	Nexstar Media Group, Inc.; TEGNA Inc.; Nexstar Media Group, Inc.
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03/23/2026

20260918	G	Kodiak Gas Services, Inc.; Louisiana Machinery Holdings, L.L.C.; Kodiak Gas Services, Inc.
20260919	G	Kodiak Gas Services, Inc.; Mustang Tractor & Equipment Company, Ltd.; Kodiak Gas Services, Inc.
20260933	G	Eli Lilly and Company; Innovent Biologics, Inc.; Eli Lilly and Company.

03/24/2026

20260975	G	BSP Newco, Inc.; Bearing Insurance Group, LLC; BSP Newco, Inc.
20260978	G	Octane Topco, L.P.; Jopari Solutions, Inc.; Octane Topco, L. P.
20260983	G	American Pacific Group Fund II, L.P.; Pierre-Edouard Sterin; American Pacific Group Fund II, L.P.
20260990	G	Bridge Growth Partners Seasmoke, LP; Project Senator Holding LP; Bridge Growth Partners Seasmoke, LP.
20260992	G	CVC Capital Partners plc; Marathon GP Holdings II, LLC; CVC Capital Partners plc.
20260993	G	CVC Capital Partners plc; Marathon Asset Management, L. P.; CVC Capital Partners plc.
20260999	G	Blackstone Private Equity Strategies Fund L.P.; Odyssey Investment Partners Fund VI, LP; Blackstone Private Equity Strategies Fund L.P.
20261001	G	Green Equity Investors VI, L.P.; Mister Car Wash, Inc.; Green Equity Investors VI, L.P.
20261004	G	PennyMac Financial Services, Inc.; Cenlar Capital Corporation; PennyMac Financial Services, Inc.
20261008	G	Aura Consolidated Group, Inc.; Qoria Limited; Aura Consolidated Group, Inc.
20261015	G	H.I.G. Advantage Buyout Fund II, L.P.; Tiger Infrastructure Partners Fund III AIV (Cayman) LP; H.I.G. Advantage Buyout Fund II, L.P.
20261021	G	WPCS Sunnyside Aggregator Ltd.; Ricardo Castellar de Faria; WPCS Sunnyside Aggregator Ltd.
20261026	G	Booz Allen Hamilton Holding Corporation; SCM Security Holdings, LLC; Booz Allen Hamilton Holding Corporation.
20261027	G	Wellspring Capital Partners VI, L. P.; Angus C. Littlejohn, Jr. and Leslie Littlejohn; Wellspring Capital Partners VI, L.P.
20261033	G	Wynnchurch Capital Partners VI, L.P.; Arcosa, Inc.; Wynnchurch Capital Partners VI, L.P.
20261035	G	Ridgepost Capital, Inc.; Robert T. Ladd; Ridgepost Capital, Inc.

03/26/2026

20260962	G	QXO, Inc.; Court Square Capital Partners III, L.P.; QXO, Inc.
20260974	G	Jonathan Oringer; Shutterstock, Inc.; Jonathan Oringer.
20260997	G	CVC Capital Partners VIII (A) L.P.; Equine Network Holdings, LLC; CVC Capital Partners VIII (A) L.P.
20261000	G	Eli Lilly and Company; InSilico Medicine Cayman TopCo; Eli Lilly and Company.
20261036	G	Gentherm Incorporated; Modine Manufacturing Company; Gentherm Incorporated.
20261043	G	General Atlantic Partners 100, L.P.; European Wax Center, Inc.; General Atlantic Partners 100, L.P.
20261044	G	Palo Alto Networks, Inc.; Koi Security Ltd.; Palo Alto Networks, Inc.
20261059	G	KPS Special Situations Fund VI (A), LP; Jennmar Super Holdings, LLC; KPS Special Situations Fund VI (A), LP.
20261061	G	Rosebank Industries PLC; American Securities Partners VII, L.P.; Rosebank Industries PLC.
20261067	G	The Resolute Fund VI, L.P.; Pharos Capital Partners II-A, L.P.; The Resolute Fund VI, L.P.

03/30/2026

20251851	G	Gray Media, Inc.; Byron Allen Folks; Gray Media, Inc.
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03/31/2026

20261034	G	KKR Pegasus Aggregator L.P.; Sunopta Inc.; KKR Pegasus Aggregator L.P.
20261047	G	Coral Acquisition, Inc.; Thompson Street Capital Partners V, L.P.; Coral Acquisition, Inc.
20261054	G	Softbank Group Corp.; SL Energy I Topco, LLC; Softbank Group Corp.
20261065	G	Arkoma Drilling, L.P.; Quantum Capital Solutions II, LP; Arkoma Drilling, L.P.
20261081	G	BayPine Regal Co-Invest, LP; Aquiline Financial Services Continuation Fund L.P.; BayPine Regal Co-Invest, LP.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry (phone: 202–326–3100), Program Support Specialist, Federal Trade Commission, Bureau of Competition, Premerger Notification Office, Washington, DC 20024.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2026–07322 Filed 4–14–26; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Tribal Consultation Meeting

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Head Start Act, notice is hereby given of one Tribal Consultation session to be held between HHS/ACF OHS leadership and the leadership of tribal governments operating Head Start and Early Head Start programs. The purpose of this consultation session is to discuss ways to better meet the needs of American Indian and Alaska Native (AIAN) children and their families, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations.

DATES: Thursday, June 18, 2026, 8:30 a.m.–11:00 a.m. PT.

ADDRESSES: June 18, 2026, 8:30 a.m. to 11:00 a.m. PT, (Hilton Orange County/ Costa Mesa, 3050 Bristol Street, Costa Mesa, CA 92626).

FOR FURTHER INFORMATION CONTACT: Office of Head Start, email AIANHeadStart@acf.hhs.gov. Additional information and online meeting registration will be forthcoming.

SUPPLEMENTARY INFORMATION: In accordance with section 640(l)(4) of the Head Start Act, 42 U.S.C. 9835(1)(4), ACF announces OHS Tribal Consultation session for leaders of tribal governments operating Head Start and Early Head Start programs.

The agenda for the scheduled OHS Tribal Consultation reflects the statutory purposes of Head Start Tribal Consultations related to meeting the needs of AIAN children and families. OHS will also highlight the progress

made in addressing issues and concerns raised in the previous OHS Tribal Consultations.

The consultation session includes elected or appointed leaders of tribal governments and their designated representatives. Designees must have a letter from the tribal government authorizing them to represent the tribe. Tribal governments must submit the designee letter at least 3 days before the consultation sessions to OHS at AIANHeadStart@acf.hhs.gov. Other representatives of tribal organizations and Native nonprofit organizations are welcome to attend as observers.

Within 45 days of the consultation session, a detailed report of the consultation session will be available for all tribal governments receiving funds for Head Start and Early Head Start programs. Tribes can submit written testimony for the report to the OHS at AIANHeadStart@acf.hhs.gov prior to the consultation session or within 30 days of each meeting. OHS will summarize oral testimony and comments from the consultation session in the report, along with topics of concern and recommendations.

Roshelle M. Brooks,

Management Analyst and OFR Liaison.

[FR Doc. 2026–07318 Filed 4–14–26; 8:45 am]

BILLING CODE 4184–40–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–4731]

Increasing Access to Nonprescription Drugs; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing a public meeting entitled “Increasing Access to Nonprescription Drugs.” The purpose of the public meeting is to discuss perspectives from interested parties on increasing access to nonprescription drugs. We are also requesting comments.

DATES: The public meeting will be held virtually and in person on April 23, 2026, from 12:30 p.m. to 5 p.m. Eastern Time. Either electronic or written comments on this public meeting must be submitted by May 8, 2026. See the

SUPPLEMENTARY INFORMATION section for registration date and information.

ADDRESSES: The public meeting will be held virtually using the Zoom platform and in person at the National Press Club, 529 14th Street NW, Washington, DC 20045, with limited seat availability.

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 8, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2025–N–4731 for “Increasing

Availability of Nonprescription Drugs; Public Meeting; Request for Comments.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Phong Pham, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6122, Silver Spring, MD 20993–0002, 301–837–7656, Phong.Pham@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In connection with the **Federal Register** notice entitled “Increasing Access to Nonprescription Drugs; Request for Information,” published December 2, 2025 (90 FR 55316) (the December 2025 notice), we are announcing a public meeting to discuss topics related to increasing access to nonprescription drugs. This public meeting will be convened and supported by a cooperative agreement between FDA and the Duke-Margolis Institute for Health Policy. We also welcome any comments on specific topics covered at the public meeting or about increasing access to nonprescription drugs generally. If you submitted a comment to the December 2025 notice, you do not need to resubmit it here.

II. Participating in the Public Meeting

Registration: To register for the public meeting, please visit the event website: <https://duke.is/p/4g3b>.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public meeting in person must register by April 22, 2026, at 5 p.m. Eastern Time and receive registration confirmation. Early registration is recommended because seating is limited. Persons attending virtually must register by April 23, 2026, at 5 p.m. Eastern Time. Registrants will receive confirmation when they have been accepted. If you need special accommodations due to a disability, please contact margolisevents@duke.edu no later than April 22, 2026, at 5 p.m. Eastern Time.

Streaming Webcast of the Public Meeting: This public meeting will also be webcast via Zoom. The archived footage will be available at the event website: <https://duke.is/p/4g3b>.

Transcripts: A link to the transcript will be available on the internet at <https://duke.is/p/4g3b>.

Notice of this meeting is given pursuant to 21 CFR 10.65.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–07335 Filed 4–14–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–3273]

Financial Transparency and Efficiency of the Prescription Drug User Fee Act, Biosimilar User Fee Act, and Generic Drug User Fee Amendments; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the following public meeting titled “Financial Transparency and Efficiency of the Prescription Drug User Fee Act, Biosimilar User Fee Act, and Generic Drug User Fee Amendments.” The topic to be discussed is the financial transparency and efficiency of the Prescription Drug User Fee Act, Biosimilar User Fee Act, and Generic Drug User Fee Amendments.

DATES: The public meeting will be held on June 23, 2026, from 1:00 p.m. to 2:30 p.m. ET. Either electronic or written comments on this public meeting must be submitted by July 23, 2026. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held as a hybrid event with a virtual option via Microsoft Teams and an in-person option at the FDA White Oak Campus, Great Room, Section A. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For security and parking information, please refer to <https://www.fda.gov/about-fda/visitor-information/public-meeting-information> and <https://www.fda.gov/about-fda/visitor-information/visitor-parking-and-campus-map>.

You may submit comments as follows: Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 23, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments through the following:

• *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-3273 for "Financial Transparency and Efficiency of the Prescription Drug User Fee Act, Biosimilar User Fee Act, and Generic Drug User Fee Amendments; Public Meeting; Request for Comments." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions", publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9:00 a.m. and 4:00 p.m. ET, Monday through Friday, 240-402-7500.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential

with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential". Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Kichelle Joseph, Office of Finance, Budget, and Acquisitions, Food and Drug Administration, Three White Flint North—11601 Landsdown St., North Bethesda, MD 20852, 301-796-7251, OFBABusinessManagementServices@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The meeting will include presentations from FDA on: (1) the five-year plan for the Prescription Drug User Fee Act (PDUFA) VII, Biosimilar User Fee Act (BsUFA) III, and Generic Drug User Fee Amendments (GDUFA) III; and (2) the Agency's progress in implementing resource capacity planning as part of fee setting and modernized time reporting. This meeting is intended to satisfy FDA's commitment to host an annual public meeting in the third quarter of each fiscal year and can be found in the Commitment Letters listed below (sections II.B.2 of PDUFA VII (p. 58), III.B.2 of BsUFA III (p. 33), and VIII.D.3 of GDUFA III (p.40-41)).

PDUFA VII, BsUFA III, and GDUFA III represent the reauthorization of these user fee programs for FYs 2023–2027 as part of the FDA User Fee Reauthorization Act of 2022, which was signed by the President on September 30, 2022. The complete set of performance goals for each program is available at:

- PDUFA VII: <https://www.fda.gov/media/151712/download>
- BsUFA III: <https://www.fda.gov/media/152279/download>
- GDUFA III: <https://www.fda.gov/media/153631/download>

Each of these user fee programs' Commitment Letters included a set of commitments related to financial management to publish a five-year financial plan and update that plan annually, continue activities to mature FDA's resource capacity planning capability, and modernize time reporting practices. In addition, each user fee program includes a commitment to host a public meeting in the third quarter of each fiscal year to discuss specific topics.

II. Topics for Discussion at the Public Meeting

This meeting will provide FDA with the opportunity to update interested public stakeholders on topics related to the financial management of PDUFA VII, BsUFA III, and GDUFA III. These topics include the five-year financial plans for each of these programs and FDA's progress toward implementing resource capacity planning as part of fee setting and modernized time reporting.

III. Participating in the Public Meeting

Registration: To register for the public meeting, please visit the following website: <https://events.gcc.teams.microsoft.com/event/7727cea2-45bc-45b4-844a-1f86f2772529@7d2fdb41-339c-4257-87f2-a665730b31fc>. Please provide complete contact information for each attendee, including name, title, affiliation, and email.

Persons interested in attending this public meeting must register by June 12, 2026, at 11:59 p.m. Eastern Time. If registration closes before the day of the public meeting, the Webinar Registration website will be updated.

If you need special accommodations due to a disability, please indicate this during registration or contact Kichelle Joseph at OFBABusinessManagementServices@fda.hhs.gov no later than June 12, 2026.

Streaming Webcast of the Public Meeting: This public meeting will be webcast. To register for the public

meeting and obtain the webcast information, please visit the following website: <https://events.gcc.teams.microsoft.com/event/7727cea2-45bc-45b4-844a-1f86f2772529@7d2fdb41-339c-4257-87f2-a665730b31fc>.

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at <https://www.regulations.gov>. It may also be viewed at the Dockets Management Staff (see **ADDRESSES**).

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-07248 Filed 4-14-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-D-1255]

Safety Assessment of Genome Editing in Human Gene Therapy Products Using Next-Generation Sequencing; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft document entitled “Safety Assessment of Genome Editing in Human Gene Therapy Products Using Next-Generation Sequencing; Draft Guidance for Industry.” The draft document provides recommendations for next-generation sequencing (NGS)-based methods used in nonclinical studies that will likely be needed to support initiation of clinical trials of investigational human genome editing (GE) products.

DATES: Submit either electronic or written comments on the draft guidance by July 14, 2026 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to

the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2026-D-1255 for “Safety Assessment of Genome Editing in Human Gene Therapy Products Using Next-Generation Sequencing; Draft Guidance for Industry.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available

for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, by emailing industry@biologics@fda.hhs.gov. The draft guidance may also be obtained by mail by calling CBER at 800-835-4709 or 240-402-8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Andrew C. Harvan, Center for Biologics Evaluation and Research, Food and Drug Administration, 240-402-7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled “Safety Assessment of Genome Editing in Human Gene Therapy Products Using Next-Generation Sequencing; Draft Guidance for Industry.”

This draft guidance is intended for sponsors developing human gene therapy products involving GE technologies. Clinical development programs of human GE products should address both the risks associated with the gene therapy product itself as well as the additional risks associated with GE, including off-target editing and

unintended consequences. The recommendations in this draft guidance may guide stakeholders on designing nonclinical studies that uses NGS methods and bioinformatics to evaluate the potential safety risks associated with off-target editing and loss of genome integrity in human GE products submitted in support of Investigational New Drug applications and Biologics License Applications.

The recommendations provided in this draft guidance are in addition to the nonclinical, clinical, and CMC considerations discussed in the “Guidance for Industry: Human Gene Therapy Products Incorporating Human Gene Editing” dated January 2024.

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 “Safety Assessment of Genome Editing in Human Gene Therapy Products Using Next-Generation Sequencing.” 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 any 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

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 312 relating to the submission of Investigational New Drug Applications, including clinical trials, have been approved under OMB control number 0910–0014. The collections of information contained in 21 CFR part 601 relating to the submission of biologics license applications have been approved under OMB control number 0910–0338. The collections of information in 21 CFR part 1271 relating to human gene therapy products have been approved under OMB control number 0910–0543.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics->

<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. 2026–07285 Filed 4–14–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HHS OMH Call for Nominations for Center for Indigenous Innovation and Health

AGENCY: Office on Minority Health (OMH), Office of the Assistant Secretary for Health, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services (HHS) Office of Minority Health (OMH) hereby gives notice that OMH is accepting nominations of candidates to serve as primary and alternate delegates for the Center for Indigenous Innovation and Health Tribal Advisory Committee (CIIH TAC). OMH established the CIIH TAC to provide Tribal leaders a forum to exchange views, share information, and provide feedback to OMH on the development of activities addressing the four CIIH priority areas. The CIIH TAC shall support, but not supplant, government-to-government consultation activities that OMH undertakes.

DATES: Tribal leaders are encouraged to submit their nomination letters for CIIH TAC delegates by May 18, 2026, at the address listed below. OMH will continue to receive nominations until all CIIH TAC primary and alternate delegate positions are filled.

ADDRESSES: All nominations should be emailed to minorityhealth@hhs.gov. Please use the subject line “CIIH TAC Nomination.”

FOR FURTHER INFORMATION CONTACT: For information and guidance about the nomination process for CIIH TAC delegates, please contact CDR Matthew Johns, OMH Tribal Affairs and Strategic Partnerships Lead, at Phone: (202) 365–0639 or Matthew.Johns@hhs.gov. Once approved, sample CIIH TAC nomination letters will be made available on the OMH website: <https://minorityhealth.hhs.gov/>.

SUPPLEMENTARY INFORMATION:

Background: Authorized under Section 1707 of the Public Health Service Act, 42 U.S.C. 300u–6, as amended, the mission of OMH is to

provide national leadership, resources, and coordination to improve the health of racial and ethnic minority populations and American Indians and Alaska Natives (AI/AN) and eliminate health disparities.

Through the Joint Explanatory Statement (JES) accompanying Public Law 116–260 (2021 Consolidated Appropriations Act), Congress directed OMH to create the CIIH to advance Indigenous solutions that ultimately address health disparities in AI/AN and Native Hawaiian and Pacific Islander populations. Congress identified four CIIH priority areas: research, education, service, and policy development. The JES accompanying the subsequent annual appropriations acts has included language for OMH to continue funding the CIIH.

TAC Membership: The CIIH TAC will consist of three delegate positions from any of the geographic areas served by the Indian Health Service (IHS) and three National At-Large Member positions.

The CIIH TAC charter establishes a two (2) year term length for each delegate. There are vacancies for all IHS areas due to the ending of the CIIH TAC members’ 2-year terms.

Eligibility: The CIIH TAC delegates must be: (1) Elected Tribal officials from a federally recognized Tribe acting in their official capacity as elected officials of their Tribe, with authority to act on behalf of the Tribe; or (2) individuals designated by an elected Tribal official. Designees must have the authority to act on behalf of the Tribal official and the Tribe and be qualified to represent the views of the American Indians and Alaska Natives (AI/AN) Tribes in the area from which they are nominated. No delegate of the CIIH TAC may be an employee of the federal government.

Nomination Procedures: CIIH TAC candidates must be nominated by an elected Tribal leader. The nomination letter must be on Tribal letterhead and signed by an elected Tribal leader, and must include the following information:

- Name of the nominee
- Nomination Type (*Primary Delegate, National At-large Delegate, Alternate Delegate*)
- Nominee’s official title
- Name of the nominee’s tribe
- Date of nominee’s election to official Tribal position and term length
- Nominee’s contact information (mailing address, phone, and email)
- Nominee’s expertise that is relevant to the CIIH TAC
- Name of Tribal leader submitting the nomination
- Official title of Tribal leader submitting the nomination

- Contact information for Tribal leader submitting the nomination and/or the administrative office for the Tribal government

Once approved, sample CIIH TAC nomination letters will be made available on the OMH website: <https://minorityhealth.hhs.gov/>.

Selection Process: OMH is responsible for selecting and finalizing CIIH TAC delegates. Eligible nominees will be considered in the following priority order:

1. Tribal President/Chairperson/Governor
2. Tribal Vice-President/Vice-Chairperson/Lt. Governor
3. Elected or Appointed Tribal Official
4. Designated Tribal Official with authority to act on behalf of the Tribal Leader

In the event there are multiple nominations for a given IHS area, OMH will determine the delegates based on a review of the submitted nomination materials. Nominees will be notified of the status of delegate selection in mid-2026.

Mahyar Mofidi,

Deputy Assistant Secretary for Minority Health, Director, HHS Office of Minority Health.

[FR Doc. 2026-07267 Filed 4-14-26; 8:45 am]

BILLING CODE 4150-29-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Council on Alzheimer's Research, Care, and Services; Meeting

AGENCY: Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces the public meeting of the Advisory Council on Alzheimer's Research, Care, and Services (Advisory Council). The Advisory Council provides advice on how to prevent or reduce the burden of Alzheimer's disease and related dementias on people living with the disease and their caregivers. During the second meeting of 2026, Advisory Council members will hear updates from federal agencies on activities during the last quarter and presentations focused on advancements in long-term services and supports and Alzheimer's disease care. Presenters will discuss faith-based and community partnerships in long-term services and support, expanding access to early diagnosis and quality dementia care, the Navigating Aging Needs Navigator Tool, and the Respite for All-faith and community-

based care model. The meeting may include a presentation on lessons learned from implementing an innovative service delivery model for people living with Alzheimer's disease or related dementias and their caregivers.

DATES: The meeting will be held on Monday, April 27, 2026, from 1:00 p.m. to 5:00 p.m.

ADDRESSES: The meeting will be a hybrid of in-person and virtual and will be held in the Great Hall of the Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201. It will also stream live at www.hhs.gov/live.

FOR FURTHER INFORMATION CONTACT: Maria-Theresa Okafor, 771-223-7102, maria-theresa.okafor@hhs.gov. *Note:* The meeting will be available to the public live at www.hhs.gov/live.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)). Topics of the Meeting: Alzheimer's disease and related dementias, long-term services and support, faith and community-based care, and the Guiding an Improved Dementia Experience (more commonly known as GUIDE) model.

Procedure and Agenda: The meeting will be webcast at www.hhs.gov/live and video recordings will be added to the National Alzheimer's Project Act website¹ when available after the meeting. This meeting is open to the public. Please allow 30 minutes to go through security and walk to the meeting room. Participants joining in person should note that seating may be limited. Those wishing to attend the meeting in person must send an email to napa@hhs.gov and put "April Meeting Attendance" in the subject line by Monday, April 20 so that their names may be put on a list of expected attendees and forwarded to the security officers at the Department of Health and Human Services. Any interested member of the public who is a non-U.S. citizen should include this information at the time of registration to ensure that the appropriate security procedure to gain entry to the building is carried out. Although the meeting is open to the public, procedures governing security and entrance to Federal buildings may change without notice. If you wish to make a public comment, you must note that within your email. Please note that individuals entering HHS owned, leased, or operated facilities must

present a REAL ID compliant credential or another federally approved form of identification. Below is the list of acceptable forms of ID.

- State-issued Enhanced Driver's License
- U.S. passport²
- U.S. passport card³
- DHS trusted traveler cards (Global Entry, NEXUS, SENTRI, FAST)
- U.S. Department of Defense ID, including IDs issued to dependents
- Permanent resident card
- Border crossing card
- An acceptable photo ID issued by a federally recognized⁴ Tribal Nation/Indian
- Tribe, including Enhanced Tribal Cards (ETCs)
- HSPD-12 PIV card
- Foreign government-issued passport
- Canadian provincial driver's license or Indian and Northern Affairs Canada card
- Transportation worker identification credential
- U.S. Citizenship and Immigration Services Employment Authorization Card (I-766)
- U.S. Merchant Mariner Credential
- Veteran Health Identification Card (VHIC)

Comments: Time is allocated on the agenda to hear public comments from 4:20 p.m. to 4:55 p.m. The time for oral comments will be limited to two (2) minutes per individual. To provide a public comment, please register by emailing your name to napa@hhs.gov by Monday, April 20, 2026. Registered commenters will receive both a dial-in number and a link to join the meeting virtually; individuals will have the choice to either join virtually via the link, or to call in only by using the dial-in number. *Note:* There may be a 30-45 second delay in the livestream video presentation of the conference. For this reason, if you have pre-registered to submit a public comment, it is important to connect to the meeting by 4:05pm to ensure that you do not miss your name and allotted time when called. If you miss your name and allotted time to speak, you may not be able to make your public comment. Public commenters will not be admitted to the virtual meeting before 3:50 p.m. but are encouraged to watch the meeting at www.hhs.gov/live. Should you have

² <https://travel.state.gov/content/travel/en/passports.html>.

³ <https://travel.state.gov/content/travel/en/passports/need-passport/card.html>.

⁴ <https://www.federalregister.gov/documents/2021/01/29/2021-01606/indian-entities-recognized-by-and-eligible-to-receive-services-from-the-united-states-bureau-of>.

¹ <https://aspe.hhs.gov/collaborations-committees-advisory-groups/napa>

questions during the session, please email napa@hhs.gov and someone will respond to your message as quickly as possible.

- To ensure accuracy, please submit a written copy of oral comments for the record by emailing napa@hhs.gov by Wednesday, April 29, 2026. These comments will be shared on the website and reflected in the meeting minutes.

- In lieu of oral comments, formal written comments may be submitted for the record by Wednesday, April 29, 2026, to Maria-Theresa Okafor, Ph.D., MCG, OASPE, 200 Independence Avenue SW, Room 438F.7, Washington, DC 20201. Comments may also be sent to napa@hhs.gov. Those submitting written comments should identify themselves and any relevant organizational affiliations.

Authority: 42 U.S.C. 11225; Section 2(e)(3) of the National Alzheimer's Project Act. The panel is governed by provisions of Public Law 92-463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Cynthia L. Goss,

Deputy Assistant Secretary for Planning and Evaluation (Health Policy), Performing the Delegable Duties of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 2026-07247 Filed 4-14-26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Review for Clinical Vision Research UG1 Applications.

Date: May 12, 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: Victor Henriquez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435-0813, victor.henriquez@nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Reproductive, Perinatal and Pediatric Health Study Section.

Date: May 12-13, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Sheila Pirooznia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496-9350, sheila.pirooznia@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Contraceptive Development Research Centers P50.

Date: May 12-13, 2026.

Time: 9:30 a.m. to 8:00 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: Anthony Wing Sang Chan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 809K, Bethesda, MD 20892, (301) 496-9392, chana3@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Immunity and Host Defense.

Date: May 12, 2026.

Time: 10:00 a.m. to 2:00 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: Mairi Noverr, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 747-7530, mairi.noverr@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA-AG-26-014: Aging Mammalian Tissues In Vitro (R21).

Date: May 12, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Joonil Seog, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-402-9791, joonil.seog@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Hepatology, Pharmacology and Toxicology.

Date: May 12, 2026.

Time: 10:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: M. Lourdes Ponce, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-3919, lourdes.ponce@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cognitive, Visual and Circadian Neuroscience.

Date: May 12, 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: Alena Valeryevna Savonenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1009J, Bethesda, MD 20892, (301) 594-3444, savonenkoa2@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Non-Human Primate Research Resources and Infrastructure, and Development of Animal Models for Research.

Date: May 12, 2026.

Time: 11:00 a.m. to 3:00 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: Zhuqing Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 669-5068, zhuqing.li@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: April 10, 2026.

Sterlyn H. Gibson,

Program Specialist, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-07291 Filed 4-14-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Oncological Sciences (R21).

Date: May 8, 2026.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Elisaveta Ninova Voynova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (202) 934-2336, voynovae@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Medical Informatics, Health Services Delivery and New Medical Technologies.

Date: May 8, 2026.

Time: 9:00 a.m. to 5:00 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: Michael J. McQuestion, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, Bethesda, MD 20892, 301-480-1276, mike.mcquestion@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Genetics and Genomics of Human Diseases.

Date: May 8, 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: Sonia Ivette Ortiz-Miranda, Scientific Review Officer, Center

for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496-3859, sonia.ortiz-miranda@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Individual, Mentored and Bi-phasic Career Development Awards in Molecular Genetics and Genomics.

Date: May 8, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Manas Chattopadhyay, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 443-7368, manas.chattopadhyay@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Endocrinology, Metabolism and Reproductive Systems.

Date: May 8, 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: Joshua Park, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451-1110, joshua.park4@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Social & Community Influences on Adulthood and Aging.

Date: May 11, 2026.

Time: 9:00 a.m. to 5:00 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: Kimberly L. Houston, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827-4902, Kimberly.Houston@nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Population based Research in Infectious Disease Study Section.

Date: May 11-12, 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: James T. Snyder, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 443-7414, snyderji@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Immune Mechanisms of Hypersensitivity and Allergy.

Date: May 11, 2026.

Time: 3:00 p.m. to 5:00 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: Anuja Mathew, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435-0389, anuja.mathew@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: April 10, 2026.

Sterlyn H. Gibson,

Program Specialist, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-07270 Filed 4-14-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407-014-004-065516; #O2509-014-004-125222]

Filing Plats of Survey; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management (BLM) Colorado State Office. The surveys announced in this notice, which were executed at the request of the BLM, National Telecommunications and Information Administration, and U.S. Forest Service, are necessary for the management of these lands.

DATES: Protests must be received by the BLM Colorado State Office prior to the scheduled date of official filing, May 15, 2026.

ADDRESSES: A copy of the survey records may be obtained from the Public Room at the BLM Colorado State Office, P.O. Box 151029, Lakewood, CO 80215, upon required payment. The plats may be viewed at the BLM Colorado State Office, Denver Federal Center, Building 40, Public Room, Lakewood, Colorado 80225, at no cost.

FOR FURTHER INFORMATION CONTACT: David W. Ginther, BLM Chief Cadastral

Surveyor for Colorado, by telephone at 970-826-5064 or by email at dginther@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The lands surveyed are represented on the plats of survey described below:

Sixth Principal Meridian, Colorado

The dependent resurvey and subdivision of section 20 in Township 8 South, Range 91 West, accepted July 22, 2025, for Group No. 1771 Colorado.

The dependent resurvey and survey in Township 2 North, Range 70 West, Colorado, accepted September 30, 2025, for Group No. 1770 Colorado.

New Mexico Principal Meridian, Colorado

The dependent resurvey and survey in Township 46 North, Range 12 East, accepted January 21, 2026, for Group No. 1806 Colorado.

The dependent resurvey and subdivision of sections 7 and 18 in Township 35 North, Range 8 West, accepted February 12, 2026, for Group No. 1755 Colorado.

A person or party who wishes to protest an official filing of plat(s) of survey identified above must file a written notice of protest with the BLM State Director for Colorado, at the BLM Colorado State Office, P.O. Box 151029, Lakewood, CO 80215. The notice of protest must identify the specific plat(s) of survey that the person or party wishes to protest. The notice of protest must be received in the BLM Colorado State Office no later than the scheduled date of the proposed official filing of plat(s) of survey being protested, see the **DATES** section above; if received after regular business hours, a notice of protest will be considered filed the next business day. Any notice of protest filed after the scheduled date of official filing will be untimely and will not be considered.

A written statement of reasons in support of the protest, if not filed with the notice of protest, must be filed with the BLM State Director for Colorado within 30 days after the notice of protest is received.

If a notice of protest of the official filing of plat(s) of survey is received prior to the scheduled date of official filing, the official filing of the plat(s) of survey identified in the notice of protest

will be stayed pending consideration of the protest. Plat(s) of survey will not be officially filed until the next business day after all timely protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personal identifiable information in a notice of protest, you should be aware that the documents you submit, including your personal identifiable information, may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifiable information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C. Chap. 3)

David Ginther,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2026-07329 Filed 4-14-26; 8:45 am]

BILLING CODE 4331-16-P

DEPARTMENT OF JUSTICE

[OMB Number 1103-0119]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; U.S. Department of Justice Self Reportable Activities

AGENCY: Justice Management Division, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Justice Management Division, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until June 15, 2026.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Julie Senatore Security and Emergency Planning Staff, 145 N Street Ne Suite, 2W. 607, (202) 514-2351, julie.senatore@usdoj.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should

address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: Self-reporting requirements set forth in the Department of Justice (DOJ) Policy Statement 1700.04, Department Personnel Security Reporting Requirements, issued April 18, 2018, apply to non-federal employee personnel affiliated with the DOJ. The policy contains reporting requirements that are applicable to the entire DOJ workforce as well as reporting requirements that apply only to personnel occupying a national security position or who have access to classified information. The requirements relating to national security are mandated by the Director of National Intelligence as the Security Executive Agent. The majority of the reports relate to the submitter's personal conduct and activities. There is one form for personnel to submit information on other personnel, consistent with government-wide reporting requirements. This collection request seeks approval for contractors and other non-federal employees who are processed for access to classified information to utilize the Department's automated reporting system called iReport, or, for the small population with no access to the IT system, to utilize PDF fillable forms to report the required information. The Security and Emergency Planning Staff, and other Department Security Offices, will use the reported information to determine the submitter's continued fitness for employment at the Department of Justice or continued eligibility for access to national security information. The Department security offices for each agency component will review,

evaluate, and adjudicate the information received.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* U.S. Department of Justice Self Reportable Activities.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* OMB #1103–0119.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public Federal Government. Individuals who are contractors for the Department of Justice or who are processed for access to classified information by the Department of Justice.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Department-wide population covered by the requirement to self-report information in the forms listed in Sections 2a and 2b is estimated at

57,744. It is estimated that only three percent (1,732) will actually need to self-report. Department-wide population covered by the requirement to report information in the forms listed in Sections 2c through 2l is estimated to be 604. Amount of time estimated for an average reported is less than ten minutes.

6. *An estimate of the total annual burden (in hours) associated with the collection:* 389 annual burden hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:*

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (mins)	Total annual burden (hours)
Ex: Survey (individuals or households)	35,000	On Occasion	1550	10	16
Unduplicated Totals	35,000		1550		17

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: April 13, 2025.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–07330 Filed 4–14–26; 8:45 am]

BILLING CODE 4410–ML–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0031]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of Currently Approved Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until May 15, 2026.

FOR FURTHER INFORMATION CONTACT: 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.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register** on February 6, 2026, allowing a 60-day comment period. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the office, including whether the information will have practical utility;

(2) Evaluate the accuracy of the office’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Evaluate whether and if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* Campus Program Grantee Needs and Progress Assessment Tool.

3. *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: 1122–0031. U.S. Department of Justice, Office on Violence Against Women.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes current grantees under the Grants to Reduce Sexual Assault, Domestic Violence, Dating Violence, and Stalking on Campus Program. The Campus Program strengthens the response of institutions of higher education to the crimes of sexual assault, domestic violence, dating violence and stalking on campuses and enhances collaboration among campuses, local law enforcement, and victim advocacy organizations. Eligible applicants are institutions of higher education. The Grantee Needs and Progress Assessment Tool will be used to determine the training and technical assistance needs of Campus Program grantees—both new and continuation grantees—throughout the life of the grant award, as well measure the development of the capacity of grantees to respond and prevent violence against women on

their campuses. In addition, the tool will help campuses, and OVW, document the impact of their grant-funded work, promote sustainability of important intervention and prevention activities, and provide outcome-based information throughout the life of the grant to help OVW-funded technical assistance providers and grantees make changes to the goals and objectives necessary to achieve the Congressional purpose of the Campus Program.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 30 respondents (Campus Program grantees) approximately two hours to complete the assessment tool.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the assessment form is 60 hours, that is 30 grantees completing a form once a year with an estimated completion time for the form being two hours.

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: April 13, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-07287 Filed 4-14-26; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 26-020; NASA Docket Number: NASA-2026-0133]

Name of Information Collection: NASA Visitor Management System

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of revision of a previously approved information collection.

SUMMARY: NASA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Comments are due by June 15, 2026.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice at <http://www.regulations.gov> and search for NASA Docket NASA-2026-0133.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256-714-8575, or email hq-ocio-pra-program@mail.nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

NASA hosts/sponsors numerous events on federally owned/leased property which are open to NASA affiliates and members of the public. The events include but are not limited to meetings, conferences, briefings, public outreach activities, tours, focus groups, etc. Visitor access is substantiated by a credentialed NASA sponsor who validates the visitor's need to access a building/area, guest networking services, etc. for a specific event/purpose. Information is collected to validate identity and enable intermittent access to activities.

The NASA Office of Protective Services transitioned to a one-NASA process to manage access for visitors with an affiliation less than 30-days.

NASA may collect event registration information to include but not limited to a visitor's name, address, citizenship, biometric data, purpose of visit, the location to be visited, escort/sponsor name with contact data, and preferred meeting/event sessions when options are available. When parking is provided on federal owned/leased space, driver's license information as well as vehicle make/model/tag information will be collected.

When visitors/vendors are permitted to bring equipment and/or event set-up materials such as booths and displays, information will be collected to issue property passes and coordinate equipment/property delivery. Information will also be collected, when applicable, to include other associated requirements such as electrical power needs, internet access, etc.

NASA collects, stores, and secures information from individuals requiring routine and intermittent access in a manner consistent with the Constitution and applicable laws, including the

Privacy Act (5 U.S.C. 552a) and the Paperwork Reduction Act.

II. Methods of Collection

Electronic.

III. Data

Title: NASA Visitor Management System.

OMB Number: 2700-0165.

Type of review: Notice of Revision of a previously approved information collection.

Affected Public: Individuals.

Estimated Annual Number of Activities: 400,000.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 400,000.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 53,333 hours.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2026-07305 Filed 4-14-26; 8:45 am]

BILLING CODE 7510-13-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-3103; CEQ ID EAXX-429-00-000-1775693431; NRC-2026-1156]

Louisiana Energy Services, LLC, dba Urenco USA; National Enrichment Facility; Environmental Assessment and Finding of No Significant Impact

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an environmental assessment (EA) and finding of no significant impact (FONSI) for an exemption request submitted by Louisiana Energy Services, LLC (LES) also doing business as (dba) Urenco USA (UUSA), that would allow UUSA, a general licensee (GL) and certificate of compliance (CoC) user, to use a vendor's transportation package design (CoC No. 9362) for transport of certain limited shipments of uranium hexafluoride (UF₆) up to 10 weight (wt.) percent enrichment of uranium-235 (U-235), a higher enrichment than authorized in CoC No. 9362, Revision No. 5.

DATES: The EA and FONSI referenced in this document are available on April 15, 2026.

ADDRESSES: Please refer to Docket ID NRC-2026-1156 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2026-1156. Address questions about Docket IDs in [Regulations.gov](https://www.regulations.gov) to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Daneira Meléndez Colón, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission,

Washington, DC 20555-0001; telephone: 301-415-7295; email:

Daneira.Melendez-Colon@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is reviewing an exemption request from LES, also dba UUSA, dated October 8, 2025, and supplemented on December 16, 2025, and February 4, 2026. Urenco USA is requesting an exemption, pursuant to section 71.12 of title 10 of the *Code of Federal Regulations* (10 CFR), of paragraphs 71.17(c)(2) and 71.17(c)(3), that require UUSA to comply with the terms and conditions of CoC No. 9362 and submit in writing before the first use of the package. If approved, the exemption would allow UUSA to use 30B cylinders within certified DN30 transportation packages (*i.e.*, CoC No. 9362) for domestic transport of UF₆ enriched to greater than 5 but less than 10 wt. percent U-235. Currently, CoC No. 9362, Revision No. 5, allows for transport of UF₆ with U-235 mass percentage not to exceed 5 wt. percent.

II. Environmental Assessment

Description of the Proposed Action

The proposed action would authorize UUSA, a general licensee and CoC user, to use 30B cylinders within certified DN30 transportation packages (*i.e.*, transportation package system) for domestic transport of certain limited shipments of UF₆ at an enrichment of greater than 5, but less than 10 wt. percent U-235. Urenco USA is currently a registered user of the DN30 transportation package. At this time the CoC for the DN30 transportation package contents is limited to 5 wt. percent U-235 (CoC No. 9362, Revision No. 5). No physical or design changes to the DN30 transportation package are proposed in this exemption. The proposed exemption would be limited to using approximately 40 to 50 cylinders in 2026-2027 for shipment of UF₆ to a single customer.

The CoC is the NRC approved design for each transportation package system. The proposed action would exempt the applicant from the requirements of 10 CFR 71.17(c)(2) and 71.17(c)(3) only as these requirements pertain to the use of the 30B cylinder within the DN30 transportation package. The exemption would allow UUSA to use the DN30 transportation package with this content, despite not being in compliance with the terms and conditions in CoC No. 9362.

The proposed action is in accordance with UUSA exemption request dated October 8, 2025, as supplemented by

letters dated December 16, 2025, and February 4, 2026.

Need for the Proposed Action

The nuclear industry is currently pursuing fuels with slightly increased enrichments for reactors in order to support industry initiatives, such as accident tolerant fuels and extended fuel cycle fuel. Urenco USA and other nuclear facilities are pursuing advancements in fuel and enrichment in concert with reactor designs that utilize high-assay low-enriched uranium (HALEU); that is, fuels with enrichments greater than 5 but less than 20 wt. percent U-235, to support these initiatives.

Although UUSA's license (SNM-2010) permits enrichment of UF₆ up to less than 10 wt. percent U-235, the material must still be packaged for transport to the fuel fabricators and reactor operators. Currently, there is only one approved UF₆ transportation package for commercial HALEU quantities—the Orano NCS GmbH Model No. DN30-X (CoC No. 9388). The DN30-X transportation package consists of the DN30 packaging and the 30B-X UF₆ cylinder. The "X" in DN30-X and 30B-X is either replaced by "10" or by "20" to refer to a specific design for a maximum enrichment of 10 or 20 percent by weight U-235, respectively. Urenco USA has supported testing of the prototypes and ordered 30B-10 cylinders, but manufacturing of this approved transportation package has not yet occurred. With ANSI (American National Standards Institute) N14.1 standard updates and facility implementation still pending, UUSA is not certain when the new transportation package approved for HALEU fuel contents will be available. Given that UUSA has contracted HALEU orders that will need shipping, this has created a business risk. To address this risk, in the meantime, while awaiting the manufacturing of the newly approved transportation package (*i.e.*, DN30-X) that will allow up to 10 wt. percent U-235, UUSA requested regulatory approval to use 30B cylinders within the DN30 transportation package for domestic HALEU delivery, limited to use approximately 40 to 50 cylinders in 2026-2027 for shipment to a single customer.

Environmental Impacts of the Proposed Action

This EA evaluates the potential environmental impacts of granting an exemption from certain terms and conditions in CoC No. 9362. The exemption would allow UUSA to use 30B cylinders within certified DN30

transportation packages for domestic transport of UF₆ enriched to greater than 5, but less than 10 wt. percent U–235. This exemption would be limited to using approximately 40 to 50 cylinders in 2026–2027 to deliver UF₆ to a single customer.

The potential environmental impacts of transporting radioactive material pursuant to 10 CFR part 71 was initially published in 1977 as NUREG–0170, “Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes” for the Proposed Rule to amend 10 CFR part 71. The Commission concluded that impacts from the transportation of radioactive material are small. As such, a categorical exclusion for transportation package approvals is given in 10 CFR 51.22(c)(13), “Approval of package designs for packages to be used for the transportation of licensed materials.” The categorical exclusion provided in NRC’s environmental regulations, however, is specific to package approvals and does not apply to requests for exemption from those approvals. Therefore, the NRC has prepared an environmental assessment in support of the exemption request and, in doing so, is tiering off this “Final Environmental Statement.”

Certificates of compliance approving package designs for packages to be used in the transportation of radioactive materials are issued upon demonstration that the package designs meet applicable performance standards contained in part 71 of the Commission’s regulations.

NUREG–0170 determined that the principal unavoidable environmental effect of transport of radioactive material was found to be population exposure resulting from normal transport of radioactive materials. As part of the review of this exemption request, the NRC staff concluded by evaluation of dose rate calculations submitted with the application that any radiation exposure from the transport of UF₆, enriched to greater than 5, but less than 10 wt. percent U–235, utilizing 30B cylinders within certified DN30 transportation packages to the public or workers will not exceed regulatory limits under normal or hypothetical accident conditions during shipment. Any radiological or non-radiological environmental impacts of transporting UF₆, enriched to greater than 5, but less than 10 wt. percent U–235, utilizing 30B cylinders within certified DN30 transportation packages would be no greater than those already evaluated for

the transport of UF₆ and would be bounded by the previous environmental analysis (NUREG–0170).

In addition, the staff reviewed the applicant’s criticality analyses of the DN30 transportation package containing 30B cylinders with UF₆ enrichments up to 10 wt. percent U–235. The applicant showed and the staff agrees that single DN30 transportation packages and arrays of packages containing 30B cylinders with UF₆ enrichments up to 10 wt. percent U–235 will be adequately subcritical, considering the conservatism present in the applicant’s analysis, the reduction of allowable UF₆ mass per 30B cylinder, the benchmarking analysis for determining the upper subcritical limit, and the limited duration and number of shipments that are requested in this exemption. Additionally, the staff agrees that the applicant’s calculated critical safety index, based on their normal conditions of transport and hypothetical accident conditions package array analysis, is acceptable. As such, the staff finds with reasonable assurance that the package, with the requested contents, will meet the criticality safety requirements of 10 CFR part 71.

Therefore, the staff has determined that there will be no significant environmental impacts as a result of approving the exemption for the use of 30B cylinders within certified DN30 transportation packages for transport of certain limited shipments of UF₆ at an enrichment of greater than 5, but less than 10 wt. percent U–235. The staff confirmed that no physical or design changes to the DN30 transportation package are proposed in this exemption and that the exemption is limited to the use of approximately 40 to 50 cylinders in 2026–2027 for shipment to a single customer. The staff concluded by evaluation of dose rate and criticality calculations submitted with the application that the package design meets applicable performance standards contained in part 71 of the Commission’s regulations. Any radiological or non-radiological environmental impacts of transporting UF₆, enriched to greater than 5, but less than 10 wt. percent U–235, utilizing 30B cylinders within certified DN30 transportation packages would be no greater than those already evaluated and would be bounded by the previous environmental analysis (NUREG–0170).

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the

proposed exemption request (*i.e.*, the “no-action” alternative). The potential environmental impacts of denying the request would be unchanged from the current impacts of using 30B cylinders within certified DN30 transportation packages for transport of UF₆ at an enrichment of up to 5 wt. percent U–235. Under this alternative, UUSA would need to identify another way to transport HALEU product to the customer, and this alternative shipment arrangement would result in similar environmental impacts.

Agencies and Persons Consulted

In accordance with NRC policy, on March 20, 2026, the NRC staff provided a draft of the EA to the State of New Mexico and the State of Washington for review. The NRC received a comment from the State of New Mexico on April 8, 2026, after the close of the comment period. The comment did not result in a change to the staff’s assessment of potential environmental impacts of the proposed action. The staff responded separately to ensure the stakeholder received clear and complete closure. No comments were received from the State of Washington.

III. Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements in 10 CFR part 51, which are the NRC’s NEPA implementing regulations. Based upon the foregoing environmental assessment, the NRC finds that the proposed action of granting the exemption for the regulation in 10 CFR 71.17(c)(2) and 71.17(c)(3), which require the GL and CoC user to comply with the terms and conditions of the CoC and submit in writing before the first use of the package, in this particular case limited to the use of approximately 40 to 50 30B cylinders of HALEU in calendar years 2026 through 2027 for shipment to a single customer, would not significantly impact the quality of the human environment. Accordingly, the NRC has determined that a FONSI is appropriate, and an environmental impact statement is not warranted.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document description	ADAMS accession No./ Federal Register citation
Louisiana Energy Services, LLC, also dba Urenco USA, exemption request, dated October 8, 2025	ML25281A317.
Supplements to request for exemption, dated December 16, 2025, and February 4, 2026	ML25350C350.
	ML26035A335.
NUREG-0170, Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes, Volumes 1 and 2, December 1977.	ML022590355 (Package).
Final Rule—51.22(c)(13)	ML022590370.
Certificate of Compliance No. 9362, Revision No. 5, dated June 11, 2024	49 FR 9352, at 9368.
NRC email to State of New Mexico, "Request for State comments regarding an environmental assessment—Urenco USA," dated March 20, 2026.	ML24159A018 (Package).
NRC email to State of Washington, "Request for State comments regarding an environmental assessment—Urenco USA," dated March 20, 2026.	ML26098A002.
State of New Mexico email to NRC, "Re: Request for State comments regarding an environmental assessment—Urenco USA," dated April 8, 2026.	ML26098A001.
NRC Response to comment from State of New Mexico, "Response to comment re: Request for State comments regarding and environmental assessment—Urenco USA," dated April 10, 2026.	ML26099A018.
	ML26100A208.

Dated: April 13, 2026.

For the Nuclear Regulatory Commission.

Yoira Diaz-Sanabria,

Chief, Storage and Transportation Licensing Branch, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026-07319 Filed 4-14-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–220; NRC–2021–0082]

Constellation Energy Generation, LLC; Nine Mile Point Nuclear Station, Unit 1; Subsequent License Renewal Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received an application for the subsequent renewal of Facility Operating License No. DPR–63, which authorizes Constellation Energy Generation, LLC (CEG, the applicant), to operate Nine Mile Point Nuclear Station, Unit 1. The renewed license would authorize the applicant to operate Nine Mile Point, Unit 1, for an additional 20 years beyond the period specified in the current license. The current operating license for Nine Mile Point, Unit 1, expires August 22, 2029.

DATES: The subsequent license renewal application referenced in this document is available as of April 2, 2026.

ADDRESSES: Please refer to Docket ID NRC–2021–0082 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2021–0082. Address

questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone 301–415–1003; email Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that the document is mentioned in this notice.

- *Public Library:* A copy of the subsequent license renewal application for Nine Mile Point, Unit 1, can be accessed at the following public library: Oswego Public Library, 120 E 2nd St., Oswego, NY 13126.

- *NRC PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Vaughn Thomas, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5897; email: Vaughn.Thomas@nrc.gov.
SUPPLEMENTARY INFORMATION: The NRC has received an application from CEG, dated March 25, 2026 (ADAMS Accession No. ML26084A181), filed

pursuant to section 103 of the Atomic Energy Act of 1954, as amended, and part 54 of title 10 of the *Code of Federal Regulations* (10 CFR), "Requirements for Renewal of Operating Licenses for Nuclear Power Plants," to renew the operating license for Nine Mile Point, Unit 1. Renewal of the licenses would authorize the applicant to operate the facility for an additional 20-year period beyond the period specified in the current operating licenses. The current operating license for Nine Mile Point, Unit 1, expires August 22, 2029. Nine Mile Point, Unit 1, is a boiling-water reactor located near Oswego, New York. The acceptability of the tendered application for docketing, and other matters, including an opportunity to request a hearing, will be the subject of subsequent **Federal Register** notices.

A copy of the subsequent license renewal application for Nine Mile Point, Unit 1, is also available near the site at the following public library: Oswego Public Library, 120 E 2nd St., Oswego, NY 13126.

Dated: April 13, 2026.

For the Nuclear Regulatory Commission.

Clinton Hobbs,

Chief, License Renewal Project Branch, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2026–07289 Filed 4–14–26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

735th 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 May 6 through 8, 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 633 055 342#. 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.

Wednesday, May 6, 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.: *Draft Rules on Licensing Requirements for Microreactors and Low-Consequence Reactors (Part 57) and Executive Order 14300 Changes (Open/Closed)*—The Committee will hear presentations from and have discussions with NRC staff and applicant representatives, if necessary, regarding the subject topic. [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.]

Thursday, May 7, 2026

8:30 a.m.–10:30 a.m.: *Planning and Procedures Session/Future ACRS Activities/Reconciliation of ACRS Comments and Recommendations/Preparation of Reports (Open/Closed)*—The Committee will 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.]

10:30 a.m.–5:00 p.m.: *Draft Rules on Licensing Requirements for Microreactors and Low-Consequence Reactors (Part 57) and Executive Order 14300 Changes (Open/Closed)*—The Committee will hear presentations from and have discussions with NRC staff and applicant representatives, if necessary, regarding the subject topic. [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, May 8, 2026

8:30 a.m.–5:00 p.m.: *Preparation of Reports and Continuation of Discussions on Previous Meeting Topics (Open/Closed)*—The Committee will proceed with preparation of reports and continue discussions with NRC staff regarding the subject topic. [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 (DFO) (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 DFO 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 time, 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: April 13, 2026.

For the Nuclear Regulatory Commission.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2026-07283 Filed 4-14-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2026-0133]

Draft Regulatory Guide: Nuclear Power Plant Simulation Facilities for Use in Operator Training, License Examinations, and Applicant Experience Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG)-1384, "Nuclear Power Plant Simulation Facilities for Use in Operator Training, License Examinations, and Applicant Experience Requirements." This DG is proposed Revision 5 of Regulatory Guide 1.149 of the same name. This proposed revision updates and clarifies the scope of the guideline to better serve simulation facility licensees and the regulatory community. On October 10, 2019, the American National Standards Institute (ANSI) approved ANSI/ANS 3.5 2018, "Nuclear Power Plant Simulators for Use in Operator Training and Examination" (Ref. 2), as an

American National Standard. The American Nuclear Society (ANS) Standards Committee Working Group ANS 3.5 developed and approved this industry consensus standard. The proposed revision to RG 1.149 endorses this standard.

DATES: Submit comments by May 15, 2026. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–0133. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN–5–A85, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

- For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Lauren Nist, Office of Nuclear Reactor Regulation, telephone: 301–415–6043; email: Lauren.Nist@nrc.gov and James Steckel, Office of Nuclear Regulatory Research, telephone: 301–415–1026; email: James.Steckel@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–0133 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–0133.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly

available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC’s PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2026–0133 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC’s “Regulatory Guide” series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the NRC’s regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs

in its review of applications for permits and licenses.

The DG, entitled “Nuclear Power Plant Simulation Facilities for Use in Operator Training, License Examinations, and Applicant Experience Requirements,” is temporarily identified by its task number, DG–1384 (ADAMS Accession No. ML21263A127).

This guide helps to ensure that simulation facilities used to meet the requirements of part 55 of title 10 of the *Code of Federal Regulations* (10 CFR) are sufficient in both scope and fidelity for the regulatory purposes for which they are being used with respect to (1) operating tests, as described in 10 CFR 55.45(a), (2) licensed operator requalification training requirements, as described in 10 CFR 55.59, and (3) performance of control manipulations that affect reactivity to establish eligibility for an operator’s license, as described in 10 CFR 55.31(a)(5).

The staff is also issuing for public comment a draft regulatory analysis (ADAMS Accession No. ML25337A053). The staff developed a regulatory analysis to assess the value of issuing an RG as well as an alternative course of action.

III. Backfitting, Forward Fitting, and Issue Finality

The issuance of DG–1384, if finalized, would be proposed Revision 5 to RG 1.149, which endorses industry guidance for use to ensure that simulation facilities are sufficient in scope and fidelity for regulatory purposes to meet NRC regulations in 10 CFR 55, “Operators’ Licenses.” Issuance of DG–1384 in final form would not constitute backfitting as defined in 10 CFR 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests”; affect issue finality of any approval issued under 10 CFR part 52, “Licenses, Certificates, and Approvals for Nuclear Power Plants”; or constitute forward fitting as defined in MD 8.4. As explained in DG–1384, applicants or licensees generally would not be required to comply with the positions in DG–1384.

IV. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC’s public website at <https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>. Suggestions will be

considered in future updates and enhancements to the “Regulatory Guide” series.

V. Executive Order (E.O.) 12866

The Office of Information and Regulatory Affairs determined that this DG is not a significant regulatory action under E.O. 12866.

(Authority: 42 U.S.C. 2011 *et seq.*)

Dated: April 13, 2026.

For the Nuclear Regulatory Commission.

Stanley Gardocki,

Acting Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2026–07320 Filed 4–14–26; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026–200 and K2026–199; MC2026–201 and K2026–200]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission’s consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

ADDRESSES: Submit comments electronically via the Commission’s Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service’s request(s) can be accessed via the Commission’s website (<http://www.prc.gov>). Non-public portions of the Postal Service’s request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request’s acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service’s request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request’s acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)-(d), the Commission does not appoint a Public Representative or

¹ *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

request public comment in proceedings to review such requests.

II. Public Proceeding(s)

None. *See* Section III for summary proceedings.

III. Summary Proceeding(s)

1. *Docket No(s).*: MC2026–200 and K2026–199; *Filing Title*: USPS Request to Add Mid-Market Standardized Distinct Product, PM–GA Contract 952, and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: April 10, 2026; *Filing Authority*: 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

2. *Docket No(s).*: MC2026–201 and K2026–200; *Filing Title*: USPS Request to Add New Mid-Market Standardized Distinct Product, PM–GA Contract 956, and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: April 10, 2026; *Filing Authority*: 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Legal Assistant.

[FR Doc. 2026–07336 Filed 4–14–26; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, and USPS Ground Advantage Negotiated Service Agreements, Priority Mail, and USPS Ground Advantage Negotiated Service Agreements

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule’s Competitive Products List.

DATES: *Date of required notice:* April 15, 2026.

FOR FURTHER INFORMATION CONTACT: Sean C. Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), it filed with the Postal Regulatory Commission the following requests:

Date filed with postal regulatory commission	Negotiated service agreement product category and No.	MC docket No.	K docket No.
04/07/26	PME-PM-GA 1499	MC2026-194	K2026-194
04/08/26	PM-GA 951	MC2026-195	K2026-195
04/10/26	PM-GA 952	MC2026-200	K2026-199
04/09/26	PM-GA 953	MC2026-197	K2026-196
04/09/26	PM-GA 954	MC2026-198	K2026-197
04/09/26	PM-GA 955	MC2026-199	K2026-198
04/10/26	PM-GA 956	MC2026-201	K2026-200

Documents are available at
www.prc.gov.

Sean C. Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2026-07268 Filed 4-14-26; 8:45 am]

BILLING CODE 7710-12-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105194; File No. SR-NYSEARCA-2026-35]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Facilitate the Transfer and Trading of Options That Overlie a Reduced Value of the MSCI World Index (1/100), the Full Value of the MSCI ACWI Index and a Reduced Value of the MSCI USA Index (1/100)

April 10, 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 March 30, 2026, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes rule amendments to facilitate the transfer and trading of options that overlie a reduced value of the MSCI World Index (1/100), the full value of the MSCI ACWI Index and a reduced value of the MSCI USA Index (1/100). 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 amendments to Rule 5.12-O (Designations of the Index Broad-Based Index Options), Rule 5.15-O (Position Limits for Broad-Based Index Options), Rule 5.19-O (Terms of Index Option Contracts), Rule 5.20-O (Trading Sessions), Rule 5.22-O (Disclaimers), Rule 5.35-O (Position Limits for FLEX Options), and Rule 6.4-O (Series of Options Open for Trading) to facilitate the transfer and trading of options that overlie a reduced value of the MSCI World Index (1/100) (“WORLD (1/100) options”), the full value of the MSCI ACWI Index (“ACWI options”) and a reduced value of the MSCI USA Index (1/100) (“USA (1/100) options”). Each of these indexes is a free float-adjusted market capitalization index designed to measure equity market performance throughout the world (MSCI World (1/100) and ACWI Indexes) or the United States (MSCI USA Index (1/100)). The options overlying these indexes would be P.M.-, cash-settled contracts with European-style exercise.

Index Design, Methodology and Dissemination

The MSCI World (1/100), MSCI ACWI, and MSCI USA (1/100) Indexes are calculated by MSCI Inc. (“MSCI”), which is a provider of investment

support tools.³ Each of these indexes is calculated in U.S. dollars on a real-time basis from the open of the first market on which the components are traded to the closing of the last market on which the components are traded. The methodology used to calculate each index is similar to the methodology used to calculate the value of other benchmark market-capitalization weighted indexes (including the MSCI EAFE and EM Indexes, on which the Exchange may currently list options).⁴

Specifically, each index is based on the MSCI Global Investable Market Indexes (“GIMI”) Methodology.⁵ The level of the index reflects the free float-adjusted market value of the component stocks relative to a particular base date and is computed by dividing the total market value of the companies in the index by the index divisor.

MSCI monitors and maintains each of the MSCI World (1/100), ACWI, and USA (1/100) indexes. Adjustments to each index are made on a daily basis with respect to corporate events and dividends. MSCI reviews each index quarterly (February, May, August and November) with the objective of reflecting the evolution of the underlying equity markets and segments on a timely basis, while seeking to achieve index continuity, continuous investability of constituents and replicability of the indexes, and index stability and low index turnover.⁶ Each quarterly review of the MSCI World (1/100), ACWI, and USA (1/100) Indexes

³ See proposed Rule 5.22-O (adding MSCI Inc. as the reporting authority for the MSCI World Index (1/100), the MSCI ACWI Index and the MSCI USA Index (1/100)).

⁴ See current Rule 5.22-O Commentary .01. See also Securities Exchange Act Release No. 104862 (February 18, 2026) 91 FR 6717 (February 23, 2026) (SR-NYSEARCA-2026-13) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amendments to Facilitate the Transfer and Trading of Options that Overlie the MSCI EAFE Index and the MSCI Emerging Markets Index).

⁵ Summary and comprehensive information about the GIMI methodology may be reviewed at <https://www.msci.com/index/methodology/latest/GIMI>.

⁶ See id. at Section 3.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

involves, among other things, updating the constituent securities.⁷

For each of the MSCI World (1/100), ACWI, and USA (1/100) Indexes, real-time data is distributed approximately every 15 seconds while the indexes are being calculated using MSCI's real-time calculation engine to Bloomberg L.P. ("Bloomberg"), FactSet Research Systems, Inc. ("FactSet") and Thomson Reuters ("Reuters"). End of day data is distributed daily to clients through MSCI as well as through major quotation vendors, including Bloomberg, FactSet, and Reuters.

MSCI World Index (1/100)

The MSCI World Index (1/100) is a free float-adjusted market capitalization index that is designed to measure the equity market performance of developed markets. The MSCI World Index (1/100) consists of component stocks from 23 developed markets.⁸ The MSCI World Index (1/100) consists of large- and mid-cap components across these markets, has 1,319 constituents, and covers approximately 85% of the free float-adjusted market capitalization in each country.⁹ The MSCI World Index (1/100) was launched on March 31, 1986.

The Exchange notes that the iShares MSCI World ETF exchange-traded fund ("ETF") is an actively traded product. The Exchange also lists options overlying that ETF ("URTH options") and those options are actively traded as well. MSCI World Index (1/100) futures contracts ("MWS futures") are listed for trading on the ICE Futures U.S.¹⁰ and other derivatives contracts on the MSCI World Index (1/100) are listed for trading in Europe.

The Exchange proposes to base trading in options on the MSCI World Index (1/100) on a fraction of the full size of the index. In particular, the Exchange proposes to list WORLD (1/100) options that are based on 1/100th of the value of the MSCI World Index (1/100). The Exchange believes that listing options on the reduced value of the index will attract a greater source of customer business than if options were based on the full value of the MSCI World Index (1/100). The Exchange further believes that listing options on a reduced value of the index may enhance investors' opportunities to hedge, or

speculate on, the market risk associated with the stocks comprising the MSCI World Index (1/100). Additionally, by reducing the value of the MSCI World Index (1/100), investors will be able to use this trading vehicle while extending a smaller outlay of capital. The Exchange believes this may attract additional investors and, in turn, create a more active and liquid trading environment.

MSCI ACWI Index

The MSCI ACWI Index is a free float-adjusted market capitalization index that is designed to measure the equity performance of developed markets and emerging markets. The MSCI ACWI Index consists of component stocks from 23 developed markets¹¹ and 24 emerging markets.¹² The MSCI ACWI Index consists of large- and mid-cap components across these markets, has 2,514 constituents, and covers approximately 85% of the global investable equity opportunity set.¹³ The MSCI ACWI Index was launched on May 31, 1990.

The Exchange notes that the iShares MSCI ACWI ETF is an actively traded product. CBOE lists options overlying that ETF ("ACWI options") and those options are actively traded as well. MSCI ACWI Index futures contracts ("MMW futures") are listed for trading on the ICE Futures U.S.¹⁴ and other derivatives contracts on the MSCI ACWI Index are listed for trading in Europe.

MSCI USA Index (1/100)

The MSCI USA Index (1/100) is a free float-adjusted market capitalization index that is designed to measure the performance of the large- and mid-cap segments of the U.S. market. The MSCI USA Index (1/100) consists of large- and mid-cap components from the United States, has 544 constituents, and covers approximately 85% of the free float-adjusted market capitalization in the United States.¹⁵ The MSCI USA Index

(1/100) was launched on March 31, 1986.

The Exchange notes that the Invesco MSCI USA ETF is an actively traded product. MSCI USA Index (1/100) futures contracts ("USS futures") are listed for trading on the ICE Futures U.S.¹⁶ and other derivatives contracts on the MSCI USA Index (1/100) are listed for trading in Europe.

The Exchange proposes to base trading in options on the MSCI USA Index (1/100) on a fraction of the full size of the index. In particular, the Exchange propose to list the USA (1/100) options that are based on 1/100th of the value of the MSCI USA Index (1/100). The Exchange believes that listing options on the reduced value of the index will attract a greater source of customer business than if options were based on the full value of the MSCI USA Index (1/100). The Exchange further believes that listing options on a reduced value of the index may enhance investors' opportunities to hedge, or speculate on, the market risk associated with the stocks comprising the MSCI USA Index (1/100). Additionally, by reducing the value of the MSCI USA Index (1/100), investors will be able to use this trading vehicle while extending a smaller outlay of capital. The Exchange believes this may attract additional investors, and, in turn, create a more active and liquid trading environment.

Initial and Continued Listing Criteria

The Exchange proposes to apply to each of the MSCI World Index (1/100), MSCI ACWI Index, and MSCI USA Index (1/100) the same initial listing criteria that currently apply to the MSCI EAFE Index and the MSCI EM Index.¹⁷ The MSCI World Index (1/100), the MSCI ACWI Index and the MSCI USA Index (1/100) each satisfy the initial listing criteria currently set forth for EAFE and EM options, as set forth in Rule 5.12–O, Commentary .01. Specifically, with respect to each of the MSCI World (1/100), ACWI, and USA (1/100) Indexes:

(1) The index is broad-based, as defined in Rule 5.10–O(b)(23);

(2) Options on the index are designated as P.M.-settled index options;

(3) The index is capitalization-weighted, price-weighted, modified capitalization-weighted or equal dollar-weighted;

(4) The index consists of 500 or more component securities;

¹⁶ See USS futures contract specifications, available at MSCI USA GTR Index Futures.

¹⁷ See proposed 5.12–O, Commentary .01.

⁷ *Id.*

⁸ These developed markets include Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Hong Kong, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, the United Kingdom, and the United States.

⁹ See MSCI World Index (1/100) fact sheet (dated February 27, 2026), available at MSCI World Index.

¹⁰ See MWS futures contract specifications, available at MSCI World NTR Index Future.

¹¹ These developed markets include Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Hong Kong, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, the United Kingdom, and the United States.

¹² These emerging markets include Brazil, Chile, China, Colombia, Czech Republic, Egypt, Greece, Hungary, India, Indonesia, Korea, Kuwait, Malaysia, Mexico, Peru, Philippines, Poland, Qatar, Saudi Arabia, South Africa, Taiwan, Thailand, Turkey, and the United Arab Emirates.

¹³ See MSCI ACWI Index fact sheet (dated February 27, 2026), available at MSCI ACWI Index.

¹⁴ See MMW futures contract specifications, available at MSCI ACWI NTR Index Future.

¹⁵ See MSCI USA Index (1/100) fact sheet (dated February 27, 2026), available at MSCI USA Index.

(5) All of the component securities of the index have a market capitalization of greater than \$100 million;

(6) No single component security accounts for more than fifteen percent (15%) of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than fifty percent (50%) of the weight of the index;

(7) Non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than:

(i) twenty-five percent (25%) of the weight of the EAFE Index (for EAFE options) (each of the MSCI World (1/100), ACWI, and USA (1/100) Indexes satisfies this criterion), and

(ii) twenty-seven and a half percent (27.5%) of the weight of the EM Index (for EM Options);

(8) During the time options on the index are traded on the Exchange, the current index value is widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors;¹⁸

(9) The Exchange reasonably believes it has adequate system capacity to support the trading of options on the index, based on a calculation of the Exchange's current Independent System Capacity Advisor (ISCA) allocation and the number of new messages per second expected to be generated by options on such index; and

(10) The Exchange has written surveillance procedures in place with respect to surveillance of trading of options on the index.

The Exchange also proposes to subject each of the MSCI World (1/100), MSCI ACWI and MSCI USA (1/100) indexes to the maintenance listing standards set forth in Commentary .01(b) to Rule 5.12–O which currently applies to the MSCI EAFE Index and on the MSCI EM Index:

(1) The conditions set forth in Commentary .01(a) (1), (2), (3), (4), (8), (9) and (10) must continue to be satisfied. The conditions set forth in Commentary .05(a)(5) and (6) must be satisfied only as of the first day of January and July in each year. The

condition set forth in Commentary .05(a)(7) must be satisfied as of the first day of the month following the Reporting Authority's¹⁹ review of the weighting of the constituents in the applicable index but in no case less than a quarterly basis.

(2) The total number of component securities in the index may not increase or decrease by more than thirty-five percent (35%) from the number of component securities in the index at the time of its initial listing,²⁰ except for the MSCI EM Index, in which the total number of component securities in the MSCI EM Index may not increase or decrease by more than ten percent (10%) over the last six-month period.

Because the MSCI World Index (1/100), MSCI ACWI Index, and MSCI USA Index (1/100) each has a large number of component securities and is based on the same methodology as the MSCI EAFE and EM Indexes, as discussed above, the Exchange believes it is appropriate for the initial and maintenance listing criteria (which require continual and periodic compliance) set forth under Rule 5.12–O, Commentary .01(a)(b) to also apply to the WORLD (1/100), ACWI and USA (1/100) options.

General Trading

The Exchange proposes that WORLD (1/100), ACWI and USA (1/100) options will trade during the same trading hours as other index options, including EAFE options and EM options, which are 9:30 a.m. to 4:00 p.m. (New York time).²¹ Additionally, the last trading day for expiring WORLD (1/100), ACWI and USA (1/100) options series will be the business day prior to the expiration date of the specific series.²²

Trading of WORLD (1/100), ACWI and USA (1/100) options will be subject to the trading halt procedures applicable to index options traded on the Exchange²³ and will continue to be quoted and traded in U.S. dollars.²⁴

Accordingly, all Exchange and The Options Clearing Corporation (“OCC”) members will continue to be able to accommodate trading, clearance and settlement of WORLD (1/100), ACWI and USA (1/100) options without alteration.

The contract multiplier for WORLD (1/100), ACWI and USA (1/100) options would be \$100. ACWI options would be quoted in index points and one point would equal \$100. The minimum tick size for series trading below \$3 would be 0.05 (\$5.00) and at or above \$3, will be 0.10 (\$10.00).

WORLD (1/100), ACWI and USA (1/100) options will be subject to the same procedures for adding and deleting strikes for index options as other index options, including EAFE option series and EM options series. Additional series may be opened for trading as the underlying index level moves up or down.²⁵ The minimum strike price interval for WORLD (1/100), ACWI and USA (1/100) options series would be 2.5 points if the strike price is less than 200. When the strike price is 200 or above, strike price intervals would be no less than 5 points.²⁶ This is consistent with the current strike intervals of many other index options, including EAFE and EM options.

Pursuant to Rule 5.32–O(e)(1), the Exchange may approve and open for trading any flexible (“FLEX”) options series that is eligible for non-FLEX options trading under Rules 5.12–O and 5.13–O with respect to indexes. Therefore, as proposed, the Exchange may authorize for trading FLEX Options on the MSCI World Index (1/100), MSCI ACWI Index, and MSCI USA Index (1/100), which the Exchange may authorize for trading pursuant to proposed Rules 5.12–O and 5.13–O.

Expiration Months, Settlement, and Exercise Style

Consistent with the expirations for other index options, including EAFE options and EM options, the Exchange will allow up to twelve near-term expiration months for the WORLD (1/100), ACWI and USA (1/100) options.²⁷ Additionally, Exchange Rule 5.19–O

¹⁹ The term “reporting authority” with respect to a particular index means the institution or reporting service designated by the Exchange as the official source for (1) calculating the level of the index from the reported prices of the underlying securities that are the basis of the index and (2) reporting such level. See Rule 5.10–O(b)(12).

²⁰ This maintenance criteria applies a 10% threshold rather than a 35% threshold to the EM Index. As is the case with other index options authorized for trading on the Exchange, in the event the MSCI ACWI Index fails to satisfy the continued listing standards set forth herein, the Exchange will not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Act.

²¹ See proposed Rule 5.20–O, Commentary .01.

²² See proposed Rule 5.20–O, Commentary .02.

²³ See Rule 5.20–O(c).

²⁴ See Rule 5.19–O(a)(1).

²⁵ See Rule 5.19–O(c)(4). The rule sets forth the criteria for listing additional series of the same class as the current value of the underlying index moves. Generally, additional series must be “reasonably related” to the current index value, which means that strike prices must be within 30% of the current index value. Series exceeding the 30% range may be listed based on demonstrated customer interest index moves. The strike price of must be within 30% of the current index value. Series exceeding the 30% range may be listed based on demonstrated customer interest.

²⁶ See proposed 5.19–O(c)(5).

²⁷ See Rule 5.19–O(a)(3)(A).

¹⁸ This listing criteria permits the Exchange to continue to trade EAFE options after trading in all component securities has closed for the day and the index level is no longer widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors, provided that EAFE futures contracts are trading and prices for those contracts may be used as a proxy for the current index value. This is inapplicable to WORLD (1/100), ACWI and USA (1/100) options, as the index level for each index will be widely disseminated through the end of trading for options on it.

“Long-term Options Series” permits the listing, with respect to any class of stock index options, series of options having up to 180 months to expiration. In addition, as with both the EAFE and EM index options, WORLD (1/100), ACWI and USA (1/100) options would be eligible for all other expirations permitted for other broad-based indexes, e.g., Short Term Option Series and Quarterly Option Series.²⁸ Given that the MSCI World (1/100), MSCI ACWI and MSCI USA (1/100) Indexes are broad-based indexes and based on the same methodology as the MSCI EAFE and EM Indexes, as noted above, the Exchange believes it is appropriate for options on the MSCI World (1/100), MSCI ACWI and MSCI USA (1/100) Indexes to be eligible for the same expirations for which the options on other broad-based indexes, including MSCI EAFE and EM Indexes, are eligible under current rules.

WORLD (1/100), ACWI and USA (1/100) options will be P.M.-, cash-settled contracts with European-style exercise.²⁹ The Exchange believes that P.M.-settlement is appropriate for WORLD (1/100) and ACWI options due to the nature of the underlying index that encompass multiple markets around the world. The components of each index open with the start of trading in certain parts of Asia at approximately 6:00 p.m. (Eastern time) (prior day) and close with the end of trading in North America at approximately 4:00 p.m. (Eastern time) (next day) as closing prices from North American countries are accounted for in the closing calculation.

The Exchange further believes that P.M.-settlement is appropriate for WORLD (1/100) and ACWI options, as well as USA (1/100) options, because the Exchange understands that investors prefer to be able to trade out of positions during the entire final day of trading before settlement. The Exchange notes the Commission has approved proposals to make other pilots permitting P.M.-settlement of index options permanent after finding those pilots were consistent with the Act and the options subject to those pilots had no significant impact on the market.³⁰

The Exchange proposes to amend Rule 5.19–O(a)(4) to add WORLD, ACWI and USA (1/100) options to the list of other European-style (and P.M.-settled) index options. European-style (and P.M.-settled) exercise is consistent with many index options and, as set forth in Rule 5.19–O(a)(4), EAFE and EM options are also P.M.-settled with European-style exercise. Given that the MSCI World (1/100) (1/100), ACWI, and USA (1/100) Indexes are broad-based indexes and based on the same methodology as the MSCI EAFE and EM Indexes, as noted above, the Exchange believes it is appropriate for options on these three indexes to have the same settlement and exercise style as the other MSCI Index options.

Like other index options, the exercise settlement amount of WORLD (1/100), ACWI and USA (1/100) options will be equal to the difference between the exercise settlement value (with respect to WORLD (1/100) and USA (1/100) options, 1/100th of the official closing value of the MSCI World Index (1/100) and MSCI USA Index (1/100), respectively, and, with respect to ACWI options, the official closing value of the MSCI ACWI Index (1/100), each as reported by the reporting authority on the day on which the index option contract is exercised) and the exercise price of the option (multiplied by the contract multiplier of \$100).³¹

The proposed WORLD (1/100), ACWI and USA (1/100) options would expire, as currently, on the third Friday of the expiring month in the case of regular monthly options and long term options, each Friday in the case of Short Term options, and the last trading day of the month in the case of Monthly Options and/or Quarterly Options. As noted above, the last trading day for expiring series would continue to be the business day prior to the expiration date of the specific series. As is currently the case, when the last trading day/expiration date is moved because of an Exchange holiday or closure, the last trading day/expiration date for expiring options would be the immediately preceding business day.

Exercise would result in delivery of cash on the business day following

expiration. ACWI options would be P.M.-settled. The exercise settlement value would be the official closing values as reported by MSCI on the last trading day of the expiring contract.³²

Position and Exercise Limits

The Exchange proposes to amend Rule 5.15–O to apply a position limit of 50,000 contracts (with no restrictions) to WORLD (1/100), ACWI and USA (1/100) options. This is the same position limit that currently exists for other broad-based index options, including EAFE and EM options.³³ Pursuant to Rule 5.18–O, the exercise limit for these options will be equivalent to the proposed limit of 50,000. As set forth in Rule 5.15–O(c), positions in WORLD (1/100) options and USA (1/100) options (which are proposed to be reduced-value index options) will be aggregated with positions in full-value indexes.³⁴ All position limit hedge exemptions would apply.

Surveillance and Capacity

The Exchange represents that the same surveillance procedures applicable to all other options currently listed and traded on the Exchange will apply to WORLD (1/100), ACW and USA (1/100) options and that it has the necessary systems capacity to support the option series. The Exchange’s existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior and other improper trading. In addition, the Exchange has a Regulatory Services Agreement (“RSA”) with the Financial Industry Regulatory Authority (“FINRA”). Pursuant to a multi-party 17d–2 joint plan, all options exchanges

³² See proposed amendment to Rule 5.22–O, to identify MSCI, Inc. as the Reporting Authority for the MSCI ACWI Index.

³³ Additionally, the Exchange proposes to amend Rule 5.35–O(a)(iv) to provide that, like FLEX Options on the MSCI EAFE Index and MSCI EM Index, the position limits for FLEX options on the MSCI World Index (1/100), the ACWI Index and the USA Index (1/100) are equal to the position limits for the non-FLEX options on this index (which is 50,000, as proposed). Pursuant to 5.36–O the exercise limit for FLEX index options (which would include FLEX options on the MSCI World Index (1/100), the ACWI Index and the USA Index (1/100)) will be equivalent to the FLEX position limits prescribed in 5.35–O. As set forth in proposed Rule 5.35–O(a)(v) in calculating the applicable contract reporting amount for that rule, reduced-value contracts (such as the proposed WORLD (1/100) and USA (1/100) options) will be aggregated with full-value contracts and counted by the amount by which they equal a full-value contract.

³⁴ For example, if an index is reduced by one-tenth, 10 reduced-value contracts equal one contract. If an index is reduced by 1/100, 100 reduced-value contracts will equal one contract. The Exchange notes it currently does not plan to list, options on the full value of the MSCI World Index (1/100) or MSCI USA Index (1/100).

²⁸ See, e.g., Rules 5.19–O(b) (Index LEAPS Options Series); 6.4–O, Commentary .07 (Short Term Option Series); 6.1–O(b)(42) (Quarterly Option Series).

²⁹ See proposed Rule 5.19–O(a)(4).

³⁰ See Securities Exchange Act Release Nos. 98454 (September 20, 2023) (SR–CBOE–2023–005) (order approving proposed rule change to make permanent the operation of a program that allows CBOE to list p.m.-settled third Friday-of-the-month SPX options series); 98455 (September 20, 2023) (SR–CBOE–2023–019) (order approving proposed rule change to make permanent the operation of a

program that allows CBOE to list p.m.-settled third Friday-of-the-month XSP and MRUT options series); and 98456 (September 20, 2023) (SR–CBOE–2023–020) (order approving proposed rule change to make the nonstandard expirations pilot program permanent).

³¹ See Rule 5.26–O. If the exercise settlement value is not available or the normal settlement procedure cannot be utilized due to a trading disruption or other unusual circumstance, the settlement value would be determined in accordance with the rules and bylaws of the OCC. See OCC Bylaws, Article XVII, Section 4.

allocate regulatory responsibilities to FINRA to conduct certain options-related market surveillances.³⁵ The Exchange is also a member of the Intermarket Surveillance Group (“ISG”) under the ISG Agreement. ISG members work together to coordinate surveillance and investigative information sharing in the stock, options, and futures markets. Further, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of WORLD (1/100), ACWI and USA (1/100) options.

Given the enormous liquidity in the underlying components of the MSCI World Index (1/100), the MSCI ACWI Index and the MSCI USA Index (1/100) and large number of market participants trading those components, the Exchange believes that any attempt to manipulate the price of the underlying security or options overlying such security in order to affect the price of the indices would be cost prohibitive and unlikely to succeed. Moreover, the Exchange believes that its existing surveillances and procedures adequately address potential concerns regarding possible manipulation of the settlement value at or near the close of the market.

Finally, given that WORLD (1/100), ACWI and USA (1/100) options have traded on CBOE for many years without system capacity issues and that the options would trade the same way on the Exchange, the Exchange does not believe that the listing and trading of these options would present any system capacity or message traffic issues for the Exchange or The Options Price Reporting Authority (OPRA). The Exchange will monitor the trading volume associated with the additional options series listed as a result of this proposed rule change and the effect (if any) of these additional series on the capacity of the Exchange’s automated systems.

³⁵ Section 19(g)(1) of the Act, among other things, requires every SRO registered as a national securities exchange or national securities association to comply with the Act, the rules and regulations thereunder, and the SRO’s own rules, and, absent reasonable justification or excuse, enforce compliance by its members and persons associated with its members. See 15 U.S.C. 78q(d)(1) and 17 CFR 240.17d–2. Section 17(d)(1) of the Act allows the Commission to relieve an SRO of certain responsibilities with respect to members of the SRO who are also members of another SRO. Specifically, Section 17(d)(1) allows the Commission to relieve an SRO of its responsibilities to: (i) receive regulatory reports from such members; (ii) examine such members for compliance with the Act and the rules and regulations thereunder, and the rules of the SRO; or (iii) carry out other specified regulatory responsibilities with respect to such members.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),³⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,³⁷ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Specifically, the Exchange believes that the listing and trading of WORLD (1/100), ACWI and USA (1/100) options would increase order flow to the Exchange, increase the variety of options products available for trading, and provide a valuable tool for investors to manage risk.

The proposed change will facilitate the transfer and trading of WORLD (1/100), ACWI and USA (1/100) options based on the approved rules of CBOE to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade.

The Exchange believes that the proposal to adopt rules based on CBOE to list and trade WORLD (1/100), ACWI and USA (1/100) options would remove impediments to and perfect the mechanism of a free and open market as these options would continue to provide greater opportunities for market participants to manage risk through the use of an index options product to the benefit of investors and the public interest.

The Exchange believes the proposed rule change is designed to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest in that it would continue to create greater trading and hedging opportunities and flexibility while providing OTP Firms or OTP Holders with an additional tool to manage their risk. The proposed rule change should also continue to result in enhanced efficiency in initiating and closing out positions and heightened contra-party creditworthiness given OCC’s role as

³⁶ 15 U.S.C. 78f(b).

³⁷ 15 U.S.C. 78f(b)(5).

issuer and guarantor of the proposed index option products.

The Exchange believes that the MSCI World Index (1/100), the MSCI ACWI Index and the MSCI USA Index (1/100) are not easily susceptible to manipulation. The indexes are broad-based indexes and have high market capitalizations. As noted, the MSCI World Index (1/100) is currently comprised of 1,319 component stocks and no single component comprises more than 5.05% of the index, making it not easily subject to market manipulation. Similarly, the MSCI ACWI Index and MSCI USA Index (1/100) are currently comprised of 2,14 and 544 component stocks, respectively, and the vast majority of components each comprise less than 5% of the index, making it not easily subject to market manipulation.

Additionally, the iShares MSCI World ETF, iShares MSCI ACW ETF and the iShares MSCI USA ETF, which track the MSCI World (1/100), MSCI ACWI, and the MSCI USA (1/100) indices, are actively traded products, as are options on those ETFs. Because both indexes have large numbers of component securities, are representative of many countries and trade a large volume with respect to ETFs and options on those ETFs, the Exchange believes that the proposed initial and continued listing requirements based on CBOE’s rules are also appropriate to continue to trade options on these indexes on the Exchange. Exchange rules applicable to the trading of other index options currently traded on the Exchange would also apply to the trading of WORLD (1/100), ACWI and USA (1/100) options. Additionally, the trading of WORLD (1/100), ACWI and USA (1/100) options would be subject to, among others, Exchange rules governing sales practice rules, trading rules and trading halt procedures.

Finally, the Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in WORLD (1/100), ACWI and USA (1/100) options. The Exchange also represents that it has the necessary systems capacity to support the three new options series. Additionally, as stated in the filing, the Exchange has rules in place to protect public customer trading.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition. The Exchange believes that the proposed rule change would facilitate the transfer to the Exchange and trading WORLD (1/100), ACWI and USA (1/100) options. In addition, WORLD (1/100), ACWI and USA (1/100) options will be available to all market participants and will trade in the same manner as other index options in accordance with the Exchange's Rules.

Intramarket Competition. The Exchange also believes that the proposed change would not place any undue burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. WORLD (1/100), ACWI and USA (1/100) options would continue to be equally available to all market participants who wish to trade such options. The Exchange rules applicable to the listing and trading of options will apply in the same manner to the listing and trading of WORLD (1/100), ACWI and USA (1/100) options. Also, as noted above, the Exchange already lists and trades index options, including EAFE options and EM options.

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 Act³⁸ and Rule 19b-4(f)(6) thereunder.³⁹ 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 Act⁴⁰ and Rule 19b-4(f)(6)(iii) thereunder.⁴¹

A proposed rule change filed under Rule 19b-4(f)(6)⁴² normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁴³ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may list and trade WORLD (1/100), ACWI and USA (1/100) options, which currently trade on CBOE, without delay once they cease to trade on CBOE and facilitate continuity in the trading of these index options products. The Exchange states that the proposed rule change is based on the approved rules of CBOE, and therefore raises no new or novel issues that have not been previously considered by the Commission. For these reasons, and because the proposed rule change does not raise any new or novel regulatory issues, the Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.⁴⁴

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 under Section 19(b)(2)(B)⁴⁵ 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:

of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁴² 17 CFR 240.19b-4(f)(6).

⁴³ 17 CFR 240.19b-4(f)(6)(iii).

⁴⁴ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See U.S.C. 78c(f).

⁴⁵ 15 U.S.C. 78s(b)(2)(B).

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-2026-35 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-2026-35. 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-2026-35 and should be submitted on or before May 6, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁶

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07255 Filed 4-14-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105208; File No. SR-OCC-2026-003]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing of Proposed Rule Change by the Options Clearing Corporation Concerning Amendments to OCC's STANS Methodology Description To Enable OCC To Accept Binary Options for Clearing and Appropriately Manage the Risk Created by Binary Options

April 10, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),¹ and Rule

⁴⁶ 17 CFR 200.30-3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

³⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

³⁹ 17 CFR 240.19b-4(f)(6).

⁴⁰ 15 U.S.C. 78s(b)(3)(A).

⁴¹ 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

19b–4 thereunder,² notice is hereby given that on April 8, 2026, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would amend OCC’s System for Theoretical Analysis and Numerical Simulation (“STANS”) Methodology Description to enable OCC to accept binary options for clearing and appropriately manage the risk created by binary options.

OCC filed as Exhibit 5 to File No. SR–OCC–2026–003 the updated version the STANS Methodology Description. Material proposed to be added is marked by underlining and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.³

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC is the sole clearing agency for standardized equity options listed on national securities exchanges registered with the Commission. OCC also clears certain stock loan and futures transactions. Recently, OCC Participant Exchanges have expressed interest in listing binary options for trading and OCC is proposing to accept binary options for clearing. A binary call option pays \$1 when the underlying

asset is at or above the strike at maturity and expires worthless otherwise. Likewise, A binary put option pays \$1 when the underlying asset is below the strike at maturity and expires worthless otherwise. As an initial matter, OCC proposes to clear binary options on equity indexes. As such, OCC presently intends to clear only binary options that are within the definition of a “security” as determined by the Commission.⁴ All initially proposed binary options would be European-style. However, OCC expects additional products to be launched as exchanges expand their offerings, and additional exchanges begin to list binary options. Because OCC previously cleared binary options, OCC’s rulebook still includes a chapter covering binary options that OCC believes is adequate to enable it to clear binary options.⁵

OCC, however, believes that certain changes are necessary to enable it to clear binary options to reflect changes in OCC’s risk management since the last time that OCC cleared binary options. In its role as a clearing agency, OCC guarantees the performance of its Clearing Members for all transactions cleared by OCC by becoming the buyer to every seller and the seller to every buyer. OCC is therefore exposed to the credit risk arising from the activity of the Clearing Members. OCC manages these financial risks through financial safeguards, including the collection of margin collateral from Clearing Members designed to, among other things, address the market risk associated with a Clearing Member’s positions during the period of time OCC has determined it would take to liquidate those positions.

To calculate margin requirements, OCC uses STANS, its proprietary risk management system.⁶ The STANS methodology utilizes large-scale Monte Carlo simulations to forecast price and volatility movements in determining a

Clearing Member’s margin requirement.⁷ STANS margin requirements are calculated at the portfolio level of Clearing Member accounts with positions in marginable securities and consists of an estimate of two primary components: a base component and a concentration/dependence stress test add-on component. The base component is an estimate of a 99% expected shortfall⁸ over a two-day time horizon.

While OCC previously cleared binary options contracts, the STANS Methodology Description, which OCC filed as a rule in 2020,⁹ does not currently include a mechanism for calculating margin requirements for binary options. OCC did not include treatment for binary options because no Participant Exchanges listed binary products at the time OCC filed a proposed rule change to establish the STANS Methodology Description.¹⁰ Specifically, the STANS Methodology Description does not include a mechanism to calculate the price of binary options, which is a necessary pricer for calculating the base margin requirement for the products. OCC is therefore proposing to update its STANS Methodology Description to enable it to price and adequately calculate initial margin requirements for clearing member accounts that hold binary options positions.

OCC is proposing to price the binary options using the closed-form pricer under the Black-Scholes framework. Initially, OCC proposes to use the closed-form pricer with the forward price of the underlying asset and the implied volatility of the corresponding vanilla option to price a binary option. OCC will use an adjustment term to ensure that the resultant price of the binary option aligns with market price. The adjustment term captures the difference between the market price and the theoretical price using the implied volatility of the vanilla option. Furthermore, the adjustment term could be used to account for market prices for binary options potentially being out of the range of the closed-form pricer due to illiquidity or market frictions, particularly during the launch stage. OCC filed as Confidential Exhibit 3A to

⁴ See, e.g., 15 U.S.C. 78c(a)(10) (defining “security” to include “any put, call, straddle, option or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof)”; 7 U.S.C. 2(a)(1)(C)(i)(I) (providing that the CFTC “shall have no jurisdiction to designate a board of trade as a contract market for any transaction whereby any party to such transaction acquires any put, call, or other option on one or more securities (as defined [by 15 U.S.C. 78c(a)(10)]), including any group or index of such securities, or any interest therein or based on the value thereof”).

⁵ See OCC Rulebook Chapter XV.

⁶ See Exchange Act Release No. 91079 (Feb. 8, 2021), 86 FR 9410 (Feb. 12, 2021) (File No. SR–OCC–2020–016). OCC makes its STANS Methodology description available to Clearing Members. An overview of the STANS methodology is on OCC’s public website: <https://www.theocc.com/Risk-Management/Margin-Methodology>.

⁷ See OCC Rule 601.

⁸ The expected shortfall component is established as the estimated average of potential losses higher than the 99% value at risk threshold. The term “value at risk” or “VaR” refers to a statistical technique that, generally speaking, is used in risk management to measure the potential risk of loss for a given set of assets over a particular time horizon.

⁹ See Exchange Act Release No. 91079 (Feb. 8, 2021) 85 FR 85788 (Feb. 12, 2021) (SR–OCC–2020–016).

¹⁰ *Id.* at 85799.

² 17 CFR 240.19b–4.

³ OCC’s By-Laws and Rules can be found on OCC’s public website: <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

File No. SR-OCC-2026-003 its model whitepaper for the pricing of binary options.

For margin calculations, the vanilla option implied volatility scenarios will be used as proxy. As trading volume increases and liquidity improves after the launch stage, OCC will consider transitioning to use the closed-form pricer and bid/ask prices to derive the implied volatility of the binary options. After transition to the mature stage,¹¹ smoothing will be performed to construct the implied volatility surface, which will be used to generate the corresponding implied volatility scenarios for the margin calculations. The adjustment term will be kept for any minor price adjustment to align with the market, if necessary. Furthermore, such transition from the launch stage to mature stage would be subject to review and approval by OCC's Model Risk Work Group ("MRWG")¹² following review of the transition by OCC's Model Risk Management ("MRM") business unit.¹³

In accordance with OCC's existing Model Risk Management (MRM) Policy,¹⁴ OCC's independent MRM team validated the proposed approach for the launch stage and supported its use for binary options. MRM concluded that the proposal is consistent with the theories for replication of European binary options with vanilla options using a vertical spread. MRM further concluded that the additional adjustment term accounts for the implied volatility and market pricing differences, as different market participants may use different spreads. Because the primary risk factor

for binary options is the underlying price movement, the validation tests performed by MRM show that the Black-Scholes based pricing model (together with adjustment term) will be effective at pricing the products, and generating the theoretical prices needed for margin calculations and stress testing.

1. Purpose

In order to enable OCC to clear and risk manage binary options, OCC is proposing a number of changes to the STANS Methodology Description. OCC is proposing to add binary options to the list of FLEX and Exotic Options included in section 1.2.3 of the STANS Methodology Description. Specifically, OCC will state that "[b]inary options are a European-style option contract that are paid out if settlement value of the underlier is equal to or exceeds the exercise price in case of a call option or is less than the exercise price, in case of a put option. The underliers of binary options can be indexes, futures, equities, etc." Similarly, in section 2.3.1 of the STANS Methodology Description, OCC proposes to include binary options in the list of products that are supported by the implied volatility smoothing algorithm.

OCC is also proposing the necessary steps to apply its smoothing algorithm to binary options in section 2.3.1.3.1.¹⁵ Specifically, for smoothing using market quotes, OCC states it will find a set of prices that are closest to target prices and (1) are within the bid-ask constraints,¹⁶ (2) satisfy monotonicity constraints,¹⁷ and (3) maintains the put-call parity of binary options.¹⁸ Further, OCC treats out-of-the-money (OTM) binary options with strikes in the wings (far from the current spot price), so that the smoothed prices decay toward zero, reflecting their low probability of payoff. Similarly, in section 2.3.1.3.2, OCC proposes that for smoothing using last prices, OCC will find a set of prices that are closest to exchange prices and (1) satisfy monotonicity constraints and (2) maintains the put-call parity of binary options.

Finally, OCC is proposing to add section 2.3.5 titled "Binary Options." The section describes the pricing

process for binary options. Specifically, OCC is proposing to price binary options using a classic Black-Scholes options pricing framework. OCC is also proposing to use an adjustment term to account for differences between the market prices of binary options and the theoretical prices.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A of the Exchange Act¹⁹ and Rule 17ad-22(e)(6)²⁰ thereunder. Section 17A(b)(3)(F) of the Act²¹ requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to protect investors. OCC's STANS model and the proposed changes to the STANS Methodology Description help ensure that OCC has sufficient financial resources to conduct prompt settlement of binary options contracts even in the event of a clearing member default. Similarly, OCC's changes will help protect investors from the impact of a default by their binary options counterparty. For these reasons, the proposed changes to OCC's rules are reasonably designed to promote the prompt and accurate clearance and settlement of securities transactions and to protect investors, in accordance with Section 17A(b)(3)(F) of the Act.²²

Rule 17ad-22(e)(6)²³ requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.²⁴ OCC is proposing to price binary options using a closed-form pricer under a Black-Scholes framework. OCC plans to adjust the theoretical price by an adjustment term to ensure that the resultant theoretical price of the binary option aligns with arbitrage-free market price that is within the range of bid and ask prices. Further, OCC's MRM team performed a validation of the proposed approach and concluded that the approach will be effective at pricing the products to mid-market, and generating the theoretical

¹¹ For clarity, the transition from Launch Stage to Mature Stage will be managed separately for different binary options products. For a given product, the transition from Launch Stage to Mature Stage will be determined by the following considerations: (1) the trading activities of newly launched binary options, such as volume or number of contracts cleared at OCC; (2) the quality of market data of newly launched binary options, such as strike and maturity coverage, the range of bid-ask spreads, and price difference compared to the corresponding vertical spread formed by vanilla options; and (3) the outcomes (relative to the actual market data) from the proposed smoothing and pricing modeling approaches in the Mature Stage.

¹² MRWG is a cross-functional group responsible for assisting OCC's management in overseeing OCC's model-related risk comprised of representatives from relevant OCC business units.

¹³ MRM is an independent team at OCC that is responsible for validating OCC's risk models and is not involved in developing or implementing the models.

¹⁴ See Exchange Act Release No. 97484 (May 11, 2023), 88 FR 31549, 31551 n.15 (May 17, 2023) (SR-OCC-2023-004) (pursuant to the Model Risk Working Group Procedure, the MRWG reviews and, if appropriate, approves all new Risk Methodologies, changes to Risk Methodologies, and proposals for decommissioning Risk Methodologies prior to submitting to the Management Committee for review and approval.).

¹⁵ OCC is also proposing to add the word "vanilla" to the first paragraph of section 2.3.1.3.1 to further clarify which options are being described in that paragraph.

¹⁶ Prices within the bid-ask constraints refers to prices that are within the realistic trading range.

¹⁷ Monotonicity means that prices move in a logically consistent direction with the strike price.

¹⁸ For binary options, put-call parity means that the sum of the price of a binary call option and the price of a binary put option with the same expiry and strike is the present value of one dollar at expiration.

¹⁹ 15 U.S.C. 78q-1.

²⁰ 17 CFR 240.17ad-22(e)(6).

²¹ 15 U.S.C. 78q-1(b)(3)(F).

²² *Id.*

²³ 17 CFR 240.17ad-22(e)(6).

²⁴ 17 CFR 240.17ad-22(e)(6).

prices needed for margin calculations and stress testing. For those reasons, OCC believes that the proposal is consistent with Rule 17ad-22(e)(6).

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act²⁵ requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule changes will impose any burden on competition. The changes are designed to facilitate the clearing and trading of binary options and will apply equally to all participants that trade binary options, not favoring any participant over any other participant. Further, because the proposed change applies only to binary options and there is no current open interest in binary options, there is no burden on competition resulting from changes to the margin charges for existing portfolios. Finally, OCC does not believe that the proposed rule change would unfairly inhibit access to OCC's services or disadvantage any particular participant in relationship to another participant.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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-OCC-2026-003 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-OCC-2026-003. 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 such filing will be available for inspection and copying at the principal office of OCC and on OCC's website at <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>. 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-OCC-2026-003 and should be submitted on or before May 6, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07265 Filed 4-14-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105201; File No. SR-CboeBZX-2026-022]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend its Fee Schedule To Revise the Criteria of LMP Tiers 1 and 2

April 10, 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 April 1, 2026, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") proposes to amend its Fee Schedule to revise the criteria of LMP Tiers 1 and 2. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁵ 15 U.S.C. 78q-1(b)(3)(I).

²⁶ 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 Exchange proposes to amend its Fee Schedule applicable to its equities trading platform ("BZX Equities") to revise the criteria of LMP Tiers 1 and 2. The Exchange proposes to implement these changes on April 1, 2026.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 17 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Securities Exchange Act of 1934 (the "Act"), to which market participants may direct their order flow. Based on publicly available information,³ no single registered equities exchange has more than 13% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a "Maker-Taker" model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity. The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above \$1.00, the Exchange provides a standard rebate of \$0.00160 per share for orders that add liquidity and assesses a fee of \$0.0030 per share for orders that remove liquidity.⁴ For orders in securities priced below \$1.00, the Exchange does not provide a rebate for orders that add liquidity and assesses a fee of 0.30% of the total dollar value for orders that remove liquidity.⁵ Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels,

which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

LMP Tiers

Under footnote 13 of the Fee Schedule, the Exchange offers two LMP Tiers that each provide an additive rebate for orders yielding fee code B⁶ where a Member is enrolled in a minimum number of LMP Securities,⁷ achieves certain quoting criteria, and achieves certain add volume-based criteria. The Exchange now proposes to revise LMP Tier 1 and LMP Tier 2 by removing the NBBO Size Time⁸ requirement. The current criteria of LMP Tier 1 and LMP Tier 2 is as follows:

- LMP Tier 1 provides an additive rebate of \$0.0001 per share in securities priced at or above \$1.00 to qualifying orders (*i.e.*, orders yielding fee code B) where a Member is enrolled in at least 50 BZX-listed LMP Securities, for which it meets the following criteria for at least 50% of the trading days in the applicable month: (1) Member has a NBBO Time⁹ $\geq 15\%$ or a NBBO Size Time $\geq 25\%$; and (2) Member has a Displayed Size Time $\geq 90\%$.
- LMP Tier 2 provides an additive rebate of \$0.0002 per share in securities priced at or above \$1.00 to qualifying orders (*i.e.*, orders yielding fee code B) where (i) a Member is enrolled in at least 100 BZX-listed LMP Securities, for which it meets the following criteria for at least 50% of the trading days in the applicable month: (1) Member has a NBBO Time $\geq 15\%$ or a NBBO Size Time $\geq 25\%$; and (2) Member has a Displayed Size Time $\geq 90\%$; and (ii)

⁶ Fee code B is appended to displayed orders that add liquidity to BZX in Tape B securities.

⁷ "LMP Securities" means a list of securities included in the Liquidity Management Program, the universe of which will be determined by the Exchange and published in a circular distributed to Members and on the Exchange's website. Such LMP Securities will include all Cboe-listed ETPs and certain non-Cboe-listed ETPs for which the Exchange wants to incentivize Members to provide enhanced market quality. All Cboe-listed securities will be LMP Securities immediately upon listing on the Exchange. The Exchange will not remove a security from the list of LMP Securities without 30 days prior notice.

⁸ "NBBO Size Time" means the percentage of time during regular trading hours during which there are size-setting quotes at the NBBO on the Exchange.

⁹ "NBBO Time" means the percentage of time during regular trading hours during which the Member maintains at least 100 shares at each of the NBB and NBO. The Exchange notes that it proposes to amend the definition of NBBO Time to mean the percentage of time during regular trading hours during which the Member maintains at least 1 round lot at each of the NBB or NBO.

Member adds a Tape B ADV¹⁰ $\geq 1.50\%$ of the Tape B TCV.¹¹

The proposed criteria for LMP Tier 1 and LMP Tier 2 is as follows:

- LMP Tier 1 provides an additive rebate of \$0.0001 per share in securities priced at or above \$1.00 to qualifying orders (*i.e.*, orders yielding fee code B) where a Member is enrolled in at least 50 BZX-listed LMP Securities, for which it meets the following criteria for at least 50% of the trading days in the applicable month: (1) Member has a NBBO Time $\geq 15\%$; and (2) Member has a Displayed Size Time $\geq 90\%$.
- LMP Tier 2 provides an additive rebate of \$0.0002 per share in securities priced at or above \$1.00 to qualifying orders (*i.e.*, orders yielding fee code B) where (i) a Member is enrolled in at least 100 BZX-listed LMP Securities, for which it meets the following criteria for at least 50% of the trading days in the applicable month: (1) Member has a NBBO Time $\geq 15\%$; and (2) Member has a Displayed Size Time $\geq 90\%$; and (ii) Member adds a Tape B ADV $\geq 1.50\%$ of the Tape B TCV.

The proposed LMP Tier 1 and LMP Tier 2 will continue to provide an additional opportunity to incentivize Members to earn an additive rebate by promoting price discovery and market quality by quoting at the NBBO for a significant portion of each day in securities of the Member's choice. Increasing order flow to the Exchange may further contribute to a deeper, more liquid market and provide even more execution opportunities for active market participants. Incentivizing an increase in displayed liquidity adding volume through additive rebate opportunities encourages liquidity-adding Members on the Exchange to increase transactions and take execution opportunities provided by such increased liquidity, together providing for overall enhanced price discovery and price improvement opportunities on the Exchange. As such, increased overall order flow benefits all Members by contributing towards a robust and well-balanced market ecosystem.

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

¹⁰ "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day and is calculated on a monthly basis.

¹¹ "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

³ See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (March 27, 2026), available at https://www.cboe.com/us/equities/market_statistics/.

⁴ See BZX Equities Fee Schedule, Standard Rates.

⁵ *Id.*

and, in particular, the requirements of Section 6(b) of the Act.¹² Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as Section 6(b)(4)¹⁵ as 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.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange believes that its proposal to revise LMP Tier 1 and LMP Tier 2 reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members. Specifically, the Exchange's proposal to revise LMP Tier 1 and LMP Tier 2 is not a significant departure from existing criteria, is reasonably correlated to the enhanced rebate offered by the Exchange and other competing exchanges,¹⁶ and will continue to incentivize Members to submit order flow to the Exchange. Additionally, the Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,¹⁷ including the Exchange,¹⁸ and are

reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Competing equity exchanges offer similar tiered pricing structures, including schedules or rebates and fees that apply based upon members achieving certain volume and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange.

In particular, the Exchange believes its proposal to revise LMP Tier 1 and LMP Tier 2 is reasonable because the proposed tiers will be available to all Members and provide all Members with an opportunity to receive an enhanced rebate. The Exchange further believes its proposal to revise LMP Tier 1 and LMP Tier 2 will provide a reasonable means to encourage liquidity adding displayed orders in Members' order flow to the Exchange and to incentivize Members to continue to provide liquidity adding volume to the Exchange by offering them an opportunity to receive an additive rebate on qualifying orders. An overall increase in activity would deepen the Exchange's liquidity pool, offer additional cost savings, support the quality of price discovery, promote market transparency and improve market quality, for all investors.

The Exchange believes that its proposal to revise LMP Tier 1 and LMP Tier 2 is reasonable as the proposed criteria does not represent a significant departure from the criteria currently offered in the Fee Schedule. The Exchange also believes that the proposal represents an equitable allocation of fees and rebates and is not unfairly discriminatory because all Members will be eligible for proposed LMP Tier 1 and LMP Tier 2 and have the opportunity to meet the tiers' criteria and receive the corresponding additive rebate if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying for proposed LMP Tier 1 or LMP Tier 2. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on the prior month's volume, the Exchange anticipates that at least seven Members will be able to satisfy proposed LMP Tier 1 and no Members will be able to satisfy proposed LMP Tier 2. The

Exchange also notes that proposed changes will not adversely impact any Member's ability to qualify for enhanced rebates offered under other tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding additive rebate.

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. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."

The Exchange believes the proposed rule changes do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed revision to LMP Tier 1 and LMP Tier 2 does not impose an unnecessary burden as all Members are eligible to receive the additive rebate under proposed LMP Tier 1 and LMP Tier 2. The Exchange does not believe the proposed changes burden competition, but rather, enhances competition as it is intended to increase the competitiveness of BZX by amending existing pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Next, the Exchange believes the proposed rule changes do not 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. Members have

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ *Id.*

¹⁵ 15 U.S.C. 78f(b)(4).

¹⁶ See MEMX Equities Fee Schedule, Additive Rebates, Tape A Quoting and Tape C Quoting, available at <https://info.memxtrading.com/equities-trading-resources/us-equities-fee-schedule/>.

¹⁷ See e.g., EDGX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

¹⁸ See e.g., BZX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 13% of the market share.¹⁹ Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, 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.”²⁰ 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’. . . .”²¹ Accordingly, the Exchange does not believe its proposed fee 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 Act²² and paragraph (f) of Rule 19b-4²³ 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-2026-022 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-2026-022. 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-2026-022 and should be submitted on or before May 6, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07261 Filed 4-14-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0101]

Agency Information Collection Activities; Proposed Collection; Comment Request; ICR Type Extension: Form 144—Notice of Proposed Sale of Securities Pursuant to Rule 144 Under the Securities Act of 1933

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form 144 (17 CFR 239.144) is used to report the sale of securities during any three-month period that exceeds 5,000 shares or other units and has an aggregate sales price that does not exceed \$50,000. Form 144 operates in conjunction with Rule 144 (17 CFR 230.144). Rule 144 is designed to prohibit the creation of public markets in securities of issuers concerning which adequate current information is not available to the public. At the same time, where adequate current information concerning the issuer is available to the public, the rule permits the public sale in ordinary trading transactions of limited amounts of securities owned by persons controlling, controlled by, or under common control with, the issuer and by persons who have acquired restricted securities of the

¹⁹ *Supra* note 3.

²⁰ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²¹ *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)).

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f).

²⁴ 17 CFR 200.30-3(a)(12).

issuer. We estimate that Form 144 takes approximately one hour per response and is filed approximately 2.8 times per year by approximately 11,500 respondents, for a total of approximately 32,276 responses annually. We estimate that 100% of the burden is carried internally by the respondent for total annual reporting burden of 32,276 hours (one hour per response $\times$ 32,276 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to PaperworkReductionAct@sec.gov by June 15, 2026. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: April 13, 2026.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07324 Filed 4-14-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105200; File No. 4-698]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment to the National Market System Plan Governing the Consolidated Audit Trail Regarding Conversion and Name Change of Nasdaq BX, Inc. to Nasdaq Texas, LLC

April 10, 2026.

Pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934

(“Act”),¹ and Rule 608 thereunder,² notice is hereby given that on April 1, 2026, Consolidated Audit Trail, LLC (“CAT LLC”), on behalf of the Participants³ in the National Market System Plan Governing the Consolidated Audit Trail⁴ (the “CAT NMS Plan” or “Plan”) filed with the Securities and Exchange Commission (“Commission”) an amendment to the CAT NMS Plan. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

I. Description and Purpose of the Amendment

On January 29, 2026, the Commission published an order approving a proposed rule change filed by Nasdaq BX, Inc. (the “Exchange”) whereby the Exchange would convert from a Delaware corporation to a Texas limited liability company and change its name to “Nasdaq Texas, LLC.”⁵ By virtue of the conversion, the Exchange converted from a Delaware corporation to a Texas limited liability company, but is deemed to be the same legal entity. CAT LLC is now filing this proposed amendment under Rule 608(b)(3)(iii) to make the following technical revisions to the CAT NMS Plan: (1) replacing all references to “NASDAQ BX, Inc.” with “Nasdaq Texas, LLC”; and (2) replacing all references to “NASDAQ” in Exhibit A of the CAT NMS Plan with “Nasdaq” based on a corporate branding change;⁶ and (3) updating the business address in Exhibit A of the CAT NMS Plan for each of the Nasdaq exchanges.

¹ 15 U.S.C. 78k-1(a)(3).

² 17 CFR 242.608.

³ The twenty-seven Participants to the CAT NMS Plan are: BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, Miami International Securities Exchange LLC, MIAx Emerald, LLC, MIAx PEARL, LLC, MIAx Sapphire, LLC, Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, Nasdaq Texas, LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Texas, Inc., NYSE National, Inc., and 24X National Exchange LLC.

⁴ The CAT NMS Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act and the rules and regulations thereunder. See Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84695 (Nov. 23, 2016) (order approving the CAT NMS Plan).

⁵ See Securities Exchange Act Release No. 104739 (Jan. 29, 2026), 91 FR 4989 (Feb. 3, 2026) (SR-BX-2026-006).

⁶ See Securities Exchange Act Release No. 81917 (Oct. 23, 2027), 82 FR 49879 (Oct. 27, 20217).

II. Effectiveness of the Proposed Plan Amendment

The foregoing CAT NMS Plan amendment has become effective pursuant to Rule 608(b)(3)(iii)⁷ because it involves solely technical or ministerial matters. At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (a)(1) of Rule 608,⁸ if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment 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 4-698 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 4-698. 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 submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the amendment between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing. Copies of the filing also will be available for inspection and copying at the Participants' offices. Do not include

⁷ 17 CFR 242.608(b)(3)(iii).

⁸ 17 CFR 242.608(a)(1).

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 4–698 and should be submitted on or before May 6, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026–07260 Filed 4–14–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105207; File No. SR–PHLX–2026–18]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the PHLX Pricing Schedule at Options 7, Section 2, Customer Rebate Program, and at Options 7, Section 4, Multiply Listed Options Fees

April 10, 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 March 31, 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 PHLX Pricing Schedule at Options 7, Section 2, Customer Rebate Program, and at Options 7, Section 4, Multiply Listed Options Fees. Specifically, the Exchange proposes to amend the Customer Rebate Program at Options 7, Section 2, to modify the percentage thresholds to qualify for Tier 4 and Tier 5, and to discontinue the exemption from the Marketing Fee for the contra side of order that executes against the originating order in an Exposure Complex Auction.

While the amendment proposed herein is effective upon filing, the Exchange has designated the amendment to become operative on April 1, 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

PHLX proposes to amend its Pricing Schedule at Options 7, Section 2 (Customer Rebate Program) and at Options 7, Section 4 (Multiply Listed Options Fees).

A. Customer Rebate Program

The Exchange proposes to amend the Pricing Schedule at Options 7, Section 2, Customer Rebate Program.

1. Current Status

Currently, the Exchange pays rebates on five Customer³ Rebate Tiers according to four categories. The Customer Rebate Tiers below are calculated by totaling Customer volume in Multiply Listed Options (including SPY) that are electronically-delivered and executed, except volume associated with electronic Qualified Contingent Cross Orders, as defined in Options 3, Section 12. Rebates are paid on Customer Rebate Tiers according to the below categories.⁴

Customer rebate tiers	Percentage thresholds of national customer volume in Multiply-Listed Equity and ETF Options Classes, excluding SPY Options (monthly)	Category A	Category B	Category C	Category D
Tier 1	0.00%–0.60%	\$0.00	\$0.00	\$0.00	\$0.00
Tier 2	Above 0.60%–1.50%	0.10	0.10	0.16	0.21
Tier 3	Above 1.50%–2.00%	0.15	0.12	0.18	0.22
Tier 4	Above 2.00%–2.50%	0.20	0.16	0.22	0.26
Tier 5	Above 2.50%	0.21	0.17	0.22	0.27

The Exchange pays a Category A Rebate to members who execute electronically-delivered Customer Simple Orders in Penny Symbols and Customer Simple Orders in Non-Penny

Symbols in Options 7, Section 4 symbols.⁵

The Exchange pays a Category B Rebate on Customer PIXL Orders⁶ in Options 7, Section 4 symbols that execute against non-Initiating Order

interest. In the instance where member organizations qualify for Tier 4 in the Customer Rebate Program, Customer PIXL Orders that execute against a PIXL Initiating Order are paid a rebate of \$0.13 per contract. In the instance

⁹ 17 CFR 200.30–3(a)(85).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The term “Customer” applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation (“OCC”) which is not for the account of a broker or dealer or for the account of a “Professional” (as that term is

defined in Options 1, Section 1(b)(45)). See Options 7, Section 1(c).

⁴ Members and member organizations under Common Ownership may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. Affiliated Entities may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. See Options 7, Section 2.

⁵ Options 7, Section 4 describes pricing for Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY and broad-based index options symbols listed within Options 7, Section 5.A).

⁶ PIXL Orders are entered into the Exchange’s Price Improvement XL (“PIXL”) Mechanism as described in Options 3, Section 13.

where member organizations qualify for Tier 5 in the Customer Rebate Program, Customer PIXL Orders that execute against a PIXL Initiating Order are paid a rebate of \$0.14 per contract. All rebates on Customer PIXL Orders are capped at 4,000 contracts per order for Simple PIXL Orders, regardless of whether the member organizations qualify for Tier 4 or Tier 5 in the Customer Rebate Program.

The Exchange pays a Category C Rebate to members executing electronically-delivered Customer Complex Orders⁷ in Penny Symbols in Options 7, Section 4 symbols. Rebates are paid on Customer PIXL Complex Orders in Options 7, Section 4 symbols that execute against non-Initiating Order interest. Customer Complex PIXL Orders that execute against a Complex PIXL Initiating Order are not paid a rebate under any circumstances. The Category C Rebate is not paid when an electronically-delivered Customer Complex Order, including Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order.

The Exchange pays a Category D Rebate to members executing electronically-delivered Customer Complex Orders in Non-Penny Symbols in Options 7, Section 4 symbols. Rebates are paid on Customer PIXL Complex Orders in Options 7, Section 4 symbols that execute against non-Initiating Order interest. Customer Complex PIXL Orders that execute against a Complex PIXL Initiating Order are not paid a rebate under any circumstances. The Category D Rebate is not paid when an electronically-delivered Customer Complex Order, including Customer Complex PIXL Order, executes against another electronically-delivered Customer Complex Order.⁸

Currently, under note “*”, the Exchange pays a \$0.02 per contract Category A and B rebate and a \$0.03 per contract Category C and D rebate in addition to the applicable Tier 2 and 3 rebate, provided the Lead Market

Maker,⁹ Market Maker¹⁰ or Appointed MM¹¹ has reached the Monthly Market Maker Cap¹² as defined in Options 7, Section 4, to: (1) a Lead Market Maker or Market Maker who is not under Common Ownership¹³ or is not a party of an Affiliated Entity;¹⁴ or (2) an Order

⁹ The term “Lead Market Maker” applies to transactions for the account of a Lead Market Maker (as defined in Options 2, Section 12(a)). A Lead Market Maker is an Exchange member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). An options Lead Market Maker includes a Remote Lead Market Maker which is defined as an options Lead Market Maker in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Options 2, Section 11. See Options 7, Section 1(c).

¹⁰ The term “Market Maker” is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. The term “Streaming Quote Trader” or “SQT” is defined in Options 1, Section 1(b)(55) as a Market Maker who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. The term “Remote Streaming Quote Trader” or “RSQT” is defined in Options 1, Section 1(b)(49) as a Market Maker that is a member affiliated with an RSQTO with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A Remote Streaming Quote Trader Organization or “RSQTO,” which may also be referred to as a Remote Market Making Organization (“RMO”), is a member organization in good standing that satisfies the RSQTO readiness requirements in Options 2, Section 1(a). See Options 7, Section 1(c).

¹¹ The term “Appointed MM” is a Phlx Market Maker or Lead Market Maker who has been appointed by an Order Flow Provider (“OFP”) for purposes of qualifying as an Affiliated Entity. An OFP is a member or member organization that submits orders, as agent or principal, to the Exchange. See Options 7, Section 1(d).

¹² Lead Market Makers and Market Makers are subject to a “Monthly Market Maker Cap” of \$650,000 for: (i) electronic Option Transaction Charges, excluding surcharges and excluding options overlying broad-based index options symbols listed within Options 7, Section 5.A; and (ii) QCC Transaction Fees (as defined in Exchange Options 3, Section 12 and Floor QCC Orders, as defined in Options 8, Section 30(e)). See Options 7, Section 4.

¹³ The term “Common Ownership” shall mean members or member organizations under 75% common ownership or control. See Options 7, Section 1(c).

¹⁴ The term “Affiliated Entity” is a relationship between an Appointed MM and an Appointed OFP for purposes of qualifying for certain pricing specified in the Pricing Schedule. Market Makers or Lead Market Makers, and OFPs are required to send an email to the Exchange to appoint their counterpart, at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing, as specified in the Pricing Schedule. Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity relationship will automatically renew each month until or unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the

Flow Provider or “OFP” member or member organization affiliate under Common Ownership; or (3) an Appointed OFP¹⁵ of an Affiliated Entity.

Currently, under note “#”, the Exchange pays a \$0.04 per contract Category C rebate and a \$0.02 per contract Category D rebate in addition to the applicable Tier 2, 3, 4 and 5 rebates to members or member organizations or member or member organization affiliated under Common Ownership provided the member or member organization qualified for any Market Access and Routing Subsidy (“MARS”) Payments in Options 7, Section 6, Part E. In the event that a member or member organization has qualified for the rebates under both note * and note # in a given month, the Exchange will only pay the higher of the two rebates.

Currently, note “&” provides that the Exchange will pay the applicable Tier 2 rebates to qualifying members or member organizations, qualifying affiliates under Common Ownership, or qualifying Affiliated Entities, provided they: (1) execute a Percentage Threshold of National Customer Volume in Multiply-Listed Equity and ETF Options Classes, excluding SPY Options (monthly), of above 0.25%; (2) reach the Monthly Firm Fee Cap as defined in Options 7, Section 4; and (3) meet the MARS System Eligibility requirements as provided in Options 7, Section 6, Part E.

Currently, note “***” provides that the Exchange will pay the Tier 5 rebates to qualifying members or member organizations, qualifying affiliates under Common Ownership, or qualifying Affiliated Entities, provided their electronically-delivered and executed Non-Penny Customer simple volume (including Simple PIXL Orders) and Penny and Non-Penny Customer complex volume (including Complex PIXL Orders), combined, represents more than 0.50% of all cleared customer volume at OCC in Multiply Listed Equity Options and Exchange-Traded Products. Members or member organizations, affiliates under Common Ownership, or Affiliated Entities who would otherwise qualify for Tier 5, but who fail to meet this volume

last day of the month to terminate for the next month. Members and member organizations under Common Ownership may not qualify as a counterparty comprising an Affiliated Entity. Each member or member organization may qualify for only one (1) Affiliated Entity relationship at any given time. See Options 7, Section 1(d).

¹⁵ The term “Appointed OFP” is an OFP who has been appointed by a Phlx Market Maker or Lead Market Maker for purposes of qualifying as an Affiliated Entity. See Options 7, Section 1(d).

⁷ Complex Orders are described in Options 3, Section 14.

⁸ Rebates are not paid on broad-based index options symbols listed within Options 7, Section 5.A. in any Category, however broad-based index options symbols listed within Options 7, Section 5.A. will count toward the volume requirement to qualify for a Customer Rebate Tier. See Options 7, Section 2.

requirement, will instead be paid rebates according to the Tier 4 schedule.

2. Proposed Changes

The Exchange proposes to amend the Customer Rebate Program at Options 7, Section 2, to modify the Percentage Thresholds of National Customer Volume in Multiply-Listed Equity and ETF Options Classes, excluding SPY Options (Monthly) (“Percentage Thresholds”) to qualify for Tier 4 and Tier 5.

The Exchange proposes to amend the Tier 4 Percentage Thresholds from above 2.00%–2.50% to above 2.00%–2.75%.

The Exchange proposes to amend the Tier 5 Percentage Thresholds from above 2.50% to above 2.75%.

The Exchange believes that the proposed amendments to the Customer Rebate Program will encourage members and member organizations to send a greater amount of order flow to PHLX to earn additional rebates. All members and member organizations would have the opportunity to interact with such increased order flow.

B. Marketing Program

The Exchange proposes to amend the Pricing Schedule at Options 7, Section 4 (Multiply Listed Options Fees).

1. Current Status

The Exchange administers a Marketing Program.¹⁶ Under this program, Marketing Fees are assessed on transactions resulting from Customer orders and are available to be disbursed by the Exchange according to the instructions of the Lead Market Maker units/Lead Market Makers or Directed Market Makers¹⁷ to order flow providers who are members or member organizations, who submit, as agent, Customer orders to the Exchange or non-members or non-member organizations who submit, as agent, Customer orders to the Exchange through a member or member organization who is acting as agent for those Customer orders.¹⁸

The Marketing Fees are assessed on trades resulting from either Directed or non-Directed Orders that are delivered electronically and executed on the Exchange.¹⁹ The Marketing Fees are assessed on Lead Market Makers, Market Makers and Directed Market

Makers on those trades when the Lead Market Maker unit or Directed Market Maker elects to participate in the Marketing Program.²⁰

Currently, no Marketing Fee is assessed on the contra side order that executes against the originating order in an Exposure Complex Auction.²¹

2. Proposed Changes

The Exchange proposes to amend the Marketing Program at Options 7, Section 4, to eliminate the exemption from the Marketing Fee for the contra side order that executes against the originating order in an Exposure Complex Auction. In other words, the contra side order that executes against the originating order in an Exposure Complex Auction would be subject to the pricing available to all other Complex orders, including any applicable Marketing Fees.²²

The Exchange had introduced the Marketing Fee exemption on the contra side order that executes against the originating order in an Exposure Complex Auction as an effort to attract additional Customer order flow to the Exchange. As the Exchange has not seen the results it expected from this incentive, the Exchange now proposes to discontinue this exemption and resume assessing Marketing Fees, as applicable, on both the originating order and the contra side order of an execution that results from an Exposure Complex Auction.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²³ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,²⁴ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not

designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”²⁵

Likewise, in *NetCoalition v. Securities and Exchange Commission*²⁶ (“NetCoalition”) the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.²⁷ As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”²⁸

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’. . . .”²⁹ Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The proposed amended fees and rebates are equitable and not unfairly discriminatory because the Exchange would uniformly apply the new fees and rebates to any member or member organization who meets the criteria for the new fees and rebates.

²⁵ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²⁶ *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

²⁷ See *NetCoalition*, at 534–535.

²⁸ *Id.* at 537.

²⁹ *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782–83 (Dec. 9, 2008) (File No. SR-NYSEArca–2006–21)).

¹⁶ See Options 7, Section 4.

¹⁷ A Directed Market Maker is a Market Maker who has received a “Directed Order”—meaning, an order to buy or sell which has been directed to that particular Market Maker. See Options 2, Section 10(a)(i)(A).

¹⁸ See Options 7, Section 4.

¹⁹ See *id.*

²⁰ See *id.*

²¹ See Options 3, Section 14, Supplementary Material .01. An Exposure Complex Order is an order that will be exposed upon entry as provided in Options 3, Section 14, Supplementary Material .01, if eligible, or entered on the Complex Order Book if not eligible. Any unexecuted balance of an Exposure Complex Order remaining upon the completion of the exposure process will be entered on the Complex Order Book. See Options 3, Section 14(b)(13).

²² Because Exposure Complex Auctions are initiated by Complex Orders entered on the Complex Order book, they are assessed the pricing applicable to all other Complex Orders executed on the complex order book. See Securities Exchange Act No. 104031 (Sept. 24, 2025), 90 FR 46682, 46685 (Sept. 29, 2025) (File No. SR-PHLX–2025–48) (“Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Pricing for New Functionality”).

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(4) and (5).

The Exchange's proposal to make modifications to the Customer Rebate Program to attract more Customer order flow is equitable and not unfairly discriminatory because Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of market makers—particularly in response to pricing—facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Such developments would benefit of all market participants.

Finally, the proposed discontinuation of the exemption on Marketing Fees on the contra side order that executes against the originating order in an Exposure Complex Auction is reasonable, as well as equitable and not unfairly discriminatory, because it would, once again, treat both the originating and the contra side order of an Exposure Complex Auction equally, by assessing both orders the applicable Marketing Fee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-Market Competition

The Exchange's proposal to make modifications to the Customer Rebate Program would not impose an undue burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. First, the Customer Rebate Program will continue to be available to all eligible Customers. Second, the Exchange believes that the changes to the Customer Rebate Program should help attract more Customer liquidity to the Exchange, which would benefit all market participants by providing more trading opportunities and by attracting more market makers. An increase in the activity of these market participants—particularly in response to pricing—facilitates tighter spreads. This may cause an additional corresponding increase in order flow from other market participants, which would be to the benefit of all market participants.

The Exchange's proposed discontinuation of the exemption on Marketing Fees on the contra side order that executes against the originating order in an Exposure Complex Auction, would not impose an undue burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act, because the Exchange would uniformly apply the revised Marketing Fees to all qualifying PHLX members and member organizations. Specifically, the Exchange's proposal would, once again, treat both the originating and the contra side orders in an Exposure Complex Auction the same way, as both orders would be subject to the applicable Marketing Fee.

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.³⁰

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-2026-18 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-2026-18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-PHLX-2026-18 and should be submitted on or before May 6, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07264 Filed 4-14-26; 8:45 am]

BILLING CODE 8011-01-P

³⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

³¹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105198; File No. SR–CBOE–2026–033]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Establish a New “Retail Broker” Definition and Related Pricing for the Exchange’s Complex Order Book Data Feed

April 10, 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 April 7, 2026, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) 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 Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend its fee schedule to establish a new

“Retail Broker” definition and related pricing for the Exchange’s Complex Order Book data feed. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website (https://www.cboe.com/us/options/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange desires to incentivize retail brokers to utilize Exchange data

products, with an initial focus on increasing access to the Cboe Options’ C1 Complex Order Book³ Data Feed (“C1 COB Data Feed”). The Exchange seeks to accomplish this goal by: (1) codifying a definition of “Retail Broker” (discussed *infra*) on its fee schedule; (2) introducing Exchange Enterprise Tiers for Non-Professional Users⁴ of the Exchange’s C1 COB Data Feed;⁵ and (3) introducing a waiver program for Retail Brokers that subscribe to C1 COB Data Feed (the “C1 COB Retail Broker Waiver Program” or the “Program”).⁶

Background

The Exchange currently offers for subscription its C1 COB Data Feed, which is a real-time data feed that includes data regarding the Exchange’s COB and related complex order information. The C1 COB Data Feed contains the following information for all C1-traded complex order strategies (multi-leg strategies such as spread, straddles, and buy-writes): (i) outstanding quotes and standing orders on each side of the market with aggregate size; (ii) last sale data; and (iii) totals of customer versus non-customer contracts.

Currently, the feeds for subscribing to the C1 COB Data Feed are as follows:

Cboe options complex order book	Monthly fee	Notes
Internal Distribution Fee	\$3,000	Distributor will be subject to the greater of the two Distribution fees when receiving the Cboe Options Complex Order Book Feed for both Internal and External Distribution.
External Distribution Fee	\$1,500	Distributor will be subject to the greater of the two Distribution fees when receiving the Cboe Options Complex Order Book Feed for both Internal and External Distribution.
Professional User Fee	\$25 per Device or User ID	User Fee applies for both “internal” Professional Users (Devices or user IDs of employees of a Distributor) and “external” Professional Users (Devices or user IDs of Professional Users who receive the Data from a Distributor and are not employed by the Distributor).
Non-Professional User Fee	\$1.00/month/per User.	

The Exchange now seeks to amend its fee schedule to (i) implement a Retail Broker definition and corresponding fee

and waiver structure that is designed to incentivize both existing and new Retail Broker’s that trade on the Exchange to

begin utilizing the Exchange’s C1 COB Data Feed and (ii) introduce a tiered Enterprise License pricing structure that

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The terms “Complex Order Book” and “COB” mean the Exchange’s electronic book of complex orders used for all trading sessions. See Rule. 5.33. Complex Orders.

⁴ A “Non-Professional User of an Exchange Market Data product is a natural person or qualifying trust that uses Data for only personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any

state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an “investment adviser” as that term is defined in Section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a nature person who works outside of the United States, does not perform the same functions as would disqualify such person as a

Non-Professional User if he or she worked in the United States. See Cboe Exchange, Inc., Fee Schedule, Footnote 49, available at: <https://cdn.cboe.com/resources/membership/FeeSchedule.pdf>.

⁵ The Exchange notes that, if desired, a firm may continue to pay the applicable Non-Professional User fees (calculated on a per user basis) if it finds greater benefit in doing so in comparison to the applicable Enterprise Fee tier.

⁶ The Exchange initially filed the proposed fee changes on April 1, 2026 (SR–CBOE–2026–029). On April 7, 2026, the Exchange withdrew that filing and submitted this proposal.

firms may pay as an alternative to the Non-Professional User fees (where the fee is a per-user fee). Below, the Exchange discusses each aspect of its proposal.

Codify a “Retail Broker” Definition

The Exchange seeks to add a “Retail Broker” definition to its fee schedule. Specifically, the Exchange seeks to define a “Retail Broker” as a Data Recipient that meets each of the following criteria: (1) The Retail Broker is a Distributor (as that term is currently defined on the Exchange’s fee schedule) that is distributing data to Non-Professional Data Users with whom the Retail Broker has a brokerage relationship and (2) at least 90% of the Distributor’s total subscriber population must consist of Non-Professional Users, inclusive of any subscribers receiving any other real-time, proprietary equities or options data feed, offered by Cboe’s equities and options exchanges.⁷ The Distributor must attest to such percentages annually and are subject to audit by the Exchange.

Introduce an Enterprise License

The Exchange proposes to implement an Enterprise License Fee which would serve as an alternative to firms paying a per-user Non-Professional User fee. The Enterprise License fee shall be based on the Non-Professional User Count as noted below. A Distributor must pay a separate Enterprise Fee for each entity for which it controls the display of the C1 COB Data Feed if it wishes for such entity’s Non-Professional Users to be covered by the Enterprise Fee.⁸ As is the case now for a distributor paying Non-Professional User Fees, a distributor that pays an Enterprise fee for its Non-Professional Users will still be responsible for paying (i) Professional User Fees (as applicable) and (ii) the Distributor Fee.

⁷ This shall include any market data feed listed on the Exchange or its affiliated options and equities exchanges’ fee schedules. The Exchange notes that its affiliated equities exchanges also base this off of a firm’s subscribers holistically, as opposed to subscribers for a single data feed offering (see *e.g.*, EDGX Equities Fee Schedule, noting for its Small Retail Broker Program that, “at least 90% of the Distributor’s total subscriber population must consist of Non-Professional subscribers, inclusive of any subscribers not receiving EDGX Top Data.”)

⁸ For example, if a Distributor (*e.g.*, Refinitiv) that distributes Cboe Options Top to Retail Brokerage Firm A and Retail Brokerage Firm B (which “entities” redistribute BZX Options Top to its respective Users) and wishes to have the Users under each firm covered by an Enterprise license, the Distributor would be subject to two Enterprise Fees. The Exchange notes that this same application is used for Enterprise Licenses for other Exchange offered feeds, see Cboe Fee Schedule.

Non-professional user count	Monthly enterprise fee (per month)
Up to 25,000 Users	\$2,500
25,001–100,000 Users	\$5,000
100,001+ Users	\$7,500

Implement a Retail Broker Waiver Program

In connection with the proposed introduction of the Enterprise License Fee, the Exchange is proposing to establish the C1 COB Retail Broker Waiver Program for new External Distributors of C1 COB Data Feed. Qualifying Retail Brokers enrolled in the Program will receive the following fee waivers for a period of two (2) years from the date of enrollment: (i) Enterprise Fee and (ii) External Distributor Fee.

In order to qualify for the proposed Program, a firm must meet the definition of a Retail Broker (as specified above) and must not have been an External Distributor for the C1 COB Data Feed within the past 18 months.

2. Statutory Basis

Enterprise Tier Fee License

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,⁹ in general, and furthers the objectives of Section 6(b)(4),¹⁰ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data.

In particular, the Exchange believes that by allowing the Enterprise Tier Fee License, in lieu of a per-user fee for Non-Professional Users, provides distributors with greater flexibility and cost savings as any distributor may take advantage of this tiered structure if it benefits them.¹¹

For example, under the current model, a distributor with 3,000 Non-Professional Users pays \$3,000 in Non-Professional User fees in a given month (3,000 Users × \$1.00 per Non-Professional User). Under the new model, a distributor would instead have the option to purchase the Non-Professional Enterprise License where they would pay the lowest License Tier of \$2,500 and they could remain in this tier for up to 25,000 users (at its peak, costing them only \$0.10 per user

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ For example, some smaller distributors that have less than 2,500 Non-Professional User fees will have larger cost savings by continuing to pay the Non-Professional user fee of \$1.00 per user that they do now as opposed to paying \$2,500.

(\$2,500/25,000 Non-Professional Users)).

The Exchange believes that permitting a tiered structure, such as this, allows for greater growth of a distributor’s Non-Professional user base by allowing a flat monthly fee, and ultimately can lead to greater cost savings for a distributor’s Non-Professional User fees. While a distributor will still need to separately pay for its Professional Users (if any), the Exchange does not believe this is unfairly discriminatory as this is intended to encourage broader retail participation by allowing for lower costs for these users. The Exchange notes that the Commission has long stressed the need to ensure that the equities markets are structured in a way that meets the needs of ordinary investors. For example, the Commission’s strategic plan for fiscal years 2018–2022 touts “focus on the long-term interests of our Main Street investors” as the Commission’s number one strategic goal.¹² The Program would be consistent with the Commission’s stated goal of improving the retail investor experience in the public markets.

C1 COB Retail Broker Waiver Program

The Exchange believes that the proposed Program (and with it, the new definition of Retail Broker) is consistent with the objectives of Section 6 of the Act,¹³ in general, and furthers the objectives of Section 6(b)(4),¹⁴ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data.

The Exchange also believes that the proposed Program is consistent with Section 11(A) of the Act.¹⁵ Specifically, the proposed program supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. In addition, the proposed rule change is consistent with Rule 603 of Regulation NMS,¹⁶ which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an

¹² See U.S. Securities and Exchange Commission, Strategic Plan, Fiscal Years 2018–2022, available at https://www.sec.gov/files/SEC_Strategic_Plan_FY18-FY22_FINAL_0.pdf.

¹³ 15 U.S.C. 78f.

¹⁴ 15 U.S.C. 78f(b)(4).

¹⁵ 15 U.S.C. 78k–1.

¹⁶ See 17 CFR 242.603.

NMS stock do so on terms that are not unreasonably discriminatory.

In adopting Regulation NMS, the Commission granted SROs and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed fee change would further broaden the availability of U.S. equity market data to investors, and in particular retail investors, consistent with the principles of Regulation NMS.

The Exchange operates in a highly competitive environment. Indeed, there are eighteen registered national securities exchanges that trade U.S. options and offer associated market data products to their customers. 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.”¹⁷ The proposed fee change is a result of the competitive environment, as the Exchange seeks to amend its fees to attract additional subscribers for its proprietary data offerings.

Making alternative data products available to market participants ultimately ensures increased competition in the marketplace and constrains the ability of exchanges to charge prohibitive fees. If a market participant views one exchange’s data feeds as more or less attractive than the competition they can, and frequently do, switch between competing products. In fact, the competitiveness of the market for such data products is one of the primary factors animating this proposed rule change, which is designed to allow the Exchange to further compete for this business.

The Exchange notes that the C1 COB Data Feed is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make these data products available. Distributors (including vendors) and

Users can therefore discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

The Commission has long stressed the need to ensure that the equities markets are structured in a way that meets the needs of ordinary investors. For example, the Commission’s strategic plan for fiscal years 2018–2022 touts “focus on the long-term interests of our Main Street investors” as the Commission’s number one strategic goal.¹⁸ The Program would be consistent with the Commission’s stated goal of improving the retail investor experience in the public markets. Furthermore, national securities exchanges commonly charge reduced fees and offer market structure benefits to retail investors, and the Commission has consistently held that such incentives are consistent with the Act. The Exchange believes that the Program is consistent with longstanding precedent indicating that it is consistent with the Act to provide reasonable incentives to retail investors that rely on the public markets for their investment needs.

The Exchange does not believe the proposed program is unfairly discriminatory as it allows for all new Retail Brokers to be eligible for this program. The Exchange notes that its proposed definition of Retail Broker is consistent with the Exchange’s affiliated equities exchanges in that it requires (i) at least 90% of its subscriber base to be Non-Professional Users and (ii) that the Distributor is a broker-dealer distributing the data to Non-Professional Data users with whom the broker-dealer has a brokerage relationship.¹⁹ The Exchange believes that by having consistent definitions across its exchanges, that it allows for better clarity and certainty as firms navigate

each exchange and their eligibility to participate in different programs. The Exchange does not believe it is unfairly discriminatory to only provide this Program to Retail Brokers as the Commission has consistently held that such incentives are consistent with the Act and the Exchange’s affiliated equities exchanges currently offer various retail broker programs.²⁰

Lastly, this proposed program is only available to participants who have not been an External Distributor for C1 COB Data Feed within the past 18 months. This 18-month requirement is consistent with the Exchange’s affiliated equities exchanges’ programs for new participants.²¹ The Exchange believes that having consistent timing requirements across its affiliated exchanges provides clear and transparent requirements to its market participants.

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 proposed rule change is grounded in the Exchange’s efforts to assist in mitigating business costs for both new and existing Retail Brokers (*i.e.*, the costs associated to distribute market data to Non-Professional Users). The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because (i) the proposed Enterprise License Tiers for Non-Professional Users apply to all distributors who may then choose to continue paying the per-user fee or the applicable tier and (ii) the proposed Program applies uniformly to all market participants that are Retail Brokers who haven’t externally distributed the C1 COB Data Feed previously. The Exchange does not believe that the proposed Enterprise Tiers for C1 COB Data Feed nor the Program will create an undue burden on intermarket competition because use of the C1 COB Data Feed is optional and based on the business needs of each market participant. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

²⁰ See *e.g.*, EDGX Equities Fee Schedule, specifying the criteria and program details for both the Small Retail Broker Distribution Program and Small Retail Broker Hosted Solutions Program.

²¹ See *e.g.*, EDGX Equities Fee Schedule where an 18-month timeline is noted for the Retail Equities Membership Program and the New Internal Distributor Waiver as examples of this.

¹⁷ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

¹⁸ See U.S. Securities and Exchange Commission, Strategic Plan, Fiscal Years 2018–2022, available at https://www.sec.gov/files/SEC_Strategic_Plan_FY18-FY22_FINAL_0.pdf.

¹⁹ While the Exchange notes that it does not have a Retail Broker definition yet for its equities exchanges, the Small Retail Broker definition, among other criteria, requires that 90% of the Distributor’s total subscriber population must consist of Non-Professional subscribers and that the Distributor is a broker-dealer distributing the data to Non-Professional Data Users with whom the broker-dealer has a brokerage relationship. The only distinction between the proposed definition for the Retail Broker and the existing Small Retail Broker definition is that a Small Retail Broker must not have more than 10,000 Non-Professional Data Users—no such requirement is applicable here for the Retail Broker definition.

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 Act²² and paragraph (f) of Rule 19b-4²³ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CBOE-2026-033 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-CBOE-2026-033. 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-2026-033 and should be submitted on or before May 6, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07258 Filed 4-14-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36081; File No. 812-15828]

John Hancock GA Mortgage Trust, et al.

April 10, 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 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: John Hancock GA Mortgage Trust, John Hancock GA Senior Loan Trust, Manulife GA Trust, Manulife Private Credit Fund, John Hancock CQS Multi Asset Credit Fund, John Hancock CQS Asset Backed Securities Fund, Manulife Investment Management Private Markets (US) LLC, John Hancock Investment Management LLC, CQS (US), LLC, John Hancock Life Insurance Company (U.S.A.), John Hancock Life & Health Insurance Company, John Hancock Life Insurance Company of New York, Manulife SDF SPV—OH, LLC, John Hancock Funding Company, LLC, MDLF Holdings Onshore LLC, Manulife Direct Lending Fund (Unlevered) L.P., and Manulife Direct Lending Fund, L.P.

FILING DATES: The application was filed on June 4, 2025, and amended on September 19, 2025, January 23, 2026, and March 19, 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 May 5, 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: E. David Pemstein, John Hancock GA Mortgage Trust, John Hancock GA Senior Loan Trust, Manulife GA Trust, Manulife Private Credit Fund, John Hancock CQS Multi Asset Credit Fund, John Hancock CQS Asset Backed Securities Fund c/o John Hancock Life Insurance Company (U.S.A.), DPemstein@jhancock.com; Mark P. Goshko, Esq., K&L Gates LLP, Mark.Goshko@klgates.com; and George J. Zornada, Esq., K&L Gates LLP, George.Zornada@klgates.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' third amended application, filed March 19, 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

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f).

²⁴ 17 CFR 200.30-3(a)(12).

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. 2026-07241 Filed 4-14-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105195; File No. SR-NYSEAMER-2026-28]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Facilitate the Transfer and Trading of Options That Overlie a Reduced Value of the MSCI World Index (1/100), the Full Value of the MSCI ACWI Index and a Reduced Value of the MSCI USA Index (1/100)

April 10, 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 March 30, 2026, NYSE American LLC (the "Exchange" or "NYSE American") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes rule amendments to facilitate the transfer and trading of options that overlie a reduced value of the MSCI World Index (1/100), the full value of the MSCI ACWI Index, and a reduced value of the MSCI USA Index (1/100). 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 amendments to Rule 900C. "Applicability and Definitions," Rule 901C. "Designation of Stock Index Options," Rule 903C. "Series of Stock Index Options," Rule 904C. "Position Limits," Rule 906G. "Position Limits," and Rule 901NY. "Hours of Business" to facilitate the transfer and trading of options that overlie a reduced value of the MSCI World Index (1/100) ("WORLD (1/100) options"), the full value of the MSCI ACWI Index ("ACWI options") and a reduced value of the MSCI USA Index (1/100) ("USA (1/100) options"). Each of these indexes is a free float-adjusted market capitalization index designed to measure equity market performance throughout the world (MSCI World (1/100) and ACWI Indexes) or the United States (MSCI Index [sic] (1/100)). The options overlying these indexes would be P.M.-, cash-settled contracts with European-style exercise.

Index Design, Methodology and Dissemination

The MSCI World (1/100), MSCI ACWI, and MSCI USA (1/100) Indexes are calculated by MSCI Inc. ("MSCI"), which is a provider of investment support tools.³ Each of these indexes is calculated in U.S. dollars on a real-time basis from the open of the first market on which the components are traded to the closing of the last market on which the components are traded. The methodology used to calculate each index is similar to the methodology used to calculate the value of other benchmark market-capitalization weighted indexes (including the MSCI EAFE and EM Indexes, on which the Exchange may currently list options).⁴

³ See proposed Rule 900C(b)(3) (adding MSCI Inc. as the reporting authority for the MSCI World Index (1/100), the MSCI ACWI Index and the MSCI USA Index (1/100)).

⁴ See current Rule 901C, Commentary .05. See also Securities Exchange Act Release No. 104957 (March 10, 2026) 91 FR 12473 (March 13, 2026) (SR-NYSEAMER-2026-15) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Facilitate the Transfer and Trading of Options that Overlie the MSCI EAFE Index and the MSCI Emerging Markets Index).

Specifically, each index is based on the MSCI Global Investable Market Indexes ("GIMI") Methodology.⁵ The level of each index reflects the free float-adjusted market value of the component stocks relative to a particular base date and is computed by dividing the total market value of the companies in the index by the index divisor.

MSCI monitors and maintains each of the MSCI World (1/100), ACWI, and USA (1/100) indexes. Adjustments to each index are made on a daily basis with respect to corporate events and dividends. MSCI reviews each index quarterly (February, May, August and November) with the objective of reflecting the evolution of the underlying equity markets and segments on a timely basis, while seeking to achieve index continuity, continuous investability of constituents and replicability of the indexes, and index stability and low index turnover.⁶ Each quarterly review of the MSCI World (1/100), ACWI, and USA (1/100) Indexes involves, among other things, updating the constituent securities.⁷

For each of the MSCI World (1/100) ACWI, and USA (1/100) Indexes, real-time data is distributed approximately every 15 seconds while the indexes are being calculated using MSCI's real-time calculation engine to Bloomberg L.P. ("Bloomberg"), FactSet Research Systems, Inc. ("FactSet") and Thomson Reuters ("Reuters"). End of day data is distributed daily to clients through MSCI as well as through major quotation vendors, including Bloomberg, FactSet, and Reuters.

MSCI World Index (1/100)

The MSCI World Index (1/100) is a free float-adjusted market capitalization index that is designed to measure the equity market performance of developed markets. The MSCI World Index (1/100) consists of component stocks from 23 developed markets.⁸ The MSCI World Index (1/100) consists of large- and mid-cap components across these markets, has 1,319 constituents, and covers approximately 85% of the free float-adjusted market capitalization in each country.⁹ The MSCI World Index (1/100) was launched on March 31, 1986.

⁵ Summary and comprehensive information about the GIMI methodology may be reviewed at <https://www.msci.com/index/methodology/latest/GIMI>.

⁶ See *id.* at Section 3.

⁷ *Id.*

⁸ These developed markets include Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Hong Kong, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, the United Kingdom, and the United States.

⁹ See MSCI World Index (1/100) fact sheet (dated February 27, 2026), available at MSCI World Index.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The Exchange notes that the iShares MSCI World ETF exchange-traded fund ("ETF") is an actively traded product. Options overlying that ETF ("URTH options") are actively traded as well. MSCI World Index (1/100) futures contracts ("MWS futures") are listed for trading on the ICE Futures U.S.¹⁰ and other derivatives contracts on the MSCI World Index (1/100) are listed for trading in Europe.

The Exchange proposes to base trading in options on the MSCI World Index (1/100) on a fraction of the full size of the index. In particular, the Exchange proposes to list WORLD (1/100) options that are based on 1/100th of the value of the MSCI World Index (1/100). The Exchange believes that listing options on the reduced value of the index will attract a greater source of customer business than if options were based on the full value of the MSCI World Index (1/100). The Exchange further believes that listing options on a reduced value of the index may enhance investors' opportunities to hedge, or speculate on, the market risk associated with the stocks comprising the MSCI World Index (1/100). Additionally, by reducing the value of the MSCI World Index (1/100), investors will be able to use this trading vehicle while extending a smaller outlay of capital. The Exchange believes this may attract additional investors and, in turn, create a more active and liquid trading environment.

MSCI ACWI Index

The MSCI ACWI Index is a free float-adjusted market capitalization index that is designed to measure the equity performance of developed markets and emerging markets. The MSCI ACWI Index consists of component stocks from 23 developed markets¹¹ and 24 emerging markets.¹² The MSCI ACWI Index consists of large- and mid-cap components across these markets, has 2,514 constituents, and covers approximately 85% of the global investable equity opportunity set.¹³ The

MSCI ACWI Index was launched on May 31, 1990.

The Exchange notes that the iShares MSCI ACWI ETF is an actively traded product. CBOE lists options overlying that ETF ("ACWI options") and those options are actively traded as well. MSCI ACWI Index futures contracts ("MMW futures") are listed for trading on the ICE Futures U.S.¹⁴ and other derivatives contracts on the MSCI ACWI Index are listed for trading in Europe.

MSCI USA Index (1/100)

The MSCI USA Index (1/100) is a free float-adjusted market capitalization index that is designed to measure the performance of the large- and mid-cap segments of the U.S. market. The MSCI USA Index (1/100) consists of large- and mid-cap components from the United States, has 544 constituents, and covers approximately 85% of the free float-adjusted market capitalization in the United States.¹⁵ The MSCI USA Index (1/100) was launched on March 31, 1986.

The Exchange notes that the Invesco MSCI USA ETF is an actively traded product. MSCI USA Index (1/100) futures contracts ("USS futures") are listed for trading on the ICE Futures U.S.¹⁶ and other derivatives contracts on the MSCI USA Index (1/100) are listed for trading in Europe.

The Exchange proposes to base trading in options on the MSCI USA Index (1/100) on a fraction of the full size of the index. In particular, the Exchange propose to list the USA (1/100) options that are based on 1/100th of the value of the MSCI USA Index (1/100). The Exchange believes that listing options on the reduced value of the index will attract a greater source of customer business than if options were based on the full value of the MSCI USA Index (1/100). The Exchange further believes that listing options on a reduced value of the index may enhance investors' opportunities to hedge, or speculate on, the market risk associated with the stocks comprising the MSCI USA Index (1/100). Additionally, by reducing the value of the MSCI USA Index (1/100), investors will be able to use this trading vehicle while extending a smaller outlay of capital. The Exchange believes this may attract additional investors, and, in turn, create a more active and liquid trading environment.

Initial and Continued Listing Criteria

The Exchange proposes to apply to each of the MSCI World Index (1/100), MSCI ACWI Index, and MSCI USA Index (1/100) the same initial listing criteria that currently apply to the MSCI EAFE Index and the MSCI EM Index.¹⁷ The MSCI World Index (1/100), the MSCI ACWI Index, and the MSCI USA Index (1/100) each satisfy the initial listing criteria currently set forth for EAFE and EM options, as set forth in Rule 901C, Commentary .05. Specifically, with respect to each of the MSCI World (1/100), ACWI, and USA (1/100) Indexes:

- (1) The index is broad-based, as defined in Rule 900C(b)(1);
- (2) Options on the index are designated as P.M.-settled index options;
- (3) The index is capitalization-weighted, price-weighted, modified capitalization-weighted or equal dollar-weighted;
- (4) The index consists of 500 or more component securities;
- (5) All of the component securities of the index have a market capitalization of greater than \$100 million;
- (6) No single component security accounts for more than fifteen percent (15%) of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than fifty percent (50%) of the weight of the index;
- (7) Non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than:
 - (i) twenty-five percent (25%) of the weight of the EAFE Index (for EAFE options) (each of the MSCI World (1/100), ACWI, and USA (1/100) Indexes satisfies this criterion), and
 - (ii) twenty-seven and a half percent (27.5%) of the weight of the EM Index (for EM Options);
- (8) During the time options on the index are traded on the Exchange, the current index value is widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors;¹⁸

¹⁷ See proposed Rule 901C, Commentary .05.

¹⁸ This listing criteria permits the Exchange to continue to trade EAFE options after trading in all component securities has closed for the day and the index level is no longer widely disseminated at least once every fifteen (15) seconds by one or more major market data vendors, provided that EAFE futures contracts are trading and prices for those contracts may be used as a proxy for the current index value. This is inapplicable to WORLD (1/100), ACWI and USA (1/100) options, as the index

Continued

¹⁰ See MWS futures contract specifications, available at MSCI World NTR Index Future.

¹¹ These developed markets include Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Hong Kong, Ireland, Israel, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, the United Kingdom, and the United States.

¹² These emerging markets include Brazil, Chile, China, Colombia, Czech Republic, Egypt, Greece, Hungary, India, Indonesia, Korea, Kuwait, Malaysia, Mexico, Peru, Philippines, Poland, Qatar, Saudi Arabia, South Africa, Taiwan, Thailand, Turkey, and the United Arab Emirates.

¹³ See MSCI ACWI Index fact sheet (dated February 27, 2026), available at MSCI ACWI Index.

¹⁴ See MMW futures contract specifications, available at MSCI ACWI NTR Index Future.

¹⁵ See MSCI USA Index (1/100) fact sheet (dated February 27, 2026), available at MSCI USA Index.

¹⁶ See USS futures contract specifications, available at MSCI USA GTR Index Futures.

(9) The Exchange reasonably believes it has adequate system capacity to support the trading of options on the index, based on a calculation of the Exchange's current Independent System Capacity Advisor (ISCA) allocation and the number of new messages per second expected to be generated by options on such index; and

(10) The Exchange has written surveillance procedures in place with respect to surveillance of trading of options on the index.

The Exchange also proposes to subject each of the MSCI World (1/100), MSCI ACWI, and MSCI USA (1/100) indexes to the maintenance listing standards set forth in Commentary .05(b) to Rule 901C which currently applies to the MSCI EAFE Index and on the MSCI EM Index:

(1) The conditions set forth in Commentary .05(a) (1), (2), (3), (4), (8), (9) and (10) must continue to be satisfied. The conditions set forth in Commentary .05(a)(5) and (6) must be satisfied only as of the first day of January and July in each year. The condition set forth in Commentary .05(a)(7) must be satisfied as of the first day of the month following the Reporting Authority's¹⁹ review of the weighting of the constituents in the applicable index but in no case less than a quarterly basis.

(2) The total number of component securities in the index may not increase or decrease by more than thirty-five percent (35%) from the number of component securities in the index at the time of its initial listing,²⁰ except for the MSCI EM Index, in which the total number of component securities in the MSCI EM Index may not increase or decrease by more than ten percent (10%) over the last six-month period.

Because the MSCI World Index (1/100), MSCI ACWI Index, and MSCI USA Index (1/100) each has a large number of component securities and is based on the same methodology as the MSCI EAFE and EM Indexes, as discussed above, the Exchange believes it is

appropriate for the initial and maintenance listing criteria (which require continual and periodic compliance) set forth under Rule 901C, Commentary .05(a)(b) to also apply to WORLD (1/100), ACWI and USA (1/100) options.

General Trading

The Exchange proposes that WORLD (1/100), ACWI and USA (1/100) options will trade during the same trading hours as other index options, including EAFE options and EM options, which are 9:30 a.m. to 4:00 p.m. (New York time).²¹ Additionally, the last trading day for expiring WORLD (1/100), ACWI and USA (1/100) options series will be the business day prior to the expiration date of the specific series.²²

Trading of WORLD (1/100), ACWI and USA (1/100) options will be subject to the trading halt procedures applicable to options traded on the Exchange²³ and will continue to be quoted and traded in U.S. dollars.²⁴ Accordingly, all Exchange and The Options Clearing Corporation ("OCC") members will continue to be able to accommodate trading, clearance and settlement of WORLD (1/100), ACWI and USA (1/100) options without alteration.

The contract multiplier for WORLD (1/100), ACWI and USA (1/100) options would be \$100. The options would be quoted in index points, and one point would equal \$100. The minimum tick size for series trading below \$3 would be 0.05 (\$5.00) and at or above \$3, will be 0.10 (\$10.00).

WORLD (1/100), ACWI and USA (1/100) options will be subject to the same procedures for adding and deleting strikes for index options as other index options, including EAFE option series and EM options series. Additional series may be opened for trading as the underlying index level moves up or down.²⁵ The minimum strike price interval for WORLD (1/100), ACWI and USA (1/100) options series would be 2.5 points if the strike price is less than 200. When the strike price is 200 or above, strike price intervals would be no less than 5 points.²⁶ This is consistent with the current strike intervals of many

other index options, including EAFE and EM options.

Pursuant to Rule 903G, the Exchange may approve and open for trading any flexible ("FLEX") options series that is eligible for non-FLEX options trading under Rule 901C with respect to indexes. Therefore, as proposed, the Exchange may authorize for trading FLEX Options on the MSCI World Index (1/100), MSCI ACWI Index, and MSCI USA Index (1/100), which the Exchange may authorize for trading pursuant to proposed Rule 901C.

Expiration Months, Settlement, and Exercise Style

Consistent with the expirations for other index options, including EAFE options and EM options, the Exchange will allow up to twelve near-term expiration months for the WORLD (1/100), ACWI and USA (1/100) options.²⁷ Additionally, the Exchange Rule 903C(a)(iii) "Long-term Options Series" permits the listing, with respect to any class of stock index options, series of options having up to 180 months to expiration. In addition, as with both the EAFE and EM index options, WORLD (1/100), ACWI and USA (1/100) options would be eligible for all other expirations permitted for other broad-based indexes, e.g., Short Term Option Series and Quarterly Option Series.²⁸ Given that the MSCI World (1/100), ACWI, and USA (1/100) Indexes are broad-based indexes and based on the same methodology as the MSCI EAFE and EM Indexes, as noted above, the Exchange believes it is appropriate for options on these three indexes to be eligible for the same expirations for which the options on other broad-based indexes, including MSCI EAFE and EM Indexes, are eligible under current rules.

WORLD (1/100), ACWI and USA (1/100) options will be P.M.-, cash-settled contracts with European-style exercise.²⁹ The Exchange believes that P.M.-settlement is appropriate for WORLD (1/100) and ACWI options due to the nature of the underlying index that encompasses multiple markets around the world. The components of the index open with the start of trading in certain parts of Asia at approximately 6:00 p.m. (Eastern time) (prior day) and close with the end of trading in North America at approximately 4:00 p.m. (Eastern time) (next day) as closing prices from North American countries

level for each Index will be widely disseminated through the end of trading for options on it.

¹⁹ The term "Reporting Authority" in respect of a particular index means the institution or reporting service designated by the Exchange as the official source for calculating and reporting the current levels of such stock index. See Rule 900C(b)(3).

²⁰ This maintenance criteria applies a 10% threshold rather than a 35% threshold to the EM Index. As is the case with other index options authorized for trading on the Exchange, in the event the MSCI World (1/100), ACWI or USA(1/100) Index fails to satisfy the continued listing standards set forth herein, the Exchange will not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Act. See Rule 901C, Commentary .05(b).

²¹ See proposed Rule 901NY, Commentary .03.

²² See proposed Rule 901NY, Commentary .04.

²³ See Rule 953NY. Trading Halts and Suspensions.

²⁴ See Rule 951C. Premium Bids and Offers.

²⁵ See Rule 903C. The rule sets forth the criteria for listing additional series of the same class to maintain an orderly market, to meet customer demand or when the current value of the underlying index moves. The strike price of must be within 30% of the current index value. Series exceeding the 30% range may be listed based on demonstrated customer interest.

²⁶ See proposed Rule 903C, Commentary .09.

²⁷ See proposed amendment to Rule 903C, Commentary .05.

²⁸ See e.g., Rules 903, Commentary .10 (Short Term Option Series) and 903C(a)(iv) (Quarterly Option Series).

²⁹ See proposed Rule 900C(b)(21).

are accounted for in the closing calculation.

The Exchange further believes that P.M.-settlement is appropriate for WORLD (1/100) and ACWI options, as well as USA (1/100) options, because the Exchange understands that investors prefer to be able to trade out of positions during the entire final day of trading before settlement. The Exchange notes the Commission has approved proposals to make other pilots permitting P.M.-settlement of index options permanent after finding those pilots were consistent with the Act and the options subject to those pilots had no significant impact on the market.³⁰

The Exchange proposes to amend Rule 900C(b)(21) to add WORLD (1/100), ACWI and USA (1/100) options to the list of other European-style (and P.M.-settled) index options. European-style (and P.M.-settled) exercise is consistent with many index options and, as set forth in Rule 900C(b)(21), EAFE and EM options are also P.M.-settled with European-style exercise. Given that the MSCI World (1/100), ACWI, and USA (1/100) Indexes are broad-based indexes and based on the same methodology as the MSCI EAFE and EM Indexes, as noted above, the Exchange believes it is appropriate for options on these three indexes have the same settlement and exercise style as the other MSCI Index options.

Like other index options, the exercise settlement amount of WORLD (1/100), ACWI and USA (1/100) options will be equal to the difference between the exercise settlement value (with respect to WORLD (1/100) and USA (1/100) options, 1/100th of the official closing value of the MSCI World Index (1/100) and MSCI USA Index (1/100), respectively, and, with respect to ACWI options, the official closing value of the MSCI ACWI Index, each as reported by the reporting authority on the day on which the index option contract is exercised) and the exercise price of the option (multiplied by the contract multiplier of \$100).³¹

³⁰ See Securities Exchange Act Release Nos. 98454 (September 20, 2023) (SR-CBOE-2023-005) (order approving proposed rule change to make permanent the operation of a program that allows CBOE to list p.m.-settled third Friday-of-the-month SPX options series); 98455 (September 20, 2023) (SR-CBOE-2023-019) (order approving proposed rule change to make permanent the operation of a program that allows CBOE to list p.m.-settled third Friday-of-the-month XSP and MRUT options series); and 98456 (September 20, 2023) (SR-CBOE-2023-020) (order approving proposed rule change to make the nonstandard expirations pilot program permanent).

³¹ See Rule 900C(17). If the exercise settlement value is not available or the normal settlement procedure cannot be utilized due to a trading disruption or other unusual circumstance, the

The proposed WORLD (1/100), ACWI and USA (1/100) options would expire, as currently, on the third Friday of the expiring month in the case of regular monthly options and long term options, each Friday in the case of Short Term options, and the last trading day of the month in the case of Monthly Options and/or Quarterly Options. As noted above, the last trading day for expiring series would continue to be the business day prior to the expiration date of the specific series. As is currently the case, when the last trading day/expiration date is moved because of an Exchange holiday or closure, the last trading day/expiration date for expiring options would be the immediately preceding business day.

Exercise would result in delivery of cash on the business day following expiration. ACWI options would be P.M.-settled. The exercise settlement value would be the official closing values of the MSCI World Index (1/100), the MSCI ACWI Index and the MSCI USA Index (1/100) as reported by MSCI on the last trading day of the expiring contract.³²

Position and Exercise Limits

The Exchange proposes to amend Rule 904C(b) to apply a position limit of 50,000 contracts (with no restrictions) to WORLD (1/100), ACWI and USA (1/100) options.³³ This is the same position limit that currently exists for other broad-based index options, including EAFE and EM options.³⁴ Pursuant to Rule 905C, the exercise limit for these options will be equivalent to the proposed position limit of 50,000 contracts. As set forth in Rule 905C, Commentary .04(c), positions in WORLD (1/100) options and USA (1/100) options (which are proposed to be

settlement value would be determined in accordance with the rules and bylaws of the OCC. See OCC Bylaws, Article XVII, Section 4.

³² See proposed amendment to Rule 900C(b)(3), to identify MSCI, Inc. as the Reporting Authority for the MSCI World Index (1/100), MSCI ACWI Index and MSCI USA (1/100) Index.

³³ Additionally, the Exchange proposes to amend Rule 906G(a)(vi) that, like FLEX Options on the MSCI EAFE Index and MSCI EM Index, the position limits for FLEX options on the MSCI World Index (1/100), the ACWI Index and the USA Index (1/100) are equal to the position limits for the non-FLEX options on this index (which is 50,000, as proposed). Pursuant to Rule 907G, the exercise limit for FLEX index options (which would include FLEX options on the MSCI World Index (1/100), the ACWI Index and the USA Index (1/100)) will be equivalent to the FLEX position limits prescribed in Rule 906G. As set forth in proposed Rule 906G(b)(vii), in calculating the applicable contract reporting amount for that rule, reduced-value contracts (such as the proposed WORLD (1/100) and USA (1/100) options) will be aggregated with full-value contracts and counted by the amount by which they equal a full-value contract.

³⁴ See Rule 904C(b).

reduced-value index options) will be aggregated with positions in full-value indexes.³⁵ All position limit hedge exemptions would apply.

Surveillance and Capacity

The Exchange represents that the same surveillance procedures applicable to all other options currently listed and traded on the Exchange will apply to WORLD (1/100), ACW and USA (1/100) options and that it has the necessary systems capacity to support the option series. The Exchange's existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior and other improper trading. In addition, the Exchange has a Regulatory Services Agreement ("RSA") with the Financial Industry Regulatory Authority ("FINRA"). Pursuant to a multi-party 17d-2 joint plan, all options exchanges allocate regulatory responsibilities to FINRA to conduct certain options-related market surveillances.³⁶ The Exchange is also a member of the Intermarket Surveillance Group ("ISG") under the ISG Agreement. ISG members work together to coordinate surveillance and investigative information sharing in the stock, options, and futures markets. Further, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of WORLD (1/100), ACWI and USA (1/100) options.

Given the enormous liquidity in the underlying components of the MSCI World Index (1/100), the MSCI ACWI Index and the MSCI USA Index (1/100) and large number of market participants trading those components, the Exchange believes that any attempt to manipulate the price of the underlying security or options overlying such security in order

³⁵ For example, if an index is reduced by one-tenth, 10 reduced-value contracts equal one contract. If an index is reduced by 1/100, 100 reduced-value contracts will equal one contract. The Exchange notes it currently does not plan to list options on the full value of the MSCI World Index (1/100) or MSCI USA Index (1/100).

³⁶ Section 19(g)(1) of the Act, among other things, requires every SRO registered as a national securities exchange or national securities association to comply with the Act, the rules and regulations thereunder, and the SRO's own rules, and, absent reasonable justification or excuse, enforce compliance by its members and persons associated with its members. See 15 U.S.C. 78q(d)(1) and 17 CFR 240.17d-2. Section 17(d)(1) of the Act allows the Commission to relieve an SRO of certain responsibilities with respect to members of the SRO who are also members of another SRO. Specifically, Section 17(d)(1) allows the Commission to relieve an SRO of its responsibilities to: (i) receive regulatory reports from such members; (ii) examine such members for compliance with the Act and the rules and regulations thereunder, and the rules of the SRO; or (iii) carry out other specified regulatory responsibilities with respect to such members.

to affect the price of the indices would be cost prohibitive and unlikely to succeed. Moreover, the Exchange believes that its existing surveillances and procedures adequately address potential concerns regarding possible manipulation of the settlement value at or near the close of the market.

Finally, given that WORLD (1/100), ACWI and USA (1/100) options have traded on CBOE for many years without system capacity issues and that the options would trade the same way on the Exchange, the Exchange does not believe that the listing and trading of these options would present any system capacity or message traffic issues for the Exchange or The Options Price Reporting Authority (OPRA). The Exchange will monitor the trading volume associated with the additional options series listed as a result of this proposed rule change and the effect (if any) of these additional series on the capacity of the Exchange's automated systems.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),³⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,³⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Specifically, the Exchange believes that the listing and trading of WORLD (1/100), ACWI and USA (1/100) options would increase order flow to the Exchange, increase the variety of options products available for trading, and provide a valuable tool for investors to manage risk.

The proposed change will facilitate the transfer and trading of WORLD (1/100), ACWI and USA (1/100) options based on the approved rules of CBOE to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade.

The Exchange believes that the proposal to adopt rules based on CBOE

to list and trade WORLD (1/100), ACWI and USA (1/100) options would remove impediments to and perfect the mechanism of a free and open market as these options would continue to provide greater opportunities for market participants to manage risk through the use of an index options product to the benefit of investors and the public interest.

The Exchange believes the proposed rule change is designed to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest in that it would continue to create greater trading and hedging opportunities and flexibility while providing members and member organizations with an additional tool to manage their risk. The proposed rule change should also continue to result in enhanced efficiency in initiating and closing out positions and heightened contra-party creditworthiness given OCC's role as issuer and guarantor of the proposed index option products.

The Exchange believes that the MSCI World Index (1/100), the MSCI ACWI Index and the MSCI USA Index (1/100) are not easily susceptible to manipulation. The indexes are broad-based indexes and have high market capitalizations. As noted, the MSCI World Index (1/100) is currently comprised of 1,319 component stocks and no single component comprises more than 5.05% of the index, making it not easily subject to market manipulation. Similarly, the MSCI ACWI Index and MSCI USA Index (1/100) are currently comprised of 2,14 and 544 components stocks, respectively, and the vast majority of components each comprise less than 5% of the index, making it not easily subject to market manipulation.

Additionally, the iShares MSCI World ETF, iShares MSCI ACW ETF and the iShares MSCI USA ETF, which track the MSCI World, MSCI ACWI, and the MSCI USA indices, are actively traded products, as are options on those ETFs. Because both indexes have large numbers of component securities, are representative of many countries and trade a large volume with respect to ETFs and options on those ETFs, the Exchange believes that the proposed initial and continued listing requirements based on CBOE's rules are also appropriate to continue to trade options on these indexes on the Exchange. Exchange rules applicable to the trading of other index options currently traded on the Exchange would also apply to the trading of WORLD (1/100), ACWI and USA (1/100) options.

Additionally, the trading of WORLD (1/100), ACWI and USA (1/100) options would be subject to, among others, Exchange rules governing sales practice rules, trading rules and trading halt procedures.

Finally, the Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in WORLD (1/100), ACWI and USA (1/100) options. The Exchange also represents that it has the necessary systems capacity to support the three new options series. Additionally, as stated in the filing, the Exchange has rules in place to protect public customer trading.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition, not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition. The Exchange believes that the proposed rule change would facilitate the transfer to the Exchange and trading WORLD (1/100), ACWI and USA (1/100) options. In addition, WORLD (1/100), ACWI and USA (1/100) options will be available to all market participants and will trade in the same manner as other index options in accordance with the Exchange's Rules.

Intramarket Competition. The Exchange also believes that the proposed change would not place any undue burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. WORLD (1/100), ACWI and USA (1/100) options would continue to be equally available to all market participants who wish to trade such options. The Exchange rules applicable to the listing and trading of options will apply in the same manner to the listing and trading of WORLD (1/100), ACWI and USA (1/100) options. Also, as noted above, the Exchange already lists and trades index options, including EAFE options and EM options.

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

³⁷ 15 U.S.C. 78f(b).

³⁸ 15 U.S.C. 78f(b)(5).

19(b)(3)(A)(iii) of the Act³⁹ and Rule 19b-4(f)(6) thereunder.⁴⁰ 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 Act⁴¹ and Rule 19b-4(f)(6)(iii) thereunder.⁴²

A proposed rule change filed under Rule 19b-4(f)(6)⁴³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁴⁴ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may list and trade WORLD (1/100), ACWI and USA (1/100) options, which currently trade on CBOE, without delay once they cease to trade on CBOE and facilitate continuity in the trading of these index options products. The Exchange states that the proposed rule change is based on the approved rules of CBOE, and therefore raises no new or novel issues that have not been previously considered by the Commission. For these reasons, and because the proposed rule change does not raise any new or novel regulatory issues, the Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.⁴⁵

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 under Section 19(b)(2)(B)⁴⁶ 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-2026-28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSEAMER-2026-28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEAMER-2026-28 and should be submitted on or before May 6, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁷

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07256 Filed 4-14-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105206; File No. SR-CboeEDGX-2026-019]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Its Rules To Enable the Exchange To Offer Trading in Equity Securities and Exchange Traded Products 23 Hours per Day, Five Days per Week

April 10, 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 March 31, 2026, Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") 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 EDGX Exchange, Inc. (the "Exchange" or "EDGX") proposes to amend its rules to enable the Exchange to offer trading in equity securities and exchange traded products 23 hours per day, five days per week. The text of the proposed rule change is 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/edgx/), 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.

³⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴⁰ 17 CFR 240.19b-4(f)(6).

⁴¹ 15 U.S.C. 78s(b)(3)(A).

⁴² 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.

⁴³ 17 CFR 240.19b-4(f)(6).

⁴⁴ 17 CFR 240.19b-4(f)(6)(iii).

⁴⁵ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See U.S.C. 78c(f).

⁴⁶ 15 U.S.C. 78s(b)(2)(B).

⁴⁷ 17 CFR 200.30-3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to permit the trading of equity securities and Derivative Securities³ on the Exchange 23 hours per day, five days per week ("23x5 Trading").⁴

Background

The Exchange's proposal to offer 23x5 Trading is driven both by the growth in the volume during the Exchange's existing Early Trading Session, as well as the growing demand for access to the U.S. markets, particularly by retail investors in the Asia Pacific ("APAC") region. The Exchange has consistently heard from APAC broker-dealers that their retail investors—particularly those in Hong Kong, Japan, Korea, Singapore, and Australia—want greater access to the U.S. equities market and that they desire trusted venues that offer transparency, robust liquidity, and efficient price discovery.⁵

The average daily volume ("ADV") during the Early Trading Session⁶ across Cboe's U.S. equities exchanges increased 110% from January 2023 to February 2026, and increased 404% between January 2022 and February 2026.⁷ Cboe's U.S. equities exchanges have also increased their market share during the Early Trading Session since 2022, with Early Trading Session ADV increasing 258%⁸ between January 2023 and February 2026 alone.⁹ The Exchange believes that 23x5 Trading will further benefit investors and the national market system by increasing market accessibility, promoting capital formation, and facilitating portfolio management.

Currently, Users¹⁰ may enter orders into the System¹¹ from 2:30 a.m. to 8:00 p.m. Eastern Time ("ET").¹² The Exchange currently offers five trading sessions on each day it is open for trading: (1) the Early Trading Session¹³ (4:00 a.m. to 8:00 a.m.); (2) the Pre-Opening Session¹⁴ (8:00 a.m. to 9:30 a.m.); (3) the Regular Session¹⁵ (the time between the completion of the Opening Process or Contingent Open, as defined in Rule 11.7, and 4:00 p.m.); (4) Regular Trading Hours¹⁶ (9:30 a.m. to 4:00 p.m.); and (5) the Post-Closing Session¹⁷ (4:00 p.m. to 8:00 p.m.). During each session, orders may be entered, executed, or routed away.¹⁸

Under current Rule 11.1(a)(1), the Exchange will not accept the following orders prior to 4:00 a.m., or prior to 7:00 a.m. for orders eligible for a "7:00 a.m. Start":¹⁹

- orders with a Post Only²⁰ instruction;
- intermarket sweep orders ("ISOs");²¹

¹⁰ The term "User" shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3. See Rule 1.5(ee).

¹¹ The term "System" shall mean the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away. See Rule 1.5(cc).

¹² See Exchange Rule 11.1(a). All times stated herein are in ET.

¹³ See Rule 1.5(jj).

¹⁴ See Rule 1.5(s).

¹⁵ See Rule 1.5(ii).

¹⁶ The term Regular Trading Hours" means the time between 9:30 a.m. and 4:00 p.m. Eastern Time. See Rule 1.5(y).

¹⁷ See Rule 1.5(r).

¹⁸ See Exchange Rule 11.1(a).

¹⁹ An order designated as eligible for execution during the Early Trading Session beginning at 7:00 a.m. is referred to as a "7:00 a.m. Start."

²⁰ "Post Only Orders" refers to an instruction that may be attached to an order that is to be ranked and executed on the Exchange pursuant to Rule 11.9 and Rule 11.10(a)(4) or cancelled, as appropriate, without routing away to another trading center except that the order will not remove liquidity from the EDGX Book, except as described below. An order with a Post Only instruction will remove contra-side liquidity from the EDGX Book if the order is an order to buy or sell a security priced below \$1.00 or if the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGX Book and subsequently provided liquidity, including the applicable fees charged or rebates provided. To determine at the time of a potential execution whether the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGX Book and subsequently provided liquidity, the Exchange will use the highest possible rebate paid and highest possible fee charged for such executions on the Exchange. See Exchange Rule 11.6(n)(4).

²¹ "Intermarket Sweep Orders" or "ISO" are orders The System will accept ISOs (as such term is defined in Regulation NMS). To be eligible for treatment as an ISO, the order must be: (i) a Limit

• Market Orders²² other than those with a time-in-force- ("TIF")²³ instruction of Regular Hours Only ("RHO")²⁴ or a Stop Price;²⁵

• orders with a Minimum Execution Quantity²⁶ instruction that also include a TIF instruction of RHO, and all orders with a TIF instruction of Immediate-or-Cancel ("IOC")²⁷ or Fill-or-kill ("FOK").²⁸

Certain order types are also subject to session-specific restriction. For example, orders with a Post Only instruction and ISOs are not accepted for queueing during the Pre-Opening Session if designated with a TIF instruction of RHO. To accommodate 23x5 Trading, the Exchange proposes to

Order; (ii) marked "ISO"; and (iii) the User entering the order must simultaneously route one or more additional Limit Orders marked "ISO," if necessary, to away Trading Centers to execute against the full displayed size of any Protected Quotation for the security with a price that is superior to the limit price of the ISO entered in the System. Such orders, if they meet the requirements of the foregoing sentence, may be executed at one or multiple price levels in the System without regard to Protected Quotations at away Trading Centers consistent with Regulation NMS (*i.e.*, may trade through such quotations). See Exchange Rule 11.8(c).

²² "Market Orders" are orders to buy or sell a stated amount of a security that is to be executed at the NBBO or better when the order reaches the Exchange. See Exchange Rule 11.8(c).

²³ The term "Time in Force" means the period of time that the System will hold an order. See Rule 2.1(f).

²⁴ The term "Regular Hours Only" ("RHO") means an instruction a User may attach to an order designating it for execution only during Regular Trading Hours, which includes the Opening Process and Re-Opening Process following a halt suspension or pause. See Rule 11.6(q)(6).

²⁵ An order may include a "Stop Price" which will convert the order into a Market Order when the Stop Price is triggered. An order to buy converts to a Market Order when the consolidated last sale in the security occurs at, or above, the specified Stop Price. An order to sell converts into a Market Order when the consolidated last sale in the security occurs at, or below, the specified Stop Price. See Rule 11.8(a)(1).

²⁶ "Minimum Execution Quantity" is an instruction a User may attach to an order with a Non-Displayed instruction or a Time-in-Force of Immediate-or-Cancel requiring the System to execute the order only to the extent that a minimum quantity can be satisfied. See Rule 11.6(h).

²⁷ "Immediate Or Cancel" or "IOC" refers to an instruction the User may attach to an order stating the order is to be executed in whole or in part as soon as such order is received. The portion not executed immediately on the Exchange or another trading center is treated as cancelled and is not posted to the EDGX Book. An order with an IOC instruction that does not include a Book Only instruction and that cannot be executed in accordance with Rule 11.10(a)(4) on the System when reaching the Exchange will be eligible for routing away pursuant to Rule 11.11. See Rule 11.6(q)(1).

²⁸ "Fill-or-Kill" or "FOK" refers to an instruction the User may attach to an order stating that the order is to be executed in its entirety as soon as it is received and, if not so executed, cancelled. An order with a FOK instruction is not eligible for routing away pursuant to Rule 11.11. See Rule 11.6(q)(3).

³ See Exchange Rule 1.5(ff).

⁴ The Exchange initially submitted the proposed rule change on March 13, 2026 (SR-CboeEDGX-2026-013). On March 24, 2026, the Exchange withdrew that filing and on March 31, 2026, the Exchange submitted this proposal.

⁵ See "What Does it Take to Offer Around the Clock Equities Trading?"—Cboe Insights, February 2, 2025, available at: <https://www.cboe.com/insights/posts/what-does-it-take-to-offer-around-the-clock-equities-trading/>.

⁶ See Exchange Rule 1.5(jj).

⁷ Source: Internal Cboe Data.

⁸ Cboe's market share for the Early Trading Session (*i.e.*, 4:00 to 7:00 a.m.) trading increased by 305 basis points ("bps") from January 2023 to February 2026. Source: Internal Cboe Data.

⁹ Market share increased 33 bps from January 2022 to February 2026. Looking at the full year 2022 against the full year 2025, market share increased 336 bps. Source: Internal Cboe Data.

extend the order entry window and introduce a new Overnight Trading Session, along with conforming amendments to its session-specific order handling rules, as described below.

Proposal

The Exchange proposes to amend its rules to enable 23x5 Trading by expanding the Pre-Opening Session and replacing the Early Trading Session with a new Overnight Trading Session.

Definitions

The Exchange proposes to amend and adopt certain definitions provided in Exchange Rule 1.5.

First, the Exchange proposes to expand the Pre-Opening Session under Rule 1.5(s) from 8:00 a.m. to 4:00 a.m., covering the period from 4:00 a.m. to 9:30 a.m. Because this expansion absorbs the period currently covered by the Early Trading Session under Rule 1.5(jj), the Exchange also proposes to delete the “Early Trading Session” definition and replace it with a new defined term, “Overnight Trading Session.”

As proposed, the Overnight Trading Session shall mean the time between 9:00 p.m. on any night preceding a business day²⁹ and 4:00 a.m. on the following calendar day. Rather than defining the Overnight Trading Session by reference to specific calendar days of the week (e.g., Sunday through Thursday), the proposed definition is anchored to the concept of a “night preceding a business day.” This approach provides that the Overnight Trading Session is triggered by the existence of an upcoming trading day rather than by enumeration of calendar days, providing a more durable and flexible framework that is consistent with the Exchange’s proposed Order Acceptance Queueing Time definition in proposed Rule 1.5(kk), as discussed below, and that accommodates changes to the Exchange’s trading calendar (including holidays and other non-business days) without requiring conforming amendments to the session definition itself. For example, when a holiday falls on a Monday, there is no night preceding a business day on the prior Sunday and therefore no Overnight Trading Session will commence that Sunday evening, consistent with the Exchange’s proposed holiday schedule under Rule 11.1(b). As discussed further below

under “Contingency on Industry Readiness,” the Exchange shall not commence operation of the Overnight Trading Session until specified Equity Data Plan readiness conditions have been satisfied. The proposed term would provide “Overnight Trading Session” shall mean the time between 9:00 p.m. on any night preceding a business day, as provided in Rule 11.1(b), and 4:00 a.m. Eastern Time on the following calendar day. For the avoidance of doubt, notwithstanding anything to the contrary in these Rules, the Exchange shall not commence operation of the Overnight Trading Session unless the Equity Data Plans (1) have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during the Overnight Trading Session that is equivalent to the mechanism established for Exchange trading hours during Regular Trading Hours, and (2) have provided the Exchange with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction information to accommodate the Overnight Trading Session. Prior to commencing operation during the Overnight Trading Session, the Exchange will file a proposed rule change pursuant to Section 19(b) of the Exchange Act and the rules thereunder to amend its rules confirming that the Exchange is able to comply with its obligations under the Exchange Act and the rules thereunder during the Overnight Trading Session and that such Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information at all times during the Overnight Trading Session (“Overnight Trading Session Proposed Rule Change”). If the Overnight Trading Session Proposed Rule Change is not filed within 18 months of the SEC’s approval of this proposed rule change, the Exchange will promptly file a proposed rule change to remove the rules that apply to the Overnight Trading Session.

Second, proposed Rule 1.5(kk) would define “Order Acceptance Queueing Time” to mean 8:55 p.m., the time at which orders may be entered into the System on each night preceding a business day as specified in Rule 11.1(b). The Order Acceptance Queueing Time marks the point at which the System begins accepting orders each night in advance of the Overnight Trading Session. Orders entered during the Order Acceptance Queueing Time will queue until the

official start of the session designated in the order instruction.

Third, proposed Rule 1.5(ll) would define “Equity Data Plans” to mean the effective national market system plan(s) governing the collection, consolidation, processing, and dissemination of consolidated equity market data via the exclusive securities information processors (“SIPs”), including: (1) the Consolidated Tape Association Plan (“CTA Plan”); (2) the Consolidated Quotation Plan (“CQ Plan”); (3) the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (“UTP Plan”); (4) the CT Plan established by the Limited Liability Company Agreement of CT Plan LLC; and (5) any successor to the named Plan(s).

Finally, the Exchange proposes a non-substantive amendment to Rule 1.5(ii) to correct a typographical error, changing the word “Continent” to “Contingent.” As amended, Rule 1.5(ii) would define the Regular Session as “the time between the completion of the Opening Process or Contingent Open as defined in Rule 11.7 and 4:00 p.m. Eastern Time.”

Trading Rules

The Exchange proposes to amend Rules 11.1 (Hours of Trading and Trading Days), 11.6 (Definitions), 11.7 (Opening Process), 11.8 (Order Types), 11.10 (Order Execution), 11.15 (Clearly Erroneous Executions) and to adopt Rule 11.25 (Weekday Trading Pauses) to reflect necessary updates to provide for 23x5 trading functionality.

a. Rule 11.1—Hours of Trading and Trading Days

The Exchange proposes to amend Rule 11.1(a) to replace reference to the Early Trading Session with the Overnight Trading Session, and to amend Rule 11.1(a)(1) to update the order entry window and session eligibility framework to accommodate 23x5 Trading.

Under current Rule 11.1(a)(1), Users may enter orders into the System beginning at 2:30 a.m. Orders entered between 2:30 a.m. and 4:00 a.m. are not eligible for execution until the start of the Early Trading Session, Pre-Opening Session, or Regular Trading Hours, depending on the TIF instruction selected. The current rule also provides for two start times within the Early Trading Session (a 4:00 a.m. Start and a 7:00 a.m. Start) each with distinct order acceptance restrictions.

²⁹ See proposed Rule 11.1(b). A business day is any day the Exchange is open for trading, which includes any Monday, Tuesday, Wednesday, Thursday, and Friday, other than a holiday listed below, and shall be deemed to begin at 9:00 p.m. on the preceding calendar day.

The Exchange proposes to replace this framework with a streamlined structure that reflects the introduction of the Overnight Trading Session and the expanded order entry window. As proposed, Users may enter orders into the System beginning at the Order Acceptance Queueing Time (8:55 p.m.) on each night preceding a business day through 8:00 p.m. on the following calendar day, provided that the following calendar day is a business day. Orders entered during the Order Acceptance Queueing Time will queue until the official start of the session designated in the order instruction. This approach applies uniformly across all trading sessions (*i.e.*, the Overnight Trading Session, Pre-Opening Session, Regular Session, and Post-Closing Session) providing Members with a consistent and simplified order entry experience. The 4:00 a.m. Start and 7:00 a.m. Start construct is removed, as these designations are no longer necessary under the proposed framework.

Proposed Rule 11.1(a)(2) would provide that an order is eligible to participate in the designated trading session(s) only and may remain in effect for one or more consecutive trading sessions on a particular day. An order designated for a session that has not yet begun will be accepted into the System but will not be eligible to trade until that session commences. An order designated solely for a session that has already ended will be rejected. An order entered without a trading session designation will default to a Day³⁰ order, making it eligible to participate from the Overnight Trading Session through the end of Regular Trading Hours. Proposed Rule 11.1(a)(2) also permits Members to designate a specific Start Time for their orders in thirty-minute increments prior to the start of Regular Trading Hours, replacing the 4:00 a.m. Start and 7:00 a.m. Start designations with a more flexible and uniform framework. Start Times must be set to a time prior to the commencement of Regular Trading Hours and may not be designated during Regular Trading Hours. At each Start Time, orders will be handled in time sequence beginning with the oldest time stamp, and will be placed on the EDGX Book, routed, cancelled, or executed in accordance with the terms of the order.

³⁰ An instruction the User may attach to an order stating that an order to buy or sell which, if not executed, expires at the end of Regular Trading Hours. Any Day Order entered into the System before the opening for business on the Exchange as determined pursuant to Rule 11.1, or after the closing of Regular Trading Hours, will be rejected. See Exchange Rule 11.6(q)(2).

Proposed Rule 11.1(a)(3) would specify the orders the Exchange will not accept during the Order Acceptance Queueing Time: (i) orders with a Post Only instruction; (ii) ISOs; (iii) Market Orders, other than those with a TIF instruction of RHO or a Stop Price;³¹ (iv) orders with a Minimum Execution Quantity instruction that also include a TIF instruction of RHO; and (v) orders with a TIF instruction of IOC or FOK. These restrictions are consistent with the order type limitations currently applicable prior to the pre-market sessions and are intended to ensure orderly trading prior to the commencement of the Overnight Trading Session.

The Exchange also proposes to amend Rule 11.1(b) to define “business day” and to specify the days on which the Exchange will be open for trading under the proposed 23x5 framework. A business day is any day the Exchange is open for trading, which includes any Monday, Tuesday, Wednesday, Thursday, and Friday, other than a holiday listed below, and shall be deemed to begin at 9:00 p.m. on the preceding calendar day. The Exchange will not be open for business on the following holidays: New Year’s Day, Dr. Martin Luther King Jr. Day, Presidents’ Day, Good Friday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. When a holiday falls on a Saturday, the Exchange will not be open for business on the preceding Friday. When a holiday falls on a Sunday, the Exchange will not be open for business on the following Monday, unless otherwise indicated by the Exchange. On days when the Exchange closes early (“Early Market Close”), Regular Trading Hours will be from 9:30 a.m. to 1:00 p.m. and the Post-Closing Session will be from 1:00 p.m. to 5:00 p.m. Trading shall resume with the Overnight Trading Session on any night preceding a business day.

Under the proposed 23x5 framework, the trading day will be structured as follows. The Overnight Trading Session will run from 9:00 p.m. to 4:00 a.m., followed by the Pre-Opening Session from 4:00 a.m. to 9:30 a.m., Regular Trading Hours from 9:30 a.m. to 4:00 p.m., and the Post-Closing Session from 4:00 p.m. to 8:00 p.m. Between 8:00 p.m. and 9:00 p.m. each weekday, the

³¹ Once the trigger price is reached during Regular Trading Hours, the order will be elected (activated). Election results in a Market order sent to the book. See Cboe Titanium U.S. Equities FIX Specification, at 61, available at https://cdn.cboe.com/resources/membership/Cboe_US_Equities_FIX_Specification.pdf.

Exchange will pause trading to conduct maintenance, testing, and processing of corporate actions (such as mergers, stock splits, and dividends) that become effective the following trading day. This pause also provides market participants with time to process and clear trades before the start of a new trading day. For dates on which the Exchange is not open for business under Rule 11.1(b), the market closure will be effective at 8:00 p.m. on the calendar day preceding the closure date. For Early Market Close days,³² the closure will instead be effective at 5:00 p.m. on the calendar day preceding the closure date. In either case, the Exchange will re-open at 9:00 p.m. on the closure date, unless the closure date is immediately followed by a non-business day, in which case the Exchange will re-open at 9:00 p.m. on the day preceding the next business day.

b. Rule 11.6(q)(2)—TIF Day Instructions

The Exchange does not propose any changes to its existing TIF instructions in connection with the Overnight Trading Session, with one exception described below. The Exchange believes the existing TIF framework otherwise accommodates the proposed 23x5 structure without modification.

The Exchange proposes a conforming amendment to the Day order TIF definition to permit acceptance of Day Orders during the Overnight Trading Session. Under the current definition, a Day Order entered “after the closing of Regular Trading Hours” is rejected. Because the Overnight Trading Session commences at 9:00 p.m. the current definition would, as written, result in the rejection of Day Orders entered during the Overnight Trading Session or during the Order Acceptance Queueing Time preceding it. This outcome is inconsistent with the proposed 23x5 framework, under which Day Orders should be eligible for entry beginning at the Order Acceptance Queueing Time and should remain eligible for execution throughout the Overnight Trading Session, Pre-Opening Session, and Regular Trading Hours. Accordingly, the Exchange proposes to amend the Day order TIF definition to provide that a Day Order entered during the Overnight Trading Session or during the Order Acceptance Queueing Time will be accepted by the Exchange and, if not executed, will expire at the end of Regular Trading Hours on the following business day. This amendment is limited to conforming the Day order

³² Regular trading hours for days when the markets close early are typically 9:30 a.m. to 1:00 p.m. See *e.g.*, Thanksgiving Early Close and Christmas Early Close at <https://www.cboe.com/about/hours>.

definition to the expanded order entry window introduced by the proposed 23x5 framework and does not alter any other aspect of the Day order TIF instruction. For the avoidance of doubt, orders will expire on the business day for which they are entered; as described above, a business day is deemed to begin at 9:00 p.m. Eastern Time on the preceding calendar day.

As amended, a Day Order entered at 9:00 p.m. on a day preceding a business day will remain eligible for execution throughout the Overnight Trading Session, Pre-Opening Session, and Regular Trading Hours on that business day, expiring at 4:00 p.m. Eastern Time that day.

c. Rule 11.7—Opening Process

The Exchange proposes a conforming amendment to Rule 11.7 to replace the reference to the Early Trading Session with the Overnight Trading Session in the provision governing re-openings after a halt. As amended, during the Overnight Trading Session, Pre-Opening Session, or Post-Closing Session, the Re-Opening Process will occur at the midpoint of the NBBO after one second has passed following the applicable resumption trigger. This change is non-substantive and is intended solely to reflect the replacement of the Early Trading Session with the Overnight Trading Session under the proposed 23x5 framework.

d. Rule 11.8—Order Types

The Exchange proposes conforming amendments to Rule 11.8 to replace references to the Early Trading Session with the Overnight Trading Session across each order type that currently specifies session eligibility, including Limit Orders, ISOs, MidPoint Peg Orders,³³ Market Maker Peg Orders,³⁴ Supplemental Peg Orders,³⁵ and MidPoint Discretionary Orders.³⁶

Outside of Regular Trading Hours, only Limit Orders are eligible for execution. Under proposed Rule 11.8(a)(6), a Limit Order may be eligible for execution during the Overnight Trading Session, Pre-Opening Session, Regular Session, Regular Trading Hours, and the Post-Closing Session. This is consistent with the other order types eligible outside of Regular Trading Hours; ISOs must be Limit Orders by definition, and Market Maker Peg Orders, Supplemental Peg Orders, and MidPoint Discretionary Orders are each

expressly defined as or characterized as Limit Orders under their respective provisions.

Limit MidPoint Peg Orders, which are capped with respect to price, may be executed during the Overnight Trading Session, Pre-Opening Session, Regular Trading Hours, and the Post-Closing Session, while Market MidPoint Peg Orders, which are uncapped with respect to price, may only be executed during Regular Trading Hours. Because a Market MidPoint Peg Order carries no price cap, it presents heightened execution risk in extended hours sessions where liquidity conditions may differ materially from those present during Regular Trading Hours and where the NBBO may be wider or less reliable. Without a limit price to constrain execution, a Market MidPoint Peg Order could execute at a price that is disadvantageous to the submitting party in a manner that is less likely to occur during Regular Trading Hours. By contrast, Limit MidPoint Peg Orders have a price cap and are non-displayed, which the Exchange views as sufficient safeguards to make them suitable for execution outside of Regular Trading Hours, consistent with the broader principle that only Limit Orders are eligible for execution outside of Regular Trading Hours under the proposed 23x5 framework. Proposed Rule 11.8(d)(4) also provides that a Minimum Execution Quantity instruction on a MidPoint Peg Order will not be applied during the Opening Process. Additionally, proposed Rule 11.8(d)(4) replaces the reference to the Early Trading Session with the Overnight Trading Session, conforming MidPoint Peg Order session eligibility to the proposed 23x5 framework.

The Exchange also proposes to amend Rule 11.8(e)(7) to replace the reference to the Early Trading Session with the Overnight Trading Session for Market Maker Peg Orders. As amended, Users may submit Market Maker Peg Orders to the Exchange starting at the beginning of the Overnight Trading Session, though such orders will not be executable or automatically priced until after the commencement of Regular Session. All remaining amendments to Rule 11.8 (including those applicable to ISOs, Supplemental Peg Orders, and MidPoint Discretionary Orders) are non-substantive and are intended solely to conform existing session eligibility provisions to the proposed 23x5 framework by replacing references to the Early Trading Session with the Overnight Trading Session.

e. Rule 11.10—Order Execution

The Exchange proposes a conforming amendment to Rule 11.10 to replace the reference to the Early Trading Session with the Overnight Trading Session in the provision governing compliance with Regulation NMS. As amended, for any execution to occur during the Overnight Trading Session, Pre-Opening Session, or Post-Closing Session, the price must be equal to or better than the highest bid or lowest offer in the EDGX Book or as disseminated by the responsible single plan processor, unless the order is marked ISO or a Protected Bid is crossing a Protected Offer. This amendment is non-substantive and preserves the existing execution standard applicable outside of Regular Trading Hours.

f. Rule 11.15—Clearly Erroneous Executions

The Exchange proposes conforming amendments to Rule 11.15 to replace all references to the Early Trading Session with the Overnight Trading Session throughout the clearly erroneous execution framework. These amendments appear in the provisions governing review of transactions occurring outside of Regular Trading Hours, including the numerical guidelines table, the Multi-Stock Event provisions, the additional factors provision, the Outlier Transaction provision, the Reference Price provision, and the Officer Acting On Own Motion provision. In each case, the amendment substitutes “Overnight Trading Session” for “Early Trading Session” without altering the substantive standards or procedures applicable to clearly erroneous execution reviews. The Exchange notes that the numerical guidelines applicable to the Overnight Trading Session, Pre-Opening Session, and Post-Closing Session will remain the same as those currently applicable to the Early Trading Session, Pre-Opening Session, and Post-Closing Session, reflecting the Exchange’s view that the same heightened thresholds appropriate for extended hours trading remain appropriate for the Overnight Trading Session.

g. Rule 11.25—Weekday Trading Pause

The Exchange proposes to adopt new Rule 11.25 to govern the daily trading pause that will occur between the close of the Post-Closing Session and the commencement of the Overnight Trading Session on each weekday. As proposed, the Exchange will pause trading at the conclusion of the Post-Closing Session at 8:00 p.m. and resume

³³ See Exchange Rule 11.8(d).

³⁴ See Exchange Rule 11.8(e).

³⁵ See Exchange Rule 11.8(f).

³⁶ See Exchange Rule 11.8(g). A Market Order is only eligible for execution by the System during the Regular Session. See Exchange Rule 11.8(a)(5).

trading with the commencement of the Overnight Trading Session at 9:00 p.m. on the day preceding the next business day. This one-hour pause is intended to provide the Exchange with time to conduct necessary maintenance and testing, and to process corporate actions, such as mergers, stock splits, and dividends, that become effective the following trading day. The pause also provides market participants with time to process and clear trades before the start of a new trading day.

Proposed Rule 11.25(a)(1) provides that all orders outstanding on the EDGX Book as of 8:00 p.m. at the end of the Post-Closing Session will be cancelled. The Exchange believes it is appropriate to cancel all resting orders at the close of the Post-Closing Session each weekday to ensure that orders are not carried over into the next trading day without an explicit order instruction by a Member. This approach provides Members with a clean start to each trading day and reduces the risk of unintended executions based on stale order instructions.

Proposed Rule 11.25(a)(2) provides that the Exchange will begin accepting orders again at the Order Acceptance Queueing Time (*i.e.*, 8:55 p.m.) and will continue accepting orders through 8:00 p.m. on the following calendar day, provided the next calendar day is a business day. Orders entered during the Order Acceptance Queueing Time will queue until the commencement of the Overnight Trading Session at 9:00 p.m. Proposed Rule 11.25(a)(2) also provides that trades occurring at or after the commencement of the Overnight Trading Session at 9:00 p.m. will be assigned a trade date of the following calendar day, reflecting that the Overnight Trading Session economically belongs to the next trading day even though it commences the prior evening.

The Exchange notes that while the Order Acceptance Queueing Time applies on Sunday prior to the commencement of the Overnight Trading Session at 9:00 p.m., the one-hour trading pause described in Rule 11.25(a) does not apply on Sunday. Unlike Monday through Thursday, where trading pauses at 8:00 p.m. following the close of the Post-Closing Session and resumes at 9:00 p.m., Sunday does not follow a Post-Closing Session and therefore there is no intervening pause period. The Exchange will begin accepting orders at the Order Acceptance Queueing Time on Sunday evening and the Overnight Trading Session will commence at 9:00 p.m., marking the start of the trading week. The Exchange believes this distinction

is appropriate because the operational and processing considerations that necessitate a pause between the Post-Closing Session and the Overnight Trading Session on weekdays, such as processing corporate actions and clearing end-of-day positions, are not present on Sunday.

Unlisted Trading Privileges

The Exchange proposes conforming amendments to Rule 14.1 to replace references to the Early Trading Session with the Overnight Trading Session. Specifically, the Exchange proposes to amend Rule 14.1(c)(1) to replace the reference to the “Early Trading Session (7:00 a.m.–8:00 a.m. Eastern Time)” with the “Overnight Trading Session (9:00 p.m.–4:00 a.m. Eastern Time).” The Exchange also proposes conforming amendments to Interpretations and Policies .01(a) and .01(b)(2) to replace each reference to the “Early Trading Session” with the “Overnight Trading Session.” These amendments are non-substantive and are intended solely to conform the unlisted trading privileges framework to the proposed 23x5 session structure by updating the applicable session nomenclature and hours.

Risk Disclosures

The Exchange proposes to adopt new Rule 3.21(h) to establish tailored customer disclosure obligations specific to the Overnight Trading Session and Pre-Opening Session. The existing customer disclosure framework under Rule 3.21 requires Members to disclose the material trading risks associated with extended hours trading prior to accepting an order for execution in those sessions. The Exchange believes that the unique characteristics of the Overnight Trading Session and Pre-Opening Session (including the hours during which they operate, the market conditions that may be present, and the novel nature of overnight exchange trading) warrant additional disclosures beyond those currently required for other extended hours sessions. Proposed Rule 3.21(h) sets forth seven categories of risks that Members must disclose to customers in connection with trading during the Overnight Trading Session and Pre-Opening Session.

First, proposed Rule 3.21(h)(1) addresses the risk of trading during hours in which primary listing markets may not be open. Unlike the Post-Closing Session, which occurs in close proximity to Regular Trading Hours, the Overnight Trading Session and Pre-Opening Session operate during hours in which primary listing exchanges may not be conducting their own trading, regulatory surveillance, or other

regulatory functions with respect to their listed securities. The Exchange believes it is important that customers understand that the regulatory infrastructure ordinarily provided by primary listing exchanges may not be available during these sessions.

Second, proposed Rule 3.21(h)(2) addresses the risk that regulatory protections available during the Overnight Trading Session and Pre-Opening Session may be more limited or different than those available during Regular Trading Hours. For example, certain volatility control mechanisms applicable to individual symbols and the broader equities market may not be available during the Overnight Trading Session and Pre-Opening Session. The Exchange believes customers should be informed of these potential gaps in regulatory protections before trading during these sessions.

Third, proposed Rule 3.21(h)(3) addresses the risk arising from limited trading alternatives during the Overnight Trading Session and Pre-Opening Session. Because the Exchange may be the only exchange trading certain securities during these hours, customers may face greater exposure to losses in the event of systems failures or other operational issues on the Exchange, as alternative execution venues may not be available.

Fourth, proposed Rule 3.21(h)(4) addresses the risks associated with near-continuous trading under the 23x5 framework. With the implementation of the Overnight Trading Session, trading on the Exchange will occur on a near-continuous basis throughout the week, with only limited breaks. This structure may present heightened risks related to system maintenance and testing, as well as the pausing and resumption of trading, as there will be fewer extended breaks during which such activities can be conducted without impacting market participants.

Fifth, proposed Rule 3.21(h)(5) addresses the risk of trading during hours in which financial market infrastructure companies are closed. Certain important financial market infrastructure providers, including other markets, banks, Fedwire Funds Service, and certain other providers of settlement services, may be closed during the Overnight Trading Session and Pre-Opening Session. Trading during hours in which the relevant clearing agency and other settlement service providers are closed may result in an increased passage of time between the execution of a transaction and its final settlement, which may expose customers to additional counterparty and settlement risk.

Sixth, proposed Rule 3.21(h)(6) addresses the risk arising from the novel nature of overnight exchange trading. Exchange-facilitated trading during overnight hours is a relatively new development in the U.S. equities market, and as such, the Overnight Trading Session may present unforeseen risks that are not yet fully understood or anticipated. The Exchange believes it is appropriate to specifically call out the novelty of the Overnight Trading Session so that customers can make informed decisions about whether overnight trading is appropriate for them.

Seventh, proposed Rule 3.21(h)(7) provides a general catch-all disclosure acknowledging that the Overnight Trading Session and Pre-Opening Session may present additional unforeseen risks beyond those specifically enumerated in proposed Rule 3.21(h)(1) through (6). The Exchange believes this provision is appropriate given the evolving nature of extended hours trading and the potential for market conditions or operational circumstances that cannot be fully anticipated at this time.

The Exchange believes that the proposed disclosures under Rule 3.21(h) are necessary and appropriate to ensure that customers are fully informed of the unique risks presented by the Overnight Trading Session and Pre-Opening Session prior to participating in trading during those hours. The proposed disclosures are consistent with the customer protection principles underlying the existing Rule 3.21 framework and reflect the Exchange's commitment to investor protection in connection with the expansion of its trading hours under the proposed 23x5 framework.

Protections

The implementation of 23x5 Trading represents an extension of trading hours rather than a fundamental restructuring of Exchange operations or rules. With the exception of the specific amendments discussed above, the Exchange's operational processes, rule text, and surveillance programs will continue to apply in the same manner as they do today. The following EDGX rules and system features will remain unchanged and will apply in full during the Overnight Trading Session: Order Types and Order Execution; Membership Rules and Rules of Fair Practice; Market Maker Obligations and Priority of Orders; Trading Practice Rules and Disciplinary Rules and Enforcement; Opening and Closing Crosses; Clearly Erroneous Execution

Protections; and Risk Settings and Fat Finger Protections.

With respect to trading halts, the Exchange's existing halt rules will apply during the Overnight Trading Session. Consistent with current practice during other extended hours sessions, the Exchange will halt trading in a security during the Overnight Trading Session to the extent required to follow a halt imposed by the primary listing exchange for that security. To the extent a security is subject to a regulatory halt, news dissemination halt, or other trading pause imposed by the primary listing exchange or a national securities regulator, the Exchange will halt trading in that security consistent with applicable rules and regulatory requirements.

The Exchange's clearly erroneous execution rules under Rule 11.15 will apply in full during the Overnight Trading Session, as they currently apply during the Early Trading Session and other extended hours sessions. No substantive changes to those rules are proposed in connection with this filing. As such, the Exchange's Clearly Erroneous rules will continue to mirror those adopted by each national security exchange and will continue to ensure that there are consistent standards across each exchange for breaking trades, and continuing to promote the orderly and efficient operation of the equities markets.

The Exchange's existing surveillance programs and compliance infrastructure will likewise apply fully to trading in the Overnight Trading Session and the modified Pre-Opening Session. The Exchange currently operates a comprehensive regulatory program applicable to the Early Trading Session, Pre-Opening Session, Regular Trading Hours, and Post-Closing Session, encompassing a suite of automated trade surveillance tools, routine Member examinations, and an exam-based regulatory program. This regulatory program will extend to the Overnight Trading Session without modification, ensuring that Members trading during overnight hours are subject to the same level of oversight applicable to trading in other sessions.

Similarly, the Exchange's existing risk settings and controls (including single-order price and size protections and other fat finger safeguards) will remain available and operative during the Overnight Trading Session. The Exchange believes that these existing protections, taken together, provide a robust framework for managing risk during overnight trading that is consistent with the protections available during other extended hours sessions.

Contingency on Industry Readiness

As noted above, the Exchange will not implement its proposed rule changes or commence operation of the Overnight Trading Session until the Equity Data Plan readiness conditions set forth in proposed Rule 1.5(jj) have been satisfied. Prior to commencing operation of the Overnight Trading Session, the Exchange will file a proposed rule change pursuant to Section 19(b) of the Exchange Act and the rules thereunder confirming that: (i) the Exchange is able to comply with its obligations under the Exchange Act and the rules thereunder during the Overnight Trading Session; and (ii) the Equity Data Plans are prepared to collect, consolidate, process, and disseminate quotation and transaction information at all times during the Overnight Trading Session. Upon satisfaction of the foregoing conditions, the Exchange will announce via Exchange notice the implementation date for its proposed rule changes and the go-live date for 23x5 Trading. If the Overnight Trading Session Proposed Rule Change is not filed within 18 months of the SEC's approval of this proposed rule change, the Exchange will promptly file a proposed rule change to remove the rules applicable to the Overnight Trading Session.

Impact on Fees

Any impact of the Exchange's 23x5 proposal on its fee schedule will be addressed in a subsequent fee filing.

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.³⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)³⁸ 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.

³⁷ 15 U.S.C. 78f(b).

³⁸ 15 U.S.C. 78f(b)(5).

23x5 Trading Framework

The Exchange believes the proposed rule change is consistent with the Act because it would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing a rules framework to support 23x5 Trading. As described above, the Exchange has observed sustained and significant growth in Early Trading Session volume, with average daily volume across Cboe's U.S. equities exchanges increasing 404% between January 2022 and February 2026. The Exchange has also received consistent feedback from APAC broker-dealers that their retail investors desire greater access to the U.S. equities market during their local business hours. The Exchange believes that 23x5 Trading will benefit investors and the national market system by increasing market accessibility, promoting capital formation, and facilitating portfolio management, including for the growing number of retail investors in the Asia-Pacific region whose local business hours do not coincide with U.S. Regular Trading Hours.

The Exchange further believes the proposal is consistent with the Act because the proposed Overnight Trading Session and the modified Pre-Opening Session will operate in substantially the same manner as the Exchange's existing extended hours sessions. All order types, execution processes, membership rules, market maker obligations, priority rules, disciplinary rules, clearly erroneous execution protections, risk settings, and fat finger safeguards applicable to the Exchange's existing sessions will continue to apply in full during the Overnight Trading Session and the expanded Pre-Opening Session. The Exchange believes that applying its existing operational and regulatory framework to the Overnight Trading Session is consistent with the Act's goals of ensuring market integrity, investor protection, and fair and orderly trading. The Exchange represents that its systems have the capacity to accommodate the proposed 23x5 Trading functionality.

Session Definitions and Order Entry Framework

The Exchange believes that the proposed new definitions, including the Overnight Trading Session, Order Acceptance Queueing Time, and Equity Data Plans, would remove impediments to and perfect the mechanism of a free and open market and a national market system by adding clarity and transparency to the Exchange's rules. The proposed Overnight Trading

Session definition, anchored to the concept of a "night preceding a business day" rather than enumerated calendar days, provides a durable and flexible framework that accommodates the Exchange's trading calendar without requiring recurring conforming amendments. The proposed Order Acceptance Queueing Time definition similarly adds clarity by establishing a defined, consistent time at which the System begins accepting orders ahead of the Overnight Trading Session each weekday evening and on Sunday nights. The Exchange believes these definitional additions facilitate the understanding of and compliance with Exchange rules, thereby removing potential confusion and promoting just and equitable principles of trade.

The Exchange believes the proposed streamlined order entry framework under Rule 11.1(a) similarly removes impediments to the mechanism of a free and open market by replacing the existing 4:00 a.m. Start and 7:00 a.m. Start construct with a uniform structure applicable across all trading sessions. The proposed trading session designation requirement under Rule 11.1(a)(2) promotes transparency and investor protection by ensuring that each order is clearly designated for the session(s) in which it will remain eligible to participate, consistent with the approach taken by other national securities exchanges that have adopted or sought to adopt extended overnight trading frameworks.³⁹

The Exchange believes that the proposed introduction of a defined term "business day" in Rule 11.1(b), together with the codification of the concept of an Early Market Close and the corresponding adjustments to the Exchange's trading calendar, is consistent with Section 6(b)(5) of the Act because these amendments remove impediments to and perfect the mechanism of a free and open market and a national market system. As proposed, a "business day" is any day the Exchange is open for trading, including Sunday evenings beginning at 9:00 p.m. through Monday and each Tuesday through Friday that is not a holiday, thereby providing a clear and predictable foundation for determining when the Overnight Trading Session will operate. This definition, which does not rely on enumerated calendar days, enhances transparency and flexibility by ensuring that the commencement of the Overnight Trading Session is tied to whether the following day is a trading day rather

than to fixed days of the week. This structure accommodates holiday closures, holiday-observed weekends, and unforeseen non-business days without requiring further amendments to the session definition. Likewise, the proposal's integration of Early Market Close days (under which Regular Trading Hours conclude at 1:00 p.m. and the Post-Closing Session ends at 5:00 p.m., with the market closure becoming effective on the calendar day preceding the closure date) provides that the transition into the Overnight Trading Session remains orderly, predictable, and aligned with the modified market-wide trading schedule. Together, these provisions provide Members with a uniform, rules-based mechanism for determining when the Exchange will commence and pause trading under the proposed 23x5 framework, promote just and equitable principles of trade by reducing uncertainty and the risk of misaligned order entry during session transitions, and foster cooperation and coordination with other market participants and infrastructure providers by grounding the Overnight Trading Session in a clear and durable trading-day framework. Accordingly, the Exchange believes the proposed amendments are consistent with the protection of investors and the public interest because they provide predictable and transparent operational parameters for the launch and operation of the Overnight Trading Session.

Contingency on Equity Data Plan Readiness

The Exchange believes that conditioning commencement of the Overnight Trading Session on satisfaction of the Equity Data Plan readiness requirements set forth in proposed Rule 1.5(ji) is consistent with the Act and, in particular, with the Act's requirements that exchange rules be designed to prevent fraudulent and manipulative acts and practices, foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to securities transactions, and perfect the mechanism of a free and open market and a national market system. As the Commission has recognized in approving similar conditions for other exchanges seeking to operate overnight sessions, this requirement is designed to reasonably ensure that consolidated quotation and transaction data are provided in a manner consistent with existing extended hours sessions, and that trading will not occur until the infrastructure necessary to support fair and orderly markets during overnight

³⁹ See NYSE Arca Rule 7.34–E(T); Nasdaq Rule Equity 1, Section 1(a)(19).

hours is in place.⁴⁰ Prior to commencing operation of the Overnight Trading Session, the Exchange will confirm via a subsequent Section 19(b) filing that the Equity Data Plans are prepared to collect, consolidate, process, and disseminate quotation and transaction information at all times during the Overnight Trading Session and that the Exchange is able to comply with its obligations under the Act during those hours. The Exchange believes this approach promotes transparency because trading will not commence until these conditions are verified and publicly filed.

Order Type Eligibility

The Exchange believes the proposed conforming amendments to its order type rules are consistent with the Act because they apply the same limitations on order type availability outside of Regular Trading Hours that exist today to the Overnight Trading Session, thereby ensuring a consistent and investor-protective trading environment across all extended hours sessions. Restricting order eligibility during the Overnight Trading Session and Pre-Opening Session to Limit Orders reflects the reduced liquidity conditions characteristic of extended hours trading and is consistent with the approach taken by other national securities exchanges.⁴¹ The Exchange believes restricting MidPoint Peg Orders that are uncapped with respect to price to Regular Trading Hours only further protects investors by limiting unpriced execution risk to the session in which price discovery mechanisms and liquidity conditions are most robust.

Weekday Trading Pause

The Exchange believes the proposed Weekday Trading Pause under new Rule 11.25 is consistent with the Act because it promotes the protection of investors and the public interest by providing the Exchange and market participants with a defined period each weekday to conduct maintenance and testing, process pending corporate actions, and clear end-of-day positions before a new trading day commences. The cancellation of all resting orders at the end of the Post-Closing Session at 8:00 p.m. each weekday promotes investor protection by ensuring that Members

must affirmatively re-enter orders for the following trading day, reducing the risk of unintended executions based on stale order instructions.

Customer Disclosures

The Exchange believes proposed Rule 3.21(h) is consistent with the Act and, in particular, with the Section 6(b)(5) requirement that exchange rules be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. The seven categories of risk disclosure required by proposed Rule 3.21(h) (addressing the absence of primary listing market oversight during overnight hours, the potential for more limited regulatory protections, limited trading alternatives, risks associated with near-continuous trading, the closure of financial market infrastructure companies during overnight hours, the novel nature of overnight exchange trading, and potential unforeseen risks) are tailored to the specific characteristics of the Overnight Trading Session and the expanded Pre-Opening Session, and are substantially similar to the disclosures required by the Commission in approving the rules of other national securities exchanges operating on an extended overnight basis.⁴² The Exchange believes that requiring these disclosures will enhance transparency and enable investors to make informed decisions about whether participating in the Overnight Trading Session or the Pre-Opening Session is appropriate for them, consistent with the investor protection objectives of the Act. These proposed disclosures are also consistent with FINRA Rule 2265, which separately requires brokers to affirmatively disclose to investors that extended hours trading carries greater risks than trading during Regular Trading Hours.

Market Surveillance

The Exchange believes that extending its existing surveillance programs and compliance infrastructure to the Overnight Trading Session is consistent with the Act because it provides that trading during overnight hours is subject to the same comprehensive regulatory oversight applicable to trading during other sessions, including automated trade surveillance, routine Member examinations, and an exam-

based regulatory program. Exchange staff will be available during the Overnight Trading Session to maintain a fair and orderly market, issue necessary rulings, implement trading halts, and take any other action that may be necessary, consistent with the Exchange's obligations under the Act and its rules.

Competitive Considerations

The Exchange also believes the proposal is consistent with the Act because it will foster competition by providing investors with access to another regulated national securities exchange that offers trading during overnight hours, consistent with similar proposals approved by the Commission for other national securities exchanges.⁷ The Exchange operates in a highly competitive market in which investors seeking overnight access to U.S. equities currently resort to alternative trading systems, foreign securities markets, and other venues. Enabling 23x5 Trading on the Exchange will allow it to compete for order flow from these investors, which the Exchange believes will increase market accessibility, promote capital formation, and facilitate portfolio management.

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 believes the proposed rule change will, in fact, enhance competition by providing investors with access to an additional regulated national securities exchange offering trading during overnight hours.

The Exchange does not believe 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. The Overnight Trading Session will be available to all Members on an equal and non-discriminatory basis. All Members will have the same opportunity to enter orders, access liquidity, and participate in trading during the Overnight Trading Session under the same rules, order type eligibility requirements, and session designation framework applicable to all other Exchange trading sessions. The proposed customer disclosure requirements under Rule 3.21(h) will similarly apply uniformly to all Members that accept orders for execution during the Overnight Trading Session and Pre-Opening Session, ensuring that all customers receive

⁴⁰ See Securities Exchange Act Release No. 101777 (November 27, 2024), 89 FR 97092, 97105 (December 6, 2024) (approving application of 24X National Exchange, LLC); Securities Exchange Act Release No. 102400 (February 11, 2025), 90 FR 9794 (February 18, 2025) (approving SR-NYSEArca-2024-89).

⁴¹ See NYSE Arca Rule 7.34-E(T)(c); Nasdaq Rule 4702.

⁴² See 24X Rule 3.21(g) & (i)(1)-(5); NYSE Arca Rule 7.34-E(T)(d)(3)(viii)-(xiii); Nasdaq Rule Equity 2, Section 20(8)(A)-(G).

consistent information about the risks associated with trading during those hours regardless of which Member they use. The proposed rule change does not create any special rights, preferences, or advantages for any particular class of Member or market participant.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposed rule change will promote intermarket competition by enabling the Exchange to compete with other national securities exchanges and trading venues that currently offer, or are in the process of offering, extended overnight trading in U.S. equity securities. Investors currently seeking overnight access to U.S. equities may resort to alternative trading systems, foreign securities markets, or other off-exchange venues. By enabling 23x5 Trading on a regulated national securities exchange, the Exchange's proposal provides investors with a regulated, transparent, and competitive alternative to these venues, which the Exchange believes will benefit the national market system.

The Exchange notes that its proposal is substantively consistent with similar overnight trading proposals that the Commission has previously approved for other national securities exchanges. The Exchange does not believe that its proposal confers any competitive advantage on EDGX relative to other exchanges that have received or are seeking approval for similar frameworks. Rather, the Exchange's proposal places it on equal competitive footing with those venues, which the Exchange believes is necessary and appropriate in furtherance of the purposes of the Act.

Furthermore, the Exchange's proposal to condition commencement of the Overnight Trading Session on satisfaction of the Equity Data Plan readiness requirements provides that 23x5 Trading will not commence until the consolidated data infrastructure necessary to support a fair, transparent, and competitive overnight trading market is in place. The Exchange believes this condition serves the interests of the national market system as a whole and does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGX-2026-019 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-CboeEDGX-2026-019. 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-CboeEDGX-2026-019 and should be submitted on or before May 6, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07263 Filed 4-14-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105199; File No. SR-Nasdaq-2025-109]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment Nos. 2 and 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Amended by Amendment Nos. 2 and 3, To Extend the Exchange's Trading Hours to 23 Hours a Day, Five Days a Week

April 10, 2026.

On December 29, 2025, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to extend the Nasdaq trading hours for NMS stocks to 23 hours a day, five days a week. The proposed rule change was published for comment in the **Federal Register** on January 13, 2026.³ The Commission received comments on the proposed rule change⁴ and a letter responding to the comments from Nasdaq.⁵

On February 25, 2026, pursuant to Section 19(b)(2) of the Act, the Commission designated a longer period within which to take action on the proposed rule change.⁶ On March 12, 2026, the Exchange filed Amendment No. 1 to the proposed rule change, which superseded the original proposed rule change in its entirety. On March 12,

⁴³ 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. 104563 (Jan. 8, 2026), 91 FR 1350 (Jan. 13, 2026) ("Notice").

⁴ Comment letters on the proposal are available at <https://www.sec.gov/rules-regulations/public-comments/sr-nasdaq-2025-109>.

⁵ See letter from Brett Kitt, Vice President and Deputy General Counsel, Nasdaq, dated March 12, 2026 ("Nasdaq Letter") available at <https://www.sec.gov/rules-regulations/public-comments/sr-nasdaq-2025-109>.

⁶ See Securities Exchange Act Release No. 104886 (Feb. 25, 2026), 91 FR 10162 (Mar. 2, 2026).

2026, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange.⁷ On March 20, 2026, the Exchange filed Amendment No. 3 to the proposed rule change to state that Amendment No. 2 replaced and superseded the original proposed rule change in its entirety.⁸ The Commission is publishing this notice to solicit comments on Amendment Nos. 2 and 3 (“Amended Proposal”) from interested persons and is approving the Amended Proposal, on an accelerated basis.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange’s Rulebook to provide for the Exchange to trade NMS stocks and exchange traded products 23 hours per day, five days per week. This Amendment No. 2 to SR-NASDAQ-2025-109 supersedes and replaces Amendment No. 1 to SR-NASDAQ-2025-109 in its entirety, which superseded the original filing in its entirety.⁹

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange’s Rulebook to provide for the Exchange to trade NMS stocks and exchange traded products (“ETPs”) on a 23 hours per day, five days per week basis (“23/5”).

Background and Overview

The history of the U.S. equities markets is one marked by successive waves of change and technological innovation. Among other things, these changes and innovations included the automation of trading and the introductions of decimalization, algorithmic trading, and colocation. When these innovations arose, they spurred equity market structure to evolve to accommodate them. The latest change to impact the markets is rising investor interest in trading U.S. equities during overnight hours, especially among investors located outside of the United States.¹⁰ To align Nasdaq with emerging investor interest in trading outside of traditional U.S. market hours, Nasdaq now proposes to extend its hours for trading NMS stocks and ETPs on the Exchange from 16 hours per day, 5 days per week, to 23 hours per day, 5 days per week.

Nasdaq has designed its proposal for 23/5 trading carefully. We have solicited and we continue to solicit feedback from those who stand to be impacted most by the proposal, including Nasdaq’s listed companies and market participants. Nasdaq is also an active participant in ongoing industry discussions about how to address, in a coordinated manner, market protections, halts, and corporate actions.

¹⁰ Certain alternative trading systems (“ATS”), such as Blue Ocean, already trade securities on an overnight basis. Meanwhile, the Commission has approved several new and existing exchanges to securities on an extended overnight basis, but none has begun to do so. See Securities Exchange Act Release No. 34-102400 (Feb. 11, 2025); 90 FR 9794 (Feb. 18, 2025) (order approving NYSE Arca Inc. proposal to lengthen its trading session to 22 hours per day, 5 days per week) (“NYSE Arca Approval Order”); Securities Exchange Act Release No. 89-235 [sic] (Nov. 27, 2024); 89 FR 97092 (order approving application of 24X National Exchange, LLC for registration as a national securities exchange and to trade 23 hours per day, 5 days per week) (“24X Approval Order”).

By way of background, Nasdaq presently trades securities in three daily sessions during each weekday from Monday through Friday. First, Nasdaq operates a Pre-Market Hours session from 4:00 a.m. to 9:30 a.m. ET.¹¹ Second, commencing at 9:30 a.m. with the execution of the Nasdaq Opening Cross, Nasdaq conducts its Regular Market Hours trading session until 4:00 p.m.¹² Third, commencing at 4:00 p.m. with the execution of the Nasdaq Closing Cross, Nasdaq conducts a Post-Market Hours¹³ trading session until 8:00 p.m.¹⁴ During weekdays, between the hours of 8:00 p.m.–4:00 a.m. ET, the Exchange is closed to trading as it is during all weekend hours.

During its current Pre-Market and Post-Market trading sessions, Nasdaq offers more limited trading functionality than it does during the Regular Market Hours trading session and trading during that period is subject to different regulation. For example, outside of “regular trading hours,”¹⁵ only certain aspects of the SEC’s Regulation National Market System (“Reg. NMS”)¹⁶ apply. Meanwhile, the Exchange does not offer certain order types during these trading

¹¹ See Rule Equity 1, Section 1(a)(9) (defining the term “Pre-Market Hours” as “the period of time beginning at 4:00 a.m. ET and ending immediately prior to the commencement of Market Hours.”). As discussed below, the Exchange is proposing non-substantive changes to this rule.

¹² See Rule Equity 1, Section 1(a)(9) (defining the term “Market Hours” as the period of time beginning at 9:30 a.m. ET and ending at 4:00 p.m. ET or such earlier time as may be designated by Nasdaq on a day when Nasdaq closes early). As discussed below, the Exchange proposes to rename this session “Regular Market Hours” and make other non-substantive conforming changes to this rule.

¹³ See Rule Equity 1, Section 1(a)(9) (defining the term “Post-Market Hours” as the period of time beginning immediately after the end of Market Hours and ending at 8:00 p.m. ET). As discussed below, the Exchange is proposing non-substantive changes to this rule.

¹⁴ The Exchange uses different terms to describe each of its trading sessions. For example, to refer to its pre-market hours session, the Exchange uses varying terms, such as “Pre-Market,” “Early Market Hours,” or “Early Market.” And to refer to its post-market hours session, the Exchange uses varying terms, such as “Post-Market,” “Extended Hours,” and “Extended Market Hours.” As part of this filing, the Exchange proposes to harmonize disparate and inconsistent references to these concepts to avoid confusion. Throughout the Rulebook, as amended, the Exchange proposes to define the terms “Pre-Market Hours” and “Post-Market Hours” exclusively to refer to those specific trading periods. In addition, the Exchange proposes to define the term “Extended Hours” to refer more generally to trading that occurs outside of Regular Market Hours. See proposed Rule 1, Equity 1, Sections 1(a)(20)–(21) and (23) (defining the terms “Pre-Market Hours,” “Post-Market Hours,” and “Extended Hours,” respectively).

¹⁵ See 17 CFR 242.600(b)(88) (defining the term “regular trading hours” to mean 9:30 a.m.–4 p.m. Eastern Time).

¹⁶ 17 CFR 242.600–614.

⁷ Amendment No. 2 to the proposed rule change revises the proposal by changing the definition of Business Day, adding additional risk disclosure with respect to the Night Session and clarifying that during the Night Session: (1) all NMS stocks may trade; (2) unpriced orders, like pegged orders, will not be permitted; (3) Equity 11, Rule 11890, clearly erroneous execution rules (“CE Rules”) and Equity 4, Rule 4757(c), limit order protection (“LOP”) rules will be applicable; (4) M–ELO orders as defined in Equity 4, Rule 4702(b)(14), will be rejected; and (5) the Night Session specific ports will use the OUCH 5 technology; in addition to other non-substantive changes to conform and clarify the proposed rule text. The full text of Amendment No. 2 can be found on the Commission’s website at: <https://www.sec.gov/rules-regulations/public-comments/sr-nasdaq-2025-109>.

⁸ The full text of Amendment No. 3 can be found on the Commission’s website at: <https://www.sec.gov/rules-regulations/public-comments/sr-nasdaq-2025-109>.

⁹ See Amendment No. 3, *supra* note 8. The Exchange filed and subsequently withdrew Amendment No. 1 to SR-NASDAQ-2025-109 on March 12, 2026.

sessions, such as unpriced orders and pegged orders. Moreover, during extended hours trading sessions, liquidity tends to be lower than it is during regular trading hours. Additionally, stocks often experience more volatile trading activity during these sessions. For reasons such as those described above, Exchange members may not accept an order from a customer for execution in these extended hours trading sessions without disclosing to such customer that extended hours trading involves material risks.¹⁷ Similarly, to the extent that markets like Nasdaq allow trading to occur in extended hours trading sessions, FINRA requires brokers that participate in these sessions to affirmatively disclose to investors that extended hours trading carries greater risks than trading during regular market hours.¹⁸

Although trading volume in extended hours trading tends to be considerably lower than it is during regular market hours, Nasdaq has observed a growing interest in trading during overnight hours, particular among investors located in Asia and other foreign jurisdictions where business hours do not coincide, fully or otherwise, with U.S. regular market hours. For these investors, extended market hours trading sessions often provide some real-time access to Nasdaq during their business hours, but for many, Nasdaq is closed during hours when they are most apt to trade. Increasingly, these investors are turning to ATSs that offer overnight trading, such as Blue Ocean, Bruce, Interactive Brokers, and OTC Moon. They are also increasingly utilizing trading platforms that provide access to markets for digital assets, including cryptocurrencies, tokenized assets, and tokenized securities, on a 24/7 basis. Nasdaq submits its proposal to extend its trading hours to compete for order flow from these investors, as well as to position itself favorably in the

future to participate in markets that trade digital assets.

Overview of Nasdaq's Proposal for 23/5 Trading

Going forward, Nasdaq proposes to conduct trading 23 hours per day, 5 days per week. It proposes doing so in two trading sessions rather than three. First, it will conduct a "Day" trading session, which will be the same and comprise its existing Pre-Market Hours, Regular Market Hours, and Post-Market Hours trading sessions.¹⁹ The Day Session will commence at 4:00 a.m. ET and end at 8:00 p.m. ET, and it will continue to feature both the Nasdaq Opening Cross and the Nasdaq Closing Cross. Second, Nasdaq will conduct a "Night" trading session, which will commence at 9:00 p.m. ET and end at 4:00 a.m. ET the next calendar day.²⁰ All NMS Stocks would be eligible to trade during the proposed Night Session. As we explain below, between 8:00 p.m. and 9:00 p.m. ET on each weekday, the Exchange will pause trading on its market to conduct maintenance, testing, and to process those corporate actions, such as mergers, stock splits, and dividends, that will become effective the following trading day. The pause will also allow for market participants to process and clear trades before proceeding to a new trading day. Nasdaq proposes to keep its markets closed during all weekend hours, except that the trading week will commence with a Night Session on Sunday nights at 9:00 p.m. ET.²¹ The trading week will end at the conclusion of the Day Session on Friday.²²

¹⁹ See Rule Equity 1, Section 1(a)(9).

²⁰ See proposed Rule Equity 1, Section 1(a)(19) (defining the term "Night Session" as "the time between 9:00 p.m. on one calendar day through 4:00 a.m. the next calendar day Sunday through Thursday provided that each such next calendar day is a Business Day."). To enhance clarity and consistent with approved rules of other national securities exchanges, and specifically 24X, the Exchange proposes to define the term "Business Day" to mean any Monday, Tuesday, Wednesday, Thursday or Friday other than any of the following U.S. holidays if they are celebrated on a Monday, Tuesday, Wednesday, Thursday or Friday: New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Good Friday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day ET, or such other U.S. holiday(s) as published by the Exchange from time to time). See proposed Rule Equity 1, Section 1(a)(17).

²¹ See proposed Rule Equity 1, Section 1(a)(19) (defining the term "Night Session").

²² See proposed Rule Equity 1, Section 1(a)(18). The Exchange proposes a non-substantive change to define the term "Day Session" in proposed Rule 1 Equity 1, Section 1(a)(18) as follows: "[t]he term 'Day Session' means the time between 4:00 a.m. ET and 8:00 p.m. ET on Business Days, during which period the Pre-Market Hours, Regular Market Hours and Post-Market Hours are in operation." The Exchange believes this non-substantive change is

On a holiday or another day when the Exchange is closed for business, the closure will be effective as of 8:00 p.m. ET on the calendar day prior to the closure date, and the market will reopen at 9:00 p.m. ET on the closure date, unless the closure date is a Friday, in which case the market will reopen on Sunday evening at 9:00 p.m. ET.²³ On a day when Nasdaq closes the market early, it will resume trading at 9:00 p.m. ET on the same calendar day, unless again, the early closure date is a Friday, in which case the Exchange will resume trading on Sunday evening at 9:00 p.m. ET.²⁴

Consistent with the approved rules of other national securities exchanges that are similarly proposing to extend their trading hours overnight,²⁵ Nasdaq proposes to launch the operation of its 23/5 market upon the availability of the Securities Information Processor ("SIP") to operate during the Night Session.²⁶

To facilitate this proposal to extend Nasdaq's trading hours, Nasdaq

designed to facilitate application of the rules by combining references to the three current trading sessions into one broader day trading session for referencing purposes only thereby simplifying the conceptualization and application of the proposed rules. See *id.*

²³ See proposed Rule Equity 1, Section 1(a)(19).

²⁴ See proposed Rule Equity 1, Section 1(a)(19).

²⁵ See 24X Approval Order, *supra* note 10, 89 FR at 97105-07 (approving application of 24X to trade overnight provided that it may not begin doing so until the Equity Data Plans have announced their preparedness to collect, consolidate, process, and disseminate quotation and transaction information during the overnight hours; the SEC would nullify approval of 24X rules governing overnight trading if such readiness does not occur within 18 months of the issuance of the approval order); NYSE Arca Approval Order, *supra* note 1010. See also 24X Rule 1.5(c); NYSE Arca Rule 7.34-E.

²⁶ See proposed Rule Equity 1, Section 1(19) (defining the term "Night Session" and further providing that (1) the Exchange shall not commence operation of the Night Session unless the Equity Data Plans (1) have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during the Night Session that is equivalent to the mechanism established for Exchange trading hours during Regular Market Hours, and (2) have provided the Exchange with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction information to accommodate the Night Session; (2) that prior to commencing operation during the Night Session, the Exchange will file a proposed rule change pursuant to Section 19(b) of the Exchange Act and the rules thereunder to amend its rules confirming that the Exchange is able to comply with its obligations under the Exchange Act and the rules thereunder during the Night Session and that such Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information at all times during the Night Session ("Night Session Proposed Rule Change"); and (3) that if the Night Session Proposed Rule Change is not filed within 18 months of the SEC's approval of this proposed rule change, the Exchange will promptly file a proposed rule change to remove the rules that apply to the Night Session). See *id.*

¹⁷ See Rule Equity 2, Section 20 ("Customer Disclosures") (providing, in part, that "[n]o member may accept an order from a customer for execution in the premarket session or post-market session without disclosing to such customer that extended hours trading involves material trading risks, including the possibility of lower liquidity, high volatility, changing prices, unlinked markets, an exaggerated effect from news announcements, wider spreads and any other relevant risk. The absence of an updated underlying index value or intraday indicative value is an additional trading risk in extended hours for Derivative Securities Products"). As discussed below and consistent with the approved rules of other exchanges for operating an overnight session, the Exchange is proposing to supplement these disclosures to address additional risks associated with the proposed Night Session. See *infra* note 72 and accompanying text.

¹⁸ See FINRA Rule 2265 (Extended Hours Trading Risk Disclosure).

proposes to amend numerous rules in its Rulebook. Rather than catalogue all such proposed changes, the majority of which are non-substantive changes to reflect revised trading times, we focus below on describing only those changes that will have a material impact on the operation of the Nasdaq Stock Market.

Before we describe what Nasdaq proposes to change, we first want to make clear what will remain the same. The following aspects of Nasdaq's trading system and procedures will not change when trading equities and ETPs on a 23/5 basis:²⁷

- Listing rules
- Membership rules
- Rules of conduct
- Market Maker obligations
- Ranking, display, priority and decrementation rules
- Disciplinary rules and enforcement
- Opening and Closing Crosses
- Clearly Erroneous protections

The "Day" Trading Session

The new Day trading session will combine and incorporate, without substantive changes, all elements of what are now the Pre-Market Hours,²⁸ Regular Market Hours,²⁹ and Post-Market Hours³⁰ trading sessions. Going forward, the Rules will delineate these sessions as distinct sub-parts of the Day Session.³¹ During the Day Session, all existing requirements, procedures, behaviors and processes, including

those governing the Opening and Closing Crosses, halts, routing, order types, attributes, times-in-force, order entry protocols, connectivity, market data, etc., all will persist in their current form, with only minor conforming changes (described below). For example, Order Type availability and behavior in the Pre-Market Hours of 4:00–9:30 a.m. ET will remain the same going forward as it is now.³² As another example, limits on Order Type availability in Post-Market trading will continue to apply.³³

The "Night" Trading Session

By contrast to the Day trading session, the proposed Night trading session will be an entirely new trading session that will cover a period of the night in the Eastern Time Zone in the United States in which trading on the Exchange does not now occur.³⁴ As discussed above, all NMS Stocks would be eligible to trade in the proposed Night Session. In many ways, the Night Session will be like the existing Post-Market Hours and Pre-Market Hours trading sessions in that it will feature limited functionality to reflect that only certain rules of Reg. NMS apply and the reduced trading activity. The Night Session will also feature a limited number of Order Types and Attributes.³⁵ Only limit orders

would be permitted during the Night Session.³⁶ Unpriced orders would not be permitted.³⁷ Moreover, limit orders entered during the Night Session would be subject to Limit Order Protection ("LOP") as provided under subparagraph (c) of Equity 4, Rule 4757. LOP is a feature of the Nasdaq Market Center that prevents certain Limit Orders at prices outside of pre-set standard limits ("LOP Limit") from being accepted by the System.³⁸ The LOP Limit is the greater of 10% of the

Exchange proposes to modify Rule 4702 as follows. The Exchange proposes to modify Rule 4702(b)(1)(A) ("Price to Comply Order") to add "and during the Night Session" to the sentence currently providing that "During Pre-Market Hours and Post-Market Hours, a Price to Comply Order will be ranked and displayed at its entered limit price without adjustment." As proposed, during the Night Session, Price to Comply Orders would thus be ranked and displayed in the same manner in which such orders are ranked and displayed during the Pre-Market and Post-Market Hours today. The Exchange further proposes a conforming change to delete the word "and" and add commas in that sentence as appropriate. In addition, the Exchange proposes a non-substantive, technical amendment to the first paragraph of Rule 4702(b)(1)(A) to update the cross-reference to Rule 610(d) of Regulation NMS, governing locking and crossing quotations, to the correct cross-reference, Rule 610(e) of Regulation NMS. With respect to Rule 4702(b)(2)(A) ("Price to Display Order"), the Exchange proposes three changes. First, the Exchange proposes to add "and during the Night Session" to the sentence currently providing that "During Pre-Market Hours and Post-Market Hours, a Price to Display Order will be displayed and ranked at its entered limit price without adjustment." As proposed, during the Night Session, Price to Display Orders would thus be ranked and displayed in the same manner in which such orders are ranked and displayed during the Pre-Market and Post-Market Hours today. Second, the Exchange further proposes a conforming change to delete the word "and" and add commas in that sentence as appropriate. Finally, the Exchange proposes to insert "Regular" before "Market Hours" to reflect the proposed renaming of the regular market section under Rule Equity 1, Section 1(a)(22). See proposed Rule 4702.

³⁶ See Rule 4702 ("Order Types") as proposed.

³⁷ See proposed Rule 4702(a). To effect this change, the Exchange proposes to insert, immediately following the proposed entry addressing "Night Session Ports, Protocols" in Rule 4702(a) the following text: "Unpriced orders are not permitted during the Night Session. Unpriced orders designated for the Night Session will be rejected." See *id.*

³⁸ See Rule 4757(c). LOP applies to all Quotes and Orders, including Quotes and Orders that have been modified, where the modification results in a new timestamp and priority. LOP does not apply to Orders with Market and Primary Pegging, Market Maker Peg Orders or Intermarket Sweep Orders. A Midpoint Pegging Order with a discretion price would not be subject to LOP. LOP is operational each trading day, except for orders designated for opening, reopening and closing crosses and initial public offerings. LOP is not operational during trading halts and pauses. LOP would not apply in the event there is no established LOP Reference Price or the National Best Bid, when used as the LOP Reference Price, is equal to or less than \$0. See Rule 4757(c)(i).

²⁷ The Exchange will report the best bid and offer on the Exchange to the appropriate network processor, as it currently does today, using the same formats and delivery mechanisms. As is the case today, trades executed and reported outside of Regular Market Hours as proposed will be reported to the appropriate network processor with the "T" modifier or as otherwise required by the Equity Data Plans. No fee changes are proposed in connection with this proposal.

²⁸ See Rule Equity 1, Section 1(a)(9) (defining the terms "Market Hours," "Pre-Market Hours," and "Post-Market Hours"). To effect this change, the Exchange proposes a non-substantive term to define the term "Pre-Market Hours" as that subset of the Day Session comprising the trading session that begins at 4:00 a.m. and continues until 9:30 a.m. on Business Days. See proposed Rule Equity 1, Section 1(a)(20).

²⁹ See Rule Equity 1, Section 1(a)(9). To effect this change, the Exchange proposes a non-substantive change to the current definition of "market hours" to provide that, except as otherwise provided in Rule 4120, the term "Regular Market Hours" means that subset of the Day Session comprising the trading session that begins at 9:30 a.m. and continues until 4:00 p.m. on Business Days. See proposed Rule Equity 1, Section 1(a)(22).

³⁰ See Rule Equity 1, Section 1(a)(9). To effect this change, the Exchange proposes a non-substantive term to define the term "Post-Market Hours" as that subset of the Day Session comprising the trading session that begins at 4:00 p.m. and that continues until 8:00 p.m. on Business Days except as otherwise provided in Rule 4120. See proposed Rule Equity 1, Section 1(a)(21).

³¹ See proposed Rule Equity 1, Sections 1(a)(18), and (20)–(21).

³² See proposed Rule 4702. In Amendment No. 2 to the proposed rule change, the Exchange updates Exhibit 5 to the proposal to reflect changes to Rule 4702 that were adopted after the date of the initial filing. See, e.g., Notice, *supra* note 3; Exchange Rule 4702.

³³ See proposed Rule 4702. Consistent with the behavior of such order during extended hours, the Exchange proposes to amend Rule 4702(b)(3)(A), that during the Night Session, as is the case during Pre- and Post-Market Hours, a Non-Displayed Order will be posted at its entered limit price without adjustment. See proposed Rule 4702(b)(3)(A). The Exchange further proposes to amend Rule 4702(b)(4) to provide that, during the Night Session, as is the case today with respect to the Pre- and Post-Market Hours, a Post-Only Order will be processed in a manner identical to Regular Market Hours with respect to locking or crossing Orders on the Nasdaq Book, but will not be cancelled or have its price adjusted with respect to locking or crossing the quotations of other market centers. See proposed Rule 4702(b)(4). The Exchange believes this proposed change is appropriate because the Night Session is effectively an extension of the Exchange's current extended hours, and this proposed change conforms the behavior of this order during the current extended hours through the hours of operation of the Night Session, as proposed.

³⁴ See proposed Rule 1 Equity, Section 1(a)(19).

³⁵ As discussed below, all limit orders permitted to trade during Pre-Market Hours will be eligible to trade in the Night Session; provided, however, that order types designated for the opening cross or post-opening trading that are permitted during the Pre-Market Hours will not be accepted during the Night Session. As further discussed below, the following orders will also not be permitted during the Night Session: Company Direct Listing, Extended Trading Close, Midpoint Peg Post-Only, M-ELO, and M-ELO+C. To effect these changes, the

LOP Reference Price³⁹ or \$0.50 for all securities across all trading sessions.⁴⁰

Specifically, the following Order Types *will not* be available during the Night Session: Supplemental;⁴¹ Market Maker Peg;⁴² Market On Open (“MOO”);⁴³ Limit on Open (“LOO”);⁴⁴ Opening Imbalance Only (“OIO Order”);⁴⁵ Market on Close (“MOC Order”);⁴⁶ Limit on Close (“LOC

Order”);⁴⁷ Imbalance-Only (“IO Order”);⁴⁸ Company Direct Listing;⁴⁹ Extended Trading Close;⁵⁰ Midpoint Peg Post-Only;⁵¹ Midpoint Extended Life Order (“M-ELO”);⁵² and Midpoint Extended Life Order Plus Continuous Book (“M-ELO+CB Order”).⁵³

4 a.m. ET and immediately prior to 3:55 p.m. *See* Rule 4702(b)(11).

⁴⁷ A “Limit On Close Order” or “LOC Order” is an Order Type entered with a price that may be executed only in the Nasdaq Closing Cross and only if the price determined by the Nasdaq Closing Cross is equal to or better than the price at which the LOC Order was entered, subject to qualifications set out in Rule 4702(b)(12). Subject to qualifications set out in the Rule, LOC Orders may be entered, cancelled, and/or modified between 4 a.m. ET and immediately prior to 3:50 p.m. ET. *See* Rule 4702(b)(12).

⁴⁸ An “Imbalance Only Order” or “IO Order” is an Order entered with a price that may be executed only in the Nasdaq Closing Cross and only against MOC Orders or LOC Orders. IO Orders may be entered between 4:00 a.m. ET until the time of execution of the Nasdaq Closing Cross. *See* Rule 4702(b)(13).

⁴⁹ A “Company Direct Listing Order” or “CDL Order” is a “market order” entered without a price that may be executed only in the Nasdaq Halt Cross for a Direct Listing with a Capital Raise (as defined in Listing Rule IM-5315-2). *See* Rule 4702(b)(16). The Exchange proposes to amend Rule 4702(b)(16)(A) to provide that CDL Orders are not eligible to participate in the Night Session, and, further, that CDL Orders designated for the Night Session will be rejected. *See* proposed Rule 4702(b)(16)(A).

⁵⁰ An “Extended Trading Close” or “ETC” Order is an Order Type applicable to Nasdaq-listed securities that may be executed only during the Extended Trading Close and only at the Nasdaq Official Closing Price, as determined by the Nasdaq Closing Cross. *See* Rule 4702(b)(17). The Exchange proposes to amend Rule 4702(b)(17) to provide that ETC Orders are not eligible to participate in the Night Session, and that ETC Orders designated for the Night Session will be rejected. *See* proposed Rule 4702(b)(17)(A).

⁵¹ A “Midpoint Peg Post-Only Order” (“MPPPO”) is an Order Type with a Non-Display Order Attribute that is priced at the midpoint between the NBBO and that will execute upon entry only in circumstances where economically beneficial to the party entering the Order. The Midpoint Peg Post-Only Order is available during Market Hours only. *See* Rule 4702(b)(5).

⁵² A “Midpoint Extended Life Order” is an Order Type with a Non-Display Order Attribute that is priced at the midpoint between the NBBO and that will not be eligible to execute until a minimum time period has passed after acceptance of the order by the System. Eligible Midpoint Extended Life Orders may only execute against other eligible Midpoint Extended Life Orders and M-ELO+CB Orders. *See* Rule 4702(b)(14). The Exchange proposes to amend subparagraph (A) of Rule 4702(b)(14) to provide that Midpoint Extended Life Orders are not eligible to participate in the Night Session, and that Midpoint Extended Life Orders designated for the Night Session will be rejected. The Exchange also proposes to modify subparagraph (B) of Rule 4702(b)(14) (addressing Order Attributes that may be assigned to a Midpoint Extended Life Order) to provide, consistent with the foregoing proposed changes, that “Midpoint Extended Life Orders designated for the Night Session will be rejected.” *See* proposed Rule 4702(b)(14)(A)–(B).

⁵³ A “Midpoint Extended Life Order Plus Continuous Book” or “M-ELO+CB” is an Order Type that has all of the characteristics and attributes of a Midpoint Extended Life Order,

As proposed, orders for the Night Session may be entered into the System (or previously entered orders cancelled or modified) from 9:00 p.m. ET until 4:00 a.m. ET in accordance with the hours of operation for the Night Session.⁵⁴

Similarly, the following Order Attributes⁵⁵ *will not* be available during the Night Session: Primary Pegging;⁵⁶ Market Pegging;⁵⁷ Midpoint Pegging;⁵⁸ and Discretion (Pegging).⁵⁹

except that a M-ELO+CB that satisfies a specified holding period is eligible to execute (at the midpoint of the NBBO) against other eligible M-ELO+CBs, eligible Midpoint Extended Life Orders, and as described in the rule, Non-Displayed Orders with Midpoint Pegging resting on the Exchange’s Continuous Book. *See* Rule 4702(b)(15). The Exchange proposes to amend subparagraph (A) of Rule 4702(b)(15) to provide that M-ELO+CB orders are not eligible to participate in the Night Session, and that M-ELO+CB orders designated for the Night Session will be rejected. *See* proposed Rule 4702(b)(15)(A).

⁵⁴ To effect this change, the Exchange proposes to provide in Rule 4756(a)(3) that orders for the Night Session may be entered into the System (or previously entered Orders cancelled or modified) from 9 p.m. until 4:00 a.m. ET in accordance with the hours of operation for the Night Session. *See* proposed Rule 4756(b). The Exchange further proposes to provide in Rule 4120(a)(10)(C) that the Exchange will begin accepting orders for the Night Session at 9:00 p.m. ET in accordance with Rule 4756 and will trade thereafter through the Night Session. Similarly, and with respect to entry of quotes by Nasdaq Market Makers, the Exchange proposes to provide that during the Night Session, Nasdaq Market Makers and Nasdaq ECNs can enter quotes into the System from 9:00 p.m. ET to 4:00 a.m. ET. *See* proposed Rules 4756(a)(10)(C), 4756(b).

⁵⁵ In Amendment No. 2 to the proposed rule change, the Exchange updates Exhibit 5 to the proposal to reflect changes to Rule 4703 that were adopted after the date of the initial filing. *See, e.g.,* Notice, *supra* note 3; Exchange Rule 4703.

⁵⁶ *See* Rule 4703(d). Pegging is an Order Attribute that allows an Order to have its price automatically set with reference to the National Best Bid and Offer; provided, however, that if Nasdaq is the sole market center at the Best Bid or Best Offer (as applicable), then the price of any Displayed Order with Primary Pegging will be set with reference to the highest bid or lowest offer disseminated by a market center other than Nasdaq. Pegging is available only during Market Hours. Nasdaq offers three varieties of Pegging: Primary Pegging, Market Pegging, and Midpoint Pegging. Primary Pegging means Pegging with reference to the Inside Quotation on the same side of the market. *See id.*

⁵⁷ Market Pegging means Pegging with reference to the Inside Quotation on the opposite side of the market. Pegging is available only during Regular Market Hours. *See* Rule 4703(d).

⁵⁸ *See* Rule 4703(d). Midpoint Pegging means Pegging with reference to the midpoint between the Inside Bid and the Inside Offer. Pegging is available only during Regular Market Hours. *See id.*

⁵⁹ Discretion is an Order Attribute under which an Order has a non-displayed discretionary price range within which the entering Participant is willing to trade; such an Order may be referred to as a “Discretionary Order.” The Discretion Order Attribute may be combined with the Pegging Order Attribute, in which case either the price of the Order or the discretionary price range or both may be pegged in the ways described in Rule 4702(d) with respect to the Pegging Order Attribute. As discussed above, however, and consistent with its

³⁹ The “LOP Reference Price” is the current National Best Bid or Best Offer, the bid for sell orders and the offer for buy orders. *See* Rule 4757(c)(iii). LOP will reject incoming Limit Orders that exceed the LOP Reference Threshold. Limit Orders will be rejected if the price of the Limit Order is greater than the LOP Reference Threshold for a buy Limit Order. Limit Orders will be rejected if the price of the Limit Order is less than the LOP Reference Threshold for a sell Limit Order. *See* Rule 4757(c)(v). As provided under Rule 4757(c)(iv), the LOP Reference Threshold for buy orders will be the LOP Reference Price (offer) plus the applicable LOP Limit. The LOP Reference Threshold for sell orders will be the LOP Reference Price (bid) minus the applicable LOP Limit.

⁴⁰ *See* Rule 4757(c)(ii).

⁴¹ A “Supplemental Order” is an Order Type with a Non-Display Order Attribute that is held on the Nasdaq Book in order to provide liquidity at the NBBO through a special execution process described in Rule 4757(a)(1)(D). A Supplemental Order may be entered at any time during Pre-Market Hours, or Regular Market Hours, but is available for potential execution only during Market Hours. Any Supplemental Orders still on the Nasdaq Book at the conclusion of Market Hours will be cancelled. *See* Rule 4702(b)(6).

⁴² A “Market Maker Peg Order” is an Order Type designed to allow a Market Maker to maintain a continuous two-sided quotation at a displayed price that is compliant with the quotation requirements for Market Makers set forth in Rule Equity 2, Section 5(a)(2). The Exchange is proposing to provide that Market Maker Peg Orders are not available during the Night Session, and, further, that Market Maker Peg Orders designated for the Night Session will be cancelled. *See* proposed Rule 4702(b)(7)(A).

⁴³ A “Market On Open Order” or “MOO Order” is an Order Type entered without a price that may be executed only during the Nasdaq Opening Cross. Subject to the qualifications provided in Rule 4702(b)(8), MOO Orders may be entered between 4 a.m. ET and immediately prior to 9:28 a.m. ET. An MOO Order will execute only at the price determined by the Nasdaq Opening Cross. *See* Rule 4702(b)(8).

⁴⁴ A “Limit On Open Order” or “LOO Order” is an Order Type entered with a price that may be executed only in the Nasdaq Opening Cross, and only if the price determined by the Nasdaq Opening Cross is equal to or better than the price at which the LOO Order was entered. Subject to the qualifications provided in Rule 4702(b)(9), LOO Orders may be entered between 4 a.m. ET and immediately prior to 9:28 a.m. *See* Rule 4702(b)(9).

⁴⁵ An “Opening Imbalance Only Order” or “OIO Order” is an Order Type entered with a price that may be executed only in the Nasdaq Opening Cross and only against MOO Orders, LOO Orders, or Early Market Hours Orders (as defined in Rule 4752). OIO Orders may be entered between 4:00 a.m. ET until the time of execution of the Nasdaq Opening Cross, but may not be cancelled or modified at or after 9:25 a.m. ET. *See* Rule 4702(b)(10)(A).

⁴⁶ A “Market On Close Order” or “MOC Order” is an Order Type entered without a price that may be executed only during the Nasdaq Closing Cross. Subject to the qualifications provided in Rule 4702(b)(11), MOC Orders may be entered between

With respect to Time-in-Force⁶⁰ order attributes, orders entered during the Night Session that are designated to deactivate after 4:00 a.m. ET will deactivate at the conclusion of the Night Session at 4:00 a.m. ET.⁶¹

However, the Night Session will differ from Post-Market Hours and Pre-Market Hours trading in several respects. Below is a summary of the key functionality of the Night Session as it will be available at its launch date.

- **Connectivity:** The Exchange will require market participants to use ports specifically designated for use during the Night Session.⁶² Market participants

proposal with respect to the Pegging order attribute during the Night Session, the Exchange proposes to provide that during the Night Session, the Discretion attribute may not be combined with the Pegging Order attribute. See proposed Rule 4703(g) (providing that the Discretion order attribute is available during the Night Session, provided however, that during the Night Session, the Discretion order attribute may not be combined with the Pegging Order attribute, and further, that orders designated for the Night Session that combine the Discretion attribute with a Pegging attribute will be rejected).

⁶⁰ The “Time-in-Force” assigned to an Order means the period of time that the Nasdaq Market Center will hold the Order for potential execution. Participants specify an Order’s Time-in-Force by designating a time at which the Order will become active and a time at which the Order will cease to be active. See Rule 4702.

⁶¹ To effect this change, the Exchange proposes to amend Rule 4703(a) as follows. Rule 4703(a) currently provides that available times for deactivating orders include “a specific time identified by the Participant; provided, however, that an Order specifying an expire time beyond the current trading day will be cancelled at the end of the current trading day.” The Exchange proposes to amend that provision to enhance clarity with respect to available times for deactivating orders as well as to address available times for deactivating orders during the proposed Night Session. Specifically, the Exchange proposes to amend this provision to provide that available times for deactivating orders include “a specific time identified by the Participant; provided, however, that an Order specifying an expire time beyond 8:00 p.m. ET will be cancelled at the conclusion of the Day Session at 8:00 p.m. and that an Order entered during the Night Session specifying an expire time beyond 4:00 a.m. ET will expire at the conclusion of the Night Session at 4:00 a.m. ET.” The Exchange also proposes certain conforming changes to delete from that same provision obsolete terms including “the current trading day” and “end of current trading day.” See proposed Rule 4703(a). The Exchange further proposes to amend subparagraph (2) of Rule 4703 to delete the sentence that reads “[a]n Order that is designated to deactivate at 8:00 p.m. may be referred to as having a Time in Force of ‘System Hours Day’ or ‘SDAY’” and replace it with the following: “[a]n Order with a Time in Force of ‘System Hours Day’ or ‘SDAY’ will deactivate at 8:00 p.m., however, an Order with a Time in Force of ‘System Hours Day’ or ‘SDAY’ designated for participation in the Night Session will deactivate at 4:00 a.m.” See proposed Rule 4703(a)(2). The Exchange believes these proposed changes are appropriate to provide greater clarity with respect to the operation of SDAY orders during the proposed Day Session as well as address how the SDAY TIF would operate during the Night Session as proposed.

⁶² See proposed Rule 4702(a) (providing that, to trade in the Night Session, market participants will

that have already purchased ports from the Exchange may continue using them to trade during the Day Session, but if participants wish to trade during the Night Session, then they will need to use a separate Night Session port to do so.⁶³ The Exchange proposes this requirement to use Night Session ports because the Exchange will run a distinct instance of its Trading System during the Night Session, and ports used for Day Session will only be capable of connecting to the instance of the Trading System used to operate the Day Session. Day ports will be operational from 4:00 a.m. ET through 8:00 p.m. ET, and Night Session ports will be operational from 9:00 p.m. ET through the following day at 4:00 a.m. ET.⁶⁴

- **Times-in-Force:** As noted above, the Exchange will employ the Time-in-Force Order Attribute during the Night Session as it does now during the Day Session, with two changes designed to reflect the Exchange’s proposed hours of operations. First, the Exchange proposes to (1) amend Rule Equity 1, Section 1(a)(9) to update the definition of the term “System Hours”—which is currently defined as the hours of 4:00 a.m. ET through 8:00 p.m. ET—to reflect the Exchange’s proposed hours of operation,⁶⁵ and (2) amend Rule 4703(a) to provide that when an Order may be

be required to use ports specifically designated for use during the Night Session, and that ports used for the Day Session will not connect market participants to trading systems for the Night Session). The Exchange further proposes to provide that the following protocols will be available during the Night Session: OUCH 5, Core FIX, and FIX. The Exchange proposes to offer OUCH 5, the latest version of the OUCH protocol, during the Night Session. For sessions other than the Night Session, the Exchange also offers legacy OUCH versions. The OUCH Order entry protocol is a proprietary protocol that allows subscribers to quickly enter orders into the System and receive executions. See Securities Exchange Act Release No. 95768 (September 14, 2022), 87 FR 57534 (September 20, 2022).

⁶³ See proposed Rule 4702(a).

⁶⁴ To effect this change, the Exchange proposes to provide that Night Session ports will be operational from 9:00 p.m. ET through the following day at 4:00 a.m. ET in accordance with the definition of Night Session and that Day ports will be operational from 4:00 a.m. ET through 8:00 p.m. ET on Business Days. See proposed Rule 4702(a).

⁶⁵ See proposed Rule 1, Equity 1, Section 1(a)(9). As proposed, the term “System Hours” would mean the 23-hour time period beginning at 9:00 p.m. ET on one calendar day and ending at 8:00 p.m. ET (or such earlier time as may be designated by Nasdaq on a day when Nasdaq closes early) on the next calendar day for the period from Sunday at 9:00 p.m. ET through Friday at 8:00 p.m. ET in accordance with definitions of Day Session (including the Pre-Market Hours, Regular Market Hours, Post-Market Hours) and Night Session. The Exchange further proposes to modify Equity 1, Section 1(a)(9) to delete the definitions of “Market Hours,” “Pre-Market Hours” and “Post-Market Hours,” as the Exchange is proposing to define each such term separately elsewhere in Rule Equity 1, Section 1.

deactivated at the end of “System Hours,” the term “System Hours” refers to the period from 9:00 p.m. ET to the following calendar day at 8:00 p.m. ET, in accordance with the definition of “System Hours” in Rule Equity 1, Section 1(a)(9).⁶⁶

- **Trading Halts:** Consistent with the approved rules of another national securities exchange,⁶⁷ the Exchange proposes to provide in Rule 4120(a)(10)(D) that during the Night Session, if the primary listing market, including Nasdaq when Nasdaq is the primary listing market, determines to halt trading, or delay commencement of trading, in one of its listed securities in accordance with such primary listing market’s rules (e.g., with regard to material corporate actions with respect to a particular security (i.e., corporate actions that may affect a stock price, stock additions and subtractions, and similar actions) or material news announcements), the Exchange will halt trading, or delay the commencement of trading (as applicable), in such security until trading resumes on the primary listing market for the security. Further, the Exchange proposes to provide that if trading in a security is halted by the primary listing market, including Nasdaq when Nasdaq is the primary listing market, before the commencement of the Night Session and continuing into the Night Session, or during the Night Session, the Exchange will halt trading in the security until trading resumes on the primary listing market for the security.⁶⁸

⁶⁶ See proposed Rule 4703(a). As proposed, the Exchange would provide that the available times for deactivating an order include, among others, at the end of System Hours, in accordance with the definition of “System Hours” in Rule Equity 1, Section 1(a)(9). See proposed Rule 4703(a).

⁶⁷ 24X Rule 11.15(c)(5).

⁶⁸ See proposed Rule 4120(a)(10)(D). Generally, regardless of trading session, when a halt has been declared on the primary listing market, the Exchange will also halt trading automatically in the subject security on the Exchange. Exchange staff will be available during the proposed Night Session in order to maintain a fair and orderly market, make any necessary rulings or take any action that may be necessary. Similarly, Exchange staff will be available if any action such as declaration of a halt in a Nasdaq primary symbol were necessary. Moreover, to the extent material corporate news is released during the Night Session and the primary listing market does not impose a halt, the requirements of proposed Rule Equity 2, Section 20 and proposed Rule Equity 2, Section 20(8) that disclosures be provided to customers relating to the risks associated with the exaggerated effect of news announcements and the additional risks of trading during the Night Session, respectively, will help ensure that market participants, including investors, are informed about the potential risks associated with trading during the Night Session. The Exchange also proposes a technical, non-substantive conforming change to renumber subparagraphs (10)–(15) of current Rule 4120(a) as subparagraphs (11)–(16).

• *Clearly Erroneous Transactions:* Consistent with the regulatory framework applied to national securities exchanges⁶⁹ with respect to the use of clearly erroneous rules in extended hours sessions, the Exchange proposes to rely on its clearly erroneous rules⁷⁰ during the Night Session. The Exchange believes this proposed change is appropriate because the use of clearly erroneous executions rules during the Night Session will help ensure that there is a consistent, market-wide approach across the extended hours trading sessions of all national securities exchanges.

• *Surveillance:* During the Night Session, the Exchange will have a dedicated team to conduct real-time surveillance, process Clearly Erroneous filings, and as needed, implement trading halts. Real-time surveillance for the Night Session will be similar to real-time surveillance in other sessions today. Real-time surveillance includes monitoring for unusual activity, the detection of potential manipulation and other market abuse, as well as coordination with Nasdaq departments and member firm representatives as necessary to monitor and or resolve unexpected matters. The Exchange will utilize the Nasdaq Market Surveillance system to electronically monitor and alert trading anomalies. The Clearly Erroneous process and trading halts for listed securities will be handled by the Exchange surveillance staff, similar to all other sessions, and in accordance with the rules applicable to Clearly Erroneous filings and Trading Halts.

• *Market Data:* The Exchange proposes to disseminate the same market data information during the Night Session as are available during the Day Session.

• *Risk Disclosures:* In accordance with Equity 2, Section 20, the Exchange proposes to supplement its current customer disclosures concerning risks associated with trading during Pre-

Market Hours and Post-Market Hours to add six additional potential risks associated with trading during the Night Session based on the approved rules of 24X and NYSE Arca.⁷¹ As proposed, the Exchange would require that its members make certain disclosures to investors concerning risks associated with trading during Pre-Market Hours, Post-Market and the Night Session.⁷² These proposed disclosures will enhance transparency by warning customers that trading during these extended hours involves material trading risks, as outlined in the proposed rules.⁷³

• *Equity Data Plans:* Consistent with the approved rules of 24X and NYSE Arca,⁷⁴ the Exchange proposes to provide that the Exchange would not commence operation of the Night Session unless the Equity Data Plans (as proposed to be defined in Rule Equity 1, Section 1(a)(16))⁷⁵ have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during Extended Trading Hours that is equivalent to the mechanism established for Regular Market Hours, and (2) have provided the Exchange with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction

information to accommodate the Night Session.⁷⁶

Transition From Night to Day Session

The following describes proposed procedures for the Exchange to transition from a Night Session to a Day Session at 4:00 a.m. ET each weekday. At the conclusion of the Night Session at 4:00 a.m. ET, all orders outstanding on the Nasdaq Book as of 4:00 a.m. ET will be canceled.⁷⁷ The Exchange currently begins accepting new orders for the Pre-Market Session at 4:00 a.m. ET,⁷⁸ and, as proposed, this would remain unchanged.

Weekday 8:00–9:00 p.m. ET Trading Pause

As proposed, upon conclusion of the Day Session on each weekday, at 8:00 p.m. ET, trading on the Exchange will pause for one hour.⁷⁹ It will resume with commencement of the Night Session at 9:00 p.m. ET.⁸⁰ All orders

⁷⁶ Also consistent with the approved rules of 24X and NYSE Arca, the Exchange further proposes to provide that, prior to commencing operation during the Night Session, the Exchange will file a proposed rule change pursuant to Section 19(b) of the Exchange Act and the rules thereunder to amend its rules confirming that the Exchange is able to comply with its obligations under the Exchange Act and the rules thereunder during the Night Session and that such Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information at all times during the Night Session ("Night Session Proposed Rule Change"). If the Night Session Proposed Rule Change is not filed within 18 months of the Commission's approval of this proposed rule change, the Exchange will promptly file a proposed rule change to remove the rules that apply to the Night Session. The Exchange will submit all quotes and trades that are generated in the Night Session to the consolidated quote and trade systems maintained by the SIPs for public dissemination. Accordingly, once the proposed Night Session is operative, quotes and trades will be made available to the investing public in the same manner that quotes and trades are currently made available. *See, e.g.,* proposed Rule Equity 1, Section 1(a)(19); 24X Rule 1.5(c); NYSE Arca Rule 7.34-E.

⁷⁷ To effect this change, the Exchange proposes to provide in proposed Rule 4120(a)(10)(C) that at the conclusion of the Night Session at 4:00 a.m. ET, all orders outstanding in the Nasdaq Book as of 4:00 a.m. ET shall be cancelled. *See* proposed Rule 4120(a)(10)(C).

⁷⁸ *See* Rule 4752(b).

⁷⁹ *See* proposed Rule 4120(a)(10). To effect this change, the Exchange proposes to provide in proposed Rule 4120(a)(10) that the Exchange shall halt trading at the conclusion of the Day Session at 8:00 p.m. ET and resume trading with the commencement of the Night Session at 9:00 p.m. ET, on Monday, Tuesday, Wednesday and Thursday, in accordance with Rule Equity 1, Sections 1(a)(18)–(19) of these rules. As further proposed, weekday trading would commence with a Night Session beginning at 9:00 p.m. ET, on Sunday. *See* proposed Rule 4120(a)(10).

⁸⁰ *See* proposed Rule 4120(a)(10). Consistent with the approved rules of another national security exchange, and specifically 24X Rule 11.15(c)(4), the Exchange proposes to provide that the Exchange may pause trading during the Night Session at such other times as the Exchange in the exercise of its

⁶⁹ *See, e.g.,* CboeBZX Rule 11.17; Nasdaq Equity 11, Rule 11890; NYSE Arca Rule 7.10–E; 24X Rule 11.14.

⁷⁰ *See* proposed Rule 11890. To effect this change, the Exchange proposes to amend Equity 1, Rule 11890 ("Clearly Erroneous Transactions") to incorporate the Night Session as appropriate throughout the various provisions in the rule. Specifically, the Exchange proposes to insert references to the Night Session in the following provisions: romanette (iii) of Rule 11890(a)(2)(A) (with respect to filing time periods); subparagraph (2) of Rule 11890(C), including the table under romanette (i) (with respect to eligibility for review) and romanettes (ii) and (iii) thereunder; subparagraph (3) of Rule 11890(a)(3)(D)(3) (with respect to trades on the Nasdaq Bond Exchange); and romanette (i) of Rule 11890(b) (with respect to procedures for reviewing transactions on Nasdaq's own motion).

⁷¹ *See, e.g.,* 24X Approval Order, *supra* note 10; 24X Rule 3.21 ("Customer Disclosures"); NYSE Arca Approval Order, *supra* note 10; NYSE Arca Rule 7.34–E(T) ("Trading Sessions").

⁷² *See* proposed Rule Equity 2, Section 20 (8)(A)–(F) (providing, in part, that trading during the Night Session may present risks, including (1) the risk of trading during hours in which the primary listing market may not be open, (2) the risk of trading during hours in which there may be limited or different regulatory protections, (3) the risk of having limited trading alternatives, (4) risks related to continuous trading, (5) the risk of trading during hours in which financial market infrastructure companies may be closed, (6) the risk of trading because the Night Session is novel and may presents additional unforeseen risks beyond those enumerated in the proposed rules, and (7) additional unforeseen risks in addition to those discussed above).

⁷³ *See* proposed Rule Equity 2, Section 20.

⁷⁴ *See* 24X Rule 1.5(c); NYSE Arca Rule 7.34–E.

⁷⁵ As proposed, the term "Equity Data Plans" means the effective national market system plans that govern the collection, consolidation, processing and dissemination of equity market data for NMS stocks and oversee the exclusive securities information processors ("SIPs"), including (1) the Consolidated Tape Association Plan ("CTA Plan"), (2) the Consolidated Quotation Plan ("CQ Plan"), (3) the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis ("UTP Plan"), (4) the CT Plan established by the Limited Liability Company Agreement of CT Plan LLC, and (5) any successor thereto to the named Plans. *See* proposed Rule Equity 1, Section 1(a)(16).

outstanding on the Nasdaq Book as of 8:00 p.m. ET will be canceled.⁸¹ The Exchange will begin accepting new orders at 9:00 p.m., Sunday through Thursday and will trade thereafter throughout the Night Session.⁸² At the conclusion of the Night Session at 4:00 a.m. ET, all orders outstanding in the Nasdaq Book as of 4:00 a.m. ET will be cancelled.⁸³

The trading pause will mitigate systemic risk to the markets and promote resiliency by providing time for both the Exchange and market participants to conduct maintenance and testing. During the pause, for example, the Exchange will shift its operations to a second instance of its System that will run the Night Session.

Finally, the trading pause will allow the Exchange to process, or to begin processing any corporate actions that may be pending for the next trading day, including stock splits, dividends, name changes, and distributions. The Exchange notes that certain corporate actions will likely require halts beyond the trading pause. For example, dividends must be paid on particular calendar days, which will not, going forward, always coincide with the commencement of new trading days on Nasdaq at 9:00 p.m. ET. Accordingly, Nasdaq will likely need to halt trading in such securities until sometime during the next calendar date.

Related Proposed Rule Changes

As discussed above, the Exchange proposes to trade NMS stocks and ETPs on a 23/5 basis. To effect this change with respect to certain ETPs, the Exchange proposes to amend certain rules under the Nasdaq 5700 Series as follows. The Exchange proposes to provide that, in addition to the Regular

regulatory functions may determine is appropriate, and that the Exchange will announce in advance when such trading will pause and when it will resume pursuant to this paragraph. *See, e.g.,* proposed Rule 4120(a)(10)(A); 24X Rule 11.15(c)(4).

⁸¹ *See* proposed Rule 4120(a)(10)(B). To effect this change, the Exchange proposes to provide in proposed Rule 4120(a)(10)(B) that orders outstanding on the Nasdaq Book as of 8:00 p.m. ET shall be cancelled. *See id.*

⁸² *See* proposed Rule 4120(a)(10)(C). To effect this change, the Exchange proposes to provide that the Exchange will begin accepting orders for the Night Session at 9:00 p.m. ET in accordance with Rule 4756 and will trade thereafter throughout the Night Session. As discussed above, the Exchange is also proposing to provide in Rule 4756(a)(3) that Orders for the Night Session may be entered into the System (or previously entered Orders cancelled or modified) from 9 p.m. until 4:00 a.m. ET in accordance with the hours of operation for the Night Session. *See* proposed Rule 4756(a)(3).

⁸³ *See* proposed Rule 4120(a)(10)(C) (proposing to provide, in part, that at the conclusion of the Night Session at 4:00 a.m. ET, all orders outstanding in the Nasdaq Book as of 4:00 a.m. ET shall be cancelled).

Market Hours and the Pre-and Post-Market Hours, as it does today, Nasdaq may designate the following for trading during the Night Session: Exchange Traded Fund Shares,⁸⁴ Portfolio Depositary Receipts listed pursuant to Rules 5705(a)(4) and (5),⁸⁵ and Index Fund Shares.⁸⁶ The Exchange believes this proposed change would remove impediments to and perfect the mechanism of a free and open market, and in general, protect investors and the public interest because the Exchange has rules in place to facilitate the trading of such ETPs during all trading sessions and may designate such ETPs for trading during all extended hours sessions, of which the proposed Night Session would constitute part.

Impact on Exchange Fees

The Exchange will address any impact of the rule proposal on its schedule of credits and fees, and its incentive programs, in a subsequent rule filing.

Clarifying, Conforming and Other Non-Substantive Changes

The Exchange proposes to amend current Equity 1, Section 1 to add three clarifying definitions. First, the Exchange proposes to define “Equity Data Plans” to mean the effective national market system plans that govern the collection, consolidation, processing and dissemination of equity market data for NMS stocks and oversee the exclusive securities information processors (“SIPs”), including (1) the Consolidated Tape Association Plan (“CTA Plan”), (2) the Consolidated Quotation Plan (“CQ Plan”), (3) the

⁸⁴ *See* proposed Rule 5704(b)(1)(C). To effect this change, the Exchange proposes to insert the words “or Night Session, as such terms are defined in Rule 4120” immediately following the description of the Pre- and Post-Market Hours sessions in Rule 5704(b)(1)(C). The Exchange also proposes to make related conforming changes to remove obsolete language describing the current trading sessions and substitute therefor for the proposed terms for each such trading session. *See* proposed Rule 5704(b)(1)(C).

⁸⁵ *See* proposed Rule 5705(a)(7). To effect this change, the Exchange proposes to insert the words “or Night Session, as such terms are defined in Rule 4120” immediately following the description of the Pre- and Post-Market Hours sessions in Rule 5705(a)(7) and make related conforming changes to remove obsolete language describing the current trading sessions and substitute therefor for the proposed terms for each such trading session. *See* proposed Rule 5705(a)(7).

⁸⁶ *See* proposed Rule 5705(b)(7). To effect this change, the Exchange proposes to insert the words “or Night Session, as such terms are defined in Rule 4120” immediately following the description of the Pre- and Post-Market Hours sessions in Rule 5705(b)(7) and make related conforming changes to remove obsolete language describing the current trading sessions and substitute therefor for the proposed terms for each such trading session. *See* proposed Rule 5705(b)(7).

Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (“UTP Plan”), (4) the CT Plan established by the Limited Liability Company Agreement of CT Plan LLC, and (5) any successor thereto to the named Plans.⁸⁷ Second, the Exchange proposes to define “Business Day” to mean any Monday, Tuesday, Wednesday, Thursday or Friday other than any of the following U.S. holidays if they are celebrated on a Monday, Tuesday, Wednesday, Thursday or Friday: New Year’s Day, Martin Luther King Jr. Day, Presidents’ Day, Good Friday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day ET, or such other U.S. holiday(s) as published by the Exchange from time to time.⁸⁸ Finally, the Exchange proposes to define “Extended Hours” to mean that, unless otherwise specified in Exchange rules, the term means the hours outside of Regular Market Hours and specifically comprising the hours during which Pre-Market Hours, Post-Market Hours, and Night Session are in operation.⁸⁹

The Exchange also proposes the following conforming, non-substantive changes.

- The Exchange proposes to amend the following rules to replace references to “Market Hours,” “regular market hours,” and similar references used to designate the trading session operating from 9:30 a.m. ET through 4:00 p.m. ET with the proposed term “Regular Market Hours,” and make related conforming changes: Rule Equity 1, Section 1(a)(9); Rule Equity 2, Section 20; and Rules 4120, 4702, 4703,⁹⁰ 4752, 4753, 4754,⁹¹

⁸⁷ *See* proposed Rule Equity 1, Section 1(a)(16).

⁸⁸ *See* proposed Rule Equity 1, Section 1(a)(17).

⁸⁹ *See* proposed Equity 1, Section 1(a)(23).

⁹⁰ The Exchange proposes one additional non-substantive change to Rule 4703(l) to correct a typographical error. Rule 4703(l) incorrectly refers to Opening Imbalance Only Orders as “OI Orders” in one instance and “IO Orders” in another. The Exchange proposes to amend that subparagraph of Rule 4703 to revise such references as necessary to correctly reflect the defined term for such orders: “OIO Orders.” *See* Rule 4702(a)(10)(A) (defining the term “Opening Imbalance Only Order” or “OIO Order”). The Exchange believes this administrative non-substantive change is appropriate to enhance clarity and thus facilitate the use of and compliance with the Exchange’s rules.

⁹¹ The Exchange proposes an additional non-substantive change to Rule 4754(b) to delete the “S” from “EST” and thus use the acronym “ET” as defined in Rule Equity 1, Section 1(a)(8). *See* Rule Equity 1, Section 1(a)(8) (providing that the term

IM-5250-1,⁹² 5704, 5705, 5710, 5711, 5713, 5745, 5760, 5810(b), 5840, and 11890.

- The Exchange proposes to amend the following rules to replace references to terms such as “Pre-Market Session,” “Early Market Hours,” and similar terms used to designate the pre-market trading session operating from 4:00 a.m. ET through 9:30 a.m. ET with the defined term “Pre-Market Hours” and make related conforming changes: Rule Equity 2, Section 20, and Rules 4120, 4702, 4703, 4753, 5704, 5705, and 11890.

- The Exchange proposes to amend the following rules to replace references to terms such as “Post-Market Session,” “Extended Market Hours,” and similar terms used to designate the trading session operating from 4:00 p.m. ET through 8:00 p.m. ET, with the term “Post-Market Hours” and make related conforming changes: Rule Equity 2, Section 20, and Rules 4120, 4702, 4703, 4753, 4755,⁹³ 5704, 5705, and 11890.

- The Exchange proposes to amend the following rules to replace references to “extended hours” with the term “Extended Hours,” as defined in Rule 1, Equity Section 1(a)(23); Rule Equity 2, Section 20, and Rule 4703.

- The Exchange would also make certain conforming changes as follows. First, the Exchange proposes to delete the obsolete reference to “4:00 a.m. to 8 p.m. Eastern Time on each business day” in Rule Equity 2, Section 8, and substitute therefor the term “System Hours,”⁹⁴ so as to update and align this

“ET” means Eastern Standard Time or Eastern Daylight Time, as applicable).

⁹² The Exchange further proposes a non-substantive, clarifying change to Rule IM-5250-1. Specifically, the Exchange proposes to delete the term “market hours” from the second paragraph of the section titled “Notification to Nasdaq MarketWatch Department and replace it with the more precise time range “7:00 a.m. to 8:00 p.m.” The Exchange believes this clarifying change is appropriate to align this paragraph with the preceding one which requires that material news reported outside the hours of 7:00 a.m. to 8:00 p.m. be disclosed prior to 6:50 a.m. under the rule.

⁹³ In this Amendment No.2 to the proposal, the Exchange is proposing one non-substantive technical change to Rule 4755 to update the cross reference to the definition of “Post-Market Hours.” Specifically, the Exchange proposes to delete the reference to Rule Equity 1, Section 1(a)(9) and replace it with a reference to proposed Rule Equity 1, Section 1(a)(21) (proposing to define the term “Post-Market Hours”). The Exchange believes this proposed non-substantive change is appropriate to accurately cross reference the definition of “Post-Market Hours” as proposed and thus facilitate the understanding and use of the Exchange’s rules. The Exchange is proposing no other changes to Rule 4755.

⁹⁴ See, e.g., proposed Rule Equity 2, Section 8; proposed Rule Equity 1, Section 1(a)(9) (defining the term “System Hours”). To effect this change, the Exchange proposes to delete, from Rule Equity 2, Section 8, the words “from 4:00 a.m. to 8:00 p.m. Eastern. Time on each business day” and substitute

rule with the proposed hours of operation for the Exchange. The Exchange proposes to make non-substantive changes to Rule 4120⁹⁵ as follows. The Exchange proposes to amend subparagraph (B) of Rule 4120(b)(4) to (1) to conform the current terms “Pre-Market Session,” “Post-Market Session,” and “Market Hours” to the proposed terms “Pre-Market Hours,” “Post-Market Hours,” and “Regular Market Hours,” as proposed Rule Equity 1, Sections 1(a)(20)–(22), respectively.⁹⁶ The Exchange further proposes to add in new subparagraphs (F)–(G) of Rule 4120(b)(4) that the terms “Day Session” and “Night Session” shall have the same meaning as defined in Rule Equity 1, Sections 1(a)(18) and (19), respectively. Consistent with how the Exchange operates during the Post-Market Hours, the Exchange also proposes to provide in Rule 4120(a)(3)(A), that if an applicable Required Value⁹⁷ continues not to be calculated or widely disseminated after the close of the Regular Market Hours, Nasdaq may trade a Derivative Securities Product⁹⁸ during the Night

therefor the words “during System Hours.” See proposed Rule Equity 2, Section 8.

⁹⁵ In Amendment No. 2 to the proposed rule change, the Exchange updates Exhibit 5 to the proposal to reflect changes to Rule 4120 that were adopted after the date of the initial filing. See, e.g., Notice, *supra* note 3; Exchange Rule 4120.

⁹⁶ See proposed Rule 4120(b)(4)(B)–(D). The Exchange notes that for purposes of Rule 4120 and in connection with the trading of certain derivative securities products as provided thereunder, the definitions of “Post-Market Hours” and “Regular Market Hours” differ from those proposed in Equity 1, Section 1 only in that (1) “Regular Market Hours,” as defined in Rule 4120, run until “4:00 p.m. or 4:15 p.m.” on Business Days (rather than until 4:00 p.m. on Business Days as provided in proposed Rule Equity 1 Section 1(a)(22)) and (2) “Post-Market Hours,” as defined in Rule 4120 begin at “4:00 p.m. or 4:15 p.m.” on Business Days (rather than at 4:00 p.m. on Business Days, as proposed in Rule Equity 1, Section 1(a)(21)). The Exchange is not proposing to modify such definitions under Rule 4120(b).

⁹⁷ “Required Value” means (i) the value of any index or any commodity-related value underlying a Derivative Securities Product, (ii) the indicative optimized portfolio value, intraday indicative value, or other comparable estimate of the value of a share of a Derivative Securities Product updated regularly during the trading day, (iii) a net asset value in the case of a Derivative Securities Product for which a net asset value is disseminated, and (iv) a Disclosed Portfolio in the case of a Derivative Securities Product that is a series of Managed Fund Shares, as defined in Rule 5735, or Managed Trust Securities, as defined in Rule 5711(j), and a Composition File in the case of a Derivative Securities Product that is a series of NextShares, as defined in Rule 5745. See Rule 4120(b)(4)(E).

⁹⁸ See proposed Rule 4120(b)(3)(A). “Derivative Securities Product” means a series of Exchange Traded Fund Shares, Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, NextShares, Trust Issued Receipts, or Proxy Portfolio Shares (as defined in Rules 5704, 5705, 5735, 5745, 5720, and 5750 respectively), a series of Commodity-Related Securities (as defined in

Session only if the listing market traded the Derivative Securities Product until the close of its regular trading session without a halt.⁹⁹

Finally, the Exchange proposes a technical, non-substantive conforming change to renumber subparagraphs (10)–(15) of Rule 4120(a) as subparagraphs (11)–(16).

II. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰¹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

It is consistent with the Act to permit members of the Exchange to trade securities on an extended basis, for 23 hours per day, 5 days per week. As explained above, investors increasingly trade securities, along with digital assets, on a global basis. Investors located outside of the United States in places like Asia presently cannot trade on Nasdaq during what constitutes their regular trading hours, as the Exchange is closed during that period. Even among U.S.-based investors, demand is growing for exchanges to expand their market hours to accommodate overnight trading. Accordingly, investors seeking

Equity 10, Section 8), securities representing interests in unit investment trusts or investment companies, Index-Linked Exchangeable Notes, Equity Gold Shares, Trust Certificates, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Commodity Futures Trust Shares, Partnership Units, Trust Units, Managed Trust Securities, or Currency Warrants (as defined in Rule 5711(a)–(k)), or any other UTP Derivative Security (as defined in Rule 5740). See Rule 4120(b)(4)(A).

⁹⁹ To effect this change, the Exchange proposes to amend Rule 4120(b)(3)(A) to insert, immediately after “Post-Market Session,” the words “and during the Night Session.” The Exchange also proposes a non-substantive to conform the term “Post Market Session” to the proposed term “Post-Market Hours” by deleting the word “Session” and substituting therefor the word “Hours.” As described below, the Exchange is proposing non-substantive changes to conform terms “Pre-Market Session,” “Post-Market Session,” and “Market Hours” in each instance such terms are used within Rule 4120 with the proposed terms “Pre-Market Hours,” “Post-Market Hours,” and “Regular Market Hours,” respectively. The Exchange believes that establishing uniform names for its trading sessions, as proposed, is appropriate because consolidating the varying terms for each such session into one defined and uniform term for each such session would facilitate the understanding of and compliance with the Exchange’s rules. See, e.g., proposed Rule 4120; proposed Rule Equity 1, Section 1(a)(20)–(22).

¹⁰⁰ 15 U.S.C. 78f(b).

¹⁰¹ 15 U.S.C. 78f(b)(5).

access to U.S. equities and ETP markets during overnight and weekend hours must resort to trading on a handful of ATSS that offer round-the-clock trading. Nasdaq's proposal will enable Nasdaq to serve these investors and to compete with ATSS, foreign securities markets, and other markets for their order flow. It will also enable the Exchange to compete with new and incumbent exchanges which the SEC has approved to trade overnight in a similar manner.

The Exchange's proposal to operate on an extended hours basis is largely based on Nasdaq's longstanding rules for extended hours trading, as well as the approved rules of other national securities exchanges also seeking to operate on a 23/5 basis. As proposed, these rules are designed to address potential differences in trading compared to regular trading hours, as well as to enhance transparency and investor protections. For example, the Exchange is proposing to supplement the existing required customer disclosures to require the disclosure of six additional potential risks associated with trading during extended hours, including the proposed Night Session. Such disclosures notify investors of potential risks and allow them to evaluate whether to trade during extended hours. The Exchange would also implement measures to safeguard against trade executions that are clearly erroneous while it works to build industry-wide consensus on proposals for establishing uniform after-hours volatility moderators. The Exchange believes that requiring the use of ports specifically designated for use during the Night Session is appropriate because the Night Session operates on a technically distinct trading system from the Day Session. As a result, Day Session ports cannot connect to, or interact with, the Night Session trading system. This approach reflects the technical and functional separation of the two systems and ensures that Night Session activity occurs in a manner consistent with the Act's goals of ensuring market integrity, investor protection, and fair and orderly trading. Nasdaq would also address corporate actions, conduct real-time surveillance, and implement trading halts consistent with its proposed rules. Finally, trading overnight will be transparent because Nasdaq will not commence operations of the proposed extended hours until the Equity Data Plans are prepared to collect, consolidate, process, and disseminate quotation and transaction information at all times during the Night Session. The proposed rules will also foster competition by introducing

another trading venue during the overnight hours, as at least two other exchanges have obtained Commission approval for operating on an extended hours basis.

In addition to increasing investor access to the Exchange, the proposal also stands to promote capital formation and facilitate portfolio management.

Finally, the Exchange believes that the proposed conforming and other non-substantive changes would remove impediments to and perfect the mechanism of a free and open market by reducing potential investor and market participant confusion thereby ensuring that investors and market participants can more easily navigate, understand and comply with the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to expand its trading hours to 23 hours a day, 5 days per week are neither intended to nor will they adversely impact competition. If anything, the Exchange expects that the proposed changes will promote competition by providing for the Nasdaq Stock Market to accommodate the growing demand to trade equity securities during overnight hours when the market is presently closed. Unaffiliated exchanges remain free to compete by offering extended hours trading of similar duration. The Exchange believes that requiring the use of designated ports for the Night Session will not impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The requirement for separate ports merely reflects the technical and functional separation of the two systems and ensures that Night Session activity occurs in a manner consistent with the Act's goals of ensuring market integrity, investor protection, and fair and orderly trading.

The Exchange operates in a highly competitive market in which market Participants can readily choose between competing venues if they deem participation in the Exchange's market to no longer be desirable or if they do not wish to trade during the new Night Session. In such an environment, the Exchange must carefully consider the impact that any change it proposes may have on market participants, understanding that it will likely lose participants to the extent a change is viewed as unfavorable by them. Because competitors are free to modify the

functionality and structure of their markets, including by availing themselves of the same capabilities that are being developed to trade securities and ETPs on a 23/5 basis, the Exchange believes that the degree to which its proposal imposes any burden on competition is limited. Last, to the extent the proposed change is successful in attracting additional market participants or additional activity by existing participants, the Exchange also believes that the proposed change will promote competition among trading venues by making the Exchange a more attractive trading venue.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change. The Exchange has, however, responded to comments received in response to the Notice.

III. Discussion and Commission Findings

The Commission finds that the Amended Proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁰² In particular, the Commission finds that the Amended Proposal is consistent with Section 6(b)(5) of the Exchange Act,¹⁰³ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, Nasdaq proposes to extend its hours of operation to include a Night Session, which is modeled on the Exchange's existing rules that govern Pre-Market Hours and Post-Market Hours sessions, as well as rules approved by the Commission for similar sessions on other national securities exchanges.¹⁰⁴ As proposed, Nasdaq will

¹⁰² 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁰³ 15 U.S.C. 78f(b)(5).

¹⁰⁴ See 24X Approval Order and NYSE Arca Approval Order, *supra* note 10.

have two sessions—a Day Session and a Night Session—for trading on Business Days. The Day Session will consist of three individual trading sessions: Pre-Market Hours beginning at 4:00 a.m. and continuing until 9:30 a.m.; Regular Market Hours beginning at 9:30 a.m. and continuing until 4:00 p.m. and Post-Market Hours beginning at 4:00 p.m. and continuing until 8:00 p.m. The Night Session will begin at 9:00 p.m. on one calendar day and continue until 4:00 a.m. on the next calendar day, so long as the next calendar day is a Business Day. The Night Session will begin on Sunday evenings at 9:00 p.m. and a Night Session will be held Monday through Thursday. As described by the Exchange, the Night Session will operate in a manner that is consistent with the Pre-Market Hours and Post-Market Hours sessions but will require additional customer disclosures about the potential risks of trading during the Night Session and the use of a dedicated port.

Further, as discussed below, the Exchange will not commence operation of the Night Session prior to a filing of a proposed rule change to confirm its and the Equity Data Plans' readiness. Specifically, Nasdaq Equity 1, Section 1(a)(19) requires the Exchange to file a proposed rule change, pursuant to Section 19(b) of the Exchange Act and the rules thereunder, to amend its rules confirming that the Exchange is able to comply with its obligations under the Exchange Act during the Night Session and that the Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information during that time period.

Accordingly, the Amended Proposal is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in NMS stocks, and perfect the mechanism of a free and open market and a national market system. Moreover, the Amended Proposal will foster competition by introducing another trading venue during the overnight hours. As amended, the Exchange's rules for the Night Session are designed to increase transparency and enhance customer risk disclosures such that the Exchange will operate the Night Session in a manner that is consistent with the regulatory framework of the extended hours sessions of other national securities exchanges.

A. General Comments on Extended Hours Trading

The Commission received comment letters on the proposal and a response from the Exchange.¹⁰⁵ Several commenters supported the proposal.¹⁰⁶ One commenter expressed support for the proposal with recommendations, including that Nasdaq submit specific "implementation dates for updated trading halts and volatility mechanism rules."¹⁰⁷ Nasdaq responded that its proposed rules governing trading halts and volatility mechanisms during the Night Session are substantively identical to the approved rules of another national securities exchange operating extended hours sessions citing rules of 24X and NYSE Arca.¹⁰⁸ This commenter also stated that Nasdaq should provide investor education on 23-hour trading.¹⁰⁹ Another commenter that supported the Amended Proposal stated that the Commission should approve the Amended Proposal.¹¹⁰

Several other commenters opposed the proposal to extend the Exchange's trading hours.¹¹¹ One commenter stated that the Commission had not given sufficient consideration to the issues because the Commission had not issued requests for information, published concept releases or held roundtables before setting forth its views on overnight trading.¹¹² Nasdaq stated that the issues related to extended hour trading generally, including those raised

by commenters, have been considered and addressed by the Commission.¹¹³ The Commission has previously sought public comment on the proposed rules of a national securities exchange related to overnight trading, received substantive input from a variety of commenters, and considered the relevant issues prior to taking action.¹¹⁴ Further, as the Commission has stated, the overnight trading of NMS stocks is not novel as it currently occurs on the over-the-counter market on ATSS (*i.e.*, during the time period proposed by Nasdaq).¹¹⁵

One commenter pointed out that some market participants remain critical of the expansion of trading hours for national securities exchanges and warned of the potential systemic risks (thin liquidity, volatility, gamification, and harm to retail investors) related to around-the-clock trading.¹¹⁶ Other commenters questioned the benefits of 24-hour trading,¹¹⁷ warned of fragmented liquidity and volatility,¹¹⁸ warned of structural risks and concentration of power in low volume periods,¹¹⁹ and recommended disapproval.¹²⁰ Another commenter stated that retail investors are in early stages of developing disciplined risk management practices and that introducing continuous trading could undermine gains.¹²¹ One commenter also stated that the times when trading does not occur provides a "vital cooling-off period" that allows the market to digest news, earnings and global events.¹²²

The Exchange responded that the concerns raised by the comments with respect to extended hours trading, such as risks to investors, market stability, and lack of liquidity, have been considered and addressed by the Commission in approving similar proposals from other exchanges.¹²³ The Exchange stated that the proposal is based on established and Commission-approved rules of other exchanges that offer comparable extended hours trading.¹²⁴ The Exchange further stated that the Commission has allowed retail

¹⁰⁵ See *supra* note 4.

¹⁰⁶ See, e.g., Letter from Alexander Kravlev, dated Feb. 12, 2026 ("Kravlev Letter"); Letter from Katie Kolchin, CFA Managing Director, Head of Equity & Options Market Structure, and Gerald O'Hara, Vice President, Assistant General Counsel, SIFMA, dated Mar. 19, 2026 ("SIFMA Letter"). One commenter that supported the proposal also suggested that Nasdaq change its hours of the Day Session and the Closing Cross to occur earlier in time. See Kravlev Letter. Nasdaq responded that it had not proposed to modify the time for the Closing Cross and that the time would remain unchanged at 4:00 p.m. ET. See Nasdaq Letter at 4.

¹⁰⁷ See Letter from Kara Maniscalco, dated Jan. 29, 2026 ("Maniscalco Letter") at 6.

¹⁰⁸ See Nasdaq Letter at 2.

¹⁰⁹ See Maniscalco Letter at 6.

¹¹⁰ See SIFMA Letter at 1. This commenter also raised "additional questions and issues for broader consideration outside of the context of a single exchange rule filing," including SIP availability, harmonization of trade date, adoption of a one-hour trading pause, and coordination of corporate actions. See SIFMA Letter. As stated below, the Commission is monitoring the developments of extended trading hours.

¹¹¹ See Letter from Kevin Bell, dated Dec. 18, 2025 ("Bell Letter"); Letter from Anonymous, dated Jan. 14, 2026 ("Anonymous Letter"); Letter from Francesco Terranova, dated Jan. 27, 2026 ("Terranova Letter"); Letter from Benjamin L. Schiffrin, Director of Securities Policy, Better Markets, Inc., dated Feb. 3, 2026 ("Better Markets Letter"); and Letter from Jonathon Patterson, dated Feb. 7, 2026 ("Patterson Letter").

¹¹² See Better Markets Letter at 1.

¹¹³ See Nasdaq Letter at 2.

¹¹⁴ See e.g., Notice; 24X Approval Order; and NYSE Arca Approval Order.

¹¹⁵ See 24X Approval Order and NYSE Arca Approval Order.

¹¹⁶ See Better Markets Letter.

¹¹⁷ See Bell Letter; Terranova Letter; and Patterson Letter.

¹¹⁸ See Terranova Letter.

¹¹⁹ See Patterson Letter.

¹²⁰ See Anonymous Letter. See also Terranova Letter.

¹²¹ See Patterson Letter.

¹²² See Terranova Letter.

¹²³ See Nasdaq Letter at 4.

¹²⁴ See *id.*

participation in extended hours trading with appropriate disclosures, and that the Exchange's proposed mandatory customer disclosures are substantively identical to the approved rules of another exchange.¹²⁵

One commenter stated that the Commission could consider more limited and structured extensions of existing trading hours with full regulatory protections, circuit breakers and reporting requirements or the Commission could consider limiting the securities available during extended trading hours, such as highly liquid large-cap stocks.¹²⁶ The Exchange stated that it will operate within a regulatory framework consistent with that applied to extended hours sessions of other national securities exchanges, and that "the existing safeguards applicable to premarket and postmarket sessions, including operational safeguards, consolidated last sale and quotation information, enhanced customer risk disclosures for afterhours trading, and market surveillance capabilities" would also apply to the Night Session.¹²⁷ As discussed, Nasdaq's proposal is substantively identical to the approved rules of another national securities exchange and to Nasdaq rules for the Pre-Market Hours and Post-Market Hours.

As the Commission stated in previous orders approving the extension of the trading hours of a national securities exchange to include overnight time periods, the Commission continually monitors the national market system and the operation of Federal securities laws, and the Commission, consistent with its oversight of the national market system, will continue to monitor the developments of extended trading hours.¹²⁸ In addition, consistent with previous orders, the monitoring of new market developments does not foreclose Commission action on this proposal.¹²⁹ The Commission finds that Nasdaq's rules, as amended, for the Night Session are consistent with the Exchange Act. Specifically, Nasdaq rules that will govern the Night Session are largely based on its rules for the Pre-Market Hours and Post-Market Hours sessions with differences, discussed below, as well as the additional customer disclosures, to accommodate further expansion of trading hours.

B. Equity Data Plans and Securities Information Processor Readiness

With respect to quotation and transaction information, Exchange Rule Equity 1, Section 1(a)(19) requires that the Exchange will not commence operation of the Night Session prior to the Equity Data Plans' readiness to collect, consolidate, process, and disseminate quotation and transaction information at all times during the Night Session.¹³⁰ Further, Nasdaq Rule Equity 1, Section 1(a)(19) requires the Exchange to file a proposed rule change pursuant to Section 19(b) of the Exchange Act to amend the Exchange's rules confirming that the Exchange is able to comply with its obligations under the Exchange Act and the Equity Data Plans are prepared to collect, consolidate, process, and disseminate quotation and transaction information at all times during the Night Session. The proposed rule change must be filed with the Commission and approved, or otherwise become effective pursuant to Section 19(b) of the Exchange Act, before Nasdaq can commence trading in the Night Session.

The Nasdaq rule requiring the operation of the Equity Data Plans during the Night Session is designed to ensure that consolidated quotation and transaction information are provided in a manner that is consistent with the existing extended hours sessions on exchanges, including Nasdaq. The Nasdaq rules for the Night Session are designed to perfect the mechanism of a free and open market and a national market system, protect investors and the public interest. Further, the Amended Proposal will foster competition by introducing another trading venue during these trading hours. The Commission has approved other national securities exchanges' rules to introduce overnight trading hours with substantively identical provisions.¹³¹

C. Designated Ports

For the Night Session, the Exchange will require market participants to use ports that are specifically designated for the Night Session. The following ports will be available for the night session: OUCH5, Core FIX, and FIX. The Exchange explained that the Night Session will have a distinct instance of the Trading System so the Day Session ports will only be capable of connecting

to the Day Session of the Trading System. The Exchange will cancel all orders on the Nasdaq Book at the end of the Day Session and at end of the Night Session.

The use of dedicated ports for the Night Session is consistent with the requirements of the Act. The Exchange's proposed use of designated ports will allow the Exchange to use different Trading Systems for the Day and Night Sessions and will allow the Exchange to manage and monitor each session independently.

D. Effect on Retail Investors and Customer Disclosures

One commenter stated that retail investors do not have the resources to monitor their portfolios 23 hours a day and stated that the proposal would put retail investors at a disadvantage compared to institutional trading firms.¹³² Another commenter stated that extended hours trading may have a detrimental impact on investor behavior and that retail traders are unlikely to understand the risks of overnight trading.¹³³ The Exchange responded that its proposal adopts mandatory customer disclosures that are substantively identical to the corresponding approved rules of 24X.¹³⁴

Nasdaq's proposed rules are largely based on the previously approved overnight trading rules of other national securities exchanges.¹³⁵ In addition, while overnight trading is not yet operational on any national securities exchanges, it does currently occur in the over-the-counter market on multiple ATSS.¹³⁶ Accordingly, while Nasdaq's proposal would extend its trading hours with the Night Session (9:00 p.m. ET to 4:00 a.m. ET on Sunday, Monday, Tuesday, Wednesday and Thursday), market participants, including retail investors, are already able to trade during that time.

The Exchange has proposed several rules that will help to provide investor protections during the Night Session. For example, as discussed above, the Exchange proposed to update Equity 2, Section 20, which requires customer disclosures concerning the risks associated with trading in Extended

¹³² See Terranova Letter. See also Better Markets Letter.

¹³³ See Better Markets Letter.

¹³⁴ See Nasdaq Letter at 3.

¹³⁵ See 24X Approval Order and NYSE Arca Approval Order, *supra* note 10.

¹³⁶ See, e.g., Blue Ocean ATS, LLC ("BOATS"). The operating hours for BOATS occur from 8:00 p.m. to 4:00 a.m. E.T. on days when the NYSE Trade Reporting Facility is open for trade reporting. See Form ATS-N, available at sec.gov/Archives/edgar/data/1795131/000153949723000091/xslATS-N_X01/primary_doc.xml.

¹²⁵ See *id.* at 2–3.

¹²⁶ See Patterson Letter.

¹²⁷ See Nasdaq Letter at 4.

¹²⁸ See 24X Approval Order, 89 FR at 97106, NYSE Arca Approval Order, 90 FR at 9797.

¹²⁹ See 24X Approval Order, 89 FR at 97106, and NYSE Arca Approval Order, 90 FR at 9797.

¹³⁰ The Exchange has represented that it will submit "... all quotes and trades that are generated in the Night Session to the consolidated quote and trade systems maintained by the SIPs for public dissemination." See Footnote 70 of Amendment No. 2. See also *supra* note 76.

¹³¹ See 24X Rule 1.5(c) and NYSE Arca Rule 7.34–E.

Hours¹³⁷ to include additional risks specifically related to the Night Session. These additional risk factors include: (1) trading during hours that the primary listing market may not be open to conduct surveillance and other regulatory obligations; (2) trading during hours in which there may be different or limited regulatory protections such as single stock volatility mechanisms; (3) more limited trading alternatives may lead to losses if orders cannot be executed due to systems failures or other issues on the Exchange; (4) systems maintenance and testing may introduce more risks to trading due to less breaks in trading to conduct those events; (5) other key financial market infrastructure companies may be closed and could cause delays in settlement; (6) trading on an exchange during the Night Session is novel and may present unforeseen risks; and (7) trading during the Night Session may present additional unforeseen risks. These additional risk disclosures are substantially similar to the risk disclosures already approved by the Commission with respect to other national securities exchanges.¹³⁸ Accordingly, Nasdaq's Amended Proposal, which adds additional risk disclosures is consistent with the requirements of Section 6(b)(5) of the Exchange Act because it is designed to protect investors and the public interest.

Further, the Exchange proposed to limit the types of orders that would be allowed in the Night Session and will not accept unpriced orders. The Exchange stated that all limit orders permitted to trade in the Pre-Market Hours would be eligible for the Night Session, except for certain order types that are designated for the opening cross or post-open trading. As discussed above, the Exchange would not allow the following Order Types during the Night Session: Supplemental; Market Maker Peg; Market On Open; Limit on Open; Opening Imbalance Only; Market on Close; Limit on Close; Imbalance-Only; Company Direct Listing; Extended Trading Close; Midpoint Peg Post-Only; Midpoint Extended Life Order; and Midpoint Extended Life Order Plus Continuous Book. Moreover, the Exchange would not allow the following Order Attributes during the Night Session: Primary Pegging; Market Pegging; Midpoint Pegging; and Discretion (Pegging). With respect to Time-in-Force order attributes, orders entered during the Night Session that are designated to deactivate after 4:00

a.m. ET will deactivate at the conclusion of the Night Session at 4:00 a.m. ET. Moreover, the Exchange stated that limit orders entered during the Night Session will be subject to Limit Order Protection, a feature of the Exchange to prevent limit order acceptance at prices outside of pre-set limits. Consistent with other exchanges that are approved to operate overnight trading sessions, Nasdaq will not allow pegged orders or unpriced or market orders to be entered during the Night Session. Accordingly, Nasdaq's Amended Proposal, which restricts certain order types and order attributes, is consistent with the requirements of Section 6(b)(5) of the Exchange Act because it is designed to protect investors and the public interest.

E. Trading Pause/Transition Between Day and Night Sessions

To transition into the Night Session, the Exchange will institute a trading pause from 8:00 p.m. to 9:00 p.m. on Monday through Thursday for testing, system maintenance, and processing corporate actions. The Exchange will cancel all outstanding orders at the end of the Day Session at 8:00 p.m. and at the end of the Night Session at 4:00 a.m. the next calendar day. Nasdaq's proposed daily one-hour pause between the operation of the Day Session and the Night Session should be sufficient to permit Nasdaq to address the technical implications of a 23-hour trading day and will facilitate internal market testing and systems updates and improvements.

F. Other Proposed Rules

As described above, the Exchange also proposes various conforming, clarifying, and non-substantive changes. These changes, which generally delete obsolete references and replace them with the updated and relevant defined terms, should help to promote the transparency and clarity of the Exchange's rules related to the addition of the Night Session. These changes are consistent with the requirements under Section 6(b)(5) of the Exchange Act that the rules of an exchange are designed to remove impediments to and perfect the mechanism of a national market system, and protect investors and the public interest because they are designed to provide transparency and clarity to the Exchange's rules.

IV. Solicitation of Comments on Amendment Nos. 2 and 3 to the Proposed Rule Change

Interested persons are invited to submit written data, views and arguments concerning whether the

proposed rule change, as amended by Amendment Nos. 2 and 3, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–SR–Nasdaq–2025–109 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.
- All submissions should refer to file number SR–Nasdaq–2025–109. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–Nasdaq–2025–109 and should be submitted on or before May 6, 2026.

V. Accelerated Approval of Proposed Rule Change, as Amended by Amendment Nos. 2 and 3

The Commission finds good cause to approve the Amended Proposal prior to the thirtieth day after the date of publication of the notice of filing of Amendment Nos. 2 and 3 in the **Federal Register**. The Amended Proposal is substantially similar to the approved rules of other national securities exchanges.¹³⁹ Amendment No. 2 revises the proposal to change the definition of Business Day and add an additional risk disclosure with respect to the Night Session. Amendment No. 2 also clarifies that during the Night Session: (1) all NMS Stocks will be available for trading; (2) unpriced orders, like pegged orders, will not be permitted;¹⁴⁰ (3) CE

¹³⁷ See *supra* note 14.

¹³⁸ See 24X Approval Order and NYSE Arca Approval Order, *supra* note 10.

¹³⁹ See 24X Approval Order and NYSE Arca Approval Order, *supra* note 10.

¹⁴⁰ See proposed Nasdaq Rule 4702.

Rules and LOP will be applicable;¹⁴¹ (4) M–ELO orders will be rejected;¹⁴² and (5) the Night Session specific ports will use the OUCH 5 technology;¹⁴³ in addition to other non-substantive changes to conform and clarify the proposed rule text. Amendment No. 3 clarifies that Amendment No. 2 replaced and superseded and replaced the original proposal in its entirety.

In light of the previous Commission orders approving other national securities exchanges' rules to allow trading during the times that coincide with the Night Session, and the substantive similarity of Nasdaq's Amended Proposal to those existing exchange rules, Amendment Nos. 2 and 3 do not raise any new or novel regulatory issues. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,¹⁴⁴ to approve the Amended Proposal, prior to the thirtieth day after the date of publication of the notice of Amendment Nos. 2 and 3 thereof in the **Federal Register**.

VI. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule change, as amended by Amendment Nos. 2 and 3, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5) of the Act.¹⁴⁵

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴⁶ that the proposed rule change (SR–Nasdaq–2025–109), as amended by Amendment Nos. 2 and 3, be, and is hereby, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026–07259 Filed 4–14–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105202; File No. SR–LTSE–2026–09]

Self-Regulatory Organizations: Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rule 14.602, To Extend the Duration of Certain Term-Limited Complimentary Products and Services

April 10, 2026.

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on April 2, 2026, Long-Term Stock Exchange, Inc. (“LTSE” 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 is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend LTSE Rule 14.602 (Products and Services Offered to Companies) to extend from four years to five years the duration of certain term-limited complimentary products and services offered to currently and newly listed companies (“Companies”) through the Exchange's affiliate, LTSE Services, Inc. (“LTSE Services”).

The text of the proposed rule change is available at the Exchange's website at <https://longtermstockexchange.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room [sic].

II. Self-Regulatory Organization's Statement on 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 self-regulatory organization has prepared summaries, set forth in

Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend LTSE Rule 14.602 to describe certain products and services that the Exchange makes available to Companies through the Exchange's affiliate, LTSE Services. Under Rule 14.602, certain complimentary products and services are available to Companies for defined time periods beginning on the date a Company initially commences receiving such products and services.

The Exchange proposes to amend Rule 14.602 to extend from four years to five years the duration during which Companies may continue receiving certain term-limited complimentary products and services. The Exchange believes that this modest extension is reasonable and appropriate and is designed to provide Companies additional time to realize the intended benefits of these offerings.

The Exchange believes that issuer engagement, shareholder development, and market intelligence initiatives often require continuity over multiple years to achieve their intended benefits, particularly for newly listed Companies. In the Exchange's experience, Companies frequently require multiple annual reporting cycles following an initial listing to establish and refine investor relations strategies, build and stabilize a shareholder base, and incorporate market intelligence feedback into their ongoing investor engagement practices. The Exchange believes that extending the term-limited availability period from four years to five years will better align the program with the practical realities of issuer development in the public markets.

The Exchange further believes that extending the duration of these offerings will provide greater predictability and continuity for Companies that have incorporated these products and services into their investor relations workflows. The Exchange believes that the additional year will reduce disruption that may occur as Companies approach the end of the current four-year period and will provide Companies additional time to evaluate the effectiveness of the offerings over a longer period.

The Exchange notes that the proposed extension remains appropriately limited and does not establish an open-ended or perpetual benefit tied to continued

¹⁴¹ See proposed Nasdaq Rule 11890 (CE Rules) and Nasdaq Rule 4757(c) (Limit Order Protection).

¹⁴² See proposed Nasdaq Rule 4702(b)(14).

¹⁴³ See proposed Nasdaq Rule 4702(a).

¹⁴⁴ 15 U.S.C. 78s(b)(2).

¹⁴⁵ 15 U.S.C. 78f(b)(5).

¹⁴⁶ 15 U.S.C. 78s(b)(2).

¹⁴⁷ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

listing. The proposed rule change does not modify the scope or nature of the products and services described in Rule 14.602, does not alter eligibility criteria, and does not change the voluntary election framework applicable to the offerings. Companies remain free to elect whether to receive the products and services and may discontinue receiving them at any time. Receipt of the products and services is not a condition of listing or continued listing on the Exchange. Because the proposed rule change relates solely to the duration of existing services and does not introduce new products, services, or fees, the Exchange believes that the proposal does not raise any novel regulatory issues and is appropriate for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

The Exchange also believes that the proposed rule change will enhance its ability to compete for listings in a highly competitive market. Other national securities exchanges offer complimentary issuer services for multi-year terms. The Exchange acknowledges that certain peer exchange programs have historically provided complimentary issuer services for terms of up to 48 months. However, the Exchange believes that extending the duration of its term-limited offerings from four years to five years is a modest and reasonable adjustment that remains consistent with the concept of a defined and time-limited issuer services program and is appropriate in light of LTSE's mission of supporting long-term value creation.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act, in particular, because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The Exchange believes that extending from four years to five years the duration of the Exchange's term-limited complimentary issuer services under Rule 14.602 is reasonable and appropriate because issuer engagement and investor development initiatives often require continuity over multiple years to achieve their intended benefits, particularly for newly listed Companies. The Exchange believes that Companies frequently require several annual reporting cycles to develop stable

investor engagement practices and to evaluate the effectiveness of market intelligence and investor outreach initiatives. The Exchange believes that providing an additional year will allow Companies more time to incorporate these offerings into long-term planning and to realize the benefits of the services over a longer period.

The Exchange further believes that the proposed rule change is consistent with investor protection and the public interest because the services described in Rule 14.602 are designed to support Companies in developing more effective shareholder engagement and communication practices.

The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because the term-limited offerings described in Rule 14.602 will remain available to all Companies on the same terms and for the same five-year period, measured from the date a Company initially commenced receiving such products and services. The proposed rule change does not provide differential access to the services based on market capitalization, trading volume, liquidity thresholds, or any other issuer classification. Participation remains voluntary, and no Company is required to receive the products and services as a condition of listing or continued listing. Companies may elect whether to receive the services and may discontinue receiving them at any time.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(8) of the Act because it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market for listings, and issuers have the ability to select among listing venues based on the services and value propositions offered by competing exchanges. The Exchange believes that extending the duration of its term-limited offerings will enhance the Exchange's ability to compete with other national securities exchanges that offer complimentary issuer services for multi-year terms, thereby promoting competition and issuer choice.

The Exchange acknowledges that certain peer exchange issuer services programs have historically been structured around a term of up to 48 months. However, the Exchange believes that the additional year proposed here is a modest extension that remains appropriately time-limited and continues to preserve the fundamental structure of a defined-term issuer services offering. The Exchange

believes that the additional year is justified by the longer-term nature of issuer development and investor engagement cycles, particularly for newly listed Companies, and is consistent with the Exchange's mission of promoting long-term value creation.

Finally, the Exchange represents that the proposed extension will not impair the Exchange's ability to fulfill its regulatory obligations under the Act. The Exchange will continue to devote appropriate resources to its regulatory functions and will maintain appropriate policies and procedures to ensure that the provision of products and services under Rule 14.602 does not interfere with the Exchange's regulatory responsibilities. The Exchange further believes that immediate effectiveness of the proposed rule change is consistent with the protection of investors and the public interest because it will allow Companies to continue receiving existing services without interruption and will avoid unnecessary disruption associated with the expiration of the current four-year period.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that extending from four years to five years the duration of the term-limited complimentary products and services offered under Rule 14.602 will enhance issuer choice and the Exchange's ability to compete for listings, while continuing to apply uniformly and on an optional basis to all Companies.

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

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section

19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴

A proposed rule change filed under Rule 19b-4(f)(6)⁵ normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii)⁶ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that this proposed rule change does not affect the scope or nature of the products and services offered under Rule 14.602, but instead extends the duration of such offerings by one year. Moreover, the Exchange states that a waiver will provide immediate benefits to Companies by allowing them to continue receiving existing services without interruption and will promote continuity in issuer engagement and investor relations practices. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. 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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-LTSE-2026-09 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-LTSE-2026-09. 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 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-LTSE-2026-09 and should be submitted on or before May 6, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07262 Filed 4-14-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0328]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Form ID—Application for EDGAR Access

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 "Paperwork Reduction Act"), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The

Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form ID (17 CFR 232.10(b), 17 CFR 239.63, 17 CFR 249.446, 17 CFR 269.7, and 17 CFR 274.402) must be completed and submitted to the Commission by all individuals, companies, and other organizations that seek access to file electronically on the Commission's Electronic Data Gathering, Analysis, and Retrieval system ("EDGAR"). Those seeking access to file on EDGAR typically include those who are required to make certain disclosures pursuant to the federal securities laws. The information provided on Form ID is an essential part of the security of EDGAR. Form ID must be submitted whenever an applicant seeks an EDGAR identification number (Central Index Key or CIK) and/or access codes to file on EDGAR. The currently approved burden includes an estimate of 82,483 Form ID filings annually and a further estimate that it takes approximately 0.6 hours per response for a total annual burden of 49,490 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 control number.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to PaperworkReductionAct@sec.gov by June 15, 2026. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: April 10, 2026.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07254 Filed 4-14-26; 8:45 am]

BILLING CODE 8011-01-P

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 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.

⁵ *Id.*

⁶ 17 CFR 240.19b-4(f)(6)(iii).

⁷ 17 CFR 200.30-3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0104]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Form 3—Initial Statement of Beneficial Ownership of Securities

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant, to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) is soliciting comments on the collections of information summarized below. The Commission also is requesting approval from OMB to designate this existing collection of information (OMB Control No. 3235–0104) as a “common form” for purposes of PRA submissions¹ because the Board of Governors of the Federal Reserve System uses this information collection (under OMB Control No. 7100–0091). The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Congress enacted Section 16 of the Securities Exchange Act of 1934 (“Exchange Act”) to address insider trading. Pursuant to Section 16(a), every person who owns more than ten percent of any class of equity security (other than an exempted security) which is registered under Section 12 of the Exchange Act, or who is a director or an officer of the issuer of such security (collectively “reporting persons”) are

¹ See ROCIS PRA Module User Guide v.8.2, at 110–111 (Mar. 2024), available at <https://www.rocis.gov/rocis/viewResources.do> (“A ‘common form’ is an information collection that can be used by two or more agencies, or government-wide, for the same purpose. The Common Forms Module [in ROCIS] allows a ‘host’ agency to obtain [OMB] approval of an information collection for use by one or more ‘using’ agencies. After OMB grants approval, any prospective using agency that seeks to collect identical information for the same purpose can obtain approval to use the ‘common form’ by providing its agency-specific information to OMB (e.g., burden estimates and number of respondents). The host agency will indicate in the **Federal Register** notices that it is requesting approval of a common form and, if known, identify other agencies that may use the information collection. Both the **Federal Register** notices and the ICR should account only for the burden imposed by the host agency’s use of the common form. Once the host agency has received approval from OMB, any agency will be able to request OMB approval for its use of the common form in ROCIS by providing its agency specific information to OMB (e.g., burden estimates and number of respondents). Additional public notice by those agencies will not be required.”).

required to file statements disclosing their ownership of the issuer’s equity securities. The Commission adopted Form 3 (17 CFR 249.103) pursuant to Section 16. Form 3 requires disclosure of certain information about a reporting person and their beneficial ownership of the relevant class of securities. We estimate that Form 3 takes approximately 0.5 hours per response and is filed once per year by approximately 15,371 respondents, for a total of approximately 15,371 responses annually.² We estimate that 100% of the 0.5 hours per response is carried internally by the respondent for annual reporting burden of 7,686 hours (0.50 hours per response × 15,371 responses) and \$0 of estimated annual cost burden.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency’s estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to PaperworkReductionAct@sec.gov by June 15, 2026. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: April 10, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–07244 Filed 4–14–26; 8:45 am]

BILLING CODE 8011–01–P

² We calculated this estimate by adding (A) the average number of Form 3 filings annually for the period 2023 through 2025 (12,404 responses annually) to (B) the Commission’s estimated increase in the annual number of Form 3 filings based on its recent amendments to implement the Holding Foreign Insiders Accountable Act (2,967 responses). See *Holding Foreign Insiders Accountable Act Disclosure*, Release No. 34–104903 (Feb. 27, 2026) [91 FR 10320 (Mar. 3, 2026)].

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105196; File No. SR–CBOE–2026–005]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified and Superseded by Amendment No. 3, To Amend Rules 4.13 and 5.1 To Permit Options on the Dow Jones Industrial Average Index To Be P.M.-Settled

April 10, 2026.

I. Introduction

On January 8, 2026, Cboe Exchange, Inc. (“Cboe” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to permit options on the Dow Jones Industrial Average index (“DJX” or “DJX index”) to be P.M.-settled. The proposed rule change was published for comment in the **Federal Register** on January 26, 2026.³ On February 19, 2026, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and superseded the proposed rule change as originally filed.⁴ On March 5, 2026, the Exchange filed Amendment No. 2 to the proposed rule change, and on March 6, 2026, the Exchange withdrew Amendment No. 2. On March 6, 2026, the Exchange filed Amendment No. 3 to the proposed rule change, which amended and superseded Amendment No. 1 in its entirety.⁵ On March 9, 2026, the Commission designated a longer period within which to take action on the proposed rule change.⁶ The Commission received no comments on the proposed rule change. The Commission is publishing this Notice and Order to solicit comment on Amendment No. 3 in Sections II and III below, which sections are being published verbatim as filed by the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 104644 (Jan. 21, 2026), 91 FR 3284.

⁴ The full text of Amendment No. 1 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-cboe-2026-005/sr-cboe2026005-706448-2224034.pdf>.

⁵ The full text of Amendment No. 3 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-cboe-2026-005/sr-cboe2026005-719767-2253315.pdf>.

⁶ See Securities Exchange Act Release No. 104953, 91 FR 12251 (Mar. 12, 2026). The Commission designated April 26, 2006, as the date by which Commission shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

Exchange, and to approve the proposed rule change, as modified and superseded by Amendment No. 3, on an accelerated basis.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend Rules 4.13 and 5.1 to permit options on the Dow Jones Industrial Average ("DJX options") to be P.M.-settled. The Exchange initially submitted this rule filing SR-CBOE-2026-005 to the Securities and Exchange Commission (the "Commission") on January 8, 2026 (the "Initial Rule Filing"). The Exchange submitted Amendment No. 1 to this rule filing SR-CBOE-2026-005 to the Commission on February 19, 2026. The Exchange submitted Amendment No. 2 on March 5, 2026, but withdrew it on March 6, 2026. This Amendment No. 3 supersedes the Initial Rule Filing and Amendment No. 1 and replaces them in their entirety. This Amendment No. 3 provides additional support for the proposal, as well as makes minor changes to language in the rule filing, but makes no changes to the proposal. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/options/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

III. 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 V 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

This proposed rule change amends certain rules to permit the Exchange to

list P.M.-settled⁷ DJX options. Specifically, the Exchange proposes to amend (1) Rule 4.13, Interpretation and Policy .13 to permit the listing of P.M.-settled DJX options that expire on the standard third Friday-of-the-month ("Expiration Friday");⁸ (2) amend Rule 4.13(c) to permit the listing of DJX options with Quarterly Index Expirations ("QIXs");⁹ (3) permit the Exchange to list DJX options with Nonstandard Expirations pursuant to Rule 4.13(e).¹⁰

The Exchange may currently list P.M.-settled series that expire on Expiration Fridays, Nonstandard Expirations, and QIXs for several different broad-based indexes. This proposed rule change would permit the Exchange to list P.M.-settled DJX options that expire on Expiration Fridays, Nonstandard Expirations, and QIXs. The availability of P.M.-settled DJX options with these various expirations will provide market participants with opportunities to trade those options in a manner more aligned with specific timing needs and more effectively tailor their investment and hedging strategies related to the Dow Jones Industrial Average and manage their portfolios. In particular, the proposed rule change will allow market participants to roll their positions in DJX options with regularity and more precision, to spread risk across more trading days, and incorporate daily, weekly, monthly, and quarterly changes in the markets, which may reduce the premium cost of hedging.

⁷ An option with P.M.-settlement has its exercise settlement value derived from the closing prices on the expiration date.

⁸ Rule 4.13, Interpretation and Policy .13 permits the Exchange to list P.M.-settled options on the, S&P 500 Index ("SPX options"), Mini-SPX Index ("XSP options"), S&P 500 Equal Weight Index (full-value) ("SPEQF options"), S&P 500 Equal Weight Index (1/10th) ("SPEQX options"), Russell 2000 Index ("RUT options"), Mini-RUT Index ("MRUT options"), Cboe Bitcoin U.S. ETF Index ("CBTX options"), Cboe Mini-Bitcoin U.S. ETF Index ("MBTX options"), and Cboe Magnificent 10 Index ("MGTN options").that expire on the third Friday-of-the-month.

⁹ Rule 4.13(c) permits the Exchange to list QIXs on options on the S&P 100 Index ("OEX options"), SPX options, XSP options, SPEQF options, SPEQX options, RUT options, MRUT options, CBTX options, MBTX options, and MGTN options.

¹⁰ Rule 4.13(e) permits the Exchange to open for trading Weekly Expirations on any broad-based index eligible for standard options trading on any Monday, Tuesday, Wednesday, Thursday, or Friday (other than Expiration Fridays or days that coincide with an end-of-month ("EOM") expiration) or EOM expirations on any broad-based index eligible for standard options trading. While the Exchange believes it has the authority under this rule to list DJX options with Nonstandard Expirations, Commission staff informed the Exchange that it must submit a rule filing pursuant to Section 19(b)(2) under the Act before it may list Nonstandard Expirations for these classes.

First, the Exchange proposes to list DJX options pursuant to the Nonstandard Expirations Program ("Program") under Rule 4.13(e), which would permit P.M.-settled DJX options that expire any Monday, Tuesday, Wednesday, Thursday, or Friday (other than the third Friday-of-the-month ("Expiration Friday")) or days that coincide with an end-of-month expiration ("Weekly Expirations") and that expire on the last trading day of the month ("EOMs"). Currently, under this Program, the Exchange is permitted to list P.M.-settled options on any broad-based index eligible for standard trading and the Cboe Bitcoin U.S. ETF Index ("CBTX options"), the Mini-Cboe Bitcoin U.S. ETF Index ("MBTX options"), and the Cboe Magnificent 10 Index ("MGTN options") (which are narrow-based indexes) that expire on: (1) any Monday, Tuesday, Wednesday, Thursday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration) and (2) the last trading day of the month.¹¹ The proposal expands the availability of Weekly and EOM expirations to DJX options, which are broad-based index options eligible for standard options trading.¹²

The Nonstandard Expirations Program will apply to DJX options in the same manner as it currently applies to other index options. Weekly and EOM Expirations are subject to all provisions of Rule 4.13 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that Weekly and EOM Expirations are P.M.-settled, and new series in Weekly and EOM Expirations may be added up to and including on the expiration date for an expiring Weekly or EOM Expiration.

The maximum number of expirations that may be listed for each Weekly Expiration (*i.e.*, a Monday expiration, Tuesday expiration, Wednesday expiration, Thursday expiration, or Friday expiration, as applicable) and each EOM expiration in a given class is the same as the maximum number of expirations permitted in Rule 4.13(a)(2)

¹¹ See Rule 4.13(e).

¹² The Exchange notes DJX options are eligible for the Monthly Options Series program pursuant to Rule 4.13(a)(2)(C), which permits p.m.-settled options that expire on the last trading day of the month (as do options with EOM expirations) (the Exchange has not previously listed DJX options with Monthly expirations under this program). The Exchange proposes to make these options eligible for the EOM expirations pursuant to the Nonstandard Expiration for consistency since the Exchange is proposing to make these options eligible for the Weekly Expirations, which are part of the Nonstandard Expiration Program.

for standard options on the same index (which is currently six for DJX options). Weekly Expirations need not be for consecutive Monday, Tuesday, Wednesday, Thursday, or Friday expirations as applicable; however, the expiration date of a nonconsecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. Weekly Expirations that are first listed in a given class may expire up to four weeks from the actual listing date. Similarly, EOM expirations need not be for consecutive end of month expirations; however, the expiration date of a nonconsecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. EOM Expirations that are first listed in a given class may expire up to four weeks from the actual listing date. If the Exchange lists EOMs and Weekly Expirations in a given class, the Exchange will list an EOM instead of a Weekly Expiration that expires on the same day in the given class. Other expirations in the same class are not counted as part of the maximum number of Weekly or EOM Expirations for an applicable index class.¹³

If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Tuesday, Wednesday, Thursday, or Friday, the normally Tuesday, Wednesday, Thursday, or Friday expiring Weekly Expirations will expire on the previous business day. If two different Weekly Expirations on an index would expire on the same day because the Exchange is not open for business on a certain weekday, the Exchange will list only one of such Weekly Expirations.¹⁴ In addition, pursuant to Rule 4.13(e)(3), transactions in expiring index options with Weekly and EOM Expirations may be effected on the Exchange between the hours of 9:30 a.m. and 4:00 p.m. on their last trading day (Eastern Time).

Second, the Exchange proposes to amend Rule 4.13(c) to permit the Exchange to list P.M.-settled QIXs on DJX options.¹⁵ Pursuant to Rule 4.13(c),

there may be up to eight near-term quarterly expirations open for trading in a class, and these options will be P.M.-settled. The QIX program will apply to DJX options in the same manner as it currently applies to the other options currently eligible for those expirations. QIXs are subject to all provisions of Rule 4.13 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month, except that QIXs are P.M.-settled.

Third, the Exchange proposes to amend Rule 4.13, Interpretation and Policy .13 to permit the listing of P.M.-settled DJX options that expire on Expiration Fridays. Combined with the proposed rule changes above to permit the Exchange to list P.M.-settled DJX options with Weekly Expirations, the Exchange would be permitted to list P.M.-settled DJX options with expirations on all Fridays (in addition to all other days of the week). DJX options that are P.M.-settled and expire on Expiration Fridays are subject to all provisions of Rule 4.13 and treated the same as A.M.-settled DJX options, except that they are P.M.-settled.

In connection with the proposed rule changes to Rule 4.13, Interpretation and Policy .13, the Exchange proposes to amend Rule 5.1, which governs trading days and hours, in conjunction with the proposed addition of DJX options that are P.M.-settled and expire on Expiration Friday. Rule 5.1(b)(2)(C) currently provides that on their last trading day, Regular Trading Hours for index options with Nonstandard Expirations and QIXs, as well as expiring P.M.-settled SPX, XSP, SPEQX, SPEQF, RUT, MRUT, CBTX, MBTX, and MGTN options, may be effected on the Exchange between 9:30 a.m. and 4:00 p.m. Eastern Time¹⁶ (as opposed to the 9:30 a.m. to 4:15 p.m. Regular Trading Hours for options with those expirations that are non-expiring). The proposed rule change amends Rule 5.1(b)(2)(C) to include DJX P.M.-settled options.¹⁷ The primary listing markets for the component securities that comprise the Dow Jones Industrial Average close trading in those securities at 4:00 p.m.,

just as the primary listing markets for the component securities that comprise the S&P 500, Mini-S&P 500, Russell 2000, Mini-Russell 2000, Cboe Bitcoin U.S. ETF, Cboe Mini-Bitcoin U.S. ETF, and Cboe Magnificent 10 Indexes close trading at 4:00 p.m. The primary listing exchanges for the component securities disseminate closing prices for the component securities, which are used to calculate the exercise settlement value of these indexes. The Exchange believes that, under normal trading circumstances, the primary listing markets have sufficient bandwidth to prevent any data queuing that may cause any trades that are executed prior to the closing time from being reported after 4:00 p.m. If trading in expiring DJX P.M.-settled options continued an additional fifteen minutes until 4:15 p.m. on their last trading day, these expiring options would be trading after the settlement index value for those expiring options was calculated. Therefore, in order to mitigate potential investor confusion and the potential for increased costs to investors as a result of potential pricing divergence at the end of the trading day, the Exchange believes that it is appropriate to cease trading in the expiring DJX P.M.-Settled options at 4:00 p.m., as it already does for expiring P.M.-settled SPX, SPEQX, SPEQF, XSP, RUT, MRUT, CBTX, MBTX, and MGTN options that expire on Expiration Fridays and for expiring indexes with Nonstandard Expirations (which are P.M.-settled) for the same aforementioned reasons.¹⁸ The Exchange does not believe that the proposed rule change will impact volatility on the underlying cash market comprising the Dow Jones Industrial Average at the close on Expiration Fridays, as it already closes trading on the last trading day for expiring P.M.-settled index options at 4:00 p.m., which the Exchange does not believe has had an adverse impact on fair and orderly markets on Expiration Fridays for the underlying securities comprising the corresponding indexes (as further discussed below).¹⁹

¹³ See Rule 4.13(e)(1) (regarding Weekly expirations) and (2) (regarding EOM expirations).

¹⁴ See *id.*

¹⁵ The Exchange notes DJX options are currently eligible for the Quarterly Options Series program pursuant to Rule 4.13(a)(2)(B), which permits P.M.-settled options that expire on the last trading day of the quarter (as do QIXs) (the Exchange has not previously listed DJX options with Quarterly

expirations under this program). The Exchange proposes to make these options eligible for QIXs for consistency, since QIXs are currently available for certain index options available for trading on the Exchange (which options are also eligible for the Nonstandard Expirations Program).

¹⁶ See Rule 1.6, which states that unless otherwise specified, all times in the Rules are Eastern Time.

¹⁷ Current Rule 5.1(b)(2)(C) would apply to DJX options with Nonstandard Expirations and QIXs, as proposed; therefore, the addition of DJX P.M.-settled options to the list of options set forth in this Rule covers these options that expire on Expiration Fridays.

¹⁸ See Securities Exchange Act Release Nos. 68888 (February 8, 2013), 78 FR 10668 (February 14, 2013) (SR-CBOE-2012-120) (“SPXPM Pilot Approval Order”); 70087 (July 31, 2013), 78 FR 47809 (August 6, 2013) (SR-CBOE-2013-055) (“XSPPM Pilot Approval Order”); and 91067 (February 5, 2021), 86 FR 9108 (February 11, 2021) (SR-CBOE-2020-116) (“MRUTPM Pilot Approval Order”).

¹⁹ See Securities Exchange Act Release Nos. 98454 (September 20, 2023), 88 FR 66103 (September 26, 2023) (SR-CBOE-2023-005) (“SPXPM Permanent Approval Order”); and 98455 (September 20, 2023), 88 FR 66073 (September 26, 2023) (SR-CBOE-2023-019) (“XSPPM and MRUTPM Permanent Approval Order”).

As noted above, current Rules permit the Exchange to list P.M.-settled DJX options with expirations on the last calendar of the month and quarter.²⁰ As a result, it is already possible under the Rules for options on the Dow Jones Industrial Average to be P.M.-settled and to expire on any day of the week (as the end of the month or the end of a quarter may fall on any day of the week). The Rules also already allow options on the Dow Jones Industrial Average to expire on Thursdays for normally Friday expiring options when the Exchange is not open for business on a respective Friday. Further, options on the Dow Jones Industrial Average are available for FLEX trading pursuant to Rule 4.20, which permits market participants to select expiration dates for these FLEX options for any day of the week and may select P.M.-settlement.

The Exchange believes that the introduction of Weekly Expirations and Expiration Friday expirations for options on the Dow Jones Industrial Average that are P.M.-settled will provide market participants with additional hedging tools and greater trading opportunities, regardless of in which index option market they participate. By offering expanded

expirations along with the current standard A.M.-settled expirations (as well as P.M.-settled monthly and quarterly expirations that are permitted under the Rules), the proposed rule change will allow market participants to purchase options on the Dow Jones Industrial Average available for trading on the Exchange in a manner more aligned with specific timing needs (such as to hedge special events) and more effectively tailor their investment and hedging strategies and manage their portfolios. In particular, the proposed rule change will allow market participants to roll their positions on more trading days, thus with more precision, spread risk across more trading days and incorporate daily changes in the markets, which may reduce the premium cost of buying protection. For example, the Exchange believes that market participants may pay for more protection than they need if they are seeking to hedge weekend or special event risk that occurs. Therefore, the Exchange believes that P.M.-settled daily expirations (including on all Fridays) would allow market participants to purchase an option based on their needed timing and allow them to tailor their investment or hedging needs more effectively. In addition,

because P.M.-settlement permits trading throughout the day on the day the contract expires, the Exchange believes this will permit market participants to more effectively manage overnight risk and trade out of their positions up until the time the contract settles.

The Exchange believes there is sufficient investor interest and demand in Weekly Expirations and Expiration Friday P.M.-settled expirations for options on the Dow Jones Industrial Average to warrant inclusion in the Program and in the Rules, and that the Program and the Rules, as amended, will continue to provide investors with additional means of managing their risk exposures and carrying out their investment objectives.²¹ The Exchange has observed a preference for P.M.-settled index options based on trading volumes in other index options listed on the Exchange. In fact, the majority of trading volume in index options listed on the Exchange for which P.M.-settlement is available is in options that are P.M.-settled. The following table shows the approximate percentage of total volume executed on the Exchange in each of the following broad-based index options²² from August 1, 2025 through January 31, 2026 that was P.M.-settled:

Index option	Total volume (8/1/2025 through 1/31/2026)	P.M.-settled volume (% of total volume) (8/1/2025 through 1/31/2026)
SPX	534614737	87.01
XSP	16128330	100
RUT	10205709	69.95
MRUT	39109	100
SPEQ	293	83.62

Total volume of DJX options (A.M.-settled) executed on the Exchange during this same time period was 945,173 contracts, which was among the top 10% of options during that time period. Given the demand for P.M.-settlement in other broad-based index option products as demonstrated in the table above, as well as the level of trading activity in the A.M.-settled DJX options, the Exchange believes offering investors the option of P.M.-settlement, and the flexibility of the proposed expirations, will drive further demand in DJX options.

The Exchange notes, as is the case for other p.m.-settled options, that DJX

options will be aggregated with all other option contracts for those options for purposes of determining compliance with the applicable position (and exercise) limit, as well as determining position limit reporting requirements.²³

P.M.-settled DJX options will trade in the same manner as other P.M.-settled index options listed on the Exchange. The Exchange Rules that currently apply to the listing and trading of p.m.-settled index options on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts, and

trading halt procedures, will apply to the listing and trading of P.M.-settled DJX options on the Exchange in the same manner as they apply to other P.M.-settled index options that are listed and traded on the Exchange.

The Exchange has analyzed its capacity and represents that it believes that the Exchange has the necessary systems capacity to handle any potential additional message traffic associated with the listing of new series that would result from the introduction of the DJX options up to the proposed number of possible p.m.-settled expirations. The Options Price Reporting Authority ("OPRA") also informed the Exchange it

²⁰ See Rule 4.13(a)(2)(C) and (B), respectively.

²¹ The Exchange currently may list Weekly, EOM, QIX, and Expiration Friday P.M.-Settled Expirations for SPX, XSP, RUT, MRUT, CBTX, MBTX, and MGTN options.

²² The Exchange notes it currently lists no A.M.-settled XSP or MRUT options.

²³ See Rules 8.31(b), 8.35(b) and (d), and 8.42(b) and (g). There are no position and exercise limits for DJX options. Rule 8.35(b) requires Trading Permit Holders to report certain information regarding FLEX positions in FLEX index options

that are subject to no position limits if they maintain in excess of 100,000 contracts in those options. Additionally, Rule 8.43 imposes various reporting obligations with respect to options (including index options), even for index options subject to no position limits.

believes it has the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result from this proposed rule change. The Exchange does not believe that its Trading Permit Holders (“TPHs”) will experience any capacity issues as a result of this proposal and represents that it will monitor the trading volume associated with any possible additional series of DJX options listed as a result of this proposal and the effect (if any) of these additional series on market fragmentation and on the capacity of the Exchange’s automated systems. In addition to this, the Exchange believes that its existing surveillance and reporting safeguards in place are adequate to deter and detect possible manipulative behavior which might arise from listing and trading P.M.-settled DJX options and will support the protection of investors and the public interest.

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.²⁴ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁵ 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 facilitation 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)²⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule change will 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, because it will provide investors with additional means to manage their risk exposures and carry out their investment objectives with

more flexibility. The Exchange believes that P.M.-settled Weekly and Expiration Friday expirations for DJX options will provide investors with expanded hedging tools and greater trading opportunities and flexibility for an additional index option.²⁷ As a result, investors will have additional means to manage their risk exposures and carry out their investment objectives. By offering expanded expirations for options on the Dow Jones Industrial Average (along with standard A.M.-settled options), the proposed rule change will allow market participants to purchase options on an additional index in a manner more aligned with specific timing needs and more effectively tailor their investment and hedging strategies and manage their portfolios. For example, the proposed rule change will allow market participants to roll their positions in options on the Dow Jones Industrial Average on more trading days, thus with more precision, spread risk across more trading days and incorporate daily changes in the markets, which may reduce the premium cost of buying protection. The Exchange represents that it believes that it has the necessary systems capacity to support any additional traffic associated with trading of options on the Dow Jones Industrial Average with Weekly and Expiration Friday (P.M.-settled) expirations and does not believe that its TPHs will experience any capacity issues as a result of this proposal.

The Exchange does not believe that the addition of DJX options to the Nonstandard Expirations Program, to the P.M.-settled Expiration Friday program, or the QIX program will raise any prohibitive regulatory concerns, nor adversely impact fair and orderly markets on expiration days. The Exchange has not experienced any meaningful regulatory concerns, nor adverse impact on fair and orderly markets, in connection with these programs and is unaware of any reason why adding P.M.-settled options with expirations each day of the week for DJX options would create such concerns or impact. Particularly, the Exchange does not believe increases in the number of P.M.-settled options series and expirations will have any significant adverse economic impact on the futures,

index, or underlying index component securities markets. The Exchange believes that the proposed rule change will provide investors with greater trading and hedging opportunities and flexibility, allowing them to transact in options on the Dow Jones Industrial Average in a manner more aligned with specific timing needs and more effectively tailor their investment and hedging objectives by listing these options that expire each trading day of the week, in addition to options that expire at the end of calendar month and quarter (which, as noted above, current Rules already permit the Exchange to do).

As noted above, current Rules permit the Exchange to list P.M.-settled options on the Dow Jones Industrial Average that expire on the last calendar day of the month and quarter; the proposed rule change merely permits these listings to occur under different programs within the Rules for consistency within the Exchange’s Rules.²⁸ Therefore, it is already possible under the Rules for options on the Dow Jones Industrial Average to be P.M.-settled and to expire on any day of the week (as the end of the month or the end of a quarter may fall on any day of the week). The Rules also already allow options on the Dow Jones Industrial Average to expire on Thursdays for normally Friday expiring options when the Exchange is not open for business on a respective Friday. Further, options on the Dow Jones Industrial Average are available for FLEX trading pursuant to Rule 4.20, and thus, market participants will be able to select expiration dates for these FLEX options for any day of the week and may select p.m.-settlement. The Exchange has no reason to believe this proposed rule change will cause any significant adverse economic impact on the futures, index, or underlying index component securities markets as a result of these listings.

The Commission previously recognized that listing P.M.-settled index options with Weekly Expirations and Expiration Friday expirations (in addition to EOM Expirations (which would include expirations on the last day of calendar quarters)) was consistent with the Act.²⁹ The

²⁷ Options on the Dow Jones Industrial Average may already be listed with P.M.-settlement and expirations on the last calendar day of the month or quarter pursuant to Rule 4.13(a)(2)(C) and (B), respectively; therefore, the additional series that this proposed rule would permit to be listed are P.M.-settled Weeklys and Expiration Friday expirations. The proposed rule change merely adds these options to different programs within the Rules that permit these same expirations for consistency within the Rules.

²⁸ For example, it may be confusing to list Weeklys under the Nonstandard Expirations Program but monthlys under the Monthly program rather than the Nonstandard Expirations Program. As proposed, all index options the Exchange lists with expirations other than Expiration Fridays would be eligible for those expirations under the same programs.

²⁹ See SPXPM Permanent Approval Order; 98455 (September 20, 2023), 88 FR 66073 (September 26, 2023) (SR-CBOE-2023-019) (“XSPPM and MRUTPM Permanent Approval Order”) (the

²⁴ 15 U.S.C. 78f(b).

²⁵ 15 U.S.C. 78f(b)(5).

²⁶ *Id.*

Commission noted that expirations in those index options would “offer additional investment options to investors and may be useful for their investment or hedging objectives. . . .”³⁰ The Exchange also notes it previously listed P.M.-settled broad-based index options with Weekly, EOM, and Expiration Friday expirations pursuant to pilot programs, so the Commission could monitor the impact of P.M.-settlement of cash-settled index derivatives on the underlying cash markets (while recognizing that these risks may have been mitigated given enhanced closing procedures in use in the primary equity markets); however, the Commission approved proposed rule changes to make those pilot programs permanent. The Commission noted that the data it reviewed in connection with the pilot demonstrated that these options “benefitted investors and other market participants by providing more flexible trading and hedging opportunities while also having no disruptive impact on the market” and were thus consistent with the Act.³¹ The proposed rule change is consistent with these findings, as it will benefit investors and other market participants that participate in the markets for additional index options in the same manner by providing them with more flexible trading and hedging opportunities.

While the Commission’s prior determination was based on data specific to SPX options, the Exchange believes it is appropriate to extrapolate the data to apply to P.M.-settled DJX options.³² The components of the Dow

Jones Industrial Average are all components of the S&P 500 Index. Additionally, the three largest components (by market capitalization) of the Dow Jones Industrial Average (which represent more than 80% of the total market capitalization of that index) represent more than 26% of the total market capitalization of the S&P 500 Index. Therefore, the Exchange believes extrapolating the data results to an index comprised of the a subset of those components (including some of the largest components of the S&P 500 Index) is more than appropriate, as the Commission has already considered the impact of P.M.-settled options on futures overlying an index that includes the same components, concluding P.M.-settled options had minimal economic impact on that future, index, and constituents.³³ Overall, the Commission concluded that the “analysis of pilot data did not identify any significant economic impact on the underlying component securities surrounding the close as a result of expiring p.m.-settled options, nor did it indicate a deterioration in market quality . . . for an existing product when a new p.m.-settled expiration was introduced. Further significant changes in closing procedures in the decades since index options moved to a.m. settlement may also serve to mitigate the potential impact of p.m.-settled index options on the underlying cash markets.”³⁴

The Exchange understands that investors may use other instruments (such as futures overlying the same index and ETFs designed to track the same index) to hedge their positions in options overlying this index given potential investment challenges and risk, as well as cost, of hedging with the underlying constituents (which would entail obtaining positions in each of the 30 individual stocks that comprise the index). With respect to these markets linked to DJX options, such as securities underlying the index, futures overlying the same index,³⁵ and ETFs designed to

track the same index,³⁶ the Exchange believes these markets can withstand any additional pressure that listing these options may place on these markets. Additionally, trading within this complex of other correlated instruments that track the performance of the underlying components, in addition to the underlying components themselves (e.g., options on the components, ETFs that track the most active stocks (including the components), and futures on the Dow Jones Industrial Average), reduces the risk that listing these options would strain liquidity providers.

Similar to the S&P 500 Index, all components of the Dow Jones Industrial Average are highly liquid securities with substantial market capitalizations ranging from approximately \$10.36 billion to \$4.57 trillion, with a combined market capitalization of approximately \$14.48 trillion (as of December 29, 2025),³⁷ and are components of the S&P 500 Index. The size of the markets of the underlying components makes it unlikely the proposed rule change would materially impact the component markets, the index value, or the broader market. The Exchange, therefore, believes the constituents would not be materially impacted by any additional pressure resulting from the listing of these options given their significant market capitalization and liquidity.

As is the case for options on other indexes eligible for P.M.-settlement, the Exchange does not believe the listing of

³⁶ For example, the SPDR Dow Jones Industrial Average ETF Trust (“DIA”).

³⁷ The components of the Dow Jones Industrial Average are 30 large, established, blue-chip U.S. companies that are deemed industry leaders. When the Commission approved the listing of DJX options on the Exchange, it found that DJX options would provide investors with an important trading and hedging mechanism. See Securities Exchange Act Release No. 39011 (September 3, 1997), 62 FR 47840, 47843 (September 11, 1997) (SR-CBOE-97-26). The Commission found the general broad diversification, capitalization, and highly liquid markets of the Dow Jones Industrial Average represents a broad cross-section of domestically traded high capitalization stocks, with no single industry group or stock dominating the index, significantly minimized the potential for manipulation of the index. See *id.* While there is no specific maintenance listing criteria codified in the Rules, the Exchange represented it would notify the Commission staff if: (1) the market value of any component stock is less than \$75 million and that component is not options eligible; (2) less than 80% of the weight of the index is represented by component stocks that are eligible for options trading; (3) 10% or more of the weight of the index is represented by component stocks trading less than 20,000 shares per day; (4) the largest component stock accounts for more than 15% of the weight of the index or the largest five components in the aggregate account for more than 50% of the weight of the index; and (5) if the index decreases to less than 20 component stocks. *Id.*

Exchange initially listed P.M.-Settled SPX, XSP, and MRUT options that expire on Expiration Fridays pursuant to pilot programs, so the Commission could monitor the impact of P.M. settlement of cash-settled index derivatives on the underlying cash markets (while recognizing that these risks may have been mitigated given enhanced closing procedures in use in the primary equity markets); 94682 (April 12, 2022), 87 FR 22993, 22994 (April 18, 2022) (SR-CBOE-2022-005) (approval of proposed rule change to list P.M.-settled SPX options that expire on Tuesdays and Thursdays) (“Daily SPX Option Approval”); and 95795 (September 15, 2022), 87 FR 57745, 57746 (September 21, 2022) (SR-CBOE-2022-039) (approval of proposed rule change to list P.M.-settled XSP options that expire on Tuesdays and Thursdays) (“Daily XSP Option Approval”).

³⁰ See Daily SPX Option Approval at 22995; and Daily XSP Option Approval at 57746.

³¹ See SPXPM Permanent Approval Order at 66106; and XSPPM and MRUTPM Permanent Approval Order at 66076 (citing data the Commission reviewed in connection with the pilot programs).

³² See XSPPM and MRUTPM Permanent Approval at n. 31; and Nonstandard Permanent Approval Order at n. 37 (at the time of that approval order, the Exchange had listed Nonstandard Expirations for RUT and MRUT options) (“The Commission agrees it is appropriate to extrapolate

the data to [p.m.-settled third Friday-of-the-month XSP and MRUT options], as the Exchange’s analysis examines liquidity and volatility dynamics around the market close, which may be associated with typical hedging activities tied to expiring p.m.-settled index options.”) Ultimately, the Commission found that the Exchange’s filing, pilot data, and analysis demonstrated these p.m.-settled products had no significant economic impact on the respective underlying indexes or other products. See *id.*

³³ See XSPPM and MRUTPM Permanent Approval at 66075; and Nonstandard Permanent Approval Order at 66093–66094.

³⁴ See XSPPM and MRUTPM Permanent Approval at 66076; and Nonstandard Permanent Approval Order at 66094.

³⁵ E-mini Dow futures currently trade on the Chicago Mercantile Exchange.

additional P.M.-settled options on the Dow Jones Industrial Average will have any significant economic impact (such as on market quality or volatility) on the component securities underlying the index surrounding the close as a result of expiring p.m.-settled options or impact market quality. This is based on the data provided to and reviewed by the Commission (and the Commission's own conclusions with respect to broad-based indexes based on that review, as noted above) and due to the significant changes in closing procedures in the decades since index options moved to a.m.-settlement.³⁸ The Exchange believes the potential for any such impact with respect to DJX options may be less likely compared to SPX options given the relatively fewer component securities in the Dow Jones Industrial Average (30) compared to the S&P 500 Index (at least 500). While the Dow Jones Industrial Average is broad-based and thus does represent the broad market, its scope is significantly smaller than the S&P 500 Index. Therefore, any potential impact may be limited in scope (as noted above, the Commission found no material impact with respect to P.M.-settled broad-based index options). Therefore, because, as noted above, the Commission found no material impact with respect to certain broad-based index options (including SPX options), the Exchange believes that it is reasonable to infer that no material impact would occur with respect to DJX options for the reasons described above (including the significant liquidity of the components and correlation of the component securities and the availability of multiple correlated instruments for hedging). The Exchange believes this to be particularly true given that the components of the Dow Jones Industrial Average are also components of the S&P 500 Index, which was the index the Commission considered in those findings. Additionally, as described above, the constituents of the Dow Jones Industrial Average are large, highly capitalized, and heavily traded, which further reduces the potential for manipulation of the index.

Further, the Exchange believes that because DJX options listed with Nonstandard Expirations, QIXs, and P.M.-settlement on Third Fridays will be aggregated with other options within those classes for purposes of position (and exercise) limits, will further prevent fraudulent and manipulative acts and practices and to promote just

and equitable principles of trade, and thus protect investors. This aggregation is consistent with the treatment of positions for purposes of position (and exercise) limits for other classes that may be listed with Nonstandard Expirations, QIXs, and third Friday P.M.-settlement.³⁹ Therefore, the current position and exercise limits that apply to DJX options will continue to apply, as the proposed additional expirations for these options would have no impact on the number of positions that may be held (or exercised) within a single account.

In addition, the Exchange believes that the proposal to end trading at 4:00 p.m. on the last trading day for transactions in expiring P.M.-settled DJX options will prevent continued trading on a product after the exercise settlement value has been fixed, thereby mitigating potential investor confusion and the potential for increased costs to investors as a result of potential pricing divergence at the end of the trading day.

The Exchange represents that it has the necessary systems capacity to support the proposed new option series given. The Exchange believes that its existing surveillance and reporting safeguards (including with respect to p.m.-settled index option series) in place are adequate to deter and detect possible manipulative behavior which might arise from listing and trading P.M.-settled DJX options (as the Exchange currently applies to other P.M.-settled index options with the same expiration) and will support the protection of investors and the public interest.⁴⁰ Additionally, the Exchange is a member of the Intermarket Surveillance Group ("ISG") under the Intermarket Surveillance Group Agreement. ISG members work together to coordinate surveillance and investigative information sharing in the stock, options, and futures markets. In addition to obtaining information from its affiliated markets, the Exchange would be able to obtain information from other markets through ISG. In addition, the Exchange has a Regulatory Services Agreement with the Financial Industry Regulatory Authority ("FINRA") for certain market surveillance, investigation and examinations functions. Pursuant to a multi-party 17d-2 joint plan, all options exchanges allocate amongst themselves and FINRA responsibilities to conduct certain options-related market

surveillance that are common to rules of all options exchanges.⁴¹ The Exchange further notes that current Exchange Rules that apply to the trading of other p.m.-settled index options traded on the Exchange, such as SPX and XSP options, would also apply to the trading of p.m.-settled DJX options, such as, for example, Exchange Rules governing customer accounts, margin requirements, position and exercise limits,⁴² and trading halt procedures, which are designed to prevent fraudulent and manipulative acts.

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 P.M.-settled options on the Dow Jones Industrial Average with Weekly and Expiration Friday expirations will be available to all market participants. By listing options on the Dow Jones Industrial Average with these expirations (in addition to the monthly, quarterly, and standard Expiration Friday expirations (A.M.-settled) that are currently permitted under the Rules), the proposed rule change will provide all investors that participate in the markets for these index options available for trading on the Exchange with greater trading and hedging

⁴¹ Section 19(g)(1) of the Act, among other things, requires every self-regulatory organization ("SRO") registered as a national securities exchange or national securities association to comply with the Act, the rules and regulations thereunder, and the SRO's own rules, and, absent reasonable justification or excuse, enforce compliance by its members and persons associated with its members. See 15 U.S.C. 78q(d)(1) and 17 CFR 240.17d-2. Section 17(d)(1) of the Act allows the Commission to relieve an SRO of certain responsibilities with respect to members of the SRO who are also members of another SRO ("common members"). Specifically, Section 17(d)(1) allows the Commission to relieve an SRO of its responsibilities to: (i) receive regulatory reports from such members; (ii) examine such members for compliance with the Act and the rules and regulations thereunder, and the rules of the SRO; or (iii) carry out other specified regulatory responsibilities with respect to such members.

⁴² See Rules 8.31(b), 8.35(b) and (d), and 8.42(b) and (g). There are no position and exercise limits for DJX options. Rule 8.35(b) requires Trading Permit Holders to report certain information regarding FLEX positions in FLEX index options that are subject to no position limits if they maintain in excess of 100,000 contracts in those options. Additionally, Rule 8.43 imposes various reporting obligations with respect to options (including index options), even for index options subject to no position limits.

³⁸ See SPXPM Permanent Approval Order at 66106; and XSPPM and MRUTPM Permanent Approval Order at 66076.

³⁹ See Rule 8.31(b).

⁴⁰ The surveillance program includes surveillance patterns for price and volume movements as well as patterns for potential manipulation (e.g., spoofing and marking the close).

opportunities and flexibility to meet their investment and hedging needs, which are already available for several other index options (both broad-based and narrow-based). Further, the proposed change to make options on the Dow Jones Industrial Average that are P.M.-settled and expire on the last business day of the month or quarter eligible for listing under different programs under the Rules will have any burden on competition, as this proposed rule change is intended to maintain consistency within the Rules and will result in the same series being listed. The proposed 4:00 p.m. closing time for expiring P.M.-settled DJX options on their expiration dates will apply equally to all market participants trading these options.

The Exchange does not believe that the proposal to list P.M.-settled options on the Dow Jones Industrial Average with Weekly and Expiration Friday expirations will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because these options are proprietary Exchange products. The Exchange may currently list the same expirations for other index options, so the proposed rule change merely expands the availability of these expiration programs to additional products. Other exchanges offer similar expirations for index options as well as short-term options programs for certain equity options that expire each day of the week, at the end of the calendar month, at the end of the calendar quarter, and on Expiration Fridays⁴³ and are welcome to similarly propose to list options on those index or equity products with similar expirations. To the extent that the addition of these expirations for options on the Dow Jones Industrial Average makes the Exchange a more attractive marketplace to market participants at other exchanges, such market participants are free to elect to become market participants on the Exchange.

Additionally, options on the Dow Jones Industrial Average with these expirations will trade in the same manner as other options with these expirations currently do.

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.

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified and superseded by Amendment No. 3 ("Amended Proposal"), is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴⁴ In particular, the Commission finds that the Amended Proposal is consistent with Section 6(b)(1) of the Act,⁴⁵ which requires, among other things, that the Exchange be so organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by its members and persons associated with its members with the provisions of the Act, Commission rules and regulations thereunder, and its own rules; and Section 6(b)(5) of the Act,⁴⁶ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The Amended Proposal does not raise unique regulatory concerns. Options on broad-based indexes with p.m. settlement and third Friday-of-the-month, nonstandard, and quarterly expirations are not novel. The Exchange's rules already permit, for certain broad-based index options, the listing of p.m.-settled series with third Friday-of-the-month, nonstandard, and quarterly expirations.⁴⁷ P.M.-settled DJX options with third Friday-of-the-month, nonstandard, and quarterly expirations also would be subject to the same rules that presently govern the trading of all index options on the Exchange, including, among others, rules governing customer accounts, sales practices, margin requirements, and trading practices, which are designed to protect investors and prevent fraudulent

and manipulative acts.⁴⁸ Moreover, other options exchanges permit the listing and trading of certain broad-based index options with p.m. settlement and third Friday-of-the-month, nonstandard, and quarterly expirations.⁴⁹

The availability of p.m.-settled DJX options with third Friday-of-the-month, nonstandard, and quarterly expirations could benefit investors and remove impediments to a free and open market by providing market participants with more flexible trading and hedging opportunities. The proposal could allow market participants to establish DJX option positions in a manner more aligned with their specific timing needs and roll their positions in DJX options with regularity and more precision, spread risk across more trading days, and incorporate daily, weekly, monthly, and quarterly changes in the markets. In addition, because the proposed p.m. settlement feature would permit trading in DJX options throughout the expiration day, market participants should be able to trade out of their positions up until the time the contract settles, which could permit market participants to more effectively manage overnight risk and reduce residual risk on the day of expiration.

The Commission has considered the potential for adverse market impact presented by the Amended Proposal in the underlying cash equities markets. The Commission believes that the significant liquidity of the DJX index constituent securities, which must be sufficiently liquid to satisfy the Exchange's listing and maintenance criteria in Rule 4.10(f) and (g), should help mitigate against such potential for adverse market impact. The satisfaction of these requirements helps demonstrate that the constituent securities would not be materially impacted by potential additive derivative pressure resulting from the listing of p.m.-settled series of DJX options.⁵⁰

In this regard, the Exchange states that the components of the DJX index are thirty large, established, blue-chip U.S. companies with substantial market capitalizations, and they are

⁴⁸ *Id.*

⁴⁹ See, e.g., Nasdaq ISE, LLC Options 4A, Section 12 and Supplementary Material (Nasdaq-100 Index options); MIAx Rule 1809 and Interpretation and Policies (Bloomberg 500 Index options).

⁵⁰ Further, the Commission has stated that significant changes in closing procedures in the decades since index options moved to a.m.-settlement may also serve to mitigate the potential impact of p.m.-settled index options on the underlying cash markets. See e.g., XSPPM and MRUTPM Permanent Approval Order, *supra* note 19, 88 FR at 66076.

⁴³ See, e.g., Nasdaq PHLX, LLC Options 4A, Section 12 (permitting nonstandard expirations, including daily expirations for Nasdaq-100 index options and Nasdaq 100-Micro index options); and Nasdaq ISE, LLC Options 4, Section 5, Supplementary Material .03 (permitting short-term options series with daily expirations for SPY and QQQ options).

⁴⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁴⁵ 15 U.S.C. 78f(b)(1).

⁴⁶ 15 U.S.C. 78f(b)(5).

⁴⁷ See *supra* Section III.

components of the S&P 500 Index.⁵¹ In addition, the Exchange states that the majority of trading volume in index options listed on the Exchange for which both a.m.- and p.m.-settlement is available is in p.m.-settled series.⁵² Moreover, the Exchange states that DJX options will trade within a complex of other correlated instruments that track the performance of the underlying components—such as equity options on the individual underlying components, ETFs that trade the most active stocks (including the components), and futures on the Dow Jones Industrial Average—and that this reduces the risk that listing these options would strain liquidity providers or materially impact the component markets, the index value, or the broader market.⁵³ Given the significant market capitalization and liquidity of these options, the Exchange believes the constituents would not be materially impacted by any additional pressure resulting from the listing of these options.⁵⁴ The Exchange also states that it does not believe that the proposal would adversely impact fair and orderly markets on expiration days.⁵⁵ The Exchange represents that it has not experienced any meaningful regulatory concerns, nor adverse impact on fair and orderly markets, in connection with its third Friday-of-the-month, nonstandard, or quarterly expirations.⁵⁶

The Commission believes that the potential risks of trading p.m.-settled DJX options with third Friday-of-the-month, nonstandard, and quarterly expirations also are mitigated by the Exchange's surveillance mechanisms, consistent with Sections 6(b)(1) and 6(b)(5) of the Act.⁵⁷ The Exchange represents that its existing surveillance and reporting safeguards (including with respect to p.m.-settled index option series) are adequate to deter and detect possible manipulative behavior which might arise from listing and trading p.m.-settled DJX options and will support the protection of investors and the public interest.⁵⁸ Additionally, the Exchange is a member of ISG, whose members work together to coordinate surveillance and investigative information sharing in the stock, options, and futures markets.⁵⁹ The Exchange also has a Regulatory Services

Agreement with FINRA for certain market surveillance, investigation and examinations functions.⁶⁰ Further, pursuant to a multi-party Rule 17d-2 joint plan, all options exchanges allocate amongst themselves and FINRA responsibilities to conduct certain options-related market surveillance that are common to rules of all options exchanges.⁶¹ The Commission expects the Exchange to continue to monitor for any potential risks from large p.m.-settled positions in DJX options and take appropriate action on a timely basis, if warranted.

For the foregoing reasons, the Commission finds that the Amended Proposal is consistent with Sections 6(b)(1) and 6(b)(5) of the Act⁶² and the rules and regulations thereunder applicable to a national securities exchange.

V. Solicitation of Comments on Amendment No. 3 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 3 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-2026-005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CBOE-2026-005 on the subject line. 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-2026-005 on the subject line, and should be submitted on or before May 6, 2026.

VI. Accelerated Approval of Proposed Rule Change, as Modified and Superseded by Amendment No. 3

The Commission finds good cause to approve the Amended Proposal prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 3 in the **Federal Register**. In Amendment No. 3, the Exchange provides total trading volume ranges for several broad-based p.m.-settled index options and compares this data with total trading volume for DJX index options, which are currently a.m.-settled.⁶³ The Commission believes that Amendment No. 3, without altering the purpose of the Initial Rule Filing, strengthens the Initial Rule Filing by providing additional clarity, support, and data, as explained above and set forth fully in Section III above.

The Commission therefore finds that Amendment No. 3 raises no novel regulatory issues that have not previously been subject to comment and is reasonably designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and, in general, protect investors and the public interest. Accordingly, pursuant to Section 19(b)(2) of the Act,⁶⁴ the Commission finds good cause to approve the Amended Proposal on an accelerated basis prior to the 30th day after publication of notice of the filing of Amendment No. 3 in the **Federal Register**.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁶⁵ that the proposed rule change (SR-CBOE-2026-005), as modified and superseded by Amendment No. 3, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07257 Filed 4-14-26; 8:45 am]

BILLING CODE 8011-01-P

⁵¹ See *supra* Section III.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ 15 U.S.C. 78f(b)(1), 78f(b)(5).

⁵⁸ See *supra* Section III.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² 15 U.S.C. 78f(b)(1), 78f(b)(5).

⁶³ See *supra* Section III.

⁶⁴ 15 U.S.C. 78s(b)(2).

⁶⁵ *Id.*

⁶⁶ 17 CFR 200.30-3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21497 and #21498;
MISSISSIPPI Disaster Number MS-20018]

**Presidential Declaration of a Major
Disaster for the State of Mississippi**

AGENCY: U.S. Small Business
Administration.

ACTION: Notice.

SUMMARY: This is notice of the
Presidential declaration of a major
disaster for the State of Mississippi
(FEMA-4899-DR), dated April 10, 2026.
Incident: Severe Winter Storm.

DATES: Issued on April 10, 2026.

Incident Period: January 23, 2026
through January 27, 2026.

*Physical Loan Application Deadline
Date:* June 10, 2026.

*Economic Injury (EIDL) Loan
Application Deadline Date:* January 11,
2027.

ADDRESSES: Visit the MySBA Loan
Portal at <https://lending.sba.gov> to
apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT:
Sharon Henderson, Office of Disaster
Recovery and Resilience, U.S. Small
Business Administration, 409 3rd Street
SW, Suite 6050, Washington, DC 20416,
(202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is
hereby given as a result of the
President's major disaster declaration on
April 10, 2026, applications for disaster
loans may be submitted online using the
MySBA Loan Portal <https://lending.sba.gov> or in person at other
locally announced locations. For further
assistance please contact the SBA
disaster assistance customer service
center by email at
disastercustomerservice@sba.gov or by
phone at 1-800-659-2955. If you are
deaf, hard of hearing or have a speech
disability, please dial 7-1-1 to access
telecommunications relay services.

The following areas have been
determined to be adversely affected by
the disaster:

*Primary Counties (Physical Damage and
Economic Injury Loans):* Adams,
Alcorn, Attala, Benton, Bolivar,
Calhoun, Carroll, Claiborne,
Coahoma, Desoto, Grenada, Holmes,
Humphreys, Issaquena, Jefferson,
Lafayette, Lee, Leflore, Marshall,
Montgomery, Panola, Pontotoc,
Prentiss, Quitman, Sharkey,
Sunflower, Tallahatchie, Tate,
Tippah, Tishomingo, Tunica,
Union, Warren, Washington,
Yalobusha, Yazoo.

Tribal Area: Mississippi Band of
Choctaw Indians

*Contiguous Counties (Economic Injury
Loans Only):*

Mississippi: Chickasaw, Choctaw,
Copiah, Franklin, Hinds, Itawamba,
Leake, Lincoln, Madison, Monroe,
Neshoba, Webster, Wilkinson,
Winston.

Alabama: Colbert, Franklin,
Lauderdale.

Arkansas: Chicot, Crittenden, Desha,
Lee, Phillips.

Louisiana: Concordia, East Carroll,
Madison, Tensas.

Tennessee: Fayette, Hardeman,
Hardin, McNairy, Shelby.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Avail- able Elsewhere	5.750
Homeowners without Credit Available Elsewhere	2.875
Businesses with Credit Avail- able Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organiza- tions with Credit Available Elsewhere	3.625
Private Non-Profit Organiza- tions without Credit Available Elsewhere	3.625
<i>For Economic Injury:</i>	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organiza- tions without Credit Available Elsewhere	3.625

The number assigned to this disaster
for physical damage is 21497B and for
economic injury is 214980.

(Catalog of Federal Domestic Assistance
Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

*Associate Administrator, Office of Disaster
Recovery & Resilience.*

[FR Doc. 2026-07321 Filed 4-14-26; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

**Data Collection Available for Public
Comments**

ACTION: 60-Day notice and request for
comments.

SUMMARY: The Small Business
Administration (SBA) intends to request
approval from the Office of Management
and Budget (OMB) for the collection of
information described below. The
Paperwork Reduction Act (PRA)
requires federal agencies to publish a
notice in the **Federal Register**
concerning each proposed collection of
information before submission to OMB,

and to allow 60 days for public
comment in response to the notice. This
notice complies with that requirement.

DATES: Submit comments on or before
June 15, 2026.

ADDRESSES: Send all comments to Nick
Ivory, nicholas.ivory@sba.gov and Office
of Entrepreneurial Development (OED),
Small Business Administration.

FOR FURTHER INFORMATION CONTACT: Nick
Ivory, Nicholas.Ivory@sba.gov, Office of
Entrepreneurial Development (OED),
Small Business Administration, (202)
710-2877, and Shauniece Carter,
Interim Agency Clearance Officer,
Shauniece.carter@sba.gov, (202) 935-
6942.

SUPPLEMENTARY INFORMATION: The SBA
intends to request approval from OMB
for a new generic clearance. This will
allow SBA to collect information from
individuals or entities to administer,
judge, and evaluate prize competitions
conducted under the America
COMPETES Act and other authorities
authorizing the SBA to conduct prize
competitions. Competitions may
include various stages of information
collection, including, but not limited to
an application phase, a live presentation
phase, or a challenge task phase that
assesses real-world skills. Information
collected will be used to determine
participant eligibility, select and score
prize competition entries according to
the rules of each prize competition,
administer prizes, or evaluate the
effectiveness and outcomes of the
competition.

Information may include basic
identifying and contact details needed
to register participants and
communicate about the competition,
structured data about the subject of the
competition that are necessary to review
and judge entries, financial and
performance data, and information
related to judging and competition
outcomes, such as quantitative and
qualitative scores for each entry across
defined criteria. As questions may vary
depending on the prize competition,
SBA will provide the specific questions
for each prize competition when it
submits the information collection
under the generic information collection
request to OMB for approval.

Solicitation of Public Comments

SBA is requesting comments on (a)
Whether the collection of information is
necessary for the agency to properly
perform its functions; (b) whether the
burden estimates are accurate; (c)
whether there are ways to minimize the
burden, including through the use of
automated techniques or other forms of
information technology; and (d) whether

there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

PRA Number: To be assigned.

Title: Generic Clearance for Prize Competitions.

Description of Respondents:

Participants in prize competitions.

Total Estimated Annual Responses: 2,000.

Total Estimated Hour Annual Burden: 10,000.

Shauniece Carter,

Interim Agency Clearance Officer.

[FR Doc. 2026-07290 Filed 4-14-26; 8:45 am]

BILLING CODE 8026-09-P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2025-0022]

Privacy Act of 1974; System of Records

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, we are issuing public notice of our intent to modify an existing system of records entitled, Electronic Disability Claim File (60-0320), hereinafter referred to as the eDIB Claim File, last published on June 24, 2020. This notice publishes details of the modified system as set forth below under the caption, **SUPPLEMENTARY INFORMATION**.

DATES: The system of records notice (SORN) is applicable upon its publication in today's **Federal Register**, with the exception of the new routine uses, which are effective May 15, 2026.

We invite public comment on the routine uses or other aspects of this SORN. In accordance with the Privacy Act of 1974, we are providing the public a 30-day period in which to submit comments. Therefore, please submit any comments by May 15, 2026.

ADDRESSES: The public, Office of Management and Budget (OMB), and Congress may comment on this publication by writing to the Head of Privacy and Disclosure Policy, Privacy and Disclosure Policy, Law and Policy, SSA, Room G-401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, or through the Federal e-Rulemaking Portal at <https://www.regulations.gov>. Please reference docket number SSA-2025-0022. All comments we receive will be available for public inspection at the above

address and we will post them to <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Tristin Dorsey, Government Information Specialist, Privacy Implementation Division, Privacy and Disclosure Policy, Law and Policy, SSA, Room G-401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, telephone: (410) 965-1727, email: OGC.OPD.SORN@ssa.gov.

SUPPLEMENTARY INFORMATION: We are clarifying the system location to clarify the offices in which we will maintain records and recognize that we may also maintain records in a cloud-based environment. We are modifying the system manager to reflect the accurate SSA office. We are expanding the authority for the maintenance of the system to include sections 702 and 1633 of the Social Security Act, as amended. We are expanding the purposes for which we may use the information in this system to include tracking opt-in and opt-out of electronic messaging selections. We are deleting vendor information from medical examiners or providers from the categories of records, as it is duplicative. We are also expanding the categories of records to include opt-in and opt-out of electronic messaging selections; information about a medical examiner or provider (e.g., license number, license expiration date); and clarifying that the tax identification number for medical examiner or provider may also include Social Security number (SSN).

In addition, we are revising existing routine use Nos. 2, 3, 4, 10, 11, 12, 15, 17, 20, and 22 for easier reading. We are clarifying routine use No. 6 to explain when we are making disclosures to an individual when information about themselves or others, which is filed under someone else's SSN, affects the individual's entitlement to social security benefits or the amount of those benefits. We are expanding the entities listed in existing routine use No. 25 to include cooperative agreement awardees.

We are deleting sub-bullets (iv) and (v) of routine use No. 4 because we added a new routine use, which covers the intent of those sub-bullets and will permit disclosures to third parties, when an individual involved with a request needs assistance to communicate because of a hearing impairment or a language barrier (e.g., to interpreters, telecommunications relay system operators). We are deleting sub-bullet (b) of routine use No. 10 because existing routine use No. 3 covers the intent of the sub-bullet, which permits

disclosures to the Department of Justice (DOJ) for litigation purposes.

We are also adding two additional routine uses that will permit disclosures to the following:

- limited information to third parties, as necessary, to reach claimants, beneficiaries, and others SSA has a business need to reach related to records in this system, and

- the U.S. Department of the Treasury, to review SSA's payment and award eligibility through the Do Not Pay Working System for the purpose of identifying, preventing, or recouping fraud and improper payments when disclosure meets the requirements in 20 CFR 401.150(c).

Lastly, we are modifying the policies and practices for the retrieval of records to clarify that we will retrieve records by the medical examiner or provider's name and tax identification number. We are modifying the administrative, technical, and physical safeguards for easier reading. We are modifying the notice throughout to correct miscellaneous stylistic formatting and typographical errors of the previously published notice, and to ensure the language reads consistently across multiple systems. We are republishing the entire notice for ease of reference.

In accordance with 5 U.S.C. 552a(r), we provided a report to OMB and Congress on this modified system of records.

Matthew Ramsey,

Head of Privacy and Disclosure Policy, Law and Policy.

SYSTEM NAME AND NUMBER:

Electronic Disability (eDIB) Claim File, 60-0320

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

eDIB Claim Files are virtually established in SSA field offices when claims for benefits are filed, or a lead is expected to result in a claim (See Appendix E at https://www.ssa.gov/privacy/sorn/app_e.htm for field office locations).

Electronic records are maintained at: Social Security Administration, Chief Information Officer, National Computer Center, 6401 Security Boulevard, Baltimore, MD 21235.

Information is also located in additional locations in connection with cloud-based services and kept at an additional location as backup for business continuity purposes.

SYSTEM MANAGER(S):

Social Security Administration, Head of Disability Policy, Law and Policy,

6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1727.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 202-205, 216, 221, 223-226, 228, 702, 1611-1614, 1631, 1633, 1818, 1836, 1840 of the Social Security Act, as amended.

PURPOSE(S) OF THE SYSTEM:

We use the information in this system of records to:

- Pursue claims;
- Collect, document, organize, and maintain information and documents for making determinations of eligibility for disability benefits, benefit amounts, and the appropriate payee for benefits;
- Review continuing eligibility;
- Hold hearings or administrative review processes;
- Ensure that proper adjustments are made based on events affecting entitlement;
- Answer inquiries;
- Track opt-in and opt-out of electronic messaging selections; and
- Conduct quality review, evaluation, and measurement studies, and other statistical and research purposes. We may maintain extracts as interviewing tools, activity logs, records of claims clearance, and records of type or nature of actions taken.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information about claimants and those acting on their behalf, applicants, beneficiaries and potential claimants for disability benefits and payments administered by SSA. The system also maintains information about medical examiners and medical providers.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system maintains records related to the request for, or continuation of, benefit payments under Titles II and XVI of the Social Security Act. These records include, but are not limited to, the name, SSN, and date of birth of the claimant or potential claimant and may contain the application for benefits; supporting evidence and documentation for initial and continuing entitlement (e.g., diagnosis, beginning and end dates of disability, basis for disability determination, copies of medical reports, work history, educational level, and reexamination date (if applicable)); date of application; payment documentation; correspondence to and from claimants or representatives; information about representative payees; information received from third parties regarding claimants' potential entitlement; beneficiary notice control (BNC) number; data collected as a result

of inquiries and complaints or evaluation and measurement studies, which assess the effectiveness of claims policies; records of post-adjudicative actions entered directly into the computer processes (e.g., reports of changes of address and work status); opt-in and opt-out of electronic messaging selections; and abstracts used for statistical purposes (e.g., disallowances, technical denials, and demographic and statistical information relating to disability decisions).

The system may also include names and titles of persons making or reviewing the determination and certain administrative data as well as data relative to the location of the file and the status of the claim.

Finally, this system includes information about a medical examiner or provider, including but not limited to name, address, tax identification number, e.g., SSN or employee identification number (EIN), medical license number, license expiration date, and an indicator when the medical examiner or provider is listed on the Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities (LEIE). The LEIE identifies medical examiners or providers who may submit medical evidence to SSA that we cannot consider.

RECORD SOURCE CATEGORIES:

We obtain information in this system from claimants, beneficiaries, applicants, and recipients; medical examiners and providers; accumulated by SSA from reports of employers or self-employed individuals; various local, State, and Federal agencies, including from the LEIE; claimant representatives; and other sources that support factors of entitlement and continuing eligibility, (i.e., information received from third parties regarding a claimant's potential entitlement or eligibility).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

We will disclose records pursuant to the following routine uses; however, we will not disclose any information defined as "return or return information" under 26 U.S.C. 6103 of the Internal Revenue Code (IRC), unless authorized by statute, the Internal Revenue Service (IRS), or IRS regulations.

1. To the Office of the President in response to an inquiry from that office made on behalf of, and at the request of, the subject of the record or a third party acting on the subject's behalf.

2. To a congressional office in response to an inquiry from that office made on behalf of, and at the request of, the subject of the record.

3. To the DOJ, a court or other tribunal, or another party before such court or tribunal, when:

- (a) SSA, or any component thereof; or
- (b) any SSA employee in the employee's official capacity; or
- (c) any SSA employee in the employee's individual capacity where DOJ (or SSA where it is authorized to do so) has agreed to represent the employee; or

(d) the United States or any agency thereof where SSA determines the litigation is likely to affect SSA or any of its components, SSA is a party to the litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before the tribunal is relevant and necessary to the litigation, provided, however, that in each case, we determine that such disclosure is compatible with the purpose for which the records were collected.

4. To third party contacts (e.g., employers and private pension plans) in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage the individual's benefits or payments, or the individual's eligibility for or entitlement to benefits or eligibility for payments, under the Social Security program when:

(a) The individual is unable to provide information being sought. An individual is considered to be unable to provide certain types of information when:

- i. The individual is incapable or of questionable mental capability;
- ii. The individual cannot read or write;
- iii. The individual cannot afford the cost of obtaining the information; or
- iv. The custodian of the information will not, as a matter of policy, provide it to the individual; or

(b) The data is necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following:

- i. The individual's eligibility for benefits under the Social Security program;
- ii. the amount of the individual's benefit or payment; or
- iii. any case in which the evidence is being reviewed as a result of suspected abuse or fraud or concern for program integrity, quality appraisal, or evaluation and measurement activities.

5. To third party contacts, where necessary, to establish or verify

information provided by representative payees or payee applicants.

6. To an individual, when information about themselves or others, which is filed under someone else's SSN, affects the individual's entitlement to Social Security benefits or the amount of those benefits (*e.g.*, relevant records to an adversely affected beneficiary).

7. To employers, current or former, for correcting or reconstructing earnings records and for Social Security tax purposes.

8. To the U.S. Department of the Treasury for:

(a) collecting Social Security taxes, or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act, including SSN verification services; and

(b) investigating alleged theft, forgery, or unlawful negotiation of Social Security checks.

9. To the United States Postal Service, for investigating the alleged theft or forgery of Social Security checks.

10. To DOJ, for the purposes of:

(a) investigating and prosecuting violations of the Social Security Act to which criminal penalties attach; and

(b) investigating issues of fraud or violations of civil rights by officers or SSA employees.

11. To the Department of State (DOS), for administration of the Social Security Act in foreign countries through facilities and services of that agency.

12. To the American Institute, a private corporation under contract to the DOS, for administering the Social Security Act in Taiwan through facilities and services of that agency.

13. To the Department of Veterans Affairs (VA), Regional Office, Manila, Philippines, for the administration of the Social Security Act in the Philippines and other parts of the Asia-Pacific region through services and facilities of that agency.

14. To the Department of Interior and its agents, for the purpose of administering the Social Security Act in the Northern Mariana Islands through facilities and services of that agency.

15. To State Social Security administrators, for administering agreements pursuant to section 218 of the Social Security Act.

16. To private medical and vocational consultants, for use in preparing for, or evaluating the results of, consultative medical examinations or vocational assessments which they were engaged to perform by SSA or a State agency, in accordance with sections 221 or 1633 of the Social Security Act.

17. To specified businesses and other community members and Federal, State, and local agencies for verification of

eligibility for benefits under section 1631(e) of the Social Security Act.

18. To claimants, prospective claimants (other than the data subject), and their appointed representatives and those working with such representatives (including, but not limited to, partners, associates, and contractors) when the information pertains to the individuals whom the appointed representative is representing; and to representative payees, when the information pertains to individuals for whom they serve as representative payees, for the purpose of assisting us in administering representative payment responsibilities under the Social Security Act, to the extent necessary to pursue Social Security claims, and for the purpose of assisting them in performing their duties as payees, including receiving and accounting for benefits for individuals for whom they serve as payees.

19. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 460 of the Social Security Act.

20. To Federal, State, or local agencies (or agents on their behalf) for administering income or health maintenance programs, including programs under the Social Security Act. Such disclosures include the release of information to the following agencies, but are not limited to:

(a) Railroad Retirement Board, for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment, and for administering the Railroad Unemployment Insurance Act;

(b) VA, for administering 38 U.S.C. 1312, and upon request, for determining eligibility for, or amount of, veterans' benefits or verifying other information with respect thereto pursuant to 38 U.S.C. 5106;

(c) Department of Labor, for administering provisions of Title IV of the Federal Coal Mine Health and Safety Act, as amended by the Black Lung Benefits Act;

(d) State agencies for administering the Medicaid program;

(e) State agencies for making determinations of food stamp eligibility under the Supplemental Nutrition Assistance Program;

(f) State audit agencies for auditing State supplementation payments and Medicaid eligibility considerations; and expenditures of Federal funds by the State in support of the Disability Determination Services (DDS);

(g) State welfare departments pursuant to agreements with SSA, for

administration of State supplementation payments; for enrollment of welfare beneficiaries for medical insurance under section 1843 of the Social Security Act; and for conducting independent quality assurance reviews of Supplemental Security Income recipient records, provided that the agreement for Federal administration of the supplementation provides for such an independent review; and

(h) State vocational rehabilitation agencies, State health departments, or other agencies providing services to disabled children, for consideration of rehabilitation services, per sections 222 and 1615 of the Social Security Act.

21. To the Social Security agency of a foreign country, to carry out the purpose of an international Social Security agreement entered into between the United States and the other country, pursuant to section 233 of the Social Security Act.

22. To the Department of the Treasury, IRS, for the purpose of auditing SSA's compliance with the safeguard provisions of the IRC of 1986, as amended.

23. To third party contacts (including private collection agencies under contract with SSA), for the purpose of their assisting us in recovering overpayments.

24. To the Department of Homeland Security, upon request, to identify and locate aliens in the United States pursuant to section 290(b) of the Immigration and Nationality Act (8 U.S.C. 1360(b)).

25. To contractors, cooperative agreement awardees, and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We disclose information under this routine use only in situations in which SSA establishes a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records with appropriate safeguards.

26. To the Department of Education, addresses of beneficiaries who are obligated on loans held by the Secretary of Education or a loan made in accordance with 20 U.S.C. 1071, *et seq.* (the Robert T. Stafford Student Loan Program), as authorized by section 489A of the Higher Education Act of 1965.

27. To student volunteers, individuals working under a personal services contract, and other workers who technically do not have the status of Federal employees, when they are performing work for SSA, as authorized by law, and they need access to personally identifiable information (PII)

in SSA records in order to perform their assigned agency functions.

28. To Federal, State, and local law enforcement agencies and private security contractors, as appropriate, information necessary:

(a) to enable them to protect the safety of SSA employees and customers, the security of the SSA workplace, the operation of SSA facilities, or

(b) to assist investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operations of SSA facilities.

29. To the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906.

30. To another Federal agency or Federal entity, when SSA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in:

(a) responding to a suspected or confirmed breach; or

(b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

31. To appropriate agencies, entities, and persons when:

(a) SSA suspects or has confirmed that there has been a breach of the system of records;

(b) SSA has determined that, as a result of the suspected or confirmed breach, there is a risk of harm to individuals, SSA (including its information systems, programs, and operations), the Federal Government, or national security; and

(c) The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with SSA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

32. To contractors, cooperative agreement awardees, State agencies, Federal agencies, and Federal congressional support agencies for research and statistical activities that are designed to increase knowledge about present or alternative Social Security programs; are of importance to the Social Security program or the Social Security beneficiaries; or are for an epidemiological project that relates to the Social Security program or beneficiaries. We will disclose information under this routine use pursuant only to a written agreement with us.

33. To third parties when an individual involved with a request needs assistance to communicate because of a hearing impairment or a language barrier (*e.g.*, to interpreters, telecommunications relay system operators).

34. Limited information to third parties as necessary to reach claimants, beneficiaries, and others SSA has a business need to reach related to records in this system.

35. To the U.S. Department of the Treasury, when disclosure of the information is relevant to review SSA's payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program. This routine use will be applied when disclosure meets the requirements in 20 CFR 401.150(c).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

We will maintain records in this system in electronic and paper form.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

We will retrieve claim file records by SSN, name, or BNC number. We will retrieve medical examiner and medical provider records by name and tax identification number, *e.g.*, EIN or SSN.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

In accordance with NARA rules codified at 36 CFR 1225.16, we maintain records in accordance with approved agency-specific records schedule N1–047–05–001 and approved NARA General Records Schedule 5.2, items 010 and 020.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

We retain electronic and paper files containing personal identifiers in secure storage areas accessible only by authorized individuals, including our employees and contractors, who have a need for the information when performing their official duties. Security measures include, but are not limited to, the use of codes and profiles, personal identification number and password, and personal identification verification cards. We restrict access to specific correspondence within the system based on assigned roles and authorized users. We use audit mechanisms to record

sensitive transactions as an additional measure to protect information from unauthorized disclosure or modification.

We annually provide authorized individuals, including our employees and contractors, with appropriate security awareness training that includes reminders about the need to protect PII and the criminal penalties that apply to unauthorized access to, or disclosure of PII (5 U.S.C. 552a(i)(1)). Furthermore, authorized individuals with access to databases maintaining PII must annually sign a sanction document that acknowledges their accountability for inappropriately accessing or disclosing such information.

RECORD ACCESS PROCEDURES:

Individuals may submit requests for information about whether this system contains a record about them by submitting a written request to the system manager at the above address, which includes their name, SSN, or other information that may be in this system of records that will identify them. Individuals requesting notification of, or access to, a record by mail must include: (1) a notarized statement to us to verify their identity; or (2) must certify in the request that they are the individual they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

Individuals requesting notification of, or access to, records in person must provide their name, SSN, or other information that may be in this system of records that will identify them, as well as provide an identity document, preferably with a photograph, such as a driver's license. Individuals lacking identification documents sufficient to establish their identity must certify in writing that they are the individual they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

These procedures are in accordance with our regulations at 20 CFR 401.40, 401.45, and 401.55.

CONTESTING RECORD PROCEDURES:

Same as record access procedures. Individuals should also reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant. These

procedures are in accordance with our regulations at 20 CFR 401.65(a).

NOTIFICATION PROCEDURES:

Same as record access procedures. These procedures are in accordance with our regulations at 20 CFR 401.40, 401.45, and 401.55.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

85 FR 34477 (June 4, 2020), Electronic Disability Claim File.

89 FR 14554 (February 27, 2024), Electronic Disability Claim File.

[FR Doc. 2026-07300 Filed 4-14-26; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2026-0958]

Parts and Accessories Necessary for Safe Operation; Application for Exemption From Aurora Operations, Inc.

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

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on Aurora Operations, Inc.'s (Aurora) application for a five-year exemption to allow commercial motor vehicles (CMVs) equipped with a Level 4 automated driving system (ADS) to use a set of cab-mounted warning beacons in lieu of placing reflective warning triangles or fuseses around the stopped vehicle. The exemption would apply to Aurora and to other motor carriers operating Level 4 ADS-equipped CMVs that notify FMCSA in writing prior to operating under the exemption. FMCSA is required by statute to publish a notice explaining each exemption request, and such notice does not indicate what decision FMCSA will ultimately reach on the request. After reviewing the application, safety analyses, and public comments submitted, FMCSA will grant or deny the exemption.

DATES: Comments must be received on or before May 15, 2026.

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2026-0958 by any of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. See the Public

Participation and Request for Comments section below for further information.

- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58-213, West Building, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, W58-213, West Building, Washington, DC 20590-0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493-2251. Each submission must include the Agency name and the docket number (FMCSA-2026-0958) for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice DOT/ALL-14 FDMS (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edit and are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Mr. Vinay Nagabhushana, Acting Chief, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety; (202) 897-8923 or MCPSV@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2026-0958), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2026-0958/document>, click on this notice, click "Comment," and type your comment into the text box on the following screen.

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

FMCSA will consider all comments and material received during the comment period. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

B. Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

C. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, insert FMCSA-2026-0958 in the keyword box, select the document tab and choose the document to review. To view comments, click this notice, then click "Browse Comments." If you do not have access to the internet, you may view the docket by visiting Docket Operations in the room W58-213 of the DOT West Building, 1200 New Jersey Avenue SE,

Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved without the exemption, pursuant to the standard set forth in 49 CFR 381.305(a). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Applicant's Request

Current Regulatory Requirements

Aurora requests an exemption from certain FMCSRs related to requirements for placing warning devices around a stopped CMV, requirements that exterior lamps be steady burning, and requirements that specific types of warning devices be used. Section 392.22(b) of the FMCSRs requires the driver of a CMV stopped on the traveled portion or shoulder of a road for any cause other than a necessary traffic stop to activate hazard warning signal flashers and place required warning devices as soon as possible, but within ten minutes, at specified locations behind and in front of the stopped CMV. Section 392.22(b) also specifies placement of warning devices in certain circumstances, such as during daylight hours, or where devices may be obstructed from view (*e.g.*, when stopped within 500 feet of a curve or the crest of a hill).

Section 393.25(e) of the FMCSRs requires that all exterior lamps be steady burning, with exceptions not relevant here.

Section 393.95(f) of the FMCSRs specifies the types and number of warning devices to be used for stopped vehicles, namely 3 bidirectional emergency reflective triangles or at least 6 fuseses. The reference to 3 liquid-burning flares was removed by a final rule published on February 19, 2026 (91 FR 7867). Other warning devices may be used in addition to required devices, as long as they do not reduce the effectiveness of required devices.

Applicant's Request

Aurora seeks an exemption from 49 CFR 392.22(b), 393.25(e), and 393.95(f) to allow Aurora to operate Level 4 ADS-equipped CMVs, as defined in SAE International, formerly Society of Automotive Engineers (SAE), standard J3016, using a set of cab-mounted beacons in lieu of placing the warning devices otherwise required by the FMCSRs. Aurora requests that the exemption include any other motor carrier operating Level 4 ADS-equipped CMVs, provided that the motor carrier notifies FMCSA in writing prior to operating under the exemption. The cab-mounted warning beacons consist of flashing amber lights that meet class 1 photometric performance requirements described in SAE J595, mounted high on each side of the cab.

Aurora notes that the exemption would apply to Level 4 ADS-equipped CMVs even if there were a human driver present and suggests that FMCSA consider extending the exemption to conventional CMVs operated by human drivers. Aurora states that it currently has 109 Class 8 CMVs and expects to have more than 200 Level 4 ADS-equipped CMVs by the end of calendar year 2026. Aurora projects that its fleet could expand to thousands of CMVs operating under the exemption over the next five years.

Limited Waiver

Currently, Aurora is operating under a limited waiver from the warning device placement requirements in 49 CFR 392.22(b), the steady-burning lamp requirement in 49 CFR 393.95(f), and the requirements for the types and number of warning devices in 49 CFR 393.25(e), subject to certain terms and conditions. The waiver allows Aurora to operate Level 4 ADS-equipped CMVs with cab-mounted beacons in lieu of the warning devices otherwise required by the FMCSRs. The waiver also permits other motor carriers operating Level 4 ADS-equipped CMVs to use the waiver,

provided that the motor carrier notifies FMCSA in writing and certifying information specified in the waiver. Kodiak Robotics, Inc., provided written notification to FMCSA that it is also operating under the waiver. The waiver also requires each motor carrier operating under the waiver to report any crashes that occurred while the cab-mounted warning beacons are activated or should have been activated, and submit a Waiver Term Report outlining the performance data of the cab-mounted warning beacons. As of the publication date of this notice, no crashes have been reported to FMCSA under the terms and conditions of the waivers. The current waiver will expire on July 9, 2026.

Applicant's Equivalent Level of Safety

Aurora states that the exemption will achieve a level of safety equivalent to that of the current regulations because cab-mounted warning beacons are reliable and highly visible, whereas warning triangles can be blown away or toppled over. In addition, cab-mounted warning beacons eliminate the need for a human to exit the CMV onto the shoulder or traffic lane of a road. Aurora states that it successfully used cab-mounted warning beacons under a waiver from October 10, 2025 through January 9, 2026 on 34 CMVs that traveled over 500,000 miles. During that period, the beacons activated for a total duration of nearly 10 hours. Aurora reports that, to the company's knowledge, the beacons were reliable and operated as expected without any faults, malfunctions, or power issues. Aurora's CMVs that operated under the waiver were not involved in, nor contributed to, any roadway collisions while stopped on the roadway and using the beacons.

Aurora also submits two reports that it says support the safety effectiveness of the cab-mounted warning beacons: an August 2022 Waymo-sponsored study titled "Stopped Automated Commercial Motor Vehicle Warning Device Surrogates" by the Virginia Tech Transportation Institute (VTI), and an October 2022 report prepared by Aurora titled "Naturalistic Study of Warning Device Equivalency."

Aurora proposes terms and conditions for the exemption similar to the terms and conditions of the waivers that FMCSA has issued to Aurora. Aurora requests that it be allowed to operate double/triple trailers and tank vehicles under the exemption, which is currently not allowed under the waivers. Aurora does not propose that the terms and conditions for the exemption allow for operations which would otherwise

require a “H”, “P”, “S”, or “X” endorsement under 49 CFR 383.93—if a human driver were present.

A copy of Aurora’s application for exemption with supporting documents, including the waivers FMCSA issued to Aurora and the two 2022 studies, is available for review in the docket for this notice.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Aurora’s application for a 5-year exemption from 49 CFR 392.22(b), 49 CFR 393.25(e), and 49 CFR 393.95(f). All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2026–07288 Filed 4–14–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation’s Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has granted or denied the application described herein.

DATES: Comments must be received on or before May 15, 2026.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in

triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT:

Donald Burger, Director, Office of Hazardous Materials Safety Special Permits Program, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on April 1, 2026.

Donald P. Burger,

Director, Special Permits Program.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data—Granted			
7694–M	Applied Pressure Vessels, Inc	173.302a, 175.3	To modify the special to authorize an additional hazardous material.
11215–M	Northrop Grumman Systems Corporation.	172.300, 172.400, 172.500, 172.600, 173.62, 175.75.	To modify the special permit to authorize additional hazardous materials.
21552–M	Veolia ES Technical Solutions, LLC.	172.320, 173.56(b)	To modify the special permit to authorize plain water as an alternative soaking solution.
22010–N	Thales Alenia Space	172.101(j), 172.300, 172.400, 173.301(f), 173.302a(a)(1), 173.304a(a)(1).	To authorize the transportation in commerce of specially designed non-DOT specification containers (satellite assemblies) for use in specialty cooling applications.
22042–N	Jaguar Land Rover Limited	172.102(c)(2)	To authorize the transportation in commerce of lithium ion batteries that exceed 35 kg net weight via cargo-only aircraft.
22043–N	Fibro Plasticschem (India) Private Limited.	107.503(b), 107.503(c), 172.102(c)(3), 172.203(a), 173.241(b), 173.242(b), 173.243(b), 178.345–1(a), 178.347–1(a), 178.348–1(a).	To authorize the manufacture, mark, sale and use of non-DOT specification glass fiber reinforced plastics (GFRP) cargo tanks conforming to all regulations applicable to a DOT 407 or DOT 412 cargo tank motor vehicle except as specified in the special permit for the transportation in commerce of the hazardous materials listed in the special permit.
22059–M	The Boeing Company	173.219(c)(5)	To modify the special permit to authorize the grantee as a carrier under the terms of the special permit.
22064–M	Daicel Safety Systems (Thailand) Company Limited.	173.301(a)(1), 173.302(a)(1), 178.65(c)(3).	To modify the special permit to authorize an additional packaging design.
22095–N	LG Energy Solution, Ltd	172.101(j)	To authorize the transportation in commerce of lithium ion batteries each with a mass exceeding 35 kg net weight per package via cargo-only aircraft.
22110–M	Blue Origin, LLC	172.300(a), 172.400(a), 173.301(f)(1), 173.302(a)(1), 173.56(b), 49 CFR Part 178.	To modify the special permit to authorize an additional packaging which is unapproved for transport and to authorize the transportation of an explosive.
22145–N	Impulse Labs, Inc	172.101(j), 173.185(a)(1)	To authorize the transportation in commerce of lithium ion batteries each with a mass exceeding 35 kg net weight per package via cargo-only aircraft.
22157–N	Syensqo USA LLC	172.302(c), 173.32(a)(2), 177.801, 180.605(a).	To authorize the one-time, one-way transportation of UN portable tanks that were filled with hazardous materials after the expiration of the most recent periodic requalification.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
22177-N	Veolia ES Technical Solutions, LLC.	173.185(f)(1), 173.185(f)(3), 173.185(f)(3)(iii).	To authorize the transportation in commerce of one UN50D Large Packaging containing damaged lithium ion cells for the purpose of disposal.
22178-M	Arch Recycling Resources LLC.	172.200, 172.300, 172.400, 173.185(a), 173.185(c)(3).	To modify the special permit to update the approved operational warehouse location.
22183-N	GS Yuasa Lithium Power, Inc	173.185(a)(1)	To authorize the transportation in commerce aboard cargo-only aircraft of prototype and low production lithium ion batteries that have not been demonstrated by testing to pass all required tests as specified in Part III, subsection 38.3 of the "UN Manual of Tests and Criteria".
22197-N	Veolia ES Technical Solutions, LLC.	173.21(b), 173.51, 173.54, 173.54(a), 173.56, 173.56(b).	To authorize the one-time, one-way transportation of wastewater containing explosive materials generated from the reclamation of submerged waste munitions.
22225-N	Fireworks By Grucci, Inc	172.301(a)(1)	To authorize the one-time, one-way transportation in commerce of fireworks classed as UN0431 by the Office of Hazardous Materials Safety to be transported from China to their final destination within the United States marked, labeled and described on the shipping papers as UN0336.

Special Permits Data—Denied

20333-M	Antonov JSC	172.101(j), 172.203(a), 172.301(c), 173.27(b)(2), 175.30(a)(1).	To modify the special permit to authorize up to 50,000 kgs Net Explosives Weight (NEW) to be transported by cargo-only aircraft.
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Special Permits Data—Withdrawn

21722-N	Olin Winchester LLC	172.301(c), 173.56(a)(2), 173.56(b)(1).	To authorize the transportation in commerce of certain explosives which have not been examined by a person who is approved by the Associate Administrator.
22096-N	Senior Operations LLC	173.306(f)(3)(iii)(A)	To authorize the transportation in commerce of accumulators that have not been subjected to the burst pressure test as required by 49 CFR 173.306(f)(3)(ii)(A).
22182-N	ATI Specialty Materials, LLC ..	178.965(a), 178.970(a), 178.975(a), 178.980(a), 178.985(a).	To waive the testing requirements of 49 CFR 178 Subpart Q.
22222-N	Harvest Medical Systems LLC	172.101(a)	To authorize the transportation in commerce of Magnetic Resonance Imaging (MRI) systems via cargo-only aircraft classified as UN3538 (Articles containing non-flammable, non-toxic gas, n.o.s.) and UN1963 (Helium, refrigerated liquid).
22223-N	Riverbend Energetics Mfg., LLC.	172.320	To authorize the transportation of wetted smokeless powder from the supplier to Riverbend for production.
22229-N	United States Department of Energy.	173.242(b)	To authorize the one-way transportation of solidified lithium hydride contained in certain non-DOT specification bulk packages for disposal.

[FR Doc. 2026-07252 Filed 4-14-26; 8:45 am]

BILLING CODE P**DEPARTMENT OF TRANSPORTATION****Pipeline And Hazardous Materials Safety Administration****Hazardous Materials: Notice of Applications for Modification to Special Permits**

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special

permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before April 30, 2026.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comment(s) is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Director, Office of

Hazardous Materials Safety Special Permits Program, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-6, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: (1) Motor vehicle, (2) Rail freight, (3) Cargo vessel, (4) Cargo aircraft only, (5) Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH-6, 1200 New Jersey Avenue Southeast,

Washington DC or at <http://regulations.gov>.

This notice of receipt of applications for special permit is published in

accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on April 1, 2026.

Donald P. Burger,
Director, Special Permits Program.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
16413-M	Amazon.com, Inc	172.300(a), 172.301(c), 172.315, 173.25(a), 173.150(b), 173.151(b), 173.152(b), 173.153(b), 173.154(b), 173.155(b), 173.159a(c)(2), 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(3), 173.306(a), 173.309(d).	To modify the special permit to authorize additional hazardous materials which can be transported as limited quantities. (modes 1, 2).
21074-M	Zhejiang Meenyu Can Industry Co., Ltd.	173.304(a), 173.304(d)	To modify the special permit to authorize an additional inside metal container.
21890-M	Blue Origin, LLC	173.301(f)(1), 173.302(a)(1), 173.302(b).	To modify the special permit to authorize non-DOT specification cylinders
22087-M	Zipline International Inc.	173.159, 173.159a, 173.167, 173.185(c), 173.1, 173.24, 173.24a, 173.27.	To modify the special permit to remove the non-commercial end-user limitation to enable business-to-business deliveries.

[FR Doc. 2026-07251 Filed 4-14-26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety

has received the application described herein.

DATES: Comments must be received on or before May 15, 2026.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Director, Office of Hazardous Materials Safety Special Permits Program, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-6, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: (1) Motor vehicle, (2) Rail freight, (3) Cargo vessel, (4) Cargo aircraft only, (5) Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH-6, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 31, 2026.

Donald P. Burger,
Director, Special Permits Program.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data			
22226-N	Heli-1 Corporation	172.101(j), 172.200, 172.204(c)(3), 172.301(c), 173.1, 173.27(b)(2), 175.30(a)(1), 175.75.	To authorize the transportation in commerce of certain hazardous materials to remote areas of the United States by 14 CFR Part 133 cargo-only rotorcraft external load operations. (mode 4).
22232-N	Filtros Corp.	173.13(a), 173.202(a)	To authorize the transportation in commerce of Methanol (UN1230) in accordance with the 49 CFR 173.13 exception except that the inner packaging exceeds the authorized capacity. (mode 1).
22233-N	Buffalo & Pittsburgh Railroad, Inc..	174.28(a), 174.28(b)	To authorize the use of alternative procedures in place of the requirements in § 174.28(a) and (b) of the HMR. (mode 2).

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
22235-N	Zipline International Inc.	172.101(l)(3)	To authorize the transportation in commerce of unmanned autonomous vehicles and its sub-components on special carrying racks. (modes 1, 2, 4).
22237-N	American Mobile Research, Inc..	173.201, 173.302, 173.304	To authorize the transportation in commerce of certain hazardous materials in alternative packaging. (modes 1, 4).
22238-N	American Mobile Research, Inc..	173.201, 173.304	To authorize the transportation in commerce of certain hazardous materials in non-DOT specification plastic cases. (modes 1, 4).
22239-N	Hillcrest Aircraft Company ...	172.200(a), 172.204(c)(3), 172.300(a), 172.301(c), 172.400(a), 173.27(b)(2), 175.30(a)(1), 175.75(a).	To authorize the transportation in commerce of certain hazardous materials to remote areas of the United States by 14 CFR Part 133 cargo-only rotorcraft external load operations. (mode 4).
22240-N	Atlas Chemical Corp.	172.101(a), 172.200(a), 172.320(a), 172.400(a), 172.500(a), 172.500(b)(2), 173.56(b), 173.60(a).	To authorize the transportation in commerce of Division 1.4S articles as Division 4.1 and shipped in accordance with the limited quantity exception. (modes 1, 2, 3)
22241-N	Sunrise Air Cargo	173.27(b)(2)	To authorize the transportation in commerce of MRI devices via cargo-only aircraft. (mode 4).
22242-N	R. J. Corman Railroad Company/Nashville & Eastern Railroad Line.	174.26	To authorize the use of electronic means to maintain and communicate on-board train consist and shipping paper information in lieu of paper documentation when hazardous materials are transported by rail. (mode 2).
22244-N	International Isotopes Inc. ...	172.200(a), 172.300(a), 172.400(a), 172.500(a), 172.602(c)(1), 172.604(a)(3).	To authorize the transportation of radioactive hazardous materials between manufacturing facilities without being subject to shipping papers, marking, labeling, placarding and emergency response information. (mode 1).

[FR Doc. 2026-07253 Filed 4-14-26; 8:45 am]

BILLING CODE P



FEDERAL REGISTER

Vol. 91

Wednesday,

No. 72

April 15, 2026

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 223

Endangered and Threatened Species; Notice of 12-Month Findings on a Petition To List the Tope Shark as Threatened or Endangered Under the Endangered Species Act and Proposed Listing of Two Distinct Population Segments of Tope Shark as Threatened; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 260410–0096; RTID 0648–XR121]

Endangered and Threatened Species; Notice of 12-Month Findings on a Petition To List the Tope Shark as Threatened or Endangered Under the Endangered Species Act and Proposed Listing of Two Distinct Population Segments of Tope Shark as Threatened

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

ACTION: Notice of 12-month petition findings; proposed rule and request for comments.

SUMMARY: We, NMFS, have completed a comprehensive status review of the tope shark (*Galeorhinus galeus*) in response to a petition to list the species as threatened or endangered under the Endangered Species Act (ESA) of 1973. After reviewing the best scientific and commercial data available, we have determined that this species is comprised of six distinct population segments (DPSs) and that two, the Southern (So.) Africa and Southwest (SW) Atlantic DPSs, are likely to become in danger of extinction throughout all or a significant portion of their ranges in the foreseeable future. Therefore, we propose to list the So. Africa and SW Atlantic DPSs as threatened species under the ESA. We have also determined that the remaining four DPSs—the Northeast (NE) Atlantic, NE Pacific, SW Pacific, and Southeast (SE) Pacific DPSs—do not meet the definition of a threatened or endangered species under section 4(a) of the ESA and therefore do not warrant listing under the ESA. We solicit information to inform the final listing determinations.

DATES: Comments on this proposed rule must be received by June 15, 2026. Public hearing requests must be made by June 1, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2022-0048>. You may submit comments on the proposed rule, identified by NOAA–NMFS–2022–0048 by the following method:

- **Electronic Submissions:** Submit all electronic comments via the Federal e-

Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2022–0048 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Adrienne Lohe, NMFS Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name and address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

The petition, Status Review Report, **Federal Register** notices, and the list of references can be accessed electronically online at: <https://www.fisheries.noaa.gov/species/tope-shark/conservation-management>. The peer review report is available online at: <https://www.noaa.gov/organization/information-technology/peer-review-plans>.

FOR FURTHER INFORMATION CONTACT:

Adrienne Lohe, NMFS Office of Protected Resources, 301–427–8442, adrienne.lohe@noaa.gov, or Lisa Manning, NMFS Office of Protected Resources, 301–427–8466, lisa.manning@noaa.gov.

SUPPLEMENTARY INFORMATION:**Background**

On February 15, 2022, we received a petition from the Center for Biological Diversity and the Defend Them All Foundation (Petitioners) to list the tope shark, *G. galeus*, as a threatened or endangered species under the ESA and to designate critical habitat concurrent with the listing. The petition asserts that *G. galeus* is threatened by four of the five ESA section 4(a)(1) factors: (1) present and threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial and recreational purposes; (3) inadequacy of existing regulatory mechanisms; and (4) other natural or manmade factors. In addition to requesting that we analyze whether the tope shark warrants listing based on its status throughout all or a significant portion of its range, the petition requests

that we analyze whether any distinct population segments (DPS) of tope shark warrant listing. The petition also requests that, if we determine the tope shark or any DPSs of tope shark warrant listing as a threatened species, we promulgate a protective regulation under section 4(d) of the ESA, and requests that we promulgate a regulation under section 4(e) of the ESA for species similar in appearance to the tope shark.

On April 28, 2022, we published a 90-day finding announcing that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted (87 FR 25209). We also announced the initiation of a status review of the species, as required by section 4(b)(3)(A) of the ESA, and requested information to inform the agency’s decision on whether this species warrants listing as endangered or threatened under the ESA. In response to this request, we received six public comments which expressed general support for listing the tope shark under the ESA without providing any supporting information.

Section 4(b)(3)(B) of the ESA requires that within 12 months of receiving a petition that is found to present substantial scientific or commercial information indicating that the petitioned action may be warranted, the Secretary shall make a finding on whether the petitioned action is warranted. On June 24, 2025, the Petitioners filed a complaint seeking a court-ordered deadline for issuing the 12-month finding; and pursuant to a court-approved settlement agreement, NMFS was required to submit this finding to the **Federal Register** by April 15, 2026.

Listing Determinations Under the ESA

We are responsible for determining whether species under NMFS’ jurisdiction are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we first consider whether a group of organisms constitutes a “species,” which is defined in section 3 of the ESA to include “any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature” (16 U.S.C. 1532(16)). On February 7, 1996, NMFS and the U.S. Fish and Wildlife Service (FWS; together, the Services) adopted a policy describing what constitutes a DPS of a taxonomic species (“DPS Policy,” 61 FR 4722). The joint DPS Policy identifies two elements that must be considered when identifying a DPS: (1) the discreteness of the population

segment in relation to the remainder of the taxon to which it belongs; and (2) the significance of the population segment to the remainder of the taxon to which it belongs.

Section 3 of the ESA defines an endangered species as any species which is in danger of extinction throughout all or a significant portion of its range and a threatened species as any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(6), 16 U.S.C. 1532(20)). Thus, an “endangered species” is one that is presently in danger of extinction. A “threatened species,” on the other hand, is not presently in danger of extinction, but is likely to become so in the foreseeable future (that is, at a later time).

Under section 4(a)(1) of the ESA, we must determine whether any species is endangered or threatened as a result of any one or a combination of any of the following factors: (A) the present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence (16 U.S.C. 1533(a)(1); 50 CFR 424.11(c)). We are also required to make listing determinations based solely on the best scientific and commercial data available, after conducting a review of the species’ status and after taking into account efforts, if any, being made by any state or foreign nation (or subdivision thereof) to protect the species (16 U.S.C. 1533(b)(1)(A)). The status review (described in more detail below) and this determination are based on analyses and information that are fully consistent with the Gold Standard Science Executive Order (E.O. 14303) in that they are reproducible; transparent; communicative of error and uncertainty; collaborative and interdisciplinary; skeptical of findings and assumptions; structured for falsifiability of hypotheses; subject to unbiased peer review; accepting of negative results as positive outcomes; and without conflicts of interest.

Status Review

To determine whether the tope shark warrants listing under the ESA, a Status Review Report was completed (Manning, Rippe, and Lohe 2026), which summarizes information on the species’ taxonomy, distribution, abundance, life history, ecology, and biology; identifies threats or stressors

affecting the status of the species; and assesses the species’ current and future extinction risk. We appointed three biologists in the Office of Protected Resources Endangered Species Conservation Division to compile and complete a scientific review of the best scientific and commercial data available on the tope shark. These biologists conducted an Extinction Risk Analysis to assess the threats affecting the tope shark, as well as demographic risk factors (abundance, productivity, spatial distribution, and diversity), using the information in the scientific review. The Status Review Report presents their assessment of the level of extinction risk facing the tope shark but makes no recommendation as to the listing status of the species.

The Status Review Report was subject to independent, unbiased peer review pursuant to the Office of Management and Budget Final Information Quality Bulletin for Peer Review (M–05–03; December 16, 2004). It was peer reviewed by seven independent specialists selected from the academic and scientific community with expertise in tope shark biology, conservation, or management. The peer reviewers were asked to evaluate the adequacy, appropriateness, and application of data used in the Status Review Report. All peer reviewer comments were addressed prior to finalizing the Status Review Report and publication of this finding.

We subsequently reviewed the Status Review Report, its cited references, and peer review comments, and concluded that it synthesizes the best available scientific and commercial information on the tope shark. In making our listing determinations, we have applied the statutory provisions of the ESA, including evaluation of the factors set forth in section 4(a)(1)(A)–(E), our regulations in 50 CFR 424 regarding listing determinations, and relevant policies identified herein.

The Status Review Report and the peer review report are available electronically (see **ADDRESSES**). Below is a summary of the information from the Status Review Report and our analysis of the status of the tope shark.

Biological Review

Taxonomy and Species Description

The tope shark, *G. galeus* (Linnaeus 1758), is a member of class Chondrichthyes, subclass Elasmobranchii (sharks and rays), order Carcharhiniformes (ground sharks), and family Triakidae (houndsharks) (ITIS and FishBase, accessed June 13, 2022). Once thought to each be distinct species, other nominal species,

including *G. australis* (Macleay 1881), *Galeus canis* (Bonaparte 1841), *G. chilensis* (Pérez Canto 1886), *G. communis* (Owen 1853), *G. cyrano* (Whitley 1930), *G. linnei* (Malm 1877), *G. molinae* (Philippi 1887), *G. nilssoni* (Bonaparte 1846), *G. vitaminicus* (de Buen 1950), *G. vulgaris* (Fleming 1828), *G. zyopterus* (Jordan and Gilbert 1883), are now considered synonyms of *G. galeus* (Compagno 1984; Fricke *et al.* 2022). Available genetic data for *G. galeus* provide evidence of strong population structuring by major geographic regions, but there is currently no evidence supporting the identification of any subspecies (Chabot and Allen 2009; Chabot 2015; Chiaramonte *et al.* 2016; Bester-van der Merwe *et al.* 2017).

Other common names for this species have origins in the species’ appearance, behavior, or common uses. It is often called soupfin shark in the United States and South Africa (also “vaalhaai” in South Africa), school shark or snapper shark in Australia and New Zealand, “cazón” (dogfish), “tiburón vitamínico” (vitamin shark), or “tiburón trompa de cristal” (glass-snouted shark) in Argentina and Uruguay, “tiburón aceitoso” (oily shark) or “sulfin” in Mexico, “çãcao-bico-de-cristal” (glass-snouted shark) in Brazil, “tollo” in Peru and Chile, and “requin-hâ” in French-speaking countries of the NE Atlantic (Walker 1999; Chiaramonte *et al.* 2016; Walker *et al.* 2020).

The tope shark is a medium-sized shark, generally reaching lengths of about 183 centimeters (cm) (6 feet). Maximum reported lengths vary by region, and range from a maximum total length (TL) of 155 cm for the southwestern Atlantic (Peres and Vooren 1991) to 200 cm TL in the Mediterranean Sea (Tunisian coast; Capapé and Mellinger 1988). The body is slender and gray or grayish brown dorsally and whitish ventrally, and young have black markings on their fins (Olsen 1984; Compagno *et al.* 1989). The snout is long and pointed, with a wide, crescent-shaped mouth. The small, triangular shaped teeth are serrated on the outer edges (Olsen 1984; Compagno *et al.* 1989). The large and horizontally oval eyes are positioned low on the sides of the head and have a nictitating membrane (external in juveniles and internal in adults and subadults), and the nostrils are positioned closer to the mouth and upper lip than to the tip of the snout (Compagno 1984; Olsen 1984). The second dorsal and anal fins are of roughly the same height and located opposite of each other, just anterior to the caudal peduncle (Ripley 1946; Olsen 1984). The caudal fin is fairly short and

notched, with a well-developed lower lobe that gives it somewhat of a double-tailed appearance (Olsen 1984).

Range, Distribution, and Habitat Use

Tope sharks occur in most of the world's oceans but have a discontinuous range that includes parts of the North and South Atlantic, North and South Pacific, Indian Ocean, and Mediterranean Sea (Compagno 1984; Walker *et al.* 2020). More specifically, in the NE Atlantic Ocean, they range from Iceland, Faroe Islands, Norway, United Kingdom, Ireland, throughout the Mediterranean, southward to Cabo Verde (Cape Verde) and Senegal. In the SW Atlantic, they range from southern Brazil to Argentina. In the Eastern South Atlantic and Western Indian Oceans, they range from Angola to South Africa. In the Western South Pacific, they range from southern Australia to New Zealand. In the Eastern North and South Pacific, they range from British Columbia, Canada, south along the Baja California Peninsula and Gulf of California, Mexico, and from Ecuador south to Peru and Chile. Following the advent of improved species identification and reporting for sharks in the Gulf of Alaska in 1997, at least one tope shark has been documented in the Gulf of Alaska, but their occurrence in this region is considered quite rare (King *et al.* 2017; Tribuzio *et al.* 2022). Within the Mediterranean Sea, tope sharks are known to occur mainly in western parts of the sea, but do extend farther, including rare occurrences in the Adriatic Sea (Tsagarakis *et al.* 2021). There are no records of tope sharks in the Sea of Marmara or the Black Sea (Colloca *et al.* 2019). Occurrence of tope sharks is questionable along western Africa, from roughly Gambia and Guinea-Bissau to the Democratic Republic of the Congo, as well as off Mozambique in southeastern Africa and off Laysan Island in the Northwestern Hawaiian Islands (Cadenat and Blanche 1981; Compagno 1984; Compagno *et al.* 2005; Walker *et al.* 2020; <https://www.fishbase.org>). Although observations of tope shark within intertropical western Africa are recorded in FishBase (<https://www.fishbase.org>, last accessed on February 23, 2026), it is possible these are misidentifications, as other researchers specifically report having no observations of tope sharks in this region, and there are no reported catches of tope sharks in the Food and Agriculture Organization (FAO) of the United Nations (UN) fishery database for this region (<https://www.fao.org/fishery/en/collection/capture>).

Tope sharks are semi-pelagic and occur in shallow coastal areas, in continental shelf and slope waters, and in oceanic waters (Compagno 1984; Walker 1999; Thorburn *et al.* 2019; Walker *et al.* 2020; Schaber *et al.* 2022). Distribution patterns and movements of tope sharks are complex and vary with multiple factors, including size, sex, habitat, and season. Immature tope sharks are typically found in coastal areas and in waters less than 200 meters (m) deep, with the smallest individuals (*e.g.*, <40 cm) remaining in shallower, coastal areas and larger juveniles having more expanded distributions (Olsen 1954; Olsen 1984; Stevens and West 1997; McAllister *et al.* 2015; Thorburn *et al.* 2019). Adult tope sharks occur in continental and insular shelf and slope waters, but also use pelagic, open-ocean areas and have been tracked at depths up to 826 m (Ripley 1946; Olsen 1984; Thorburn *et al.* 2019; Schaber *et al.* 2022).

Tagging studies indicate that while tope sharks can undertake long-distance migrations, they also exhibit general fidelity to a region. In several tagging studies, most sharks returned to or remained within 500 kilometers (km) of where they were initially released, while some sharks were recaptured thousands of kilometers away (Holden and Horrod 1979; Stevens 1990; Hurst *et al.* 1999; Brown *et al.* 2000; Fitzmaurice *et al.* 2003; Thorburn *et al.* 2019). The average distance that tope sharks range increases with size and age of the sharks (Stevens and West 1997; Brown *et al.* 2000; Thorburn *et al.* 2019). Medium and large-sized females are often recaptured at farther distances on average than males of the same size class (Brown *et al.* 2000; Francis 2010; Thorburn *et al.* 2019; Cameron *et al.* 2025). However, several studies have found that some adult females travel similar distances as the adult males (Brown *et al.* 2000; Walker *et al.* 2000; Francis 2010; Thorburn *et al.* 2019). Some researchers have hypothesized that this pattern of "partial female migration" reflects, at least in part, the use of local pupping areas by some females and use of more distant pupping areas by others (McMillan *et al.* 2019; Thorburn *et al.* 2019). Additional data are needed to understand the extent to which adult females display diversity in their use of pupping areas.

Spatial segregation of adult male and female tope sharks has been reported from many parts of its range including Australia (Olsen 1954; Olsen 1984; Walker 1999), California (Ripley 1946; Nosal *et al.* 2021), Argentina (Lucifora *et al.* 2004), South Africa (Freer 1992), Ireland (Fitzmaurice *et al.* 2003,

Cameron *et al.* 2025), Scotland (Stevens 1990, Little 1995), England (Holdon and Harrod 1979), and the Alboran Sea (Muñoz-Chápuli 1984), indicating this is a common behavior within the species.

Tope sharks exhibit various migratory patterns that are often generally described as involving migration towards the poles during warmer months and migration towards the equator or into deeper, offshore waters during colder months (de Buen 1952; Olsen 1954, 1984; Lucifora *et al.* 2004; Thorburn *et al.* 2019). For example, in the SW Atlantic, tope sharks are present in greatest abundance off the coast of southern Brazil from June through September and move southward to Argentina by austral summer, peaking in abundance in Puerto Quequén (around 38°32' S) from September to December, in Anegada Bay (around 40°30' S) from October to December, and gulfs further south (around 43° S) between January and April (Peres and Vooren 1991; Ferreira and Vooren 1991; Elías *et al.* 2005; Lucifora *et al.* 2004; Chiamonte 2015; Klippel *et al.* 2016; Trobbiani *et al.* 2021). These seasonal movement patterns are thought to be driven by oceanographic conditions, particularly by the seasonal shift in the front between the warm, subtropical, Brazil Current and the cold, subantarctic Malvinas (Falkland) Current and the associated changes in water temperature (Klippel *et al.* 2016). A slightly different pattern occurs in the NE Atlantic, where tope sharks exhibit a cyclical seasonal movement pattern rather than north-south migration. Evidence from tagging and mark-recapture studies here show migration away from tagging sites and into deeper waters during winter and spring, and a return to coastal areas or areas close to (within about 50 km of) their original tagging site during summer and fall, consistent with the observed timing of mating in the region (Fitzmaurice *et al.* 2003; Thorburn *et al.* 2019).

Tope sharks also exhibit different patterns of vertical movement and use epipelagic (0–200 m depths) as well as mesopelagic habitats (200–1,000 m depths), depending on several factors including time of day and bathymetry (West and Stevens 2001; Thorburn *et al.* 2019; Gonzalez-Garcia *et al.* 2020; Schaber *et al.* 2022). The vertical movements observed in tope sharks may be related to feeding behavior, including searching for prey (Cuevas *et al.* 2014; Schaber *et al.* 2022).

During spring and summer, pregnant females are often observed in shallow, coastal areas typically to give birth (Olsen 1984; Ripley 1946). Repeated observations of neonates, immediately

post-partum females and/or late-stage pregnant females have been used to confirm specific pupping and nursery areas in certain regions, although they have not been identified or fully resolved across the range. Within southeastern Australia, a number of bays and estuaries in Victoria and Tasmania have been identified as tope shark pupping and nursery areas, including the estuaries of Port Sorell, Pittwater, Georges Bay, and Great Oyster Bay in Tasmania, and Port Phillip Bay and Western Port Bay in Victoria (Olsen 1954, 1984; Steven and West 1997; Xiao *et al.* 1999) and potentially inshore areas of the Great Australian Bight (Prince 1996; Braccini *et al.* 2009; Rogers *et al.* 2017; M.N. McMillan unpublished, cited in McMillan *et al.* 2018). Stevens and West (1997) estimated that known pupping areas in southeastern Australia account for less than 10 percent of pup production needed to sustain the Australia tope shark stock, suggesting that other pupping areas exist. In New Zealand, pupping areas may be limited to coastal waters between the Hauraki Gulf and Kaipara Harbor along the North Island and between Oamaru and Jackson Bay along the South Island (Blackwell and Francis 2010; International Union for Conservation of Nature (IUCN) Species Survival Commission (SSC) Shark Specialist Group 2024a,b). However, Fisheries New Zealand (2024b) reports that the geographic location of the most important pupping and nursery grounds in New Zealand is not known. Available evidence indicates that pupping occurs throughout the Northeast Atlantic including near mainland Portugal, the Canary Islands, the Azores, inshore waters of England, Wales, and Ireland, and in the southern North Sea (Muñoz-Chápuli 1984; J.R. Ellis pers. comm., cited in Walker 1999; Thorburn *et al.* 2019; Schaber *et al.* 2022; Das *et al.* 2025; Edwards *et al.* 2025; IUCN SSC Shark Specialist Group 2025a,b,c; Loughs Agency *n.d.*; National Museums Northern Ireland *n.d.*). It is unclear if pupping occurs within the Mediterranean (Capapé *et al.* 2005). In the SW Atlantic, pupping and nursery habitats are thought to be located in inshore waters of northern Argentina, and may include Bahía Blanca, Bahía de Samborombón, Bahía San Blas, Bahía Engaño and Golfo San Matías, as well as the Albardão region off Rio Grande do Sul, Brazil (G.E. Chiaramonte, pers. comm., cited in Walker 1999; Lucifora *et al.* 2004; Bovcon *et al.* 2018; IUCN SSC Shark Specialist Group 2025e). In South Africa, pupping has been reported to occur in the Gansbaai area

and juvenile tope sharks have been caught in various embayments, including Struis, St. Helena, Walker, and False Bay, suggesting that these and/or nearby coastal areas may function as pupping or nursery grounds (Freer 1992; McCord 2005). Finally, in the NE Pacific, pupping areas include (or historically included) central California, the Santa Barbara coast, Tomales and San Francisco Bay, and potentially areas off Baja California Sur (Ripley 1946; Ramírez-Amaro *et al.* 2013; Nosal *et al.* 2021). No information is available on pupping or nursery areas in the SE Pacific.

Diet

Tope sharks prey on a wide range of demersal and pelagic fishes, as well as crustaceans, cephalopods, worms, and echinoderms (Compagno 1984). The diet of the species changes significantly with their development: juveniles consume more crustaceans and benthic invertebrates than adults, while adults consume a greater diversity of fishes and overall higher trophic level prey relative to juveniles (Lucifora *et al.* 2006; Taborda 2018; Poiesz *et al.* 2021; Priester *et al.* 2024). Differences in the diet of males and females have been observed in some studies, although this could be explained by habitat use and seasonality rather than diet preferences (Ripley 1946). Although data are limited, tope sharks appear to be somewhat selective rather than strictly opportunistic foragers (Lucifora *et al.* 2006; Biton-Porsmoguer 2022). Detailed information on prey species by region is available in section 2.5 of the Status Review Report.

Growth and Reproduction

Tope sharks are relatively long-lived, reaching a maximum age of at least 55 years (Coutin 1992; Walker *et al.* 2020). Because sharks lack the calcified structures (*e.g.*, otoliths) typically used to age teleosts (bony fishes), age and growth estimates are often produced by counting vertebral growth bands or by using time at liberty and differences in length measurements collected during mark-recapture studies (Cailliet and Goldman 2004; Cailliet 2015; Harry 2018). For tope sharks, counting growth bands is considered reliable for small and medium-sized individuals but is likely to underestimate the age of older, larger individuals (*i.e.*, ≥ 140 cm total length (TL) or ≥ 11 years old) and therefore mark-recapture studies likely produce more accurate maximum age estimates (Moulton *et al.* 1992; Walker *et al.* 2001; Harry 2018). Studies relying on counts of vertebral bands have produced maximum age estimates on

the order of 33 years for tope sharks off the coast of South Africa (Freer 1992; McCord 2005), 41 years for tope sharks off the coast of Brazil (Ferreira and Vooren 1991), and 50 years in Australia (Thomson *et al.* 2020). Studies using tag-recapture growth data have produced maximum age estimates ranging from 46–59 years for females ($n = 37$) and 43–55 years for males ($n = 16$) in the NE Atlantic (Dureuil and Worm 2015), and 55 years to possibly 60 years for tope sharks tagged off southern Australia (Olsen 1953, 1954; Walker 1999).

Tope sharks exhibit fairly slow overall growth rates. Available estimates of von Bertalanffy's growth coefficient (K) for tope sharks are 0.164 year^{-1} in Australia, 0.075 year^{-1} for females and 0.092 year^{-1} for males in Brazil, 0.124 year^{-1} in Australia, 0.086 year^{-1} for females and 0.154 year^{-1} for males in New Zealand, 0.190 year^{-1} in South Africa, and 0.076 year^{-1} for females and 0.081 year^{-1} for males in the NE Atlantic (Grant *et al.* 1979; Ferreira and Vooren 1991; Moulton *et al.* 1992; Francis and Mulligan 1998; McCord 2005; Dureuil and Worm 2015). Higher growth coefficients for males suggests that they reach their maximum lengths faster than females. Individuals grow most quickly during the first several years, followed by steady growth up to age 7–11 years, slowed growth as they approach or reach maturity, and then an eventual plateau (Grant *et al.* 1979; Moulton *et al.* 1992; Francis and Mulligan 1998; Fitzmaurice *et al.* 2003; McCord 2005). Relative to females, male tope sharks reach maturity at smaller sizes and earlier ages, and attain slightly smaller maximum lengths and lower weights (Ripley 1946; Grant *et al.* 1979; Freer 1992; Lucifora *et al.* 2004; Capapé *et al.* 2005; Walker 2005). Maximum theoretical length ranges from 163–201 cm for females and 142–177 cm for males (Ferreira and Vooren 1991; Francis and Mulligan 1998; Dureuil and Worm 2015). Tope sharks have an estimated age at maturity ranging from about 10 to 15 years in females, and 6 to 17 years in males. Length at first maturity ranges from 118–150 cm in females and 107–135 cm in males. Tope sharks are therefore considered a late-maturing species. Additional information on age and growth parameters for the species can be found in Table 2–1 of the Status Review Report.

Tope sharks exhibit yolk sac viviparity, meaning that eggs are fertilized and hatched internally, young are born alive, and nourishment of the embryo comes from the egg rather than from a placental connection to the

mother. Gestation is thought to last 12 months (Ripley 1946; Peres and Vooren 1991; Lucifora *et al.* 2004; Capapé *et al.* 2005); however, Theron (2001) and Walker (2005) suggest it may exceed 12 months. Data from multiple locations across the species' range, including Argentina, Brazil, southern Australia, South Africa, and California, provide evidence of a triennial (3-year) female reproductive cycle (Peres and Vooren 1991; Theron 2001; Lucifora *et al.* 2004; Walker 2005; Nosal *et al.* 2021). Males are thought to reproduce annually, and mating occurs seasonally within a local population (Peres and Vooren 1991; Freer 1992; Theron 2001). Females are capable of storing sperm for periods of weeks to months, and therefore mating may occur well in advance of fertilization (Peres and Vooren 1991; Theron 2001; Walker 2005). There is also evidence of multiple paternity (*i.e.*, multiple sires in the same litter) in tope sharks (Hernandez Muñoz 2013; Kelly *et al.* 2025). Female fecundity increases with the size of the adult female as evidenced by increased number of oocytes per female, number of embryos per female, and number of pups per litter in larger females (Ripley 1946; Olsen 1984; Peres and Vooren 1991; Lucifora *et al.* 2004; Capapé *et al.* 2005; Walker 2005; Chiaramonte 2015). Litter size can range from 4–52 pups, with average litter size ranging from about 23–35 pups of equal sex ratio measuring approximately 240–370 millimeters (mm) total length (TL) (Ripley 1946; Peres and Vooren 1991; Freer 1992; Walker 2005).

Demography

The natural mortality rate (M) for tope sharks, which theoretically accounts for predation and all other natural sources of mortality, such as senescence, has been estimated to be low ($M = 0.1006 \text{ year}^{-1}$) for tope sharks of mixed age in Australia (95 percent confidence range: 0.08–0.12, $n = 500$; Grant *et al.* 1979). This is equivalent to a survival rate (from natural death) of $e^{-0.1006} = 90.43$ percent year^{-1} . Estimates of natural mortality for tope sharks in other regions are also generally low: 0.123 year^{-1} in Australia, 0.26 year^{-1} in Australia, 0.126 year^{-1} in South Africa, and 0.094 year^{-1} in the NE Atlantic (Walker 1970 as cited in Walker 1999; Dow 1986 as cited in Walker 1999; McCord 2005; Dureuil 2013).

The intrinsic rate of population increase ($r_{\max}$), which is a function of fecundity, age of maturity, longevity, and natural mortality rate, is fairly low for tope shark populations. Using life history data available through FishBase (<https://www.fishbase.org>), life history

parameter estimation software available through FishLife 2.0 (Thorson *et al.* 2017; Thorson *et al.* 2023), and a Leslie-matrix approach, Winker *et al.* (2019) calculated an $r_{\max}$ value of 0.041 (CV = 0.154) for tope sharks. Using five different methodologies, Cortés (2016) calculated $r_{\max}$ values of 0.042–0.086 for tope sharks in the SW Atlantic and 0.047–0.169 for tope sharks in the SW Pacific. Smith *et al.* (1998) developed a model that uses female age at maturity, maximum reproductive age, and average fecundity to calculate a productivity metric referred to as the intrinsic rebound potential (IRP), which essentially estimates potential population growth rate after harvest mortality is removed. Using biological data collected for tope sharks in southern Australia and under an assumption of no increase in fecundity, Smith *et al.* (1998) calculated an IRP of 0.033 and a corresponding population doubling time of 21.3 years. Under an assumed 25 percent increase in fecundity (to account for increased survival of older, larger females), the IRP increased to 0.045 with an associated doubling time of 15.4 years (Smith *et al.* 1998). Across the 26 shark species considered in their comparative analysis, these authors found a wide range of rebound rates (*i.e.*, 0.017–0.202), with the tope shark among the species estimated to have a relatively low to moderate IRP (Smith *et al.* 1998).

Winker *et al.* (2019) estimated a median generation length of 23.1 years (CV = 0.066). Similarly, the most recent IUCN Red List assessment of tope shark applied a similar estimated generation length of 26.3 years (Walker *et al.* 2020), while the Australian Fisheries Management Agency (AFMA), in their rebuilding strategy for the species, uses an estimated generation length of 22 years (AFMA 2015).

Population Structure

Tagging and genetic data indicate that *G. galeus* is structured as at least six regional populations: (1) a NE Atlantic population that extends from the North Sea and UK waters into the Mediterranean Sea and southward to northwest Africa; (2) a So. Africa population that extends from Namibia to East London, South Africa; (3) a SW Atlantic population that ranges from southern Brazil to Patagonia; (4) a NE Pacific population that ranges from British Columbia, Canada to southern Baja California, Mexico, and including the Gulf of California; (5) a SE Pacific population that ranges from Ecuador to Chile; and (6) a SW Pacific population that includes Australia and New Zealand. No movement of tope sharks

among these regions has been reported, and available genetic data indicate that gene flow among these six regional populations is limited (Ward and Gardiner 1997, Chabot and Allen 2009, Chabot 2015, Hernández *et al.* 2015, Bester-van der Merwe *et al.* 2017).

Current understanding of tope shark population structure is based largely on several studies that examined population genetics of tope sharks on broad geographic scales. Most recently, Bester-van der Merwe *et al.* (2017) investigated population structure of tope sharks by collecting and analyzing genetic samples from five countries: Argentina, Chile, South Africa, Australia (Tasmania), and New Zealand. Genetic variation was assessed based on both nuclear DNA (nDNA) (19 microsatellite markers, $n = 185$ samples) and mitochondrial DNA (mtDNA) ($n = 96$ samples). Similarly, a pair of studies by Chabot and Allen (2009) and Chabot (2015) used both microsatellites ($n = 11$ markers) and an mtDNA marker (1,068-base pair fragment in the control region) to investigate the population structure of tope sharks from multiple locations across the species range: South America (Peru, $n = 11$; Argentina, $n = 1$), South Africa (Cape Town, $n = 16$), Australia (GAB, New South Wales, and Tasmania, $n = 50$), North America (Southern California, $n = 26$), and the United Kingdom (Irish and Celtic Seas, $n = 12$). (Note: Chabot (2015) pooled their single sample from Argentina with the Peru samples into a collective South America population based on the observation of Chabot and Allen (2009) that it shared an identical mtDNA haplotype with two samples from Peru.) All three studies detected a high degree of genetic differentiation among the sampled regions (Bester-van der Merwe *et al.* 2017: $F_{CT} = 0.137$, $\Phi_{ST} = 0.895$, $p < 0.05$; Chabot and Allen 2009: $\Phi_{ST} = 0.84$, $p < 1 \times 10^{-6}$; Chabot 2015: $F_{CT} = 0.15$, $p < 0.001$). The results of pairwise comparisons between regions provide additional support for population structuring at a regional scale. For instance, pairwise comparisons by Bester-van der Merwe *et al.* (2017) using microsatellite data indicated significant but varying magnitudes of genetic differentiation between all sampled regions ($F_{ST} = 0.050$ to 0.330 , $p < 0.05$), with the lowest observed differentiation occurring between Chile and New Zealand ($F_{ST} = 0.050$) and highest between Argentina and Australia ($F_{ST} = 0.330$). Similarly, pairwise comparisons by Chabot (2015) using microsatellite data and three different statistics (F_{ST} , G'_{ST} , and Jost's D) consistently indicated significant genetic

differentiation between all sample regions. Pairwise comparisons by Chabot and Allen (2009) using mtDNA also revealed significant differences ($\Phi_{ST} = 0.34\text{--}0.90$, $p < 1 \times 10^{-6}$) for all pairs, and, based on Φ_{ST} values, among-population differences accounted for 83.96 percent of the observed genetic variation. These researchers identified 38 unique haplotypes, 2 of which were shared between sampling regions. One, as noted earlier, was shared between Argentina and Peru, and the other was shared between South Africa and Australia. With the exception of Australia and New Zealand, all pairwise comparisons of mtDNA in Bester-van der Merwe *et al.*'s (2017) study also indicated significant and strong population structuring ($\Phi_{ST} = 0.151\text{--}0.934$, $p < 0.05$), with the lowest difference between Chile and Argentina ($\Phi_{ST} = 0.151$). Bester-van der Merwe *et al.* (2017) identified 15 unique haplotypes, one of which was shared between Chile and Argentina and one between Australia and New Zealand. The very low and non-significant measure of pairwise variation for the mtDNA marker between Australia and New Zealand ($\Phi_{ST} = -0.180$) reported by Bester-van der Merwe *et al.* (2017) is an exception to the otherwise consistent pattern of significant genetic differentiation among sampled regions. An earlier study by Hernández *et al.* (2015) also examined genetic samples from Australia and New Zealand using a different mtDNA marker, 8 microsatellite markers (versus 19), more sample locations within each country, and substantially more mtDNA samples and microsatellite samples than Bester-van der Merwe *et al.* (2017). Results of Hernández *et al.*'s (2015) study indicated that genetic differentiation between the Australia and New Zealand samples based on mtDNA was low and non-significant (after sequential Bonferroni correction, $\alpha = 0.0014$), and that the microsatellite variation was also low and non-significant ($p > 0.05$; Hernández *et al.* 2015).

Estimates of gene flow (in terms of migrants per generation) by Chabot and Allen (2009) among sampled locations were very low and ranged from 0.05 to 0.97. Estimates of gene flow by Chabot (2015) between sampled locations were also very low (0.002–0.013), with the exception of the migration rate from South into North America, which was higher than all others (0.257). However, the estimated migration between North and South America in this study was well below the estimated self-recruitment rates (0.692 and 0.988); and, as discussed earlier, the pairwise

comparisons between North and South America based on mtDNA and microsatellites showed significant genetic differentiation (Chabot and Allen 2009; Chabot 2015).

Overall, and notwithstanding data gaps due to under- and non-sampled parts of the range, these studies indicate a regionally isolated population structure, with little to no contemporary connectivity between tope shark populations across ocean basins or the equator. Additional information about finer-scale population structure is available in section 2.8 in the Status Review Report (see also Distinct Population Segment Analysis section of this document).

Population Abundance and Trends

A global abundance estimate for tope sharks is not available; however, the most recent IUCN Red List assessment (Walker *et al.* 2020) provides a trend analysis for the species on a range-wide level as well as several regions. This analysis was based on the following data from five geographic locations and four of the six regional tope shark populations (the NE and SE Pacific populations were omitted): (1) standardized catch per unit effort (CPUE) data for the NE Atlantic from fisheries-independent trawl surveys and the Azorean bottom long-line fishery (International Council for the Exploration of the Sea (ICES) 2019); (2) nominal CPUE data from the demersal trawl fisheries in Argentina (G. Chiaramonte unpublished data 2019); (3) estimated biomass trends from a stock assessment for South Africa (Winker *et al.* 2019); (4) estimated biomass trends from a stock assessment for Australia (Thomson and Punt 2009); and (5) standardized CPUE from longline and gillnet surveys in New Zealand (Dunn and Bian 2018). The trend data from each source were analyzed over three generation lengths using a Bayesian state-space modeling tool specifically designed for use in IUCN Red List assessments for pelagic sharks, referred to as the 'Just Another Red List Assessment' (JARA) tool (see Sherley *et al.* 2020). This modeling tool was built off of the existing and open-source software referred to as 'Just Another Bayesian Biomass Assessment' (JABBA), which is an extension of a standard Surplus Production Model framework that incorporates a Bayesian approach to account for potential process (*i.e.*, model-based) and observation (*i.e.*, sampling-based) error (Winker *et al.* 2018). The JARA analysis yields an annual rate of change, a median percentage change over three generation lengths, and the probability

of the most likely IUCN Red List Category.

Population trends were estimated using the JARA framework for each of the five datasets mentioned above, and those regional trend estimates were then used to estimate a global population trend, with regional trend data weighted by the size of the particular region in proportion to the species' total distribution. This analysis estimated a median percentage decline of -76.6 percent, -99.3 percent, -91.4 percent, -90.1 percent, and -29.8 percent over three generations (79 years) for the NE Atlantic, SW Atlantic, So. Africa, Australia, and New Zealand populations, respectively, and a global decline of -88 percent (95 percent CI: -99.6 to -65.7 percent) (Walker *et al.* 2020, see Supplemental Information). However, the authors do note several important caveats. For example, to incorporate regions where the species is known to occur but where trend data were not available (*e.g.*, NE Pacific, SE Pacific), Walker *et al.* (2020) assumed that each missing regional population had declined by between 0 and 100 percent by randomly sampling from a uniform distribution, $U(-100,0)$, and then combined this value (weighted by proportional area) with other regional estimates to calculate the global trend. Additionally, when datasets do not span three generation lengths, as was the case for all the regions in this analysis, JARA requires that trends be projected forward in time, effectively extrapolating beyond the available data and compounding the uncertainty in the estimated trends. For several regions (*i.e.*, NE Atlantic, SW Atlantic, and New Zealand), these extrapolations represented approximately two-thirds of the time series used in the analysis. Overall, given the lack of long-term monitoring for this species, each regional trend estimate was necessarily derived from very limited information—sometimes just a single fishery-dependent CPUE series or assessment—which may not capture important underlying factors, such as stock structure, age and size composition, or regional differences in fishing practices (see also Kai 2021). Available information on abundance and trends by region is discussed below.

In some cases, stock assessments have been conducted on the regional tope shark population to evaluate the status of the stock for fisheries management purposes. Stock assessments often indicate the status of a stock using the terms "overfished" and "overfishing." Specific to the context of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), a stock or stock

complex is considered “overfished” when its biomass has declined below minimum stock size threshold (MSST), defined as the level of biomass below which the capacity of the stock or stock complex to produce maximum sustainable yield (MSY) on a continuing basis has been jeopardized (50 CFR 600.310(e)(2)(i)(E)–(F)). Overfishing occurs whenever a stock or stock complex is subjected to a level of fishing mortality or total catch that jeopardizes the capacity of a stock or stock complex to produce MSY on a continuing basis (50 CFR 600.310(e)(2)(i)(B)). While the stock assessments referenced in this finding do not define “overfished” and “overfishing” using the exact language above, they use the two terms with equivalent meanings. It is important to note that the terms “overfished” and “overfishing” do not have any specific relationship to the terms “threatened” or “endangered” as defined in the ESA. While a stock that is overfished is not able to sustain an exploitive fishery at MSY (*i.e.*, the highest possible annual catch that can be sustained over time), it can still be at a stable biomass level and thus not in danger of extinction due to overutilization. Similarly, one goal of the MSA (and fisheries management organizations) is to “rebuild” overfished stocks to biomass levels that will support MSY. This level can be significantly above the biomass levels necessary to ensure that a species is not in danger of extinction. Thus, evidence of declining abundance that threatens the ability of the fishery to provide MSY is relevant, but not dispositive of a threatened or endangered species determination. Therefore, while available information about whether specific stocks are overfished or experiencing overfishing is relevant to and considered in the ESA extinction risk analysis, the fact that a stock may be considered “overfished” or experiencing “overfishing” does not automatically indicate that any particular status is appropriate under the ESA. Stock assessments, which provide information for determining the sustainability of a fishery, are based on different criteria than status reviews conducted under the ESA, which provide information to assess the likelihood of extinction of the species. When conducting a status review under the ESA, we use relevant information from available stock assessments, such as levels of biomass and fishing mortality, and apply the ESA’s definitions of threatened and endangered species to the information in the record using NMFS’ standard tools of ESA extinction risk analysis. As

part of the ESA extinction risk analysis, when examining whether overutilization for commercial purposes is a threat to the species, the status review considered whether the species has been or is being harvested at levels that contribute to or pose a risk of extinction to the species.

NE Atlantic

Quantitative data on abundance trends of *G. galeus* in the NE Atlantic region are limited. While several fishery-independent surveys are available from across the region, there are various design and sampling flaws or errors preventing us from drawing strong conclusions about population trends. Five research surveys coordinated by ICES and spanning 1992 to 2022 were considered by the ICES Working Group on Elasmobranch Fisheries (WGEF) in their 2023 review of the tope shark. Tope sharks are not sampled effectively in these surveys due to low gear selectivity, and therefore, trend analyses using these data should be “viewed with care” (ICES 2022). However, one of the five surveys, International Bottom Trawl Survey (IBTS)–Q1, had a low catch rate of tope sharks over the time period and was not subject to further analysis by WGEF (ICES 2023a), and a second of these surveys, IBTS–Q3, included some questionable data and species identification issues such that the WGEF concluded the dataset could not be relied upon until the data could be verified (ICES 2022). Two other trawl surveys considered by the WGEF are France’s “Evaluation Halieutiques Ouest de l’Europe” Groundfish Survey (EVHOF–WIBTS–Q4), which is conducted in the Bay of Biscay and Celtic Sea, and the Irish Groundfish Survey (IGFS–WIBTS–Q4), which is conducted in the shelf waters around Ireland (ICES 2023a). Neither dataset indicates a clear abundance trend: the data show sporadic peaks in annual catch generally related to a large number of specimens captured in single hauls (ICES 2023a). The fifth survey considered by the WGEF is the spring bottom longline survey of waters around the Azores archipelago (ARQDAÇO) that has been conducted almost annually since 1995. The survey is not particularly well-suited to capturing tope sharks, and both the biomass estimates and standardized abundance index derived from these survey data are highly variable over time and do not indicate a clear trend (ICES 2023a). Santos *et al.* (2020) analyzed ARQDAÇO survey data and compared them to commercial landings data, and reported that annual landings for tope sharks

showed a decreasing trend from 1998/2000 to 2009, and then some rebound after this period. Santos *et al.* (2020) hypothesized that the relatively lower landings in the more recent years reflect an increased discard rate, which may have been driven in part by low market demand. This hypothesis receives some support from their finding that the standardized CPUE for tope sharks in the fisheries data is fairly stable over time. The authors cautioned that neither the abundance index nor the CPUE data should be interpreted as an accurate proxy for tope shark abundance in the region due to the low and variable catch rates of tope sharks and likely changes in discard rates in the longline fisheries.

As part of the most recent IUCN Red List assessment of tope sharks, Walker *et al.* (2020) assessed trends for the entire NE Atlantic regional population of tope sharks using three datasets: the Bay of Biscay and Celtic Sea trawl surveys (*i.e.*, EHVOE–WIBTS–Q4) from 1997–2016; the Irish Ground Fish Survey (*i.e.*, IGFS–WIBTS–Q4) from 2005–2018, and the Azorean bottom long-line fishery landings during 1990–2015 (see Walker *et al.* 2020, Supplementary Information). Results of the JARA analysis using these three datasets indicate an annual rate of reduction of 1.7 percent for the combined 29 years of survey data (1990–2018) and projected an estimated median reduction of 76.6 percent over the next three generations (79 years). Walker *et al.* (2020) noted that this trend was largely driven by the higher catch rates occurring at the start of the time-series, with data from the latter part of the time-series indicating more stable trends. The authors also reiterated the concerns raised by the WGEF that the various datasets for the NE Atlantic may not be representative of the population due to low catchability of tope sharks in the surveys and gears used and therefore cautioned how the data were interpreted. In addition, the 95 percent credible intervals on the model-predicted population trend are wide and skewed upwards over the forecasted three generations. Lastly, it is also worth noting that the more recent years (*i.e.*, since 2018) of trawl survey data from EHVOE–WIBTS–Q4 (Bay of Biscay and Celtic Sea) in which CPUE and biomass estimates show some increases are not captured in this analysis as these data were likely not available at the time.

Beyond these available survey data, additional, reliable quantitative data regarding tope shark abundance trends in the North Atlantic Ocean are very limited. Some data, however, are available from the Irish Marine Sportfish Tagging Program, which

between 1970 and 2015, recorded 448 recaptures of 7,641 tagged tope sharks (ICES 2020). Using Jolly-Seber mark-recapture modeling, the WGEF reported that these data indicate a stable population trend around Ireland between 1970 and 2015 (ICES 2020).

Within the Mediterranean and Black Seas, fishery-independent survey data are available from the Mediterranean International Trawl Survey (MEDITS), an international survey effort formalized in 1993 by Spain, France, Italy and Greece, and expanded in 1996 to include Albania, Croatia and Slovenia. These standardized bottom-trawl surveys have been conducted since 1994 throughout 19 subregions along the northern margin of the Mediterranean basin. Encounters with tope sharks are generally infrequent, varying by geographical subarea (GSA) (Relini *et al.* 2010; Marongiu *et al.* 2017, Ramírez-Amaro 2017; Geraci *et al.* 2017; Follesa *et al.* 2019). Ramírez-Amaro (2020) provided MEDITS summary data for 199 hauls completed during 1994–2015 in the western Mediterranean, specifically the northern Alboran Sea (GSA 1), northeastern coast of Spain (GSA 5), and Balearic Islands (GSA 6). A total of 38 tope sharks were captured across 13 of the 22 survey years in the Alboran Sea (GSA 1); no tope sharks were captured in GSA 5 or GSA 6. Previously, Muñoz-Chápuli (1984) had reported that, in 1981, in 95 commercial longline sets and 81 commercial trawls in the western Alboran Sea, a total of 34 male and 3 female tope sharks were recorded as captured off the southern coast of Spain, and 9 males and 2 females were recorded as being captured off the coast of northern Morocco. At the time of their study, Muñoz-Chápuli (1984) also described *G. galeus* as a species that was very often caught by hook-and-line gear. Although the differences in gear types and fishing effort prevent a direct comparison of the MEDITS data to the data provided by Muñoz-Chápuli (1984), the apparent decline in captures of tope shark between these two datasets may indicate an abundance decline in the Alboran Sea area.

No tope sharks were observed in the MEDITS trawl surveys conducted around Sardinia (GSA 11) from 1994 to 2015 (Marongiu *et al.* 2017, Ramírez-Amaro 2017). Tope sharks were also not observed in MEDITS surveys conducted from 1994 to 2009 in the northern Tyrrhenian Sea (GSA 9), south of Sicily (GSA 16), in the Adriatic Sea (GSA 17, 18), or in the western Ionian Sea (GSA 19) (Relini *et al.* 2010). Two individuals were captured in the southern Tyrrhenian Sea (GSA 10) during this period—one in 1995 and one in 2001

(Relini *et al.* 2010). Follesa *et al.* (2019) provided MEDITS data for the period 2012–2015 for GSA 1, 5–11, 16–20, 22, 23, and 25. Tope sharks were captured only in GSA 16 (south of Sicily) during this period, but at very low frequency (0.5 percent of hauls in 200–800 m depth strata). No tope sharks were observed in MEDITS surveys in GSA 16 from 1994 to 2012 (Geraci *et al.* 2017).

Additional information on the general distribution and abundance of tope sharks comes from an international, standardized assessment of shark bycatch rates in commercial swordfish and tuna longline fisheries across nine regions of the Mediterranean Sea conducted during 1998–1999. Tope sharks were captured in 6 of the 9 regions, with highest catches occurring in the 3 westernmost regions: the Alboran Sea (n = 10 sharks/1,391 longline sets), the Balearic Islands (n = 4 sharks/1,379 longline sets), and the Catalan region (n = 2 sharks/331 longline sets) (Megalofonou *et al.* 2005). A single tope shark was also reported in each of 3 other regions where reported fishing effort was much lower: the Straits of Sicily, the Aegean Sea, and the Levantine basin (32, 141, and 218 longline sets, respectively). Catch rates (expressed as number of fish/1,000 hooks) were low across all areas, with the highest catch rates occurring in the Levantine basin (0.143) and Aegean Sea (0.057). The species was not observed in the Adriatic Sea (777 longline sets), the Ionian Sea (833 longline sets), or the Tyrrhenian Sea (9 longline sets) (Megalofonou *et al.* 2005). Authors note that this may indicate low or depressed abundances and/or low capture efficiency of the gear used (Megalofonou *et al.* 2005).

The above data contrasts with landings of tope sharks reported to International Commission on the Conservation of Atlantic Tunas (ICCAT) by Türkiye averaging 565 metric tons (mt) per year (ranging from 413 mt to 668 mt) from 2004 to 2009 in their shark longline fishery (<https://www.iccat.int/en/accesingdb.html>, accessed on June 27, 2024). The large difference between the ICCAT data and the tope shark landings reported by Megalofonou *et al.* (2005) may be explained by the fact that the catches reported to ICCAT by Türkiye came from the longline fishery specifically targeting sharks. No tope shark landings, which are reported voluntarily, were reported by Türkiye after 2009. We also note that no tope shark landings data for Türkiye are included in available FAO data (<https://www.fao.org/fishery/statistics-query/en/capture>), which creates significant uncertainty regarding the reliability of

the available data. The only other Mediterranean landings data in the ICCAT database are for France, which reported landing 5 mt by trawl in 2010, and Morocco, which reported landing 6 mt in 2011, 2 mt in 2012, and 4 mt in 2013 by handline, longline, and purse seine.

Some available evidence suggests a decline in tope shark abundance within the western Mediterranean. In 2016–2017, a group of 42 bottom trawl, bottom longline, and drifting longline fishermen who were interviewed in Costa Brava, Spain (coastal Catalan region) generally considered tope shark populations to be declining locally, although the statistical distribution of answers was not significantly different than that expected by chance (Nuez *et al.* 2021). Around this same time period, in 2015, the government of the Balearic Islands classified the species as “critically endangered” in local waters using the IUCN Red List criteria, stating that it had “gone from being frequent in shops and markets to being rare, with a sharp decrease in catches” (Grau *et al.* 2015). The critically endangered classification is described as being based on direct observations and actual or potential exploitation levels indicating a reduction in biomass of at least 80 percent in the last ten years or in three generations of the species, and that the reduction and its causes had not ceased, or are not understood, or are not reversible (Grau *et al.* 2015). It is not clear, however, what data were used in support of the observed decline. Additionally, a historical abundance decline in the northern Tyrrhenian Sea over the years 1898–1922 is indicated by Ferretti *et al.* (2005)’s analysis of commercial landings data for fish “traps” targeting Atlantic bluefin tuna: large declines (>90 percent) were observed for all sharks species over this 25-year period, with tope sharks estimated to have declined by 99.97 percent (95 percent CI: over 99.99 percent to 99.38 percent). While Ferretti *et al.* (2005) do not discuss taxonomic or reporting issues for tope sharks in the data, given the documented issues with species-specific landings records in this region, confidence in the historical landings records used in the study is somewhat limited.

G. galeus is also known to occur along the coast of Algeria and Tunisia, in some cases arriving after long-distance migrations from the North Atlantic (Holden and Horrod 1979, Fitzmaurice *et al.* 2003). Capapé *et al.* (2005) noted that, at the time of their study, tope sharks were the most “abundantly and regularly” landed shark species off the coast of Algeria, and that tope sharks

were also being captured off the coast of Tunisia, where it was later referred to as “quite common” by Ragonese *et al.* (2013). Likewise, Bradai *et al.* (2006) described the Gulf of Gabès as an area where tope sharks are “regularly observed.” As part of a population genetics study, Thorburn (2015) was able to acquire 28 samples of *G. galeus* from sport fishers and fish markets along the Algerian coast in 2009–2013, indicating that the species was still encountered in local waters at that time. We are not aware of any additional data or surveys that have been conducted along the southern margin of the Mediterranean Sea that would aid in characterizing the species’ relative abundance or abundance trends.

In a relatively recent review of published literature and existing databases, tope sharks were categorized as rare in the western, central, and eastern Mediterranean and Adriatic Sea, and as having a declining probability of occurrence (Serena *et al.* 2020). This study involved a comprehensive review of available data and reports for both European Union (EU) and non-EU countries bordering the Mediterranean, and examined both fisheries-independent data (e.g., MEDITS) and landings data from industrial and small-scale fisheries. When considered collectively, this recent review, and other evidence (e.g., Ferretti *et al.* 2005) suggest that tope sharks may have undergone a substantial decline in abundance within the Mediterranean.

No assessments of abundance trends are available for the eastern central Atlantic.

In sum, population trends and abundance of tope sharks within the NE Atlantic region remain poorly understood. Quantitative assessments of tope shark abundance in the NE Atlantic region suffer from various design and sampling flaws or errors, preventing us from drawing strong conclusions about population trends. Overall, however, data from the individual systematic surveys of the North Sea, Celtic Seas, English Channel, and Biscay Bay do not indicate that the NE Atlantic tope shark population has changed significantly over the respective data collection periods. Systematic surveys around the Azores also provide no evidence of a decline in abundance of tope sharks. Tope sharks are relatively rare in the Mediterranean, and available evidence suggests a large historical decline in abundance in this subregion. While the most recent IUCN assessment (*i.e.*, Walker *et al.* 2020) projects a declining trend overall for tope sharks in the NE Atlantic, the high level of uncertainty

associated with this projection weakens confidence in this result.

So. Africa

There are two main studies that characterize *G. galeus* population abundance and trends in the So. Africa region. Both studies are focused on the waters around South Africa, which is the core of the species’ distribution here. First, Best *et al.* (2013) compiled landings and observation data from a wide array of sources to assess the status and long-term population trends of the major chondrichthyan species in False Bay, as well as their vulnerability to extinction. The data sources included historical trawl and beach-seine scientific surveys, commercial trawl, demersal shark longline, linefish, and beach-seine catch returns, recreational shore-angling records, underwater observations, spearfishing competition records, and rotenone surveys. These datasets cover various time periods that collectively span 1897 to 2011, and the authors note that the quality and quantity of the data varied considerably, preventing them from using a consistent protocol to analyze the datasets together. Of the 37 chondrichthyan species documented in the combined dataset, *G. galeus* was the most commonly encountered species, with over twice as many records as the second-most commonly recorded species, *M. mustelus* (Best *et al.* 2013). It was also the only species for which multiple data sources consistently indicated a statistically significant decline in abundance based on rank correlation analysis. This analysis used CPUE estimates based on catch and effort data from the commercial beach seine, recreational shore-angling, and demersal longline datasets, which collectively spanned the years 1969 to 2011. However, it is important to note that the recreational shore-angling fishery began on the eastern and western shores of the bay, which are adjacent to the deeper-water habitats where tope sharks may be found, but has since moved to shallower, more accessible sandy beach areas, where tope sharks do not typically reside. Thus, the declining trend in *G. galeus* CPUE based on the recreational shore-angling dataset may in part be attributable to this evolution of the fishery.

More recently, Winker *et al.* (2019) also used a combination of datasets, including fisheries catch data and fishery-independent survey data, to estimate the population trend and stock status for tope sharks throughout South African waters more broadly. Using JARA, an abundance trend for tope

sharks was estimated based on a fishery-independent demersal trawl survey conducted along the south coast of South Africa roughly every autumn and spring from 1991 to 2016. Tope shark abundance was found to have steadily declined at an average rate of approximately –2.7 percent per year from 1991 to 2016, yielding an estimated population decline of –50.9 percent over the full survey period (Winker *et al.* 2019). Winker *et al.* (2019) then used this procedure to project the population trend over three generation lengths (~69 years, based on an estimated generation length of 23.1 years) beginning in 1991. This analysis predicted a total population decline of –85.1 percent by the year 2060, compared to 1991, though the 95 percent confidence interval around this estimate is very wide, spanning a range of possibility that includes a stable population trend and even slight population growth (Winker *et al.* 2019).

In addition to estimating the abundance trend from the demersal trawl survey, Winker *et al.* (2019) also evaluated the status of the *G. galeus* fishery stock in South Africa relative to estimated harvest levels using the JABBA modeling procedure. Inputs to this analysis included the abundance index derived for the JARA analysis described above and an aggregated time series using data from the aforementioned demersal trawl survey (1992–2016), commercial linefish catch reported in South Africa’s National Marine Linefish System (NMLS) database (1990–2016), catch data from the Department of Agriculture, Forestry, and Fisheries demersal shark longline database (1992–2016), and historical catch reconstructed from shark dealer sales in Gansbaai (described as the center of the South African shark fishery in the 1950s) (1952–1989). It is worth noting that the authors relied on several assumptions to address various uncertainties in these datasets, and these may have influenced the results of the analysis to some degree. For the demersal trawl and linefish datasets, for example, a portion of the shark catch was not reported to the species level. In order to include this portion of the catch in their analysis, the authors used two slightly different approaches to estimate the proportion of *G. galeus* in the unidentified portion of the two datasets. Each applied a conversion function that was based on the proportion of *G. galeus* observed in the species-specific portion of the shark catch. Additionally, for the linefish dataset, to estimate the historical catch before the beginning of official reporting to South Africa’s

NMLS database (*i.e.*, before 1990), the authors relied on shark dealer sales from the Gansbaai fishing port, which they scaled up by a factor of 1.54 to account for catches from other regions. This value was based on the ratio of total catch reported in Gansbaai compared to total catch in the NMLS database in the year 1987. It is not clear how potential inaccuracies in these assumptions may have affected the downstream modeling results, so the conclusions of this analysis should be interpreted with caution. Commercial catch of *G. galeus* was found to have declined substantially from 1952 to 2016, corresponding to a predicted decline in population biomass that largely matched the results of the JARA analysis. Model estimates from four modeling scenarios indicated that biomass of the *G. galeus* population in South Africa has declined from approximately 93–94 percent of carrying capacity in 1952 to 10–14 percent of carrying capacity in 2016, and that there is a greater than 97.5 percent likelihood that if catch of *G. galeus* continues at its catch rate at the time (~329 mt per year), commercial extinction of the species in South Africa (*i.e.*, when biomass reaches a point where fishing the species is not commercially viable) would occur by 2055 (Winker *et al.* 2019). According to Winker *et al.* (2019), the harvest rate must be reduced to less than 100 mt per year in order to reverse the declining trend and allow for positive population growth.

We did not find any information on population abundance or trends from other parts of the region outside of South Africa, such as along the southwestern African coast where the species is also thought to occur.

In sum, the best available information indicates that abundance of *G. galeus* has declined significantly in South Africa, which is the core of its distribution in this region, since the mid-20th century. An analysis of multiple fisheries datasets (*e.g.*, recreational angling, demersal longline, and beach seine fisheries) indicates that *G. galeus* was the most commonly encountered chondrichthyan species in the region from 1969 to 2011, but underwent a “dramatic and consistent” population decline (Best *et al.* 2013). This decline was attributed to the species’ long history of commercial exploitation in the region, exacerbated by its low biological resilience to such exploitation (Best *et al.* 2013). A broader analysis using several, novel modeling approaches, indicates that *G. galeus* has likely experienced unsustainable fishing pressure since at least the 1950s and that current population biomass is

estimated to be less than 15 percent of the population’s carrying capacity (Winker *et al.* 2019). Model projections suggest that fishing pressure must be significantly reduced (by over 60 percent) for the species to begin to rebound. Together, these studies indicate a major long-term reduction in *G. galeus* abundance in So. Africa caused by past and ongoing fishing pressure.

SW Atlantic

There have not been any formal assessments of tope shark abundance in the SW Atlantic region. However, several fisheries-derived CPUE datasets, anecdotal accounts from regional experts, and reported changes in local fishing strategies indicate, in aggregate, that the tope shark population in the SW Atlantic has declined significantly since the peak of fishing effort in the 1980s and 1990s.

A 24-year CPUE dataset from the demersal trawling fleet in Argentina provides some indication of the *G. galeus* population trend from 1992 to 2015 (Chiaramonte unpublished 2019, cited in Walker *et al.* 2020). Based on this relative abundance index, tope shark abundance declined significantly from 1992 to 2000 and remained at this reduced level until the end of the dataset (Walker *et al.* 2020). Using JARA, Walker *et al.* (2020) estimated an annual rate of population reduction of –5.9 percent, consistent with an estimated median reduction of –99.3 percent over three generation lengths (79 years). It is worth highlighting that CPUE in this study was calculated in terms of kilogram (kg) per trip, so the dataset does not account for variations in fishing effort between trips.

Lucifora (2003) designed a matrix-based population model to describe the baseline demographics of tope sharks in the Bahía Anegada region in Buenos Aires Province, Argentina. The model was also used to simulate population trends under several hypothetical scenarios based on existing fishing conditions at the time and potential alternative scenarios. Lucifora (2003) found that the predicted population trend was negative for all scenarios that simulated the possible fishing conditions at the time. The scenario that best represented the existing conditions in Bahía Anegada based on the author’s knowledge of the fishery (*i.e.*, fishing for both adults and large juveniles) yielded a projected rate of population decline between –6.7 and –12.8 percent annually. Notably, this model-based estimate roughly reflects the average rate of population decline derived from the 24-year CPUE dataset discussed

above (–5.9 percent; Walker *et al.* 2020).

Chiaramonte (1998) provided an estimate of CPUE from the tope shark gillnet fishery in Necochea from 1990 to 1996, which the author described as “the most important directed shark fishery in the South-West Atlantic.” CPUE fluctuated significantly during this period without any discernible trend. Moreover, the author noted that changes to certain features of the fishery during the study period, such as to the gear and fishing effort, limit the reliability of this CPUE estimate as an indicator of tope shark abundance (Chiaramonte 1998).

A study by Villwock de Miranda and Vooren (2003) estimated CPUE in Brazil’s Rio Grande do Sul fishery in the period 1975–1997, basing their estimates on the associated number of fishing trips for each of the main gear types in which *G. galeus* is captured. While the study differentiated landings by broad categories of sharks rather than by species, varying seasonality of landings from each of the five gear types was used as a reasonable indication of the species that are likely represented by the CPUE estimates for each fishery. For example, the authors note that until 1988, the majority of “cação” landings came from the simple trawl fishery, of which approximately 81 percent was caught during the winter months from May to October. Given the winter residency of *G. galeus* and *M. schmitti* in this region, the authors assumed that simple trawl CPUE estimates generally reflected the combined abundance of these two species. Overall, CPUE estimates of both the simple and pair trawl fisheries show a similar pattern of severe decline following a peak in landings in the mid-1980s. Simple trawl CPUE increased from 1975 to 1987, which the authors interpreted as reflecting a shift in the fishery from targeting primarily *G. galeus* in earlier years to increasingly retaining *M. schmitti* as well. In the ensuing years, simple trawl CPUE declined dramatically and from 1992 to 1997 averaged approximately 20 percent of its peak level in 1985–1987. As oceanic bottom gillnets gradually replaced trawls as the principal gear type for capturing “cação” in the early 1990s, oceanic gillnet CPUE estimates were nearly ten times greater than those of the simple trawl fishery. However, Villwock de Miranda and Vooren (2003) cautioned that the two datasets were not directly comparable, because the oceanic gillnet fishery specifically targeted “cações,” operated in areas inaccessible to trawls, and used more effective gear than trawling—extensive

nets whose effort was not captured by the simplified count of vessel trips. CPUE increased during the 5 years in which oceanic gillnet CPUE estimates were available (1993–1997), contradicting the trend in simple trawl CPUE. However, because the index of fishing effort used in this study (*i.e.*, vessel trips) does not account for possible changes in the length, duration, or mesh size of gillnets deployed, it is uncertain to what extent oceanic gillnet CPUE accurately reflects the abundance of *G. galeus* and *M. schmitti*. It is perhaps more notable that CPUE estimates of both the simple and pair trawl fisheries, while likely representing different shark species, show a similar pattern of severe decline following a peak in landings in the mid-1980s. These datasets suggest a broader collapse of elasmobranch fisheries in southern Brazil during this time.

There are also several anecdotal reports of fishery collapse and changes in fishermen behavior to adapt to the declining populations (Chiaramonte 1998; Barbini *et al.* 2015; Irigoyen and Trobbiani 2016). For example, Chiaramonte (1998) noted that in the late 1990s, Necochea-based trawlers were forced to set gillnets further from the coast due to declining yields near shore. The fishermen allegedly attributed this to a movement of the tope shark population away from shore, but the author suggested that it was more likely an indication of declining abundance (Chiaramonte (1998)).

Taken together, the data described above show a generally consistent pattern of tope shark population decline in the 1990s resulting from intensive historical fisheries in the region. The best scientific and commercial information available provide no indication that the population has rebounded since falling to its lowest levels on record in the 1990s and early 2000s.

NE Pacific

Based on catch data in California from 1938 to 1944 (Ripley 1946), Holden (1977) roughly estimated an unexploited population size for the tope shark of 29,600 tons (~26,853 mt) (6.7×10^5 mature females). However, following the intensive fishery for *G. galeus* in the 1940s and 1950s, there appear to have been no other estimates of population size that could be compared to this baseline. Similar to other regions, we must instead rely on various qualitative accounts of the fishery, as well as sporadic catch data from fishery-independent and fishery-dependent sources gathered in the decades since to estimate relative population trends.

As fishing pressure rapidly intensified in the late 1930s and 1940s, sufficient resources were not available to quickly establish a system of fishing logs or thoroughly conduct interviews with the fishers at landing sites (Ripley 1946). However, available accounts from the time identified early signs of population depletion based on observations of the underlying fishery dynamics. Following the peak of the fishery in 1938–1939, when total shark landings in California ballooned by over tenfold to more than 4,000 mt per year, Ripley (1946) observed that landings began to decrease significantly despite increasing fishing effort. Comparing the December, January, and February landings of tope shark livers at the port of Seattle from 1943 to 1944, the FWS noted a 63 percent, 20 percent, and 70 percent decrease, respectively, despite observing that “fishermen had intensified their efforts and were using more gear” (FWS, April 10, 1944).

Ripley (1946) provided quantitative estimates of the tope shark population trend in this region based on CPUE in the gillnet fishery. Effort data was based on interviews with gillnet fishers in four regions spanning the coast of California and consisted of boat records from 489 fishing trips between 1942 and 1945. Dividing into the total number of tope sharks caught yielded a rough estimate of the average number of sharks taken by 1,000 fathoms (~1.8 km) of net fished for 20 hours. The data show a declining trend in CPUE for all four ports, which is particularly evident in Eureka (northern California), where data were collected for all 4 years. Ripley (1946) warned of several limitations with the data, including the relatively small sample size and inconsistency in the timing of the interviews with respect to the seasonal peak of the fishery (see also Roedel and Ripley 1950). However, he found “little doubt” that fishing success had declined from 1942–1943 to 1944–1945 and suggested that the trend observed in Eureka was likely representative of the tope shark population along the entire California coast (Ripley 1946).

Two years later, Barraclough (1948) reported a similar trend in British Columbia, with landings of tope shark livers rapidly declining from a peak of 27.9 mt in 1944 to 4.1 mt in 1946, concurrent with marked declines in two rough estimates of CPUE: (1) the average monthly catch of tope shark livers per boat, and (2) the average monthly catch per fishing trip per boat. Data were collected from the sunken gillnet fishery in Hecate Strait, and both metrics indicated a sharp decline from 1943 to 1946.

Landings continued to decline through the end of the 1940s, largely due to reduced fishing yields from the depleted tope shark population, but also in part due to the re-opening of international markets for other vitamin-bearing fish oils after the end of World War II, as well as the development of synthetic vitamin A alternatives, which substantially lowered demand (Roedel and Ripley 1950). As the fishery tailed off, species-specific data collection for *G. galeus* was largely discontinued. The State of California returned to the practice of reporting shark landings in aggregate until 1978, and while there are sporadic landings data for *G. galeus* in Oregon and Washington in the 1950s and 1960s (NMFS Office of Science and Technology), there is no information on fishing effort to accurately assess the species’ relative abundance during this period.

Beginning in the late 1970s and 1980s, various Federal, State, and international monitoring programs were established to more thoroughly assess NE Pacific fisheries. Several of the resulting datasets include *G. galeus* catch statistics, which can be used to estimate more recent population trends. The West Coast Groundfish Bottom Trawl Survey began in 1977 and was streamlined in 2003 to conduct surveys annually from May to October along the U.S. West Coast. Generally, tope shark encounters in this survey have been quite rare, with eight being the most individuals recorded in a single year. The species is most commonly encountered in central California. There is some indication that catch rate increased briefly in this region in 2016–2018; however, after a suspension of the survey in 2019 and 2020, catch rate returned to relatively low levels in 2021–2023.

The International Pacific Halibut Commission (IPHC) conducts a Fisheries-Independent Setline Survey (FISS) to monitor halibut stocks in the NE Pacific. The FISS is conducted annually from May to September using bottom-set longline gear and covers a random subset of 1,890 sampling stations ranging primarily from northern California to the Bering Sea. The survey includes bycatch data starting in 1998 collected using two different sampling protocols: vessels counting bycatch for the whole longline haul and vessels counting bycatch on only the first 20 hooks of each 100-hook skate. Both subsets of data show tope shark CPUE to be highly variable over time. To assess population trend, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) applied a pair of generalized linear models (GLM) to each

portion of the data. They found that the mean number of tope sharks caught per sampling station did not change from 1998 to 2002 but then increased significantly from 2003 to 2018 (COSEWIC 2021). They also highlighted that tope shark observations have particularly increased in the waters east of Haida Gwaii, British Columbia. According to COSEWIC, the species was not recorded in this area between 1996 and 2005, despite substantial fishing effort (7,243 hours of trawl and 1,632 sets with hook and line gear) (COSEWIC 2021). However, since 2005, 295 tope sharks have been recorded by the FISS in this area. This is notable, as the area was heavily fished during the peak of the Canadian tope shark fishery in the 1940s, suggesting that population abundance in this region was once quite high (Barracough 1948).

To expand the COSEWIC modeling analysis and incorporate the years since 2018, we applied a similar approach to assess population trend but modified the model framework in a few ways. For detailed information on model inputs, please see the Status Review Report. Model predictions indicate that population abundance has generally increased over the study period. The positive trend is consistent regardless of the method of model prediction. Moreover, the population trend varies according to latitude, corroborating the earlier observation by COSEWIC (2021). By plotting the modeled trend against Latitude along the x-axis, it is clear that the population trend is significantly greater at higher latitudes. There is also some indication that the population may be slightly declining in the middle of the survey distribution ($\sim 45^\circ$ N). COSEWIC (2021) suggested that the disproportionate increase in British Columbia might reflect a northward movement of the population in response to warming waters. However, the history of this area as a prime fishing ground for tope sharks in the 1940s suggests that the species once occupied the area in great numbers. Therefore, we find it equally possible that the increase in CPUE is indicative of population growth.

Since 2002, tope sharks have also been recorded as a bycatch species in two fisheries observer programs that are jointly administered by NMFS and the Pacific States Marine Fisheries Commission. The West Coast Groundfish Observer Program (WCGOP) monitors at-sea bycatch discard rates for many of the commercial groundfish fishery sectors along the U.S. West Coast, including the Federally-managed limited-entry trawl fishery, several State-managed trawl fisheries, as well as

various nearshore and pelagic fixed gear fisheries (e.g., longlines, hand lines, fish pots/traps) (see Northwest Fisheries Science Center (NWFSC) 2024a for more information). The At-Sea Hake Observer Program (A-SHOP) monitors discard rates for the three components of the at-sea midwater trawl fishery targeting Pacific hake (whiting): the Mothership, Catcher-Processor, and Tribal sectors (see NWFSC (2024b) for more information). Both datasets provide limited insight into tope shark population trends, as discards are sporadic for most gear types. However, there is some indication in the bottom and midwater trawl fisheries, where tope sharks are most commonly encountered, that discard rate has generally increased since 2015 following a low period in the early 2010s. The trend is particularly apparent in the at-sea Pacific hake fishery north of 46.25° N (i.e., waters off the coast of Washington). The WCGOP also records landings statistics for bycatch species, which combined with observed discards provides a rough estimate of total catch rate since 2002. Here, CPUE is calculated in terms of the total tope shark catch (i.e., landed plus discarded weight) per vessel for each type of fishing gear. Tope sharks are encountered relatively infrequently in Oregon and Washington, mainly in the midwater trawl fisheries, and there is no discernible trend in CPUE. In California, similar to the discards-only data, total catch per vessel has generally increased since 2015 for each gear type where tope sharks are consistently encountered (i.e., bottom trawl, bottom/midwater trawl, fixed gear, and non-trawl net gear fisheries). For vessels using non-trawl net gear in California, CPUE declined substantially from an average of 8.9×10^{-2} mt per vessel per year in 2002–2006 to 9.1×10^{-4} mt per vessel in 2013, before increasing again in subsequent years.

Logbook data from the State-managed gillnet fishery in California indicate that CPUE in the California gillnet fishery fluctuated around 0.5 individuals caught per vessel trip from 1981 to 2006. Based on the reported net length and soak time for each vessel trip where a tope shark was caught, we can roughly compare this value to the estimates reported by Ripley (1946). Average net length and soak time per vessel trip in the logbook dataset are approximately 603.3 fathoms (~ 1.1 km) and 29.5 hours, respectively. Thus, scaling to the unit of CPUE used by Ripley (1946), 0.5 individuals caught per vessel trip is roughly equivalent to 0.6 individuals caught in 1,000 fathoms (~ 1.8 km) of

gillnet fished for 20 hours. That is approximately a 15- to 100-fold decrease in CPUE from 1942 to 1981–2021. It is important to note that the California Department of Fish and Wildlife (CDFW) cautions against using set-specific features (e.g., net length, soak time) as the basis for CPUE calculations; however, broadly summarizing the data as above provides a rough indication of the scale of population reduction since the peak of the fishery in the early 1940s. From 2006 to 2013, CPUE declined substantially from 0.48 to 0.02 tope sharks caught per vessel trip and then generally increased from 2015 to 2021. Notably, by dividing the logbook dataset by month, it is clear that the annual CPUE during warmer months (May–August) declined significantly in 2008 and has remained relatively low in the years since, rebounding only slightly in recent years. By contrast, CPUE during cooler months (October–November) has increased substantially in 2018–2021 compared to prior years. The trends in CPUE, however, take place alongside several regulatory changes, which have gradually constrained the effort and location of gillnet fishing in California since the 1980s. This includes a series of depth- and area-based gillnet bans throughout central California in the late 1980s and 1990s (Forney *et al.* 2001), a 1994 ban on gillnet fishing within 3 nautical miles (nm) of the California mainland and within 1 nm of the Channel Islands (CA Proposition 132), an emergency gillnet closure in 2000 and 2001 limiting the fishery to Federal waters south of Point Conception, and a permanent extension of the set gillnet ban in 2002 in all waters offshore of central California (from Point Reyes to Point Arguello) less than 60 fathoms (110 m) in depth (California Code of Regulations, Title 14, Section 104.1). As a result, the total effort in the California gillnet fishery has drastically declined since 1986, as gillnet fishing has largely been restricted to offshore waters in southern California. As discussed in *Range, Distribution, and Habitat Use*, tope sharks tend to migrate seasonally toward the poles in the summer and toward the equator or into deeper, offshore waters in the winter. Thus, the disproportionate increase in winter CPUE, as compared to summer CPUE, in recent years may be related to the concentration of gillnet fishing effort in the southern, offshore portion of the species' distribution in this region.

Since 1980, tope sharks have also been recorded by California commercial passenger vessel (CPFV) (i.e., charter fishing) operators, who submit

mandatory logbooks to CDFW. Tope sharks have been reported only sporadically in northern California. In central and southern California, the species is encountered more consistently; however, there is not a clear long-term trend in CPUE, as it has fluctuated on an approximately 15-year frequency in both regions. Peaks in CPUE in the mid-1980s, around 2000 (in central California) or 2008 (in southern California), and in the mid-2010s are separated by periods of lower CPUE in intervening years. In both regions, CPUE peaked most recently in 2016 but has generally declined in the years since.

In sum, following the collapse of the North American tope shark fishery in the 1940s, observations of the species have been relatively rare in the NE Pacific. Throughout the majority of the last 4 decades, the species has been only sporadically encountered in the wide-ranging West Coast Groundfish Bottom Trawl Survey and by NMFS observers in various Federal and State-managed fisheries. In the California gillnet fishery, a rough comparison between the data presented by Ripley (1946) and logbook data from 1981–2021 reveals that tope shark CPUE is approximately 15- to 100-fold lower than it was during the peak of the fishery in the 1940s. However, it must be noted that the effort and location of the fishery has changed dramatically since the 1940s, which may skew recent estimates of CPUE. Two fisheries-independent surveys and several fisheries reporting databases provide insight into the recent population trend in the NE Pacific. With the exception of the CPFV logbooks, available datasets consistently show an increase in CPUE since 2016. In several datasets, such as the WCGOP and A-SHOP discards, and the California gillnet logbooks, this increase follows an inverse period of decline in the early 2010s. Thus, the extent to which this pattern may be part of a natural population cycle or may reflect changes in fishing behavior is not clear. Data from the fishery-independent IPHC FISS, which is the most statistically robust dataset available, suggest that CPUE has significantly increased since 1998, particularly in the northern portion of the species' distribution. Thus, while the population remains depleted compared to its unexploited level, there is consistency among datasets suggesting that the population is likely increasing to some degree.

SW Pacific

In the SW Pacific, tope shark populations in Australia and New Zealand are monitored and managed independently. Although tagging and

genetic data indicate that some migration and interbreeding occurs between the two regions (see *Population Structure*), the rarity of trans-Tasman recaptures in tagging studies and the substantial geographic separation suggest that such movements are fairly infrequent. Most animals tend to stay within a home range of less than 500 km, in close proximity to local pupping and nursery areas (Hurst *et al.* 1999; Walker *et al.* 2020). Accordingly, given the separate management of tope sharks in Australia and New Zealand, available information on abundance and population trends is presented separately for the two countries.

Sustained harvest of tope sharks in Australia since the early 20th century has driven a significant long-term decline in population abundance (Davis *et al.* 2024). Early signs of overexploitation date back to the 1940s, when both large, gravid female and juvenile tope sharks were heavily targeted in inshore nursery areas of southern Australia and Tasmania (Olsen 1959; Olsen 1984; Fowler *et al.* 2005). Olsen (1959) reported declining juvenile abundance in two Tasmanian nurseries, which he attributed to the intense fishing pressure on both juveniles and gravid females during their pupping migration (see also Olsen 1984). He reported a sharp increase in fishing effort between 1944 and 1956 alongside a concurrent decline in mean body size and CPUE, warning that the fishery was showing “trends which are suggestive of depletion” and may follow the patterns of collapse observed in the NE Pacific unless stronger regulations were put in place (Olsen 1959). In 1991–1997, Stevens and West (1997) resurveyed several nursery areas in Tasmania and Victoria that were originally identified by Olsen. They found that catch rates were “much lower” at all sites and that pups may no longer be present at certain sites where they were once fairly common, such as in Georges Bay and D’Entrecasteaux Channel (Stevens and West 1997). During Olsen’s original tagging program from 1947–1956, only 0.3 percent of the 1,170 juveniles tagged in Pittwater were recaptured at the same site. Stevens and West (1997) conducted a similar tag-recapture experiment in Upper Pittwater in 1996, and 18 percent of the 100 tagged juveniles were recaptured at the same site, a nearly 60-fold higher recapture rate. The authors interpreted this result as indication of reduced population abundance, although differences in site fidelity or dispersal behavior might also have played a role. While Olsen (1984) reportedly caught up to 80 juveniles per

day in Pittwater by handline in the 1940s–1950s, Stevens and West (1997) were not able to catch a single tope shark in 23 hours of fishing in 1992 using the same methods and gear. Likewise, in Port Phillip Bay, Victoria, where Olsen could reportedly catch more than 200 juveniles and subadults per day in 1947–1951 (pers. comm., cited in Walker 1998), artisanal fishers caught fewer than 10 per day during a 3-year research study in the 1990s (Walker 1998). Moreover, demersal gillnet and longline surveys conducted in Bass Strait showed an 87 percent reduction in CPUE between 1973–1976 and 1998–2001 (Walker *et al.* 2005).

In response to the observed population declines, the Australian government listed the tope shark as “conservation dependent” under the Environment Protection and Biodiversity Conservation (EPBC) Act in 2009. A formal Rebuilding Strategy was introduced in 2008 and updated in 2015. This strategy set a target to rebuild the stock to the limit reference point (B_{20}) within three generations (66 years) from 2008 (Davis *et al.* 2024). Despite these measures, subsequent assessments have consistently shown that the population in Australia remains overfished (Davis *et al.* 2024). One of the earliest formal stock assessments for the Australian tope shark fishery was developed by Punt and Walker (1998). Based on a spatially aggregated, age- and sex-structured model, estimates of adult biomass at the start of 1995 ranged from 13 percent to 45 percent of pre-exploitation levels, depending on model specifications. Punt *et al.* (2000a) suggested that age-1+ biomass (B_{1+}) at the start of 1997 was likely between 17 percent and 25 percent of pre-exploitation levels, while pup production was likely between 12 percent and 18 percent of pre-exploitation levels (discounting model scenarios that the authors deemed unrealistic). Thomson and Punt (2009) later updated the assessment model by incorporating fisheries-independent data from gillnet research surveys conducted between 1973 and 2008, along with several fisheries-dependent datasets. Model estimates suggested that B_{1+} at the start of 2007 ranged from 7 percent to 20 percent of pre-exploitation levels, while estimates of pup production ranged from 6 percent to 17 percent of pre-exploitation levels (Thomson and Punt 2010). Thomson and Punt (2009) found significant differences between models that assumed a single fishery stock in Australia versus those that assumed two. Specifically, the two-stock models

consistently provided a better fit to the data and estimated less depletion (B_{1+} : 14–20 percent pre-exploitation; pup production: 11–17 percent pre-exploitation) than one-stock models (B_{1+} : 7–9 percent pre-exploitation; pup production: 6–8 percent pre-exploitation).

In the past decade, fishery managers in Australia have transitioned away from CPUE-based stock assessment models toward a new framework based on close-kin mark-recapture (CKMR) analysis (Shark Resource Assessment Group (SharkRAG) 2011; Davis *et al.* 2024). To apply the CKMR framework to the Australian tope shark population, Thomson *et al.* (2020) collected and genotyped over 2,400 individuals from across South Australia, Bass Strait, and Tasmania between 2010 and 2017. Their analysis yielded an estimate of approximately 50,000 mature individuals in the population in the early 2000s (Thomson *et al.* 2020). This figure was three to four times lower than the abundance estimated by the conventional stock assessment model (Thomson 2012). Thomson *et al.* (2020) suggest that there are likely multiple overlapping biological stocks of tope sharks in Australia, perhaps structured according to different pupping grounds, which are differentially depleted (Thomson *et al.* 2020). They also interpret the relatively small abundance estimate from the CKMR analysis as evidence that the immigration rate from the considerably larger tope shark population in New Zealand is limited and likely does not significantly influence local demographics; although Walker *et al.* (2020) suggested that migration from New Zealand may have helped stabilize the Australian population since the early 2000s.

Thomson *et al.* (2020) also generated projected population trends to the year 2037 by testing four rates of constant exploitation: zero catch, the 2016 catch rate, the 2017 catch rate, and the mean catch rate between 2013 and 2017. All four scenarios resulted in a modest upward trend in adult abundance, with estimated annual increases of approximately 1–11 percent depending on the exploitation scenario. However, the confidence intervals were very wide, and a declining trend could not be ruled out in any case. Based on the results of this analysis, SharkRAG adopted a fishery management strategy based on the mean 2013–17 catch rate scenario, which predicted a 3 percent average annual increase in population abundance (Davis *et al.* 2024).

Recently, Thomson *et al.* (in prep) applied generalized linear modelling to updated CKMR data with roughly 3,000

additional tope shark samples collected between 2018 and 2023. Results of the modified GLM, accounting for ageing error and the triennial female reproductive cycle, indicate that adult abundance has increased approximately 7.5 percent (90 percent CI: 2.7 percent–12.3 percent) annually over the period 2006–2020. According to the authors, these results confirm the finding of Thomson *et al.* (2020) that tope sharks in the Southern and Eastern Scalefish and Shark Fishery (SESSF) are recovering. A full age-structured CKMR model, incorporating individual ageing error and fecundity-at-size effects, is under development and will be presented to SharkRAG in 2026.

Lastly, an analysis of CPUE in the trawl sector of the SESSF (1996–2020) provides additional insight into recent population trends in Australia. The data show a decline in catch rate from 1996 to 2003, consistent with the datasets used by Thomson and Punt (2009). After 2003, however, catch rate has increased steadily, reaching a level in 2020 that approaches or slightly exceeds that of 1996. Notably, unlike the gillnet fishery, where changes in fishing behavior towards greater avoidance have undermined the reliability of CPUE datasets, the trawl fishery is unlikely to have targeted tope sharks at any time and therefore provides a more consistent record of catch and effort (Tuck 2022). But Davis *et al.* (2024) caution that the trawl fishery accounts for only a small proportion of the total tope shark catch landed in southern Australia, and generally operates in locations different from those fished by the Gillnet, Hook, and Trap sector. Therefore, observed CPUE trends may not be representative of the broader Australian population.

There have been several efforts to establish a standardized CPUE index to estimate a population trend throughout New Zealand using available commercial fisheries data. The use of data from targeted set gillnet and bottom longline fisheries resulted in unreliable abundance indices due to sparse, inconsistent data and the potential for hyperstability (when CPUE remains artificially high despite an underlying decline in abundance, typically because fishers non-randomly target dense aggregations of the population) (Bradford 2001). Analysis of CPUE from bycatch fisheries by Ayers *et al.* (2006) revealed no consistent nationwide abundance trend but suggested a possible southward shift in distribution, possibly driven by warming sea temperatures. More recently, Fisheries New Zealand evaluated relative biomass indices in five spatial monitoring units

that encompass the New Zealand exclusive economic zone (Fisheries New Zealand 2024b). As with the previous studies, although the tope shark population in New Zealand is assumed to be connected, Fisheries New Zealand was not able to establish a biomass index for the population as a whole. Therefore, monitoring units were delineated using boundaries that roughly correspond to gaps between where tope shark catch is concentrated (Dunn and Bian 2018; see Figure 3–32 in the Status Review Report). The biomass indices used in the assessments are based on CPUE data from inshore research trawl surveys as well as commercial set gillnet, bottom longline, and bottom trawl fisheries operating within each monitoring unit (Tremblay-Boyer 2021). The Inshore Fisheries Working Group (INSWG) determined which datasets to include in each regional biomass index based on the amount of data available and whether or not the data were judged to be reliable. Reference points (*e.g.*, biomass at MSY (B_{MSY}), fishing mortality at MSY (F_{MSY})) for relative biomass assessments were established for three of the five monitoring units based on reference periods when the catch rate was assumed to be sustainable. The INSWG then assigned qualitative likelihood scores to evaluate the status of each regional stock with respect to the reference points (*i.e.*, “Very Likely”: >90 percent probability; “Likely”: 60–90 percent probability; “About as Likely as Not”: 40–60 percent probability; “Unlikely”: 10–40 percent probability; “Very Unlikely”: <10 percent probability) (Fisheries New Zealand 2024b).

In the Far North region (N/1E), the biomass index derived from the combined set gillnet, bottom longline, and bottom trawl CPUE series has increased steadily since 1995, alongside an approximately 75 percent decrease in fishing effort. The INSWG found it likely that current biomass was at or above B_{MSY} . They also found it unlikely that biomass would decline at the current level of catch (Fisheries New Zealand 2024b). In the eastern North Island region (2/3N), none of the available CPUE data from set gillnet, bottom trawl, or bottom longline fisheries were accepted by the INSWG as indicative of population biomass, as there were conflicting trends in the data series that could not be explained. Furthermore, while there is some indication from the east coast South Island survey data that biomass was generally higher after 2007 compared to pre-1996, the survey almost exclusively

sampled juveniles and was therefore not considered as a suitable biomass index (Fisheries New Zealand 2024b). In the Lower South Island region (3S/5), the set gillnet CPUE dataset was accepted as a valid biomass index. The INSWG found it very likely that overfishing is occurring and about as likely as not that current catch levels will cause biomass to decline below 50 percent of the target B_{MSY} baseline. As compared to a B_{MSY} -compatible baseline established based on a period of relatively stable catch rates between 1989 and 1999 (assuming that the stock was not in a depleted state during this reference period), biomass has declined gradually as fishing intensity has increased (Fisheries New Zealand 2024b). In the Chatham Rise region (SCH 4), tope sharks are mainly caught in the bottom longline fishery, which was the only fishery in the region with sufficient data to be developed into a biomass index (Tremblay-Boyer 2021). Based on 16 years of available CPUE data, the biomass index has fluctuated without a discernible trend since 2003–2004 alongside a gradual increase in fishing intensity (Fisheries New Zealand 2024b). Because the dataset is relatively short and does not show any clear trends, the INSWG was not able to establish a reference baseline for the biomass index in this region. In the West Coast region (7/8/1W), the INSWG elected to use the WCSI research trawl survey, excluding the Tasman Bay and Golden Bay region, as the primary index of biomass. Based on this dataset, biomass declined from the late 1990s to 2000 and has largely fluctuated without a discernible trend in the years since. The INSWG established a target B_{MSY} baseline as the mean estimated biomass from 2005 to 2017, on the basis that biomass remained stable during this period while fishing intensity was “high and relatively stable” (Fisheries New Zealand 2024b). They concluded that the stock was about as likely as not to be at or above this reference baseline and about as likely as not to be experiencing overfishing at current catch levels (Fisheries New Zealand 2024b).

In June 2018, Fisheries New Zealand conducted a qualitative risk assessment for local chondrichthyan species, in accordance with the objectives of the country’s National Plan of Action for Sharks (NPOA-Sharks, discussed further under Protective Efforts) (Ford *et al.* 2018). Using 5 years of fishing data and knowledge of the species’ biology, an expert panel evaluated the risk to each species from commercial fishing by scoring two factors on a scale of one to six: the intensity of the fishery and its

consequence on the species’ status. Fishing intensity for tope sharks was scored at the highest level, reflecting that “captures are locally to regionally high or continual and widespread.” The consequence of the fishery on the species’ status was assessed as intermediate (3 out of 6), reflecting a “moderate and sustainable level of impact such as full exploitation rate,” but no indication that actual or potential impact is unsustainable.

Overall, although there is clear genetic and demographic connectivity between the Australian and New Zealand tope shark populations (see *Population Structure*), the low rate of trans-Tasman migration suggested by tagging and CKMR analyses indicates that the New Zealand population is unlikely to substantially influence the trajectory of the Australian stock. The tope shark population in Australian waters has experienced a significant, century-long decline due to high fishing pressure; however, population abundance is now increasing. Historical targeting of both mature females and juveniles in critical nursery areas led to early signs of depletion by the 1940s. Subsequent stock assessments confirmed the overfished status of the stock, with biomass estimated to have fallen to as low as 7–12 percent of pre-exploitation levels by the late 2000s. A formal rebuilding strategy has been in place since 2008 and recent analyses (fisheries independent and dependent) indicate that the stock is recovering. The New Zealand component of the population has sustained high levels of commercial catch for several decades without evidence of a similar, widespread collapse. While a single, nationwide biomass trend is unavailable, regional assessments present a mixed but generally more stable picture. The population status varies across different management areas, with some regions appearing stable or increasing while others show signs of localized depletion and are likely experiencing overfishing.

SE Pacific

A population abundance estimate and population trend data are not available for tope sharks in the SE Pacific region. Available landings data are limited for this region, and species-level assessments based on these data are hampered by species misidentifications and the practice of grouping shark landings under generic names—*e.g.*, “tollo” or “tiburon” (Sebastian *et al.* 2008; López de la Lama *et al.* 2018). Despite extensive fishing effort and targeted shark fisheries in the region, reported landings for tope sharks are

low (Doherty *et al.* 2014; Walker *et al.* 2020), and no capture data are available in the FAO database. Given the extensive fishing effort in the region and the low reported catches, the species may not be abundant in the region. A trend analysis was not conducted for this region as part of the most recent IUCN assessment due to the limited data available (Walker *et al.* 2020). Based on the available information, it is not possible to estimate the abundance and trends for tope sharks in the SE Pacific.

Distinct Population Segment Analysis

Section 3 of the ESA defines the term “species” to include “any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature” (16 U.S.C. 1532(16)). As mentioned above, the DPS Policy jointly established by FWS and NMFS in 1996 provides an interpretation of the term “distinct population segment” for purposes of listing, delisting, and reclassifying species under the ESA and outlines two elements that must be considered when determining whether a population of a vertebrate species qualifies as a DPS: (1) the discreteness of the population segment in relation to the remainder of the taxon to which it belongs; and (2) the significance of the population segment to the remainder of the taxon to which it belongs.

The petition expressly requested that if we find that there are DPSs of tope shark, we evaluate each of those DPSs for listing under the ESA. After initiating the status review, it became clear that the severity of threats and management measures differed across the species’ range. As suggested by the IUCN’s analyses, population trends also appeared to vary across the range. Given this information, the highly structured nature of tope shark populations, and the coincident discontinuity in the species’ range, we elected to evaluate whether the regional populations of tope sharks qualified as DPSs pursuant to the DPS Policy.

Discreteness

The discreteness criterion of the DPS Policy may be satisfied if a population is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic discontinuity may provide evidence of separation. International boundaries may also be used to delimit a distinct population segment if differences in the control of exploitation of the species, management of the species’ habitat, the

conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA. As noted in the DPS Policy, absolute reproductive isolation is not required in order to recognize a distinct population segment, as this would be an impracticably stringent standard.

As discussed previously, the species' global distribution is discontinuous, with populations inhabiting temperate coastal zones separated by vast expanses of open ocean or by warm equatorial waters that coincide with gaps in the species' range. Tagging, telemetry, and observational data indicate fairly extensive migrations of tope sharks within most of the aforementioned regions but have not shown movement of individuals among regions, suggesting a lack of physical and demographic connectivity. Furthermore, as noted previously, multiple independent genetic studies using both mtDNA and nuclear microsatellites consistently reveal a high degree of genetic structuring among the major regional populations (Bester-van der Merwe *et al.* 2017: $F_{CT} = 0.137$, $\Phi_{ST} = 0.895$, $p < 0.05$; Chabot and Allen 2009: $\Phi_{ST} = 0.84$, $p < 1 \times 10^{-6}$; Chabot 2015: $F_{CT} = 0.15$, $p < 0.001$). These analyses show high and statistically significant pairwise measures of genetic differentiation, the presence of unique regional haplotypes, and extremely low estimates of inter-oceanic gene flow, confirming a long history of reproductive isolation. Collectively, and notwithstanding data gaps due to under- and non-sampled parts of the range, these studies indicate a regionally isolated population structure, with little to no contemporary connectivity between tope shark populations across major ocean basins or the equator. Thus, overall, and as discussed in further detail below, the best available scientific and commercial information demonstrates that the regional populations of tope sharks in the NE Atlantic, SW Atlantic, So. Africa, NE Pacific, SE Pacific, and SW Pacific (Australia/New Zealand) are markedly separated from each other, as evidenced by the best available genetic, tagging, and distribution data.

NE Atlantic

In the NE Atlantic, tope sharks are known to range from Iceland, the Faroe Islands, and Norway; throughout the Celtic and North Sea; south to the Bay of Biscayne, the Azores, the Canary Islands, and the northwestern coast of Africa; and into the Mediterranean Sea (Stevens 1990; Capapé *et al.* 2005; Thorburn 2015; Colloca *et al.* 2019; Thorburn *et al.* 2019; Schaber *et al.*

2022). Available tagging data gathered over many decades (~1959–2015) indicate that some tope sharks in the region tend to stay within a relatively small home range, others may undertake long-distance migrations of ~1,800 km to over 3,500 km away to other locations within the region (Holden and Horrod 1979; Stevens 1990; Little 1995; Fitzmaurice *et al.* 2003; Colloca *et al.* 2019; Thorburn *et al.* 2019; Schaber *et al.* 2022). No trans-equatorial movements have been recorded.

As noted previously, global genetic studies (Chabot and Allen 2009, Chabot 2015) also show a lack of population connectivity and a significant degree of genetic differentiation from other regional populations (Africa, South America, Australia, and North America). Thorburn *et al.* (2015) evaluated the genetic structure of tope sharks in the region using mtDNA and microsatellite samples from Ireland, Celtic Sea, southern North Sea, Isle of Wight, Channel Islands, Balearic Islands, Algeria, SW Scotland, Isle of Man, NW England, and Azores. All pairwise mtDNA Φ_{ST} values (-0.0614 – 0.1936) and pairwise microsatellite F_{ST} values ($F_{ST} = -0.0079$ – 0.0192) were low and non-significant ($p > 0.05$) (Thorburn *et al.* 2015). Results of STRUCTURE analysis (testing $k = 1$ – 8 populations) also provided no evidence of population structure within the region. Although additional sampling in the eastern Mediterranean and other areas are needed, results from Thorburn *et al.* (2015) provide no evidence of population structure within the region, and in combination with the movement data, support a conclusion that tope sharks in the NE Atlantic comprise a single population.

So. Africa

Although there is some uncertainty regarding the exact range of this species within the So. Africa region, tope sharks are considered to range from southern Angola to East London, South Africa (Walker *et al.* 2020; see Figure 2–2). Freer (1992) noted that tope sharks appear to be present throughout the area between Walvis Bay, Namibia and Cape Agulhas, South Africa. This population is physically separated from the NE Atlantic population by warm equatorial waters, which likely poses a thermal barrier to tope shark movements (Chabot and Allen 2009), and from other populations by ocean basins. Genetic analyses confirm this isolation, with studies by Bester-van der Merwe *et al.* (2017) and Chabot (2015) indicating high and significant genetic differentiation between tope sharks in So. Africa and those from the NE

Atlantic, Australia/New Zealand, and South America. Several studies have also examined the population structure of tope sharks along the coast of South Africa and, in particular, across the transition zone between the southern Atlantic and southern Indian Oceans. However, the several studies investigating potential structuring within this region have found no significant genetic differentiation between the two ocean regions (Bester-van der Merwe *et al.* 2017, Maduna *et al.* 2017) and overall moderate to high gene flow within this portion of the South Africa coastline (Bitalo *et al.* 2015, Bester-van der Merwe *et al.* 2017, Maduna *et al.* 2017).

NE Pacific

In the NE Pacific, tope sharks range from British Columbia, Canada, and southward to Baja California, Mexico, and into the Gulf of California (COSEWIC 2021). Tagging data show that some tope sharks in this region will undergo long-distance movements along the North American coast from Southern California to Baja California, Mexico, or to British Columbia, Canada (Herald and Ripley 1951, Nosal *et al.* 2021), but no trans-equatorial or trans-Pacific movements have been documented. Available genetic data indicate that tope sharks sampled off the coast of southern California are genetically differentiated from those of So. Africa, NE Atlantic, Australia, and South America (Chabot and Allen 2009, Chabot 2015). In particular, results of genetic analyses using both microsatellite and mitochondrial data, indicate that tope sharks off southern California are genetically distinct from those off the coast of Peru ($F_{ST} = 0.09$, $p < 0.001$; $mtF_{ST}/\Phi_{ST} = 0.19/0.67$, $p < 0.001$; Chabot and Allen 2009, Chabot 2015). Estimated number of migrants per generation between regional populations was also low (Chabot and Allen 2009), and while the gene flow estimate from California to Peru was found to be higher (*i.e.*, 0.257) relative to other comparisons, it was well below the estimated self-recruitment rates for each region (*i.e.*, 0.998 and 0.692, Chabot 2015). While genetic data to explore potential population structuring at a finer-scale within the NE Pacific are not available, the available data suggest that tope sharks within the NE Pacific are part of single, seasonally-migratory population.

SW Pacific

Tope sharks in this region have been reported from Houtman's Abrolhos to Cape Leeuwin in Western Australia, eastward to Moreton Bay in Southern

Queensland, around Lord Howe Island, Tasmania, around the North and South Islands of New Zealand, and as far east as the Chatham Islands (Olson 1954; Hernandez *et al.* 2015; <https://GBIF.org> database, accessed on August 25, 2023). As noted previously, three large-scale genetic studies, which included samples from Australia and New Zealand, showed a high degree of genetic differentiation among all sampled regions (Bester-van der Merwe *et al.* 2017: $F_{CT} = 0.137$, $\Phi_{ST} = 0.895$, $p < 0.05$; Chabot and Allen 2009: $\Phi_{ST} = 0.84$, $p < 1 \times 10^{-6}$; Chabot 2015: $F_{CT} = 0.15$, $p < 0.001$). A fourth study, using both mitochondrial and microsatellite DNA and samples collected from six sites in Australia, four sites in New Zealand, and one site in Chile (Santiago), indicated significant genetic differences in all pairwise comparisons involving the samples from Chile ($p < 0.001$) but supported a single population model for Australia and New Zealand (Hernández *et al.* 2015).

Tagging data support the patterns indicated by the genetic data. Specifically, extensive tagging efforts in both Australia and New Zealand have indicated migration of tope sharks between the two countries in both directions across the Tasman Sea, but there has been no indication of movements to other regions (Coutin *et al.* 1992; Walker *et al.* 1997; Hurst *et al.* 1999; Brown *et al.* 2000; Francis 2010). Whether the observed migrations between Australia and New Zealand are associated with genetic exchange has been the subject of considerable study in the region. As noted above, Hernández *et al.* (2015), using both mtDNA and nuclear microsatellites from numerous locations, found no significant genetic structure between the two countries. A subsequent, high-resolution study on juvenile sharks from nursery areas in Tasmania and New Zealand also found no significant genetic differentiation based on thousands of genome-wide single nucleotide polymorphisms (Devloo-Delva *et al.* 2019). While one study (Bester-van der Merwe *et al.* 2017) reported statistically significant genetic differentiation based on a panel of microsatellite markers, a re-analysis of those samples suggested the result may have been influenced by small sample sizes and the presence of related individuals (Devloo-Delva *et al.* 2019). Overall, the best available genetic data indicate that tope sharks in Australia and New Zealand are genetically distinct from other regional populations, and that there is sufficient demographic and genetic exchange to consider

Australia and New Zealand a single, interbreeding population.

SW Atlantic

Within the SW Atlantic, tope sharks range from Rio Grande do Sul, Brazil, south to Península San Julián in Argentine Patagonia (Peres and Vooren 1991; Menni *et al.* 2010; Chiaramonte 2015). The results of a genetic study of tope sharks across the Southern Hemisphere indicated significant differentiation based on both mtDNA and microsatellites between Argentina and all other sample locations (South Africa, Australia, New Zealand), as well as Chile ($\Phi_{ST} = 0.151$, $F_{ST} = 0.236$, $p \leq 0.05$; Bester-van der Merwe *et al.* 2017). Although Bester-van der Merwe *et al.* (2017) detected a single shared haplotype between Chile and Argentina and similarly, Chabot and Allen (2009) noted a shared mtDNA haplotype between single samples from Argentina and Peru, the presence of these shared ancestral haplotypes does not imply contemporary gene flow, and this finding is not sufficient to override the broader pattern of differentiation observed in the nuclear DNA, which reflects a longer history of reproductive isolation. Taken together, the limited, available data suggest that the populations of tope sharks on the Pacific and Atlantic coasts of South America likely share some degree of historical connectivity, but contemporary gene flow appears to be limited (Bester-van der Merwe *et al.* 2017). There are no tagging data to suggest any movement of individuals between the two South America populations; although, this does not appear to have been thoroughly investigated.

Tope sharks have been observed to make seasonal migrations within this region, moving from shelf waters off southern Brazil in colder months to areas southward and deeper during warmer months (Ferreira and Vooren 1991; Peres and Vooren 1991; Elías *et al.* 2004; Lucifora *et al.* 2004; Cuevas *et al.* 2014; Klippel *et al.* 2016; Trobbiani *et al.* 2021). Results from two tagging studies are consistent with this pattern and indicate long-distance movements of tope sharks within the region from Golfo Nuevo, Argentina ($\sim 42.4^\circ$ S, $n = 3$) to points northward with the shifting seasons (to $\sim 40^\circ 12'$ S, $\sim 38^\circ$ S, $\sim 35^\circ 18'$ S), with one shark having travelled a minimum distance of 1,425 km in 6 months (Irigoyen *et al.* 2015; Jaureguizar *et al.* 2018). An analysis of mtDNA from tope sharks sampled in 2 areas along the coast of Argentina—off Buenos Aires ($n = 10$) and in Golfo San Matías ($n = 12$)—indicated no significant differences

between locations (statistics not provided; Cuevas *et al.* 2016). Although relatively limited, the available data collectively provide support for the hypothesis that tope sharks within this region comprise a single migratory population and provide no indication of finer-scale population structuring.

SE Pacific

Tope sharks in this region are considered to range from Ecuador to Chile (Walker *et al.* 2020). As discussed previously, results of several studies indicate that tope sharks in this region are significantly genetically differentiated from tope sharks in the NE Pacific (California), SW Atlantic (Argentina), NE Atlantic (Irish and Celtic Seas), South Africa, Australia, and New Zealand (Chabot and Allen 2009; Chabot 2015; Hernández *et al.* 2015; Bester-van der Merwe *et al.* 2017). In particular, and as discussed above, tope shark populations on the Pacific and Atlantic coasts of South America have been found to be significantly differentiated based on assessments of both mitochondrial and microsatellite DNA ($\Phi_{ST} = 0.151$, $F_{ST} = 0.236$, $p \leq 0.05$; Bester-van der Merwe *et al.* 2017). We are not aware of any tagging data indicating movement of individuals between the two South America populations or between the NE and SE Pacific populations.

As noted above, both Bester-van der Merwe *et al.* (2017) and Chabot and Allen (2009) noted a shared mitochondrial haplotype between single samples from both sides of South America. However, the presence of these two shared ancestral haplotypes does not necessarily indicate contemporary gene flow, and we do not find this to be sufficient evidence to override the broader pattern of differentiation observed in the nuclear DNA, which reflects a longer history of reproductive isolation.

Significance

If a population segment is considered discrete, the biological and ecological significance of the population segment(s) is considered relative to the taxon to which it belongs. As outlined in the DPS Policy, considerations with respect to the “significance” criterion may include, but are not limited to, whether a loss of the discrete population segment would result in a significant gap in the species’ range; whether the discrete population segment persists in a unique ecological setting; and whether the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

With respect to the six discrete populations identified above, we conclude that the loss of any of the populations would create a significant and possibly permanent gap in the species' range. Although tope sharks are capable of long-distance migrations (e.g., 4,000 km), the available tagging data also indicate that tope sharks exhibit general fidelity to their region and, in some cases, fidelity to particular coastal habitats (Stevens 1990, Thorburn *et al.* 2019, Brown *et al.* 2000, Nosal *et al.* 2021). There is no evidence of movement between regional populations, and the available genetic data provide strong support for the conclusion that major ocean basins and warm equatorial waters are barriers to dispersal for tope sharks. Additionally, as established in the analysis of discreteness above, there is clear evidence of marked genetic differences among the populations. The high estimates of genetic differentiation and presence of unique haplotypes and genotypes within regions (e.g., Chabot and Allen 2009, Chabot 2015, Hernandez *et al.* 2015) indicate that these populations represent significant components of the species' overall genetic diversity. Loss of any one of the regional populations would result in the loss of unique genetic variation within the taxon as a whole.

DPS Conclusion

Based on a review of the best scientific and commercial data available, we find that the six regional populations of tope shark—NE Atlantic, So. Africa, SW Atlantic, NE Pacific, SE Pacific, and SW Pacific—satisfy the discreteness and significance criteria of the DPS Policy. The discreteness of these populations is supported by the discontinuous and spatially isolated distribution of the species, the high degree of genetic structuring among the regional populations, and the lack of known movement between them. Each of the regional populations is also significant to the larger taxon, as the loss of any one regional population would result in a significant gap in the species' global range and a loss of unique genetic diversity. For these reasons, we have determined that the regional populations of tope shark in the NE Atlantic, So. Africa, SW Atlantic, NE Pacific, SE Pacific, and SW Pacific each qualify as a DPS.

Extinction Risk Analysis

After compiling and reviewing the best scientific and commercial data available, as summarized in this document, the three-person team of biologists from the Office of Protected

Resources systematically evaluated the overall risk of extinction facing each DPS now and in the foreseeable future. The analysis integrated two components: a threats assessment and a demographic risk analysis. This approach allowed the team to connect the sources and nature of past and ongoing threats to the tope sharks, the biological consequences of past threats, and the likely biological response to present and future threats—thereby providing a comprehensive evaluation of the overall extinction risk of each DPS.

The threats assessment drew upon the information presented in Section 4.0 of the Status Review Report, which is summarized in this document, to characterize the impact of threats identified in section 4(a)(1) of the ESA: (A) the present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence.

Demographic risks to the DPSs were assessed using basic principles of conservation biology and by following an approach modified from McElhany *et al.* (2000) that focused on four key demographic factors: abundance, productivity, spatial distribution, and diversity. These four demographic factors, outlined in McElhany *et al.* (2000), have been used in many previous ESA status reviews conducted by NMFS and reflect concepts that are well-founded in conservation biology and that individually and collectively provide strong indicators of extinction risk. The demographic risk analysis served as an assessment of the manifestation of past threats that have contributed to the DPS's current status and informed the consideration of the biological response of each DPS to present and future threats.

In evaluating both the threats and the demographic risks, the team considered the extent to which relevant data were available and the quality of those data. To ensure a consistent and systematic approach to assessing each threat and demographic risk factor across the six DPSs, they rated each factor according to the following qualitative scale:

Unknown: The current level of information is either unavailable or unknown for this threat or demographic factor, such that its contribution to the extinction risk of the DPS cannot be determined;

Very low: It is unlikely that this threat/factor contributes significantly to risk of extinction, either by itself or in combination with other threats/factors;

Low: It is unlikely that the threat/factor contributes significantly to the species' long-term or near future risk of extinction by itself, but there is some concern that it may in combination with other factors;

Moderate: This threat/factor contributes significantly to long-term risk of extinction, but does not in itself constitute a danger of extinction in the near future;

High: This threat/factor contributes significantly to long-term risk of extinction and is likely to contribute to near-term risk of extinction;

Very high: This threat/factor by itself indicates danger of extinction in the near future.

Each of the three team members independently assigned a qualitative rating to each of the identified threats and the four demographic risk factors, considering the scope (spatial extent), severity (magnitude), and persistence (timeframe) for the particular factor. Each member was also asked to rate the level of data sufficiency or certainty by applying one of the following three categories to their ratings: + (high): an abundance of data is available for the threat and its effects on the species, and the reviewer has no reservations in reaching a rating decision; 0 (medium): data are available for the threat and its effects on the species, and a rating can be assigned but additional data are desired; – (low): ratings are based on expert opinion, based on biological concepts or inferences from data or information on other species or areas. After rating each threat and risk factor independently, the team convened to discuss their ratings, associated rationales, and the sufficiency of the relevant data, to assign a final rating for each threat and risk factor. Results of those discussions are provided in the Status Review Report and are summarized here.

Lastly, to assign an overall extinction risk level, the team considered each of the threats and demographic risk factors, their interactions, and the associated ratings and levels of certainty. They rated the overall risk of extinction to each DPS qualitatively, using categories of “high risk,” “moderate risk,” or “low risk” consistent with previous NMFS status reviews and as described as follows:

High risk: A DPS with a high risk of extinction is at or near a level of abundance, productivity, spatial structure, and/or diversity that places its continued persistence in question. The

demographics of a DPS at such a high level of risk may be highly uncertain and strongly influenced by stochastic or compensatory processes. Similarly, a DPS may be at high risk of extinction if it faces clear and present threats (*e.g.*, confinement to a small geographic area; imminent destruction, modification, or curtailment of its habitat; or disease epidemic) that are likely to create imminent and substantial demographic risks;

Moderate risk: A DPS is at moderate risk of extinction if it is on a trajectory that puts it at a high level of extinction risk in the foreseeable future (see description of “High risk” above). A DPS may be at moderate risk of extinction due to current and/or projected threats or declining trends in abundance, productivity, spatial structure, or diversity;

Low Risk: A DPS is at low risk of extinction if it is not at moderate or high level of extinction risk (see “Moderate risk” and “High risk” above). A DPS may be at low risk of extinction if it is not facing threats that result in declining trends in abundance, productivity, spatial structure, or diversity. A DPS at low risk of extinction is likely to show stable or increasing trends in abundance and productivity with connected, diverse populations.

To assign an overall extinction risk rating while accounting for uncertainty, the team applied the same “likelihood point” method as has been used in many prior NMFS status reviews (*e.g.*, scalloped hammerhead, shortfin mako shark, Pacific salmon, Pacific herring, black abalone). In this approach, each individual distributed 10 likelihood points among the three extinction risk levels to rate the overall extinction risk to each DPS throughout its range. After likelihood points were independently assigned, ratings were shared and discussed. Following this initial discussion, each team member was allowed, but not required, to revise their ratings. After a subsequent team discussion, the final likelihood point distributions from each team member were compiled and used to assign the overall risk category to each DPS. Results of that analysis are provided in section 6.0 of the Status Review Report and are summarized below. Lastly, and as explained further in *Significant Portion of its Range Analysis* below, this same general approach was applied to evaluating extinction risk within potentially significant portions of each DPS’s range.

The team did not make recommendations or conclusions with respect to whether any tope shark DPSs

should be listed under the ESA or classified as threatened or endangered species under the ESA. Rather, the team limited their analysis to considering the best available data, as summarized in this draft report, and drew scientific conclusions about the overall risk of extinction faced by each DPS under present conditions and over the foreseeable future.

Foreseeable Future

As noted previously, section 3 of the ESA defines an endangered species as any species which is in danger of extinction throughout all or a significant portion of its range and a threatened species as any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(6) and (20)). When evaluating threats and risks to each DPS, the team considered how each identified threat or risk factor may affect the tope sharks over the “foreseeable future.” The term foreseeable future is described in our regulations as extending as far into the future as we can make reasonably reliable predictions about the threats to the species and the species’ responses to those threats (50 CFR 424.11(d)). As stated in the regulations, we describe the foreseeable future on a case-by-case basis using the best available data and taking into account considerations such as the species’ life-history characteristics, threat-projection timeframes, and environmental variability (50 CFR 424.11(d)). While we are not required to identify a specific period of time for the foreseeable future (50 CFR 424.11(d)), we do indicate a specific time period for the foreseeable future where possible. In other cases, where data are not sufficient to allow for such precision, we describe the foreseeable future as a range of years or qualitatively.

On November 21, 2025, the Services proposed to revise portions of the ESA section 4 regulations (90 FR 52607). The proposed regulations would, in part, revise the regulatory framework for determining the “foreseeable future” in 50 CFR 424.11(d). If finalized, those section 4 regulations would apply prospectively only, and thus would not apply to listing determinations finalized prior to their effective date. For purposes of this determination, however, we considered the proposed revisions to the “foreseeable future” framework regulation and whether the conclusions would be any different from those reached under the existing regulations in 50 CFR 424.11(d). We have determined that the analysis and

conclusions presented here would not be any different.

As a long-lived, late-maturing species, tope sharks have a fairly long estimated generation length of about 23 to 26.3 years (Walker *et al.* 2020; Winker *et al.* 2020). Given these life history characteristics, it could take at least several generations for the impacts of any operative threat to have a demonstrated impact on tope shark populations. Likewise, it would likely take at least several generations for the benefits of any management measure to manifest themselves at the population level. Thus, a biologically relevant foreseeable future was considered to be about three generations, *i.e.*, about 69–79 years. Where the best available data indicate a different or more specific foreseeable future, that specific information is provided in the discussion below.

Significant Portion of Its Range Analysis

As part of the extinction risk assessment, the team was also asked to consider whether any DPSs were facing greater risk of extinction within any significant portion of their ranges relative to their status throughout the range. Under the ESA, a species may qualify as “threatened species” or “endangered species” based on its status throughout all or in a “significant portion of its range” (16 U.S.C. 1531(6) and (20)). In other words, species may be listed on the basis of their status across their entire range or based on their status in a significant portion of their range (*Defenders of Wildlife v. Norton*, 258 F.3d 1136 (9th Cir. 2001); *CBD v. Everson*, 435 F. Supp. 3d 69 (D.D.C. 2020)).

A policy for interpreting the statutory phrase “significant portion of its range” (or SPR) was developed by NMFS and FWS in 2014 (79 FR 37578, July 1, 2014); however, the standard outlined in that policy for determining whether a portion of a species’ range qualifies as a significant one has since been invalidated (*Desert Survivors v. DOI*, 336 F. Supp. 3d 1131 (N.D. Cal. 2018) (Bi-state sage grouse remedy order; vacating the definition of “significant”). NMFS has since adopted an approach that focuses on the biological significance of the members of the species within a particular portion of the range to the long-term viability of the species as a whole—or, in this case, to the DPS as a whole.

In conducting an SPR analysis, we may elect to first ask either of the following: (a) what is the status of the species in that portion or (b) is the “portion” biologically significant to the overall species. If the answer to the first

question analyzed is affirmative (*i.e.*, the species is at moderate or high risk in the portion or the portion is biologically significant), then we would continue the analysis to consider the other question. If either question is answered in the negative, we would not need to investigate the remaining question, as there would be no basis to change the range-wide conclusion (79 FR 37578, July 1, 2014).

The 2014 SPR Policy defines “range” in geographic terms, and therefore the selection of portions for consideration are premised on a geographically oriented rationale. Because there are infinite ways in which a range could be divided for purposes of an “SPR analysis,” the only portions ultimately considered in the analyses are those that that were considered to have a reasonable likelihood of being at moderate or high risk of extinction and a reasonable likelihood of being biologically significant to the DPS. Unless portions met both of these conditions, they were not further considered in the SPR analysis. In the sections below, we explain how this conclusion was reached for each DPS.

In evaluating whether a particular portion of a DPS’s range was “significant,” the team was asked to consider the contribution or role of the sharks within that portion to the viability of the DPS as a whole. To the extent possible with the available data, they considered the role of the portion from a historical, current, and future perspective, as each of these temporal contexts are relevant to assessing the biological importance of that portion to the long-term viability of the DPS. For instance, sharks in some portion of the DPS’s range may no longer be contributing to the viability of the DPS because tope sharks may currently be at very low abundance (or productivity or diversity, *etc.*) in that area; but, historically, sharks in that portion may have served a biologically important role for the DPS’s viability (*e.g.*, served as an important source population, or provided connectivity and gene flow among members of the DPS). In conducting this part of the analysis, the team was also mindful that to qualify as a significant portion, they had to also conclude that the particular portion was not so important to the DPS that it actually drives the range-wide status of the DPS. In other words, the biological importance of individuals within the portion cannot be so great that status in that portion is determinative of the status of the DPS throughout its entire range, as that would render the statutory SPR phrase superfluous to the “throughout all” phrase (see *Defenders*

of Wildlife v. Norton, 258 F.3d 1136 (9th Cir. 2001)).

Summary of Section 4(a)(1) Factors Affecting All DPSs

In this section we present information relating to section 4(a)(1) factors as they apply to all of the tope shark DPSs. For certain threats to tope sharks, information is available only at a global scale or generically for the species and thus generally applies to all six DPSs of tope sharks, rather than any one specific DPS. For other threats, such as overutilization and inadequacy of existing regulatory mechanisms, background information that applies to all six DPSs is presented here, and more specific information about the factors affecting each DPS is presented in subsequent sections. We considered the information presented here in our extinction risk analyses for each DPS as detailed in later sections of this document.

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Ocean temperature, which is projected to increase over the foreseeable future under plausible future greenhouse gas emission scenarios (Fox-Kemper *et al.* 2021), appears to be an important driver of tope shark distributions (Klippel *et al.* 2016). While tope sharks occur in a wide range of water temperatures, ranging from minimums of at least 8.1 °C to maximums of at least 27 °C, they typically occur in waters between 12 and 21 °C and are hypothesized to avoid warmer, equatorial waters (West and Stevens 2001; Menni *et al.* 2010; Cuevas *et al.* 2014; Kippel *et al.* 2016; Rogers *et al.* 2017; Jaureguizar *et al.* 2018). Although thermal tolerances and preferences are not fully resolved for this species, increases in ocean temperatures are likely to influence the future distribution of tope sharks and may affect the availability of suitable habitat. Poleward range shifts are generally predicted for marine fishes (bony and cartilaginous) under modeled future oceanic conditions (Morley *et al.* 2018; Braun *et al.* 2023; Hodapp *et al.* 2023). For species with cross-equatorial distributions, changing ocean conditions are also predicted to cause a widening gap in suitable habitat around the equator (Hodapp *et al.* 2023). Many marine fishes are also predicted to experience net losses in suitable habitat with continued ocean warming, with the magnitude of these losses varying by species and region (Braun *et al.* 2023; Hodapp *et al.* 2023). Some fish species, on the other hand, are predicted to have

a net increase in suitable habitat (Morley *et al.* 2019).

No published analyses of ocean warming-driven range shifts specifically for tope sharks are available; however, the team estimated potential future shifts by applying the same basic approach as Hodapp *et al.* (2023), comparing current “suitable” habitat to model-predicted “suitable” habitat in the foreseeable future. The habitat suitability model uses verified occurrence data from publicly available sources (*e.g.*, FishBase) and seven environmental data layers—depth, surface and bottom temperature, salinity, primary productivity, dissolved oxygen, sea ice concentration, and distance to land—that represent key physical and biological factors structuring the species’ distribution at large scales and thus which can be used as predictors of species presence. These data are assigned and modeled at the scale of 0.05 degree grid cells (Kaschner *et al.* 2019, Kesner-Reyes *et al.* 2020; Reygondeau *et al.* 2026). In their analysis, the team quantified the projected change in suitable habitat area using the Habitat Suitability Index (HSI) for present-day versus future conditions, which was calculated on a scale of 0 to 1,000. They first defined “suitable” habitat as any grid cell with an HSI value greater than or equal to a presence/absence cutoff value of 685. This is essentially the point at which the trade-off between correctly predicting where the species occurs (*i.e.*, values greater than the cutoff) and where it does not occur (*i.e.*, values less than the cutoff) is maximized. They then compared the total suitable area (square (sq.) km) in each time period to calculate the percent change between present and predicted suitable habitat. The results of this analysis indicate a potential loss of suitable habitat for tope sharks around the equator and an expansion of suitable habitat near the poles. This analysis also predicts that the global range of tope sharks would increase by roughly 13.2 percent, particularly in the Northern Hemisphere, but that changes would vary considerably by region. The NE Pacific is projected to experience the greatest increase in suitable habitat area by percentage (28.6 percent), followed by the NE Atlantic (13.6 percent), SW Pacific (13.4 percent), SW Atlantic (12.1 percent), and SE Pacific (6.6 percent). The So. Africa region is predicted to experience an estimated 6.4 percent reduction in suitable habitat area. The team noted, however, that this habitat suitability model does not account for various biological, ecological, or other

physical factors that may influence habitat use by tope sharks in future ocean conditions, such as changes in migratory behaviors, shifts in ecological interactions, or barriers to migration (Kashner *et al.* 2019). Thus, we caution that while the qualitative results of this analysis are consistent with observations and other analyses of range shifts in marine species and are informative for tope sharks, the quantitative results of the team's analysis are associated with an unknown level of uncertainty and are not considered to be precise predictions.

In addition to the first-order impacts of elevated ocean temperatures, marine systems are also expected to experience more complex, cascading changes over the next century, including altered ocean currents, oceanographic cycles, productivity, and food web dynamics, which have been shown to impact coastal sharks (Howard *et al.* 2013; Holbrook *et al.* 2019; Fox-Kemper *et al.* 2021; Matich *et al.* 2024). Available data suggest that tope sharks are likely vulnerable to these broader environmental shifts. For example, using tope shark landings data from Andalusia (southern Spain) from 1986 to 2013, Baez *et al.* (2016) found a significant negative correlation between tope shark landings and the North Atlantic Oscillation of the prior year ($r = -0.506$, $p = 0.006$), and a significant positive correlation of tope shark landings and accumulated snow from the prior year ($r = 0.596$, $p = 0.009$), suggesting that tope shark landings in this region may be influenced by the main climatic oscillation and conditions associated with increased input of land-based nutrients into the marine environment (and presumably increased plankton productivity). In addition, results of a sensitivity analysis by Ortega-Cisneros *et al.* (2018) for 40 species in the southern Benguela current system, which was developed using 14 life-history traits for each species, indicated that tope sharks were among the most sensitive species in this region, and that they would likely have a low capacity to respond to the effects of ocean warming and associated environmental impacts. Taken together with the previously discussed modeling results, this information suggests with a high degree of certainty that ocean warming and associated impacts on marine systems will affect tope shark populations over the foreseeable future; however, the nature (*e.g.*, changed distribution, productivity, abundance) and severity of any effects remain difficult to predict given the available data.

In addition to potentially altering the availability of their suitable habitat, increased water temperatures and other direct effects from changing ocean conditions on marine habitats, such as ocean acidification, could result in physiological and behavioral consequences for tope sharks. Ocean temperature, for instance, may provide important cues for migration and influence aspects of tope shark biology and physiology (*e.g.*, gestation, spermatogenesis, swimming, foraging; Olsen 1954; Theron 2001; Jaureguizar *et al.* 2018; Thorburn *et al.* 2019; Nosal *et al.* 2021). Increasingly acidic ocean conditions as the oceans continue to take up atmospheric carbon dioxide (*e.g.*, $\text{pH} = 7.5\text{--}7.9$; Canadell *et al.* 2021) have been shown in controlled, laboratory experiments to have various effects on sharks, including reduced survival and growth and impaired foraging behavior (Rosa *et al.* 2017; Vilmar and Di Santo 2022). As evident from the available studies, which do not address tope sharks, there is also considerable intra-specific variation in sharks' sensitivities and responses to these habitat stressors. Therefore, although ocean warming and acidification trends are expected to continue over the foreseeable future regardless of the rate of carbon dioxide (CO_2) emissions (IPCC 2023), additional study is needed to understand both the independent and combined effects of warmer water temperatures and ocean acidification on tope sharks.

The shallow coastal habitats that serve as important pupping and juvenile nursery areas for tope shark are naturally subject to large environmental fluctuations; however, as weather patterns continue to change, these natural fluctuations are expected to become more extreme (Cooley *et al.* 2022) and could present physiological challenges for tope sharks. One potential challenge within these shallow, nearshore habitats is increased variability in salinity as a result of changes in evaporation and freshwater input (*e.g.*, increased droughts, increased frequency and severity of extreme rain events). As osmoconformers (*i.e.*, organisms that maintain their internal body fluids at the same salt concentration as their environment), sharks may experience negative physiological effects as a result of rapid or extreme changes in salinity, but evidence of this is limited. In one study, which examined the effects of hypersaline conditions by exposing young-of-year (YOY) tope sharks ($n = 3\text{--}8$) to elevated salinity (41 parts per thousand (‰)) for 48 hours, the tope

sharks exhibited a decline in metabolic rate (35 percent decline in oxygen consumption) and some signs of protein damage (Tunnah *et al.* 2016). Overall, however, the tope sharks showed an effective physiological response to hypersalinity (Tunnah *et al.* 2016). Another study by Morash *et al.* (2016) examined the effects of hyposalinity by exposing YOY tope sharks ($n = 10$) to low salinity conditions (25.8 ‰) for 48 hours. Results of this study also indicated a significant decline in metabolic rate (~15 percent), but no evidence of protein damage and an overall effective response to hyposalinity (Morash *et al.* 2016). As both of these studies were short-term and examined salinity changes in the absence of other physical changes to the habitat (*e.g.*, increase temperatures), it is not clear how tope sharks would respond to more frequent or longer duration events.

In addition to the various impacts to tope shark habitats from changing ocean conditions, coastal development and other human activities within the coastal zone can modify, disturb, or degrade important nearshore areas, as has been clearly evidenced by observed declines in species abundance and diversity and losses of seagrasses in estuaries and coastal seas around the world (Lotze *et al.* 2006). Coastal development and urbanization can negatively affect coastal habitats by, for example, increasing sedimentation and nutrient input, and reducing habitat complexity. Degradation of tope shark nursery areas in southern Tasmania and Victoria, Australia, has been cited as a possible cause for the substantial decline in the abundance of tope shark pups in these areas between the 1950s and 1990s (TSSC 2009; Stevens and West 1997); however, causal links between the habitat degradation and the observed declines in juvenile tope sharks were not established. Subsequent surveys in southern Tasmania (Upper Pittwater and Frederick Henry Bay) during 2012–2014 also suggest that abundance of YOY tope sharks have increased or at least stabilized in these nursery areas since the 1990s (McAllister *et al.* 2018).

Various toxic pollutants, including heavy metals (*e.g.*, arsenic, cadmium, lead, mercury), plastics, pesticides, and hydrocarbons, are also likely to be elevated within coastal waters adjacent to human population centers. As long-lived, fairly high-trophic level consumers, tope sharks can bioaccumulate various contaminants, which could potentially have negative consequences on the health and physiology of the sharks (Scheuhammer

et al. 2007; Skomal and Mandelman 2012; Alves *et al.* 2022). Tope sharks are known to bioaccumulate mercury, with larger, older adults having higher concentrations in their muscle tissue (sometimes in excess of legal limits set for human consumption) (Walker 1999; McKie and Topping 1982; Domi *et al.* 2005; Torres *et al.* 2014). Based on sampling of tope sharks bycaught off the relatively pristine Azores (where hydrothermal vents are a natural source of metals) in 2013, Torres *et al.* (2014) found levels of bioaccumulated arsenic and mercury (maximums of 28.98 ± 1.26 and 0.57 ± 0.01 milligram/kg wet weight, respectively) in the largest size-class of males and females (>100 cm TL, $n = 23-26$) that exceeded the maximum limits established in some countries for human consumption. Ingestion of plastics, which are now ubiquitous in marine environments, has been reported for various marine species, including sharks, and is an environmental issue of growing concern (Harris 2020; Janardhanam *et al.* 2022; Munno *et al.* 2024). Other than the report of mesoplastics (5–20 mm) in one tope stomach (of 31) collected from the English Channel in 2012 (Biton-Porsmoguer 2022), however, we are not aware of any assessments of rates of plastics ingestion by tope sharks or resulting health consequences (see also Munno *et al.* 2024).

With respect to the pollutants that have been found at elevated levels within tope sharks, the health implications for the sharks are poorly understood. In the study conducted by Torres *et al.* (2014), the bioaccumulated levels of mercury in tope sharks were highly correlated with selenium ($r = 0.91$), which is thought to play a role in mercury detoxification (Storelli and Marcotrigiano 2002; Braco *et al.* 2007). A preliminary study by Bonwick *et al.* (1990) also showed relatively high levels of metallothionein-like proteins in the liver of an adult male tope shark (126 cm TL) that had been captured in the northern Irish Sea/Liverpool Bay, an area considered to be heavily contaminated with trace metals. Metallothioneins are thought to play a role in regulating essential trace metals and detoxification of non-essential trace metals (Hauser-Davis 2020). Both studies, thus, provide some limited evidence that tope sharks may be capable of preventing or inhibiting the toxic effects of mercury, at least to some extent. Overall, however, it remains unclear to what extent toxic pollutants—operating alone or in combination with other potential threats

(*e.g.*, disease)—are affecting the health and status of tope sharks.

In summary, the available data indicate that, due to ocean warming and associated effects on marine systems, the distribution of tope sharks will likely change, and the availability of suitable habitat may expand in some locations, particularly in the Northern Hemisphere, while declining elsewhere, particularly in equatorial and tropical regions. Other forms of habitat degradation, particularly reduced water quality, are also likely to affect tope shark habitats, particularly those nearshore habitats used predominantly by juveniles and pregnant females. Exposure to and bioaccumulation of certain contaminants like mercury, while well documented in tope sharks, has poorly understood consequences on their health and survival. Because sufficient data to evaluate the extent to which tope sharks' health and abundance are affected by these forms of habitat degradation are currently lacking, we cannot make firm conclusions about the severity of these threats or how they will affect tope sharks over the foreseeable future. Discerning whether any observed declines in tope shark abundance within coastal habitats were driven by habitat degradation, such as those observed in nursery areas in Australia, is further challenged by the fact that observed population declines are largely attributed to overfishing. Lastly, we acknowledge that impacts to tope shark habitat will co-occur and interact, and the extent to which the various changes to their habitat from changing environmental conditions will alter or exacerbate their susceptibility to other threats (*e.g.*, fishing and bycatch, toxic pollutants) is uncertain.

Overutilization

To evaluate threats to tope sharks under section 4(a)(1)(B) of the ESA, the team considered information regarding commercial, recreational, scientific, and educational use of this species. They found no evidence or indication that tope sharks have been or are currently being overutilized for scientific or educational purposes; therefore, those topics are not discussed further. Instead, our review focuses on fishing activities, which have been an important driver of population dynamics for this species in every region where it occurs.

Tope sharks are mainly taken in industrial fisheries but are also taken in artisanal, recreational, and subsistence fisheries. Primary capture methods include pelagic and demersal gillnets and longlines; tope sharks are also taken in bottom and pelagic trawls, troll lines,

trammel nets, and by hook-and-line (Bureau of Marine Fisheries (BMF) 1949; Braccini *et al.* 2009; Walker *et al.* 2020). The species' use of both epipelagic (0–200 m depths) and mesopelagic waters (200–1,000 m depths) and behaviors including vertical movements put them at risk of capture in both demersal fishing gear when over continental shelves and deeper-set gear when in oceanic waters (West and Stevens 2001; Rogers *et al.* 2017; Thorburn *et al.* 2019; Gonzalez-Garcia *et al.* 2020; Schaber *et al.* 2022).

Tope sharks have been targeted in commercial fisheries primarily for their meat, fins, and liver oil in areas across their range. Historically, tope sharks were harvested for use in shark fin soup, for consumption or sale, for skins, and for various other purposes (*e.g.*, fertilizer; Ripley 1946; Walker 1999). Harvest of tope sharks quickly accelerated in some regions during the late 1930s and early 1940s when World War II disrupted cod fishing and access to European sources of cod liver oil, which had served as an important source of vitamin A. Tope shark liver oil, which is rich in vitamin A, became an effective replacement (Ripley 1946; BMF 1949; Olsen 1954; Freer 1992). Fisheries expanded rapidly in response to this market demand, largely without regulation. Following the war, tope shark landings decreased as a consequence of the renewed availability of cod liver oil, the advent of commercially available synthetic vitamin A in the 1950s, and declines in tope shark abundance (Olsen 1984, Freer 1992, Walker 1999). Commercial harvest did continue, and in some regions even expanded, as tope sharks were targeted for fins and meat in addition to liver oil, which was then used in multiple manufactured products (Freer 1992; Walker 1999; Vannuccini 1999). In the early 1970s, commercial harvest of tope sharks declined relatively rapidly as the public became increasingly aware of the significant mercury load in larger fishes and as various legal restrictions on the concentrations of mercury in fish products were put in place (Olsen 1984; Walker 1999; Freer 1992). As concerns about mercury eased, global landings peaked in the 1980s with annual harvest estimated at over 12,000 mt, though this is likely an underestimate. Multiple factors contributed to this later peak in global landings, such as improved fishing gears and technology (*e.g.*, monofilament gillnets), and concurrent declines in the abundance of other inshore finfish species (Olsen 1984;

Francis 1998; Walker 1999; Megalofonou *et al.* 2005).

Currently, tope sharks are not a primary commercial target in most regions; however, they are often retained when captured incidentally (*i.e.*, as bycatch; Walker *et al.* 2020). Incidentally captured tope sharks are sometimes discarded; however, discards appear to make up a small percentage of overall estimated fisheries mortality of tope sharks (Pauly *et al.* 2020). Discard mortality can be categorized as at-vessel mortality, which refers to mortality that occurs prior to when gear is brought on-board or alongside the vessel, and post-release mortality, which refers to mortality that results from fishing activity but occurs sometime after the animal is released alive. For sharks in general, discard mortality can be significantly affected by a variety of factors, including soak times, gear type, and water temperatures, and shark size and sex (Ellis *et al.* 2017). For tope sharks in particular, available data indicates that discard mortality rates are highly variable. For instance, at-vessel mortality of tope sharks in gillnets was estimated at 2 percent to 70 percent (6–6.5" mesh, mean soak time of 8.2 hours, fishing depth 17–130 m; $n = 187$; Walker *et al.* 2005) and 73 percent (4–8" mesh, 2.4–20.6 hour soak time, fishing depths of 9–230 m; $n = 1,308$; Braccini *et al.* 2012). At-vessel mortality in longline gear has been reported as 0 percent (soak times ~6 hours, $n = 5$; Megalofonou *et al.*, 2005; soak times ~13 hours, $n = 25$, Coelho *et al.* 2012) and 25 percent for demersal automatic longlines (Rogers *et al.* 2017). Post-release mortality in gillnets has been estimated at approximately 50 percent (Braccini *et al.* 2012).

Tope sharks are internationally traded, largely for meat (Dent and Clarke *et al.* 2015), although their fins have been documented in markets of China's Hong Kong Special Administrative Region (SAR) and Singapore, both of which are major trade hubs for shark fins and other shark products (Fields *et al.* 2018; Cardenosa *et al.* 2022; Saigal *et al.* 2024). However, tope shark fins were found to have a relatively low incidence of occurrence in sampled markets, and tope shark is not considered a premium value species in Hong Kong SAR (Fields *et al.* 2018; Cardenosa *et al.* 2022). Species-specific trade records are extremely limited for shark meat; however, a recent analysis by MacNeil *et al.* (2025) estimated the median annual trade of tope shark meat at 3,002 mt (90 percent posterior density: 1,383–5,938 mt). The "smooth-hounds, dogfish, tope" group of sharks (which includes at least 17 species) was

characterized as highly export-oriented, with approximately 78 percent of global landings being exported, primarily to Europe and Australia (MacNeil *et al.* 2025). The team concluded, and we concur, that trade in tope shark meat, and to a lesser extent, fins, is one driver of overutilization. Further discussion of shark fin and meat trade is provided in section 4.3 of the Status Review Report.

Additional discussion of the threat of overutilization and fishing practices, which vary by region, is provided for each DPS in later sections of this document.

Disease and Predation

Tope sharks host numerous parasites throughout their range, including various ectoparasitic flatworms (class Monogenea), isopods (*Aega serricauda*), copepods (class Copepoda), and marine leeches (*Branchellion lobata*), as well as endoparasitic flatworms (class Cestoda, class Nematoda, *Staphyloorchis pacificus*), cnidarians (*Ceratomyxa sphaerulosa*, *Chloromyxum ovatum*), and acanthocephalans (*Corynosoma* spp.) (see Pollerspöck and Straube 2025). However, to the extent that the host-parasite interactions have been described for tope sharks, there is no indication that any of the observed parasites affect tope sharks with the prevalence or virulence that would constitute a significant threat to the survival of the species. The team was unable to find any information about viral or microbial diseases in tope sharks.

Several studies have reported on observed tope shark predation, mostly by other elasmobranchs and occasionally by marine mammals. Broadnose sevengill sharks (*Notorhynchus cepedianus*) are considered one of the main predators of tope sharks, as they co-occur in all regions except the NE Atlantic (Olsen 1984; Stevens and West 1997; Fowler *et al.* 2005; Lucifora *et al.* 2005, 2006). Stevens and West (1997) found that sevengill sharks were the most likely predator of juvenile tope sharks in known nursery areas in Tasmania, but did not find evidence that predation rates were particularly high. Tope sharks are also considered a primary prey item for white sharks in South Africa (Fisher 2021) and have been observed being hunted and consumed by grey seals in Northern Ireland (Jones *et al.* 2021). However, as with parasites and disease, there is no indication that predation constitutes a significant threat to the survival of the species.

Inadequacy of Existing Regulatory Mechanisms

Given the global distribution and migratory nature of tope sharks within the range of each DPS, as well as the species' high degree of population structuring, regulatory mechanisms at different spatial scales are needed for adequate management, particularly with respect to harvest and trade.

Several international agreements form the basis for global cooperation on the conservation and management of the tope shark. The Convention on the Conservation of Migratory Species of Wild Animals (CMS) is an environmental treaty of the UN that aims to conserve migratory species, their habitats, and their migration routes. Nearly all of the countries within the geographic range of *G. galeus* are Parties to the CMS; although, notable exceptions include the United States, Canada, and Mexico. Tope sharks were listed under Appendix II of CMS in 2020, thereby obligating Parties to work regionally to promote their conservation. The CMS defines Appendix II species as "those that have an unfavorable conservation status and that require international agreements for their conservation and management, as well as those that have a conservation status which would significantly benefit from the international cooperation that could be achieved by an international agreement." The primary instrument for achieving international cooperation for sharks under CMS is the Memorandum of Understanding on the Conservation of Migratory Sharks (Sharks MOU), a non-binding global agreement established in 2010 that aims to maintain a favorable conservation status for migratory sharks based on the best available scientific information and taking into account the socio-economic value of these species. In 2023, the tope shark was added to Annex 1 of the Sharks MOU, which includes species that have an unfavorable conservation status and that require international agreements for their conservation or would benefit significantly from such an agreement. The current 49 signatories to the Sharks MOU aim to better understand migratory shark and ray populations, ensure sustainability of fisheries, protect critical habitats, increase public awareness, and enhance regional and international cooperation.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is a legally-binding international agreement that aims to ensure that international trade in wild animals and plants does not threaten their survival. Its primary tool

for achieving this goal is through the listing of species in one of three Appendices, which subjects their trade to certain regulations depending on the degree of protection that the species needs. The tope shark was listed on Appendix II of CITES during the 20th Conference of the Parties (CoP20) in November/December 2025. Appendix II includes species not necessarily threatened with extinction, but for which trade must be controlled to ensure utilization is compatible with their survival. This listing will go into effect June 5, 2027. International trade in specimens of the species will be allowed with an export permit, re-export certificate, or introduction from the sea (IFS) certificate granted by the proper management authority. The above permits or certificates may be granted if the trade is found to be nondetrimental to the survival of the species in the wild and the specimen was found to have been legally acquired. An IFS certificate applies when a specimen is taken on the high seas (not under the jurisdiction of any state) and is landed in a state. The recent listing of the species on Appendix II should help to ensure the sustainability of tope shark fisheries by regulating international trade in their parts and products, largely their meat.

Other Natural or Manmade Factors Affecting Its Continued Existence

Because they generate electromagnetic fields (EMFs), undersea power cables have been identified as a potential concern for marine organisms that rely on electroreception and/or magnetoreception to perform basic life functions like orienting, navigating, and locating prey or predators. The IUCN Red List assessment for the tope shark (*i.e.*, Walker *et al.* 2020) specifically mentions high-voltage undersea cables as an indirect source of mortality that may affect feeding and navigation of tope sharks. However, no studies are cited to support the statement in the IUCN assessment and specific studies with respect to how tope sharks may rely on natural electrical or magnetic signals and how EMFs may impact their behaviors appear to be unavailable. Although more research is needed, the research available to date has not indicated that EMFs pose more than a negligible or minor impact on marine fishes (Kavet *et al.* 2016, U.S. Offshore Wind Synthesis of Environmental Effects Research (SEER) 2022).

Summary and Analysis of Section 4(a)(1) Factors for the NE Atlantic DPS

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The assessment of this threat focused on projected impacts on tope shark habitat over the foreseeable future from changes in environmental conditions, in particular the impact of increased ocean temperatures. Ocean temperature appears to be an important driver of tope shark distributions (Klippel *et al.* 2016), and significant changes in temperature could affect the future availability of suitable habitat. Available literature also suggests that tope shark habitat may be influenced by other variables, such as precipitation and salinity (Baez *et al.* 2016, Tunnah *et al.* 2016; Morash *et al.* 2016), but the impact of changes in these environmental variables on habitat for the NE Atlantic DPS is unclear.

Despite the likely importance of ocean temperatures on tope shark habitat, this threat was assigned a partial rating of Very Low based on available evidence indicating that the net effect of changing environmental conditions on the availability of suitable habitat for this DPS may be neutral or even positive over the foreseeable future. In particular, a 13.6 percent (239,103 sq. km) increase in suitable habitat area for the NE Atlantic DPS is projected under future ocean conditions. Analyses also indicate a likely poleward shift in habitat, with potential losses in the southern part of the range (*e.g.*, the Mediterranean Sea and off Northwest Africa) being more than offset by substantial projected habitat gains in the North Atlantic. Based on this, the team concluded that habitat curtailment as a result of changing environmental conditions is likely not a significant threat to this DPS by itself currently or in the foreseeable future.

Several limitations of the results of the habitat suitability model were noted, however, including its inability to account for various ecological and behavioral factors that may influence habitat use by tope sharks in the future under changed ocean conditions. The model, which uses tope shark occurrence data and seven environmental data layers (depth, surface and bottom sea temperature, salinity, primary productivity, dissolved oxygen, sea ice concentration, and distance to land) to project future suitable habitat, does not account for migratory behaviors, intra-specific variation, or altered ecological interactions. In addition, the relatively coarse scale of the habitat suitability

model could mask more nuanced impacts of warming in nearshore nursery and pupping areas, which are more susceptible to extreme temperature swings and salinity changes. More severe and/or more frequent warming events in these shallower, coastal areas could elevate metabolic rates in young-of-year and juveniles tope sharks, potentially compromising their growth and energy reserves during a critical stage of development. Given these other considerations, the team ultimately concluded that changing environmental conditions may, in combination with other factors, contribute to the extinction risk of the NE Atlantic DPS over the foreseeable future; and therefore, they adjusted the rating of this threat to Very Low/Low. In summary, the mixed Very Low/Low score reflects the available evidence indicating no physical loss of suitable habitat across the range of this DPS and the potential, though uncertain, impacts on growth and development of juveniles within coastal nursery areas.

The team also assigned a Very Low/Low rating to habitat threats stemming from coastal development and pollution. This rating reflects the conclusion that habitat destruction from coastal development and pollution are not likely contributing significantly to extinction risk for the NE Atlantic DPS and acknowledgement that impacts to more sensitive coastal habitats may, in combination with other factors, contribute to long-term extinction risk. The team did not find any information about known or potential impacts of coastal development on tope sharks in the NE Atlantic specifically. The team instead discussed and considered evidence from the SW Pacific, where coastal development and habitat degradation were cited as a possible cause for observed declines in juvenile tope shark abundance in Australian nursery areas (TSSC 2009; Stevens and West 1997), and whether this may inform their assessment of potential impacts of coastal development on juvenile tope sharks in this DPSs. However, as acknowledged in that particular case, causal links were not established, and thus it is unclear what aspects of coastal development or habitat modification may have played a role in the observed decline in abundance of juvenile tope sharks.

With respect to pollution, bioaccumulation of contaminants is well documented in tope sharks, but evidence of any consequences on tope shark health and survival is lacking. Even in more remote areas, such as the Azores, tope sharks have been found to

bioaccumulate heavy metals like mercury and arsenic (Torres *et al.* 2014); however, results of available studies suggest that tope sharks may have some capacity to limit toxic effects of mercury (e.g., Bonwick *et al.* 1990). The team also acknowledged that plastics, which are fairly ubiquitous in the marine environment, have been documented in the stomach of a tope shark captured in the English Channel. However, as no data are available regarding the rates of plastics ingestion by tope sharks or the resulting health consequences, they viewed the available data as insufficient to further assess this potential threat.

In summary, there is very little information regarding the threat of coastal development and pollution to the NE Atlantic DPS. There is concern that this threat could disproportionately affect early life stages and may contribute to the long-term extinction risk of the NE Atlantic DPS in combination with other factors; however, the available information is not sufficient to conclude that this threat is likely to contribute by itself to the long-term or near future risk of extinction of the NE Atlantic DPS.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The threat of overutilization for the NE Atlantic DPS was assigned a rating of Low/Moderate, largely due to the ongoing but greatly reduced level of bycatch within the region. Although there are no directed commercial fisheries for the species within the NE Atlantic and recreational catch appears to be limited, tope sharks continue to be bycaught in commercial trawl, gillnet, and longline fisheries within the region.

Historical landings data for this region are considered unreliable due to under-reporting, species misidentifications, and the aggregation of shark landings into generic categories (like “dogfish” or “hound”) by many countries. The team concluded that the lack of any stock assessment and robust fishing effort data prevent a clear understanding of the level to which overutilization of this DPS of tope sharks may have occurred historically or is occurring currently.

Within this region, the North Sea, Irish Sea, English Channel, Bay of Biscay, waters off Spain and Portugal, waters off the northwest coasts of Scotland and Ireland, and waters around the Azores (subareas 4 and 6–10 of FAO Fishing Area 27) are considered the most important in terms of both tope shark occurrence and fishing activity. As there has been no directed tope shark fishery in these waters, the annual commercial catch estimates (live weight

equivalent of landings, discards excluded) provided by the 20 ICES member countries reflect bycatch landed from other trawl, gillnet, and longline fisheries in the region (ICES 2023). Although some historical species-specific landings data are available, prior to 2005 many countries did not report species-specific shark landings (ICES 2022). Based on available, species-specific data, over the past 10 years, the highest capture volumes of tope shark have been reported by France, typically followed by Spain and then Portugal (see Figure 4–8 in Status Review Report). During 2018–2021, France accounted for about 78 percent of the reported landings, and in 2022, accounted for about 74 percent of the reported landings (ICES 2023a). Tope sharks are landed in French mixed fisheries operating mainly in the English Channel and Celtic Seas (Bonfil 1994; ICES 2023a; see Figure 4–9 in Status Review Report). In the 1980s, tope sharks ranked as France’s third most important commercial shark species, comprising 6 percent of shark landings, much of which was used domestically or exported to Italy (Bonfil 1994). However, France’s export of tope shark to Italy declined after 1983 as a result of mercury contamination (Vannuccini 1999). Reported landings for France peaked in 1979 at 2,335 mt, which is an order of magnitude greater than current landings levels (ICES 2023a; see Figures 4–6 and 4–9 in Status Review Report). Landings reported for the early 1990s, which ranged from 279 to 408 mt per year, are similar to France’s more recent landings data (i.e., during 2005–2021), which have remained relatively consistent from year to year. Landings reported by Spain have declined since 2005, and some of the more recent decline may be attributable to management restrictions enacted in 2015 as well as missing data (ICES 2023a). Landings for Portugal, which primarily captures tope sharks in waters around the Azores (FAO subarea 10.a.2), fluctuated without a clear trend during 2005–2022 (see Figure 4–8 in Status Review Report). Portugal’s lowest reported landings occur in 2019–2022, which may be attributable in part to the COVID–19 pandemic (ICES 2023a).

Around the Azores (within FAO subarea 10.a.2), tope sharks are landed as bycatch in mainly the swordfish (*Xiphias gladius*) fishery and the demersal longline fishery, and by recreational hand and pole lines (Santos *et al.* 2020). A review of landings data for this subarea from 1990 to 2018 by Santos *et al.* (2020) showed a decreasing trend in annual landings of tope sharks

from 1998/2000 to 2009, followed by a small increase during 2010–2017 (see Figure 3–5 in Status Review Report). The estimated standardized CPUE (kg 10^{-3} hooks) fluctuates during the early 1990s but remains fairly stable over the remainder of the time period. Santos *et al.* (2020) hypothesized that the overall decrease in annual landings relative to the 1990s reflects an increased discard rate, which they suspected was driven by low market demand, both in domestic and in international markets, as well as management measures. Discard data for tope sharks necessary to verify this hypothesis are not available.

Within the Mediterranean (FAO Fishing Area 37), tope sharks have been commercially fished since at least 1985; however, there are limited historical landings data, particularly because much of the fishing was artisanal, and such landings were rarely reported or are otherwise difficult to find (Ferretti *et al.* 2005). Fishing for tope sharks in the Mediterranean has been prohibited since 2014 and reporting of incidental capture of tope sharks to the Regional Fisheries Management Organization (RFMO) for the Mediterranean, the General Fisheries Commission for the Mediterranean (GFCM), is required for member countries; however, data on incidental catch of covered sharks and rays by fishery and gear type is limited (GFCM 2018). Tope sharks are now taken as bycatch, primarily in commercial drift (i.e., surface) longlines targeting tunas (*Thunnus spp.*) or swordfish (*Xiphias gladius*), and occasionally in small-scale fisheries, which commonly employ longlines and trammel and gill nets (Carpentieri *et al.* 2021). More rarely, tope sharks have also been reported as incidental catch in bottom otter trawls and small-scale set net fisheries (Carpentieri *et al.* 2021). The number of vessels participating in the bottom trawl fishery has declined since about the year 2000, and at least within the western Mediterranean, bottom trawling effort has shifted from the shelf into deeper waters to target high value shellfish (Ramirez-Amaro *et al.* 2020).

Overall, the frequency of tope shark bycatch in the Mediterranean appears to be moderate to low relative to other elasmobranchs. During 2000–2020, across all fisheries, tope sharks comprised 6.2 percent (by number) of the reported incidental catch of elasmobranch species (~2,339 sharks) in the Mediterranean, whereas the two most commonly bycaught elasmobranchs, the sandbar shark (*Carcharhinus plumbeus*) and the smooth-hound shark (*Mustelus mustelus*), comprised 20.9 percent and

15.9 percent of the reported catch, respectively (FAO 2020). Based on data for the westernmost portion of the Mediterranean (FAO Fishing Area 37.1.1), landings gradually increased to a maximum of nearly 50 mt in 2011, but then sharply declined in 2015–2016 and have remained below 5 mt per year since 2017 (see section 4.3.1.1. in Status Review Report).

Landings data are even more limited for the eastern central Atlantic portion of this DPS's range (*i.e.*, FAO Fishing Area 34), and appear to be available only from the year 2000 onward for three countries (Morocco, Portugal, and Spain). Based on the available data, total annual tope shark catch never exceeds 125 mt in this area and exhibits no clear trend.

Overall, the commercial landings of tope shark within the NE Atlantic region show a substantial decline since the 1980s and a moderate decline from 2005 to 2022, but appear fairly stable in recent years (see Figure 4–13 in Status Review Report). Large declines in tope shark landings ~10–15 years ago indicated in some of the available datasets could potentially reflect a collapse in tope shark abundance as a result of overexploitation. However, given concerns with data reliability and the lack of fisheries-independent abundance estimates or sufficient fishing effort data, the team had low confidence in making inferences based on trends in landings data. Interpretation of the available landings data is further complicated by the enactment of various management measures across the region for sharks and for tope sharks, in particular. For example, following a 2008 prohibition on commercial tope fishing by the UK, the proportion of tope sharks discarded by English and Welsh gillnet fisheries increased significantly, rising from 11 percent (2002–2007) to 67 percent (2008–2016) (Silva and Ellis 2019). Other notable measures include Recommendation GFCM/36/2012/3, which as of 2014, prohibited the retention, sale, and landing of tope sharks in the Mediterranean Sea; and Regulation EU 2015/104, which as of 2015, prohibited targeting and retention of tope sharks taken by longlines throughout most of the NE Atlantic. Some portion of the observed decline in tope shark landings is undoubtedly attributable to these management measures; however, ongoing bycatch in some fisheries, issues with generic labeling of shark landings, and an unknown level of discard mortality, prevent an accurate measure of the reduction in the threat of overutilization.

The team also noted that despite lower reported landings and existing regulatory protections, total tope shark landings have consistently exceeded the precautionary catch limits advised by ICES, often by a substantial amount. For the years 2024–2027, ICES advised that total annual landings not exceed 241 mt per year, but recent reported landings have been around 500 mt (ICES 2023a). In addition, the species' life history characteristics (*e.g.*, low productivity, late age-at-maturity) likely exacerbate this threat or slow the DPS's ability to rebound from historically higher levels of exploitation.

Ultimately, the team assigned a Low/Moderate rating to this threat to reflect the mixed evidence regarding the level of extinction risk posed by commercial fishing in the long and near-terms. Two team members found that, while the consistent exceedance of the precautionary catch limits advised by ICES suggests that overutilization of tope sharks may be occurring, there is insufficient evidence to conclude that overutilization is occurring in this region such that it poses an extinction risk to the DPS. Thus, these team members concluded that the available data are not sufficient to find that this threat, on its own, likely contributes significantly to the long-term or near future extinction risk of the NE Atlantic DPS, but it may in combination with other factors. One team member placed greater weight on indicators of historical overutilization and ongoing exceedance of advised catch limits to reach the conclusion that this threat is contributing to the long-term risk of extinction; thus, this team member assigned a Moderate rating to this threat. Given the limited confidence in the relevant, available data, the team agreed on a rating of “low sufficiency” for the available data, and consequently the ratings are based on best professional judgment and interpretation of the available information. This threat is discussed in more detail in section 4.3.1 of the Status Review Report.

Disease and Predation

This threat category was assigned a Very Low rating, reflecting agreement that, based on the best available information, neither disease nor predation is contributing significantly to the extinction risk of the NE Atlantic DPS now or over the foreseeable future.

Regarding disease, the team noted that while tope sharks are known to host a wide variety of parasites, there is no indication that any of these affect tope sharks with the prevalence or virulence such that they pose an extinction risk to the DPS—either on their own or in

combination with other threats. The team also found no information regarding potential impacts from viral or microbial diseases.

Regarding predation, the team noted that several studies have documented predation on tope sharks by other elasmobranchs and marine mammals. However, there is no evidence that predation is posing an extinction risk to this DPS, and one of tope sharks' main predators, the broadnose sevengill shark, does not co-occur with the NE Atlantic DPS. While predation by grey seals has been observed in Northern Ireland, the team found no evidence to suggest that predation occurs at a level that poses any extinction risk to the DPS.

Inadequacy of Existing Regulatory Mechanisms

The inadequacy of existing regulatory mechanisms was assessed as posing a Low risk to the NE Atlantic DPS. Given that overutilization in commercial fisheries was identified as the primary threat to this DPS, the assessment of regulatory mechanisms was focused on a review of relevant fisheries management measures and their effectiveness. The Low rating assigned to this threat reflects the team's conclusion that while management gaps, compliance concerns, and enforcement challenges exist for specific areas of the region, the regulatory measures currently in place across most of the region are fairly comprehensive and are likely effective in reducing fisheries-related mortality of tope sharks.

Tope sharks in the NE Atlantic are managed by two RFMOs (the Northeast Atlantic Fisheries Commission (NEAFC) and the GFCM), the EU, and by individual countries within the region. Regulatory measures implemented by the NEAFC, the GFCM, the EU, and national governments within the region for sharks, and for tope sharks in particular, have increased substantially over the past 2 decades. In 2012, the GFCM adopted Recommendation GFCM/36/2012/3, which among other provisions, prohibits finning and retaining, transshipping, landing, storing, selling, displaying, or offering for sale shark species listed as endangered or threatened in Annex II of the Specially Protected Areas/Biodiversity (SPA/BD) Protocol, which as of 2014 includes the tope shark (Decision IG.20/5). The Recommendation mandates that tope sharks caught with bottom-set gillnets, longlines, and tuna traps shall be promptly released unharmed and alive, to the extent possible; it also includes

broader conservation measures, such as a prohibition on finning and the beheading or skinning of sharks at sea and a requirement to record data on incidental catches and release events in logbooks. This Recommendation is binding for all Contracting and Cooperating Parties, which includes the EU and all countries bordering the Mediterranean. However, reports suggest that compliance and enforcement by member countries vary across the region (Koehler and Lowther 2025).

Three years after Recommendation GFCM/36/2012/3 was adopted, the NEAFC prohibited Contracting Parties from removing shark fins at sea and required annual reporting of all shark catch, including discards (Recommendation 10:2015). Contracting Parties include the EU, the United Kingdom (UK), Iceland, Denmark, and Norway. Under this same Recommendation, the NEAFC also encouraged, to the extent possible, the release of live sharks that are caught incidentally and are not to be used for food or subsistence, and encouraged research to help improve the management of sharks and reduction of shark bycatch. Multiple range countries have also adopted protections that mirror or support the GCFM or NEAFC regulations.

Beginning in 2009, the EU extended several regulatory protections to tope sharks, which have likely contributed to the modest reduction in landings within the ICES area in recent years. The earliest of these measures restricted bycatch of tope sharks in the spurdog (*Squalus acanthias*) fishery, which mainly operates in the North Sea, off the west coast of Scotland, and in the Celtic Sea, by prohibiting landing of tope sharks less than 100 cm TL and limiting the total bycatch aboard each vessel to 10 percent (by weight) of the catch (Annex Ia to Regulation (EC) 43/2009). Then, in 2011 and 2012, the EU prohibited all retention of tope sharks taken by longline in the spurdog fishery (ICES 2023a). In 2015, the EU adopted Regulation (EU) 2015/104, prohibiting all EU vessels from fishing for, retaining, transshipping, or landing tope sharks when taken by longline in essentially all EU waters of the NE Atlantic, except around Bear Island and Spitzbergen (in the Barents Sea), Skagerrak and Kattegat (in the North Sea), the Baltic Sea, and waters of the greater Azores region, and from the Azores east to Spain and Portugal. This prohibition does not apply to other gear types with significant bycatch of tope sharks, such as trawls and gillnets. Additionally, the exclusion of the

Azores region and waters between the Azores and Portugal/Spain (*i.e.*, ICES subareas 27.9 and 27.10) is notable, as these areas account for a significant portion of recent landings (ICES 2023a).

In addition, in 2008, the UK adopted the Tope (Prohibition of Fishing) Order 2008, which prohibited fishing for tope sharks within English waters by any method other than rod and line; prohibited landing in England tope sharks (dead or alive) that were recreationally caught from a boat; prohibited transshipment of tope shark; required landing commercial caught tope sharks with fins and head attached; and set a retention limit for commercial fisheries of 45 kg (live weight) of bycaught tope shark per day (Statutory Instrument No. 2008/691). Based on an informal review of this legislation in 2010, stakeholder support and compliance with this law were found to be high (Department for Environment, Food & Rural Affairs 2013). Likewise, Scotland adopted The Sharks, Skates and Rays (Prohibition of Fishing, Transshipment and Landing) (Scotland) Order 2012, which among other provisions, included essentially the same restrictions for tope sharks in Scottish waters (Statutory Instrument No. 2012/63). The UK also passed the Shark Fins Act in 2023, which bans the import and export of detached shark fins and products containing them and amends Regulation (EU) 1185/2003 to extend the prohibition on the removal, retention on board, or transshipment and landing shark fins to all UK fishing vessels wherever they fish and to any fishing vessel in UK waters.

Other national-level measures include Spain's addition of tope sharks in 2015 to its List of Wild Species under Special Protection Regime (Order AAA/1771/2015), under which killing, capturing, hunting, or disturbing the species is prohibited in waters under Spanish jurisdiction or by Spanish-flagged vessels regardless of their location (Artículo 57, Ley 42/2007, Boletín Oficial del Estado no. 299). However, the team noted that Spain continued to land an average of approximately 86 mt of tope shark per year between 2016 and 2021. Further discussion of national-level measures considered by the team are identified in section 4.5.2.4 of the Status Review Report.

The team acknowledged that some critical gaps in the existing regulatory measures remain. For instance, an EU-wide total allowable catch (TAC) limit has not been established for tope sharks, and bycaught tope sharks can still be landed by some EU trawl and gillnet fisheries. The EU's 2015 longline retention ban also does not apply to

ICES subareas 27.9 and 27.10 (*i.e.*, waters around the Azores and off Spain/Portugal), which account for a significant portion of landings. Management measures and strategies within the East Central Atlantic (FAO Fishing Area 34) also appear to be relatively poorly defined and weakly enforced, and there is concern regarding potentially unsustainable levels of fishing by foreign industrial fleets operating in this part of the region (*e.g.*, Oceanic Développement 2010). Within the Mediterranean, where a retention ban has been in place since 2014, some information suggests the GFCM measures are being poorly enforced (*e.g.*, in Tunisia), or, in other cases, information is simply lacking with respect to enforcement (*e.g.*, in Egypt and Libya).

Overall, regulatory protections for tope sharks in the NE Atlantic have increased substantially over time, with most being enacted within the past 20 years, which may not be a sufficient amount of time for their effectiveness to be observed at the population level given the long generation time and low productivity of the species. Existing regulatory protections include prohibitions on shark finning, which is now prohibited throughout the EU and Mediterranean, mandates for release of incidentally caught tope sharks, and restrictions on fishing and landing of the species in specific areas or by certain gear types. Given the fairly recent inclusion of tope sharks under two international conventions (*i.e.*, the 2020 Appendix II listing under CMS and 2025 Appendix II listing under CITES) and support of these actions by many range countries, the team concluded that the level of attention and commitment to tope shark conservation within this region is likely to continue over the foreseeable future. The Low risk rating of this threat reflects the team's conclusion that it is unlikely the existing regulatory mechanisms are contributing significantly to the extinction risk of the NE Atlantic DPS by themselves, but they may contribute to extinction risk in combination with ongoing fishing activity and the life history characteristics of tope sharks. The team also concluded that this particular threat is not uniform across the range of the DPS, but is likely greater in the Mediterranean (FAO Fishing Area 37) and East Central Atlantic (FAO Fishing Area 34). This threat is discussed in more detail in section 4.5.2 of the Status Review Report.

Other Natural or Manmade Factors Affecting Its Continued Existence

The assessment of this factor focused primarily on the potential threat posed by EMFs generated by undersea power cables, which was highlighted by the Petitioners as a potential risk to tope sharks. While elasmobranchs generally rely on electroreception and magnetoreception to perform essential life functions, such as orienting, navigating, and locating prey or predators; however, the team was unable to find any data or research regarding tope sharks' reliance on natural electrical or magnetic signals and how EMFs may impact their behaviors. Available research to date (e.g., Kavet *et al.* 2016; SEER 2022) has also not indicated that EMFs pose more than a minor impact on marine fishes. Given the general lack of information on this potential threat, the team concluded that the contribution of this threat to the extinction risk of tope sharks is Unknown.

Demographic Risk Assessment for the NE Atlantic DPS

Abundance

The demographic risk factor of abundance was rated as Low, reflecting agreement among the team members that abundance of the NE Atlantic DPS is not likely to be contributing to the species' long-term or near future risk of extinction by itself, but may in combination with other factors. Because most of the relevant, available data are based on studies designed for other species, the data are impacted by the low gear selectivity and low catch rates for tope sharks; and in some instances there are also apparent issues with species misidentifications. Thus, while decades worth of scientific survey data are available across the region, the team had somewhat low confidence in interpreting these data as a measure of tope shark abundance and trends.

In the core of the range of the NE Atlantic DPS (i.e., FAO Area 27), the available survey data generally do not indicate that abundance has changed significantly over the past 2 to 3 decades. The data from multiple ICES surveys spanning 1992–2022, including the IBTS and the French and Irish Groundfish Surveys (EVHOE–WIBTS–Q4 and IGFS–WIBTS–Q4), generally show large fluctuations or sporadic peaks in catch rather than clear trends. Systematic surveys around the Azores also provide no evidence of a decline in abundance of tope sharks, which Santos *et al.* (2020) classified as “frequent” between 1990 and 2018. The team acknowledged that the most recent

IUCN assessment (i.e., Walker *et al.* 2020) projects a 76.6 percent decline in tope sharks in the NE Atlantic over the next three generations (79 years) based on data from this part of the range, but given the aforementioned weaknesses of the underlying survey data, the fact this model did not include the survey data after 2018 (which show some increases in tope shark abundance and biomass), and the large confidence intervals associated with this projection, the team had very low confidence in this specific projection as an indicator of extinction risk.

In contrast to the North Atlantic, available information suggests that tope sharks have become increasingly rare in the Mediterranean Sea (FAO Area 37). While the available survey data (e.g., MEDITS) are insufficient for a robust quantitative assessment due to low frequency of capture, anecdotal accounts and historical analyses consistently indicate significant declines over the past several decades. The team also acknowledged the possibility that declines may be even more severe, given the likely under-reporting of shark landings, particularly in historical and artisanal fisheries. The available quantitative data from various surveys spanning 1948 to 2015 suggest that tope sharks are not very abundant in the Mediterranean, particularly in the central and eastern parts of the Mediterranean. In the absence of reliable historical data for most of the Mediterranean, this apparent rarity is difficult to interpret.

Despite the likely substantial declines in the Mediterranean, the team concluded that abundance by itself likely does not constitute a significant extinction risk for the NE Atlantic DPS. The best available data from the core of the population's range in the North Atlantic (including the Azores, Bay of Biscay, and waters surrounding the British Isles) do not indicate a significant, ongoing decline. While the depletion in the Mediterranean is concerning and may exacerbate the species' extinction risk in combination with other factors, the NE Atlantic DPS is unlikely to be at risk of extinction currently or in the foreseeable future due to its abundance alone.

Productivity

This demographic risk factor was assigned a Low rating. Although the tope shark's fairly low productivity clearly limits its capacity to rebound from depletion, the team concluded that this trait does not, by itself, contribute significantly to long-term or near future risk of extinction. However, there is some concern that this demographic

factor may, in combination with other threats and/or demographic risk factors, contribute to long-term extinction risk of the DPS. Slow growth and late age-at-maturity, particularly for females, and a triennial reproductive cycle, contribute to a relatively low intrinsic rate of population increase (r_{max}), which is estimated at 0.041 ($CV = 0.154$) globally. Beyond this inherent demographic vulnerability, however, the team found no evidence that population growth is currently below the replacement rate or has been compromised to a level that threatens the persistence of the NE Atlantic DPS (e.g., via compensatory processes). There is evidence of pupping in areas throughout much of the region, including areas near mainland Portugal, the Canary Islands, the Azores, coastal United Kingdom and Ireland, and no evidence indicating reduced mating, fertilization, or shifts in demographic or reproductive traits suggestive of a decline in the per capita growth rate.

Diversity

The team assigned this demographic risk factor a rating of Very Low, reflecting their conclusion that this factor is unlikely to contribute significantly to the risk of the extinction for the NE Atlantic DPS, either by itself or in combination with other factors. Based on the best available information, which is fairly limited, the team found no evidence that the DPS is at risk due to a substantial change or loss of variation in life-history traits, population demography, morphology, behavior, or genetic characteristics.

The team considered the analysis of genetic samples collected from 5 different regions (using 11 polymorphic microsatellite loci), which indicated that tope sharks in the NE Atlantic (specifically, the Irish Sea) have a comparable number of alleles and private alleles and a comparable level of allelic richness relative to other sampled regions, with the exception of Australia where far more samples were taken (49 versus 12; Chabot 2015). Similarly, based on analysis of mtDNA (control region), tope sharks in the NE Atlantic have a fairly low but comparable level of nucleotide and haplotype diversity relative to tope sharks of other regions (Chabot and Allen 2009). Genetic analyses using both mtDNA and microsatellite markers have also found no evidence of significant population structure or barriers to gene flow within the region. Although sampling was limited, Thorburn (2015) found high connectivity and overlap in genotypes among samples collected from the North Sea, British Isles, Azores, and the

Mediterranean Sea. Thus, the team found no evidence that natural processes of dispersal, migration, or gene flow have been significantly altered in a way that would pose a demographic risk.

The team also highlighted that the behavioral and ecological plasticity of this DPS likely lessens its extinction risk. Tope sharks in the NE Atlantic exhibit diverse migratory behaviors, including “partial migration,” where some females undertake long-distance migrations exceeding 2,000 km, while others remain within a relatively localized home range. Tope sharks in this DPS also utilize a wide variety of habitats, ranging from shallow coastal waters and continental shelves to deeper oceanic waters and insular areas. The diversity in habitat use and migratory behaviors likely provides the DPS with some resilience against catastrophic events that could affect a specific area or habitat type.

The team acknowledged the decline of tope sharks in the Mediterranean basin and how this distinct environment within the DPS’s range could theoretically select for specific behavioral or life history adaptations. A significant loss of tope sharks with fidelity to the Mediterranean could constitute a loss of diversity if those individuals possessed unique local adaptations. However, there are currently no data indicating that tope sharks that occur in the Mediterranean are demographically, morphologically, or genetically distinct from those in the Atlantic Ocean. Thus, while the decline in abundance in the Mediterranean is a concern, the team found no evidence that this decline represents a critical loss of genetic or life-history variation that would threaten the persistence of the NE Atlantic DPS across its entire range.

Spatial Structure/Connectivity

Spatial distribution for tope sharks in this DPS was assigned a rating of Very Low, as this demographic factor was not viewed by any team members as contributing significantly to risk of extinction for this DPS, either by itself or in combination with other factors. Tope sharks remain broadly distributed across the region, and range from the waters off Iceland, the Faroe Islands, and southern Norway in the north, southward through the British Isles and North Sea, along the coasts of France, Spain, and Portugal, into the Mediterranean Sea, and as far south as Northwest Africa (e.g., Cabo Verde and Senegal). Within their range, tope sharks in this DPS use shallow coastal bays and estuaries as well as deep offshore waters

along the continental slope. There are no known physical barriers to dispersal within this region that would prevent the species from accessing available habitat or moving between areas in response to environmental or anthropogenic stressors.

The available scientific data—albeit somewhat limited—support the characterization of the NE Atlantic DPS as a single, large, and well-mixed population, and tagging studies have confirmed a high level of connectivity throughout the region. While some individuals exhibit localized movements (remaining within <500 km of release sites), others undertake extensive, long-distance migrations spanning 1,800 to 3,500 km. The migratory behaviors coupled with the available genetic data suggest that localized depletions or habitat degradation in specific sub-regions are unlikely to threaten the persistence of the DPS as a whole.

The team acknowledged that future loss of suitable habitat due to changing ocean conditions is likely greater within the Mediterranean and along the Atlantic coast of northeastern Africa (see Figure 4–1 in Status Review Report); however, these habitat losses are projected to be more than offset by the future creation of suitable habitat in the northern part of the range. The lack of genetic structure between the Mediterranean and broader NE Atlantic samples coupled with the species’ migratory behavior suggest that the Mediterranean or northeastern Africa portions of the DPS are not isolated, but rather part of the larger, interconnected DPS. Thus, while some individuals may exhibit a level of fidelity to these portions of the range, the risk of declining abundance and/or loss of habitat suitability in these areas likely does not place the DPS as a whole at greater risk of extinction in the foreseeable future.

Extinction Risk Summary: NE Atlantic DPS

Based on their review of best available data regarding threats and demographic risks to this DPS, the team concluded that the NE Atlantic DPS is currently at a Low Risk of extinction. Confidence in this conclusion was moderate, as the majority of the team’s likelihood points (60 percent) were allocated to the low risk category, and the remainder of the points (40 percent) were allocated to the Moderate Risk category. The absence of more reliable, historical and long-term abundance data were noted as preventing a higher level of confidence in this rating.

Overutilization for commercial purposes was identified as the most significant threat to tope sharks in the NE Atlantic DPS. Although tope sharks have had relatively limited commercial importance in this region, they were historically taken in larger volumes relative to recent decades for both domestic consumption and trade, and available evidence suggests the population has undergone historical declines in abundance, particularly in the Mediterranean. Tope sharks continue to be taken as bycatch in a variety of commercial fisheries in this region, including trawl, gillnet, and longline operations. However, based on ICES and FAO data, in the years since 2010, reported tope shark landings have remained low and are an order of magnitude lower relative to reported commercial landings from the 1970s and 1980s (ICES 2023a). Reported landings in the most recent decades have also remained stable and do not indicate any clear upwards or downwards trends. The documented decline in landings relative to the 1970s and 1980s can be attributed, at least partially, to various management measures and steadily increased protections for tope sharks throughout the region, including the prohibitions on shark finning throughout the EU and Mediterranean, mandates for release of incidentally caught tope sharks, and restrictions on fishing for and landing tope sharks in specific areas or by certain gear types (e.g., 2008 Tope Order, GFCM/36/2012/3, Regulation (EU) 605/2013, Regulation (EU) 2015/104). Some concerns remain regarding ongoing fisheries-related mortality of tope sharks and effectiveness of existing management measures; however, the impact of ongoing fishing activity on the status of this DPS is poorly understood given data limitations and the lack of any stock assessment.

While the available fisheries-independent data also suffer from sampling flaws and other limitations, when considered together, these data do not indicate that this DPS is undergoing ongoing decline. Data from the individual systematic surveys of the North Sea, Celtic Seas, English Channel, and Biscay Bay indicate that the NE Atlantic tope shark population has not changed significantly over the respective data collection periods, which range from 1991 to 2022. Systematic surveys around the Azores also provide no evidence of a decline in abundance of tope sharks, which are considered relatively frequent in this area (Santos *et al.* 2020), and a preliminary mark-recapture study

suggests a stable population around Ireland (ICES 2020). Based on available Gruppo Nazionale Risorse Demersali (GRUND) trawl survey data for 1972–2004, MEDITS trawl survey data for 1994–2015, and other trawl surveys conducted during 1948–1995, tope sharks appear to have a low frequency of occurrence within the Mediterranean Sea (Ferretti *et al.* 2005, Ferretti *et al.* (2013, Ramirez-Amaro *et al.* 2020), which contrasts with available historical, qualitative descriptions of tope sharks being common or regularly observed within the western Mediterranean (e.g., Capapé *et al.* 2005, Ragonese *et al.* 2013). The low frequency of tope sharks in the available survey data, coupled with likely poor catchability of tope sharks in the trawl surveys, and limited landings data, greatly increase the level of uncertainty regarding both the historical and current abundance of tope sharks within the Mediterranean. While the most recent IUCN assessment (*i.e.*, Walker *et al.* 2020) does project a 76.6 percent decline in tope sharks in the NE Atlantic over a 79-year period, as noted previously, this particular forecast has a high level of associated uncertainty (large 95 percent CIs), such that population growth cannot be ruled out, and it does not capture the most recent years of survey data, which show a slight increase in tope sharks abundance and biomass (ICES 2023a).

The team considered how the life history strategy of this species increases its vulnerability to overutilization relative to many other shark species; however, they found no clear evidence of other demographic risks to this DPS. Based on the limited, available data, they found no indication of declines in productivity or diversity or evidence that the species is at such a low abundance that compensatory processes are at work. Data are also limited with respect to habitat degradation and loss, but based on habitat suitability modelling, they concluded that changes in environmental conditions are not likely to limit the availability of suitable habitat for this DPS over the foreseeable future. There is also no evidence that disease, predation, or other manmade factors are contributing to the NE Atlantic DPS's risk of extinction.

Overall, the team found that this DPS is at fairly low risk of extinction over the foreseeable future. This conclusion was based on: survey data from the core of the range showing relatively stable abundance over recent decades; the lack of clear evidence of ongoing population decline; improved regulatory frameworks that, while imperfect, have reduced retention and landings; and

lack of a clear indication of a decline in the area of suitable habitat within the range. Some likelihood points were attributed to “Moderate” risk as result of the significant uncertainty regarding the impact of historical fishing, particularly within the Mediterranean, and the continued pressure from ongoing fisheries-related mortality in parts of the range.

Significant Portion of Its Range Analysis: NE Atlantic DPS

Because the team concluded that this DPS is at low to possibly moderate risk of extinction throughout its range, they also considered whether this DPS is at a moderate or high level of extinction risk within an SPR. In order to conduct this analysis, and as explained previously, the team first identified portions of the DPS's range where the species may be at elevated extinction risk and where the members of the species in that portion may be biologically significant to the long-term viability of the DPS. Based on their analysis and in light of the identified threats to this DPS—particularly overutilization for commercial purposes—they considered two potential portions of the range: the East Central Atlantic (FAO Fishing Area 34) and the Mediterranean Sea.

The high level of foreign industrial fishing activity in the East Central Atlantic (*i.e.*, FAO Fishing Area 34), coupled with the relatively weaker management measures and limited capacity for enforcement, were collectively taken as an indication that threats to tope sharks may be relatively greater within this portion of the range. The team also viewed the available evidence indicating that habitat suitability in this southernmost part of the DPS's range may potentially contract under changes in environmental conditions as an additional indication that threats may be elevated in this portion of the DPS's range. There are, however, extremely limited data with respect to historical or current exploitation levels and tope shark abundance to inform a review of the status of tope sharks within this portion of the range specifically. The team was unable to find any assessments of abundance or trends within this FAO Area, and the limited FAO landings data, which are available for three countries (Morocco, Portugal, and Spain) do not indicate any clear trends in tope shark abundance. In addition, observed migratory movements of adult tope sharks from the coasts of Wales, Ireland, and England to Morocco and the Canary Islands (e.g., Holden and Horrod 1979, Fitzmaurice *et al.* 2003)

and the lack of any stock delineation or genetic evidence of population structuring (e.g., Thorburn 2015), frustrated their ability to draw biologically meaningful distinctions between the status of tope sharks in this portion of the range versus the status of tope sharks elsewhere in the region. Essentially, despite any differences in threats to tope sharks in this portion of the range, the seasonal migratory behavior of adult male and female tope sharks and resulting connectivity of tope sharks in this particular area to other parts of the NE Atlantic prevented any clear distinction with respect to the status of tope sharks in this particular area versus their status throughout the range. Overall, given the extremely limited data, the team found they did not have a sufficient basis to conclude that tope sharks in the East Central Atlantic portion of the range are at moderate or high risk of extinction, and more importantly, that their status is even distinct from tope sharks elsewhere in the DPS's range. Given this conclusion, they did not further analyze this portion of the range to determine whether it qualifies as a “significant portion.”

The team also identified the Mediterranean Sea as a portion of the NE Atlantic DPS's range warranting further analysis given the evidence of historical declines, the projected loss of suitable habitat over the foreseeable future, and some limited evidence of unique characteristics of tope sharks in this part of range. To conduct this SPR analysis, they first addressed the question of whether tope sharks within the Mediterranean Sea are at moderate or high risk of extinction. They considered the available information suggesting that tope sharks were once much more common around the Balearic Islands, southern Spain, Algeria, Tunisia, and possibly Italy (e.g., Capapé *et al.* 2005, Ferretti *et al.* (2005, Grau *et al.* 2015); the data from the GRUND and MEDITS scientific trawl surveys indicating that tope sharks were absent or only infrequently captured in recent decades; and the review by Serena *et al.* (2020), which found that tope sharks are now rare throughout all regions of the Mediterranean. Management protections for tope sharks have increased in this part of the range due, in large part, to their listing in 2014 on Annex II of the SPA/BD Protocol and the resulting prohibition on landing, retaining, and selling tope sharks under the 2012 GFCM Recommendation (GFCM/36/2012/3); and these increased regulatory protections may have contributed to the decline in tope sharks

bycatch over the last decade. However, multiple Mediterranean countries, including Egypt, Syria, Libya, have not adopted clear shark management plans or other national shark protections, and there is evidence of illegal shark fishing practices and fraudulent trade within the Mediterranean (Barbuto *et al.* 2010, Anesi and Rubino 2020). In addition, a substantial loss of suitable habitat within the Mediterranean was projected to occur due to changes in ocean conditions. Thus, although there are concerns and a high degree of uncertainty associated with the available data, the team concluded that the weight of the evidence indicates tope sharks in this portion of the DPS's range may be at moderate or potentially even high risk of extinction.

Given that conclusion, the team also considered whether tope sharks within the Mediterranean Sea could be considered a "significant portion" of the DPS's range. To address this question, they evaluated whether the available data indicate tope sharks within this portion of the range have historically or currently contribute to the long-term viability of the DPS. In conducting this part of the analysis, they considered the contribution of Mediterranean tope sharks to the DPS's viability in terms of its contribution to the DPS's abundance, connectivity, productivity, and diversity.

As discussed in the Status Review Report, the available quantitative and qualitative data suggest that, historically, tope sharks were likely much more common within the Mediterranean Sea. The available tagging data also indicate that some adult tope sharks, particularly adult females, will undertake long-distance migrations from elsewhere in the NE Atlantic to areas within the Mediterranean, including to Spain, Algeria, and Sicily (Little 1995, Fitzmaurice *et al.* 2003, Colloca *et al.* 2019, Thorburn *et al.* 2019). The team could not, however, determine the extent to which tope sharks within or originating from the Mediterranean "portion" contributed to the DPS's overall abundance, nor could they find any tagging or movement data that would provide insight into movements of tope sharks from the Mediterranean Sea to the remainder of the range. Late-term pregnant females have been observed in the Mediterranean and pupping may occur there, but evidence to confirm this is lacking (Capapé *et al.* 2005). The lack of pupping, tagging, and movement data also prevented the team from evaluating the level of philopatry of tope sharks to the Mediterranean Sea.

Thorburn's (2015) genetic analysis of tope shark samples collected from 11 locations within the NE Atlantic region, including the Mediterranean (Algeria and Balearic Islands), indicated low and homogenous levels of nDNA and mtDNA diversity across the region. Thorburn (2015) found no evidence of population structuring between the Mediterranean and other parts of the NE Atlantic, further suggesting that tope sharks in the Mediterranean do not have a measurable influence on the overall genetic diversity or fitness of the larger DPS. These authors did, however, caution that some genotypes in the Mediterranean were different from the rest of the NE Atlantic and that schooling behaviors and migratory ability of tope sharks could have masked potential differentiation due to heterogeneity within the samples; therefore, they recommended that additional sampling and analysis be conducted to more fully evaluate genetic structure in this region.

Munoz-Chapuli (1984) had previously hypothesized that tope sharks within the NE Atlantic region consist of subpopulations and, in support of this hypothesis, noted that tope sharks appear to reach larger total lengths in the more southern portions of the NE Atlantic (150–170 cm TL in Alboran Sea versus 150 cm TL in British waters). However, a growth model for tope sharks in the NE Atlantic estimates a maximum total length of about 201 cm for females and 177 cm for males (Dureil and Worm 2015), both of which are larger than lengths observed by Munoz-Chapuli (1984). Colloca *et al.* (2019) also reported the tagging of a 175-cm-long adult female off the coast of Scotland in 2009 and its subsequent recapture 5.4 years later in the Mediterranean, at which time it measured 212 cm. This information highlights both the connectivity of tope sharks across the region and the possibility that some of the available data may be confounded by the fact that larger adults undergo longer migrations. Other phenotypic metrics reported for tope sharks in the Mediterranean, including size at birth, litter size, and oocyte size, also do not appear to differ from other geographic locations (Capapé *et al.* 2005), suggesting that tope sharks within the Mediterranean do not bear unique traits. Given the results of Thorburn's (2015) study indicating homogenous gene-flow throughout the region and the lack of any additional lines of evidence, the team concluded that there is insufficient data to support Munoz-Chapuli's (1984) hypothesis.

Overall, the relationship between tope sharks occurring in the Mediterranean

Sea portion versus the rest of the NE Atlantic region remains poorly understood. The available abundance, movement, and genetic data do not provide sufficient evidence to conclude that tope sharks originating in the Mediterranean Sea have historically served or currently serve as an important source population for the remainder of the DPS and its overall viability. The available genetic and phenotypic evidence are also too weak to indicate that tope sharks in the Mediterranean have unique genetic characteristics or ecological traits such that they have been or are currently important to the long-term viability of the DPS. Therefore, based on the available data, the team concluded that tope sharks in the Mediterranean Sea do not constitute a significant portion of the DPS's range.

Listing Determination: NE Atlantic DPS

Based on our review of the best available scientific and commercial data and the extinction risk assessment, as provided in the Status Review Report and summarized herein, we have determined this DPS is not in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range. We considered efforts being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species (see Conservation Efforts). These conservation efforts do not change the conclusion we would otherwise have reached regarding the DPS's status. Therefore, we find that the NE Atlantic DPS does not meet the definition of a threatened or endangered species, and thus does not warrant listing under ESA.

Summary and Analysis of Section 4(a)(1) Factors for the So. Africa DPS

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Based on an evaluation of the best available information, the team determined that the threat of habitat modification from changes in environmental conditions poses a Low/Moderate risk to the So. Africa DPS. (See Summary of Section 4(a)(1) Factors Affecting All DPSs, above.)

In contrast to other regions where tope shark habitat is predicted to expand, the team's analysis projects a 6.4 percent (21,748 sq. km) net decrease of suitable habitat area for the So. Africa DPS, driven by the projected loss of suitable habitat in the northern portion of the region and the inability for the population to shift its distribution

poleward (as the continent does not extend further south). While this decrease in suitable habitat area over the foreseeable future is not likely to significantly drive the DPS towards extinction on its own, it may exacerbate other threats or demographic risks. Additionally, as noted previously, there is concern that the habitat suitability analysis does not capture more nuanced and potentially more severe impacts of changing ocean conditions in coastal pupping and nursery grounds. These shallow nearshore habitats, which are essential for juvenile development, are also particularly vulnerable to extreme temperature fluctuations and terrestrial runoff. However, the team was not aware of any research that has specifically evaluated these potential impacts on tope sharks in the region; thus, the team was not able to evaluate their likelihood or severity with any certainty.

The team also considered the sensitivity analysis conducted by Ortega-Cisneros *et al.* 2018, which rated tope sharks among the most sensitive species in the southern Benguela upwelling region to ocean warming and associated environmental impacts. The study concluded that tope sharks “likely have a low capacity to respond to effects of climate change,” in part due to potential impacts on the timing of the species’ seasonal movements and reproductive behaviors.

Ultimately, the mixed Low/Moderate score reflects a balance between the relatively low projected physical loss of habitat and the potentially higher, though uncertain, biological vulnerability of the species. The scope of the threat is generally widespread and expected to persist over the foreseeable future; however, the severity of the threat is difficult to quantify. The team concluded that while the projected habitat loss alone represents a low risk, the combination of range contraction with potentially acute impacts from changing environmental conditions in critical nursery areas, as well as the species’ low expected resilience to ocean warming could contribute significantly to the species’ extinction risk, particularly when acting synergistically with other threats or demographic risks.

The team assessed the best available information on the impacts of coastal development and pollution on tope sharks throughout their range in Summary of Section 4(a)(1) Factors Affecting All DPSs, and no further information specific to this DPS is available. The team acknowledged that impacts to sensitive coastal habitats (and therefore early life stages) could, in

combination with other factors, contribute to the extinction risk of the So. Africa DPS; however, there is no evidence that habitat destruction from coastal development and pollution is contributing significantly by itself to the extinction risk of the DPS now or in the foreseeable future. Therefore, the threat was rated as Very Low/Low.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The team determined that overutilization poses a Moderate/High risk to the So. Africa DPS. Although this DPS ranges from Southern Angola to South Africa, very little data regarding shark landings and no species-specific data regarding tope sharks are available from Angola and Namibia. Thus, this discussion focuses on fisheries-related impacts within South Africa. Commercial-scale fishing for tope sharks in South Africa began in the 1930s, and the species continues to be targeted and taken as bycatch in commercial and recreational fisheries today (Walker 1999; McCord 2005; da Silva *et al.* 2015). Tope sharks are currently one of the five most commercially valuable shark species harvested in South African fisheries (Winker *et al.* 2019). Tope sharks are caught most frequently in the demersal shark longline fishery, the commercial linefishery, and the offshore and inshore demersal trawl fisheries (da Silva *et al.* 2015). They are less frequently caught in the pelagic longline fishery, the recreational linefishery, the beach-seine net fishery, the gillnet fishery, and the small-pelagic and midwater trawl fisheries (da Silva *et al.* 2015; Department of Forestry, Fisheries and the Environment (DFFE) 2023).

Historically, tope sharks experienced fluctuating and often heavy fishing pressure in South Africa. During World War II, they were heavily targeted although no landings were recorded prior to 1948 (Freer 1992). Recorded landings in 1948 totaled 250,000 individual tope sharks (roughly estimated at 3,750 mt live weight), and a catch limit of 250,000 sharks was set to protect the fishery (Freer 1992, Walker 1999). Though demand for liver oil declined in the 1950s due to development of synthetic vitamin A, demand for dried and frozen shark meat subsequently increased, leading to catches of approximately 2,000 mt in 1967 (Freer 1992, Walker 1999). Demand temporarily declined again due to concerns about high mercury levels; however, the export market for shark meat rebounded several years later and

sustained annual landings above 1,000 mt into the 1990s (Walker 1999).

Today, the species continues to be caught across multiple fisheries, including as a target species in the demersal shark longline fishery. Average annual catch in South Africa has decreased substantially to less than 400 mt since 2011 and less than 200 mt since 2017 (DFFE 2023). The commercial linefishery is responsible for the largest proportion of the catch, accounting for an average of 63 percent of landings between 2010 and 2023 (DFFE 2025).

The team’s evaluation relied heavily on the findings of the 2019 stock assessment for tope sharks (Winker *et al.* 2019). All four modeling scenarios used by Winker *et al.* (2019) indicated that fishing pressure (F/F_{MSY}) increased dramatically in 1952 to its peak in the early 1960s ($F/F_{MSY} > 4$). The intense fishing pressure during the 1960s resulted in tope shark biomass falling below B_{MSY} in the mid-1960s, which had not been reversed by the time of this assessment (Winker *et al.* 2019). Winker *et al.* 2019 estimated that tope shark abundance in South Africa declined by an average of 2.7 percent per year between 1991 and 2016, resulting in a total decline of 50.9 percent over that period. The assessment concludes with a greater than 99 percent probability that the stock was overfished and subject to overfishing, estimating that population biomass had declined to just 10–14 percent of its carrying capacity (Winker *et al.* 2019). Projections from this assessment indicated that if 2016 catch levels (~329 mt) were maintained, commercial extinction could occur by 2055 (Winker *et al.* 2019). To reverse this decline and allow for even a slow population rebound, the assessment indicated that the annual harvest rate must be reduced to less than 100 mt.

The 2024 DFFE stock assessment of the South African tope shark—referenced in the 2025 “Status of South African Marine Fishery Resources” report (DFFE 2025)—indicated that the tope shark is no longer subject to overfishing, but that the species remains overexploited with an 87 percent loss of historical biomass since the 1920s. The 2024 DFFE stock assessment is not publicly available, so the team was not able to compare the data and methods with those of Winker *et al.* (2019). The 2025 “Status of South African Marine Fishery Resources” report (DFFE 2025) estimates that average annual landings of tope sharks during 2010–2012 ranged from 101–400 mt (dressed weight) and, during 2013–2023, ranged from 101–200 mt (dressed weight) across all South

African fisheries. This report (DFFE 2025) also states that the most recent total catch assessment was 96 mt for tope sharks; it is unclear which year this represents, so we assume it is from 2021, the last year of the 2024 stock assessment time-series. Notably, both Winker *et al.* (2019) and DFFE's 2025 report recommended that annual mortality be maintained under 100 mt per year to increase biomass to sustainable levels. Even with annual landings below 100 mt, however, Winker *et al.* (2019) cautioned that the rebound would be extremely slow.

Regarding the projection of Winker *et al.* (2019) that commercial extinction could occur by 2055 at recent catch levels, the team discussed the distinction between "commercial extinction" and biological extinction. Commercial extinction refers to the population level at which a commercial fishery is no longer financially sustainable. It is very difficult to measure in absolute terms given the various socioeconomic factors at play, but by definition, commercial extinction of the fishery stock would occur before biological extinction of the species. Extrapolating from the projection of commercial extinction (Winker *et al.* 2019), biological extinction would occur at some time after 2055. Moreover, recent reports indicate that average annual catches have decreased, falling to less than 200 mt from 2017 to 2019, and in 2021, dipping below the 100 mt recommended limit per the DFFE (2025). This has coincided with a similar reduction in fishing effort in the targeted demersal shark longline fishery. Only one vessel reportedly held a commercial permit as of October 2025, down from four in 2021. While illegal gillnetting remains a concern in some coastal areas, the recent reductions in both fishing effort and the reported landings lends support to a Moderate risk rating for this threat.

Ultimately, the mixed Moderate/High score reflects the finding that while historical overutilization has driven population biomass to below sustainable levels, recent trends in catch reduction offer some potential for mitigation. Even as landings have declined recently, South Africa's DFFE (2025) stated that urgent steps were needed to maintain fishing mortality below 100 mt annually.

Given the species' low productivity and the fact that the population remains at a fraction of its unexploited biomass, overutilization continues to contribute significantly to the species' extinction risk in the foreseeable future. This threat is discussed in more detail in section 4.3.2 of the Status Review Report.

Disease and Predation

The team assessed the best available information on disease and predation on the tope shark throughout its range in Summary of Section 4(a)(1) Factors Affecting All DPSs, and no further information specific to the So. Africa DPS is available. The team assigned a score of Very Low for the threat of disease or predation, reflecting overall agreement that, based on the best available information, neither disease nor predation is likely to contribute significantly to the extinction risk of the So. Africa DPS.

Inadequacy of Existing Regulatory Mechanisms

Based on an evaluation of the best available information, the team determined that the inadequacy of existing regulatory mechanisms poses a Moderate risk to the So. Africa DPS. The scope of this threat is widespread as the existing regulations apply to the fisheries that interact with tope sharks across the species' core distribution off South Africa. The team was not able to find any information about existing fisheries or regulatory mechanisms for tope sharks outside of South Africa.

South Africa's DFFE is the agency charged with managing, protecting and conserving South Africa's environment and natural resources. South Africa issued and adopted the first NPOA-Sharks in 2013. After a panel of shark experts and managers assessed the NPOA in response to public concerns about coastal shark populations, the DFFE approved an updated version of the document in 2022. Since then, several management measures have been implemented. In the demersal longline fishery and the commercial linefishery, all retained elasmobranchs must fall into the slot limit of 70–130 cm. Safe handling and release protocols and data collection requirements also apply to all sharks that are caught and released. In the pelagic longline fishery, regulations no longer allow the use of wire leaders and require that sharks be landed with fins naturally attached or partially attached and tethered (DFFE 2022, 2023). In both the pelagic longline and demersal shark longline fisheries, no species that are listed in CITES Appendix II may be landed; however, as previously mentioned, the recent listing of tope sharks on Appendix II of CITES has yet to go into effect.

Several sources have highlighted an urgent need to strengthen regulatory mechanisms in South Africa to improve the outlook for the tope shark population. As discussed above with respect to the threat of overutilization,

a 2019 stock assessment determined that annual harvest needed to be reduced to less than 100 mt to allow for rebuilding, and in 2023, South Africa's DFFE stated that urgent steps needed to be taken to reduce fishing mortality for tope sharks. To the team's knowledge, South Africa has not developed a formal rebuilding plan, nor has it implemented a TAC for tope sharks. Management of the demersal shark longline fishery instead relies on effort controls (*i.e.*, limiting the number of permits issued), which are generally less protective than catch limits, because they do not cap the total number (or biomass) of animals taken—even with limited vessels, efficiency increases or shifts in targeting can lead to unsustainable mortality levels. As discussed above, only one vessel held a commercial permit in this fishery as of October 2025. There do not appear to be any catch or effort restrictions for tope sharks in other South African fisheries, such as the commercial linefishery (which is estimated to account for over 60 percent of tope shark landings in South Africa) or the inshore demersal trawl fishery. DFFE (2023) states that because tope sharks are caught across multiple fisheries, reducing catches is more difficult than species that are mainly targeted by one fishery.

Recent reporting also highlights several challenges that South Africa's DFFE faces regarding the enforcement of existing regulatory mechanisms (<https://news.mongabay.com/2025/10/south-african-sharks-threatened-by-fisheries-weak-enforcement/>). In particular, resource constraints have prevented the agency from deploying sufficient on-board observers to satisfy regulatory requirements, and while electronic monitoring (EM) systems are being tested, the software is not well-suited to distinguish between species, limiting its utility for accurately monitoring discards. Moreover, documented incidents of regulatory non-compliance, such as vessels fishing for sharks within marine protected areas (MPAs) and violations of on-board processing restrictions (*e.g.*, fins-attached requirements) further demonstrate ongoing deficiencies in the existing regulatory regime. The 2025 DFFE report also highlighted a growing issue of illegal gillnetting throughout coastal South Africa, which is taking large numbers of sharks due to increased access to affordable nets.

Overall, the team assigned a Moderate rating to this threat, reflecting that while there are clear, ongoing deficiencies in the implementation and enforcement of tope shark management measures in South Africa, recent developments (such as the reduction of permits in the

demersal shark longline fishery) and an increasing focus by South Africa's DFFE on tope shark conservation may be contributing to the ongoing reduction in landings since 2010. In a 2025 report, DFFE indicated that total landings in 2021 had declined to 96 mt, below the recommended level of 100 mt. The agency concluded that the stock is therefore no longer subject to overfishing, but that it is still in an overfished state, with an estimated 87 percent loss of historical biomass since the 1920s. Considering the scale of this historical population decline, driven in part by an absence of effective regulatory mechanisms, and the ongoing deficiencies in compliance and enforcement, the team finds it likely that this threat contributes significantly to the species' risk of extinction over the foreseeable future, but does not on its own constitute a danger of extinction in the near future.

Other Natural or Manmade Factors Affecting Its Continued Existence

The team unanimously concluded that the contribution of this factor to the extinction risk of the species across its range could not be determined (see Summary of Section 4(a)(1) Factors Affecting All DPSs).

Demographic Risk Assessment for the So. Africa DPS

Abundance

Based on the best available information, the team assigned a score of Moderate to the Abundance demographic risk factor for the So. Africa DPS. They relied primarily on the 2019 stock assessment (Winker *et al.* 2019), which represents the most comprehensive analysis of tope shark abundance and population trends in the region. The results of this assessment indicate that the population has experienced unsustainable fishing pressure since at least the 1950s, reducing the population biomass from approximately 93–94 percent of its carrying capacity in 1952 to just 10–14 percent of carrying capacity in 2016. Between 1991 and 2016, tope shark abundance is estimated to have declined at an average rate of 2.7 percent per year, resulting in a total decline of 50.9 percent over that period.

The 2019 stock assessment model used JARA to project a total population decline of 85.1 percent over three generation lengths and potential commercial extinction by 2055 if catch levels from 2016 (~329 mt per year) were to continue. Separately, the most recent IUCN Red List Assessment estimated a 3.1 percent annual

reduction in population, consistent with an estimated median reduction of 91.4 percent over three generation lengths (79 years, 1952–2029; Walker *et al.* 2020). The IUCN projections were based on the data cited to “H. Winker pers. comm. 21/01/2020” spanning 65 years (1952–2016); although, it appears that predictions from the Winker *et al.* (2019) stock assessment model were used as input data for the IUCN analysis (see Winker *et al.* 2019, Figure 7), rather than raw CPUE data, which complicates error estimation and created concerns about the robustness of the IUCN model. The population declines indicated by both JARA analyses are similar; however, the team found the results from Winker *et al.* (2019) to be the best available based on the clarity of model inputs and data on which the projections were based.

The team considered several caveats that contribute to uncertainty in these projections. First, the confidence interval in the projections from Winker *et al.* (2019) is very wide and includes a range of possible outcomes, from continued decline to a stable or even slightly increasing population trend. Additionally, both population trends described above are derived from a single research trawl survey, which likely suffers from low catchability and therefore may not accurately capture an accurate picture of population abundance. The models are also reliant on certain assumptions that may have influenced the results of the analysis to some degree. We also note the importance of distinguishing between “commercial extinction” and biological extinction, as described in relation to the threat of overutilization above. Thus, while there is high confidence that abundance has declined significantly since the 1950s and remains in a severely depleted state, there is substantial uncertainty regarding the future population outlook, particularly considering that recent harvest has been considerably lower than 2016 levels; at the most recent total catch assessment (96 mt in 2021), the projected trajectory is stable (DFFE 2025).

As mentioned above, an updated stock assessment conducted by South Africa's DFFE in 2024 concluded that the stock is no longer subject to overfishing based on the total landings reported in 2021 falling within the recommended level of 100 mt, but that it remains in an overfished state (DFFE 2025). Biomass in 2021 was estimated at 13 percent of the pristine stock (DFFE 2025). While the results of the stock assessment are reported, we were not

able to obtain or review the stock assessment document itself.

Team members noted that population declines indicated by the above analyses are also consistent with findings from a separate long-term analysis of chondrichthyan species in False Bay, which showed that, despite being the most commonly recorded species from 1969 to 2011, *G. galeus* was the only species to experience a consistent and statistically significant decline in abundance across multiple data sources (Best *et al.* 2013).

Overall, the Moderate score reflects the significant depletion of the population and the consistent evidence of long-term decline due to unsustainable fishing pressure since the 1950s. While the depleted state of the population likely contributes significantly to the long-term risk of extinction, the most recent evidence from the South African government indicates that fishing pressure is currently at a sustainable level and the trajectory is stable. Therefore, there is not sufficient evidence to suggest that current and future abundance projections constitute a danger of extinction in the near future.

Productivity

As discussed previously, the tope shark's low productivity limits its capacity to rebound from depletion. While the team concluded that this trait does not by itself contribute significantly to long-term or near future risk of extinction, there is some concern that this demographic factor may, in combination with other threats and/or demographic risk factors, contribute to long-term extinction risk of the DPS. Beyond the inherent demographic vulnerability of the species, the team found no evidence that population growth is currently below the replacement rate or has been compromised to a level that threatens the persistence of the So. Africa DPS (e.g., via compensatory processes). Consequently, this demographic risk factor was assigned a Low rating.

Diversity

The team assigned this demographic risk factor a rating of Very Low, reflecting their conclusion that this factor is unlikely to contribute significantly to the extinction risk for the So. Africa DPS, either by itself or in combination with other factors. Based on the best available information, they found no evidence that the DPS is at risk due to a substantial change or loss of variation in life-history traits, population demography, morphology, behavior, or genetic characteristics.

Regarding genetic structure and connectivity, the team noted that tope sharks throughout this region are generally considered to comprise a single, large population with local-scale population structuring across the South Africa coast, especially in the south-east (Bitalo *et al.* 2015; Bester-van der Merwe *et al.* 2017; Maduna *et al.* 2017). In an analysis of 53 mtDNA ND2 gene sequences from six sampling sites across the coast of South Africa, a total of seven haplotypes were generated, with very low levels of haplotype ($h = 0.216 \pm 0.076$) and nucleotide ($\pi = 0.001 \pm 0.000$) diversity overall (Bester-van der Merwe *et al.* 2017). Authors noted that this overall low haplotypic diversity in combination with a single haplotype shared by most of the individuals is similar to what was found for other coastal sharks assessed along the South African coastline. We found no evidence that natural processes of dispersal, migration, or gene flow have been significantly altered in a way that would pose a demographic risk.

The team also highlighted the species' behavioral and ecological plasticity as a factor reducing extinction risk. Tope sharks exhibit diverse migratory behaviors, including "partial migration," where some females undertake long-distance migrations exceeding 2,000 km, while others remain within a relatively localized home range. Furthermore, the species utilizes a wide variety of habitats, ranging from shallow coastal waters and continental shelves to oceanic insular areas and mesopelagic depths. The team reasoned that this diversity in habitat use and migratory strategy may provide the DPS with resilience against catastrophic events that might affect a specific local area or habitat type.

Overall, there is no evidence that the species is at risk due to a substantial change or loss of variation in life-history traits, population demography, morphology, behavior, or genetic characteristics. Therefore, diversity is not considered a significant contributor to the extinction risk of this DPS.

Spatial Structure/Connectivity

Spatial distribution for tope sharks in this DPS was assigned a rating of Very Low/Low. While there was agreement that this demographic factor is not likely to contribute significantly to extinction risk for the DPS by itself, there was concern from one team member that spatial distribution may contribute to the long-term extinction risk of this DPS in combination with other stressors given it is restricted from expanding further poleward.

Within their range, tope sharks in this DPS use shallow coastal bays and estuaries as well as deep offshore waters along the continental slope. Several studies have investigated whether dispersal and gene flow are limited by the merging of the cold, northward-flowing Benguela Current on the west coast of Africa and the warm, southward-flowing Agulhas Current on the southeast coast of Africa. Generally, available data indicate moderate to high rates of gene flow with some local population structuring across the South Africa coast (Bitalo *et al.* 2015; Bester-van der Merwe *et al.* 2017; Maduna *et al.* 2017). Bester-van der Merwe *et al.* (2017) found no significant differentiation indicated by mtDNA among six locations on the South African coast ($\Phi_{ST} = 0.013$, $p = 0.255$) or between the Atlantic and Indian Ocean areas of the South African coast ($\Phi_{ST} = -0.018$, $p = 0.752$). Analysis of microsatellite data indicated weak but significant differentiation among sample locations ($F_{ST} = 0.025$, $p < 0.05$), and no significant differentiation between the Atlantic and Indian Ocean areas ($F_{CT} = 0.000$, $p = 0.273$) (Bester-van der Merwe *et al.* 2017). While the authors hypothesize that local structuring may be due to a combination of habitat preference, thermal fronts that generate cold water pockets, and upwelling currents, there is not information to suggest that currents or any other physical barriers prevent the species from accessing available habitat or moving between areas in the So. Africa region in response to environmental or anthropogenic stressors. The available scientific data support the characterization of the DPS as a single population with moderate to high gene flow.

Based on observed seasonal variation in the sex ratio of mature male and female sharks, the tope sharks in this region appear to undergo seasonal migrations similar to tope sharks of other regions (Freer 1992). Preliminary results from acoustic tagging efforts in South Africa suggest seasonal residency at specific sites along the southern coast of South Africa, with inshore migration during the cooler months (May to September) and offshore migration in warmer months, based on a sample of 6 individuals (SASC unpublished data 2025). The suggested migratory behaviors coupled with the available genetic data suggest that localized depletions or habitat degradation in specific sub-regions are unlikely to threaten the persistence of the DPS as a whole.

Future loss of suitable habitat is projected in the northern portion of the

DPS's range due to changing ocean conditions, and the population will be unable to shift its distribution poleward as the continent does not extend further south. Thus, over the foreseeable future, the spatial distribution of the species may place it at greater risk of extinction in combination with projected habitat loss.

Extinction Risk Summary: So. Africa DPS

Based on the team's consideration of the best available data regarding threats and demographic risks to the So. Africa DPS, the team concluded that it is currently at a Moderate Risk of extinction. The team's confidence in this conclusion was moderately high, as the majority of likelihood points (19/30) were allocated to the moderate risk category, 7 points were allocated to the High Risk Category, and the remainder of the points (4/30) were all allocated to the Low Risk category.

Overutilization was identified as the most significant threat to the So. Africa DPS of tope sharks. The species was historically targeted and landed as bycatch for trade and consumption, and while fishing intensity fluctuated from the 1930s through the 1990s, very high fishing pressure is evident during certain periods (*e.g.*, landings reached 3,750 mt in 1948). Currently, tope sharks continue to be caught as a target species in the demersal shark longline fishery, and as bycatch in several other fisheries. Annual catch has decreased to less than 400 mt since 2010, and most recently, DFFE reported landings of 96 mt in 2021. Recent efforts have been made to improve the management of shark fisheries and protect shark habitat in the region. Very recently (as of 2024), a stock assessment reportedly indicates that the stock is no longer subject to overfishing, although the team was unable to obtain and review the stock assessment. DFFE states that urgent steps need to be taken to maintain landings under 100 mt annually. While regulatory measures controlling effort (*e.g.*, limited vessel permits) are in place for the demersal shark longline fishery, there are no catch limits for tope sharks in this or other fisheries. Further, recent reporting raises concerns about compliance with and enforcement of existing shark fishing regulations.

Available data indicate that significant abundance declines have resulted from overutilization. Using a combination of fisheries catch data and fisheries-independent survey data, the 2019 stock assessment for the South African tope shark population estimates a 2.7 percent annual abundance decline from 1991 to 2016, yielding an

estimated population decline of 50.9 percent over the full survey period (Winker *et al.* 2019). The stock assessment also concluded that population biomass in 2021 was just 13 percent of pristine biomass and is considered overfished. Projecting the abundance trend over 3 generation lengths, Winker *et al.* (2019) predicted a total population decline of 85.1 percent by the year 2060 compared to 1991, though the 95 percent confidence interval around this estimate is very wide, spanning a range of possibility that even includes a stable population trend and even slight population growth.

The team considered other potential threats to the DPS, including how its life history strategy increases its vulnerability to overutilization. Data are limited, but the team found no indication of declines in productivity or diversity such that compensatory processes are at work. The team considered the projected loss of suitable habitat over the foreseeable future, and as the DPS will be unable to shift its distribution further poleward, the spatial distribution of the species may place it at greater risk of extinction in combination with projected habitat loss. There is no evidence that disease, predation, or other manmade factors are contributing to the So. Africa DPS's risk of extinction.

Overall, the team found that this DPS is at risk of extinction over the foreseeable future. A recent stock assessment concludes that the population has undergone significant abundance declines and is heavily depleted; however, improving regulatory mechanisms and population monitoring efforts have reduced fishing pressure on the species to the point that it is no longer considered to be experiencing overfishing. Projected population trends at current fisheries mortality levels allow for population stability and future rebuilding, although rebuilding will happen slowly due to the life history traits of the species. Ongoing deficiencies in implementation and enforcement of existing regulatory mechanisms contribute to the DPS's extinction risk. Several likelihood points were allocated to the High Risk category as a result of continued targeting of the species in one fishery, potential losses of suitable habitat over the foreseeable future, and uncertainty in data used in the stock assessment. Four likelihood points were allocated to the Low Risk category as a reflection of the possibility of population increase in modeled trends, especially given the recent reduction in mortality rates.

Significant Portion of Its Range Analysis: So. Africa DPS

Because the team determined that the So. Africa DPS is at moderate risk of extinction throughout all of its range, they also considered whether the DPS is at a high risk of extinction within any SPRs. That is, they assessed whether there are any portions of the DPS's range where both: (1) the portion is significant, and (2) the DPS, in that portion, is at high risk of extinction. To identify portions that may be at elevated risk of extinction and thus may qualify as an SPR, the team considered whether threats are geographically concentrated in any portion of the DPS's range, or whether these threats are having a greater impact on the status of the DPS in any portions relative to other portions.

Fisheries-related mortality and inadequate regulatory mechanisms were identified as major threats to this DPS. Within South Africa, fisheries that interact with tope sharks (demersal longline, commercial linefish, and inshore trawl fisheries) operate off the majority of the coastline; however, fishing activity appears to be focused off the southwestern coast (Bester-van der Merwe *et al.* 2017). Commercial-scale fishing for tope sharks also began and was concentrated off the Western Cape (Winker *et al.* 2019, DFFE 2025). Thus, the team identified the southwestern portion of South Africa as a potential SPR.

However, as previously discussed (see Distinct Population Segment Analysis), results from multiple genetic studies indicate that there is no or only weak differentiation among tope sharks sampled at various locations along South Africa's coast and a high level of connectivity across this part of the range (Bitalo *et al.* 2015, Maduna *et al.* 2017, Bester-van der Merwe *et al.* 2017). Although data are limited, the weight of the available evidence indicates that tope sharks within South Africa comprise a single population. For this reason, the team could not differentiate between the status of tope sharks off southwestern South Africa versus South Africa as a whole. In other words, there is insufficient data to conclude that tope sharks within the southwestern portion of the range are demographically independent from the remainder of the DPS. Similarly, given the high level of connectivity across South Africa, the team was unable to assess the independent contribution of tope sharks in this portion of the range to the long-term viability of the DPS. Sufficient data are simply lacking with respect to how tope sharks in any parts of this DPS's

range may have historically contributed or currently contribute to the overall viability of the DPS such that they could be considered "significant" portions.

Thus, while the team could identify portions of the range where the threat of fisheries mortality is relatively more concentrated, they could not identify specific portions of the range where extinction risk of tope sharks could be assessed independently from the remainder of the DPS, or where the tope sharks could be considered as comprising a "significant" portion. Therefore, the team found no basis to change the range-wide conclusion of Moderate risk for the So. Africa DPS.

Proposed Listing Determination: So. Africa DPS

Based on our review of the best available scientific and commercial data and the extinction risk assessment, as provided in the Status Review Report and summarized herein, we conclude that the So. African DPS is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. We also considered efforts being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species (see Conservation Efforts). These conservation efforts do not change the conclusion we would otherwise have reached regarding the species' status. Therefore, we find that the So. Africa DPS meets the definition of a threatened species and warrants listing as a threatened species under the ESA.

Summary and Analysis of Section 4(a)(1) Factors for the SW Atlantic DPS

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Based on an evaluation of the best available information, the team determined that the threat of habitat modification from changes in ocean conditions poses a Very Low/Low risk to the SW Atlantic DPS. Their evaluation relied in large part on the modeled projections of habitat suitability, as detailed in Summary of Section 4(a)(1) Factors Affecting All DPSs. The team's analyses project a 12.1 percent (95,988 sq. km) increase in suitable habitat area for the tope shark in the SW Atlantic over the foreseeable future as well as a poleward shift in habitat, with potential losses in the northern part of the range (*i.e.*, off southern Brazil) and habitat gains off southern Argentina. Based on this, we concluded that widespread habitat curtailment is likely not a significant

threat to this DPS by itself currently or in the foreseeable future. Limitations of the analyses, including the lack of specific information on impacts to nursery habitats known to be more susceptible to changes in temperature and salinity, and other considerations (e.g., the impact of ocean acidification), are discussed in Summary of Section 4(a)(1) Factors Affecting All DPSs. The team was not aware of any research that has specifically evaluated these other potential impacts on tope shark habitat; thus, the team was not able to evaluate their likelihood or severity with any certainty.

In summary, the best available information indicates a significant net increase in suitable habitat for the SW Atlantic DPS, supporting a Very Low risk score. However, uncertainty regarding potential impacts on vulnerable life stages (juveniles) in critical nursery habitats resulted in modifying the rating to a Very Low/Low risk score, as these impacts could, in combination with other factors, contribute to the extinction risk of the SW Atlantic DPS over the foreseeable future.

The team assessed the best available information on the impacts of coastal development and pollution on tope sharks throughout their range in Summary of Section 4(a)(1) Factors Affecting All DPSs, and no further information specific to this region or DPS is available. The team acknowledged that impacts to sensitive coastal habitats (and therefore early life stages) could, in combination with other factors, contribute to the extinction risk of the SW Atlantic DPS; however, there is no evidence that habitat destruction from coastal development and pollution is contributing significantly by itself to the extinction risk of the DPS now or in the foreseeable future. Therefore, this threat was rated as Very Low/Low.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The team determined that overutilization poses a Moderate/High risk to the SW Atlantic DPS due to the historical overexploitation of the species in artisanal and industrial fisheries across Brazil, Uruguay, and Argentina, and ongoing bycatch of the species. Today, tope sharks are primarily incidentally caught in the region.

Beginning in the 1940s, tope sharks were heavily fished in Uruguay and Argentina for liver-oil during World War II (Van der Mollen 1998; Walker 1999). At the peak of the fishery, estimated annual landings in Argentina reached 10,303 mt in 1944 and 8,327 mt

in 1945, the highest recorded annual landings of the species anywhere in the world (Walker 1999). After the war, tope sharks continued to be targeted across the region at varying levels for decades until a region-wide collapse of the fishery in the 1990s and early 2000s. In Argentina, tope sharks accounted for approximately 40 percent of total chondrichthyan landings in 1985 and reached over 5,000 mt landed in a single year (Chiaramonte *et al.* 2016). Average annual landings of tope sharks fell to about 1,000 mt (less than 5 percent of the total chondrichthyans landed) from 1997 through 2015, and an average of about 500 mt from 2016 through 2023 (Chiaramonte *et al.* 2016; pers. comm., G.E. Chiaramonte, Puerto Quequén Hydrobiological Station, November 30, 2025). Similar landings trends are reported in Uruguay. In the early 1970s, the export market for tope shark meat led to increased pressure from industrial longliners and artisanal gillnetters, leading to annual landings peaking at approximately 3,000 mt in 1975 (Nion 1999). In artisanal fisheries for the period 2004–2012 the average annual landings of tope shark were 28.7 mt, and from 2016–2018, landings ranged between 16–27 mt per year (Paesch and Pereyra 2024). In the Rio de la Plata Treaty area, a highly productive fishing area spanning the border of Uruguay and Argentina, tope shark landings declined precipitously in 2000 concurrent with a spike in landings of *Mustelus schmitti* in the same area (Comisión Técnica Mixta del Frente Marítimo (CTMFM) 2020). This suggests that an intensive shark fishery continued in this area even as *G. galeus* landings declined (CTMFM 2020).

There is no record of a tope shark fishery for liver-oil in Brazil in the 1940s and 1950s (Walker 1999). Exploitation of the species here began in the 1970s in mostly otter and pair bottom trawls (Haimovici 1998). Fisheries for the species diversified to other gears including double-rig trawls for fish and shrimp and bottom gill nets in 1980s, and later bottom longlines in 1990s (Haimovici 1998). Currently, the species is caught in beach trawls, bottom gillnets, bottom longline, and pelagic longline gear (Fiedler *et al.* 2017). Reconstructed landings in Brazil increased gradually through the 1960s and 1970s, peaked in the early 1980s (approximately 1,600 mt in 1982), and then declined precipitously during the 1990s and early 2000s, eventually reaching a minimum in 2006 and remaining very low in the years since (approximately 27 mt annually,

according to reconstructed landings data from Freire *et al.* 2021).

Several issues with the available data exist, including the practice of reporting landings in broad taxonomic groups comprising several different species (e.g., “cazón” or “cação”), as well as inconsistent implementation of reporting standards for fisheries statistics and a general lack of high-quality, fishery-independent data and formal stock assessments. Despite this, multiple independent datasets show drastic declines in landings and CPUE. Further, exploitation of the species in known breeding and pupping areas was and continues to be concerning in terms of allowing for reproduction and recruitment (Nion 1999, Chiaramonte 2015) and contributes to the severity of the threat posed by overutilization.

Beyond commercial and artisanal fisheries, *G. galeus* is also subject to sport and recreational fishing in the region (Barbini 2015, Bovcon *et al.* 2018). Catch records are not available for recreational fisheries, and therefore the team could not assess its contribution to the overutilization of the DPS.

Overall, all team members agreed that the threat of overutilization contributes significantly to the long-term risk of extinction of the SW Atlantic DPS. Two team members concluded that overutilization is likely to contribute to near-term risk of extinction of the DPS based on the persistence of intense fishing pressure over many decades and the widespread nature of the threat across the region. All team members agreed, however, that the lack of systematic population abundance data makes it difficult to assess the current severity of the threat, and that the available data (*i.e.*, continued capture as bycatch at much lower levels) do not support a conclusion that overutilization is of such severity that it constitutes a danger of extinction by itself in the near future.

Disease and Predation

The team assessed the best available information on disease and predation on the tope shark throughout its range (see Summary of Section 4(a)(1) Factors Affecting All DPSs), and no further information specific to the SW Atlantic DPS is available. The team assigned a score of Very Low for the threat of disease or predation, reflecting overall agreement that, based on the best available information, neither disease nor predation is likely to contribute significantly to the extinction risk of the SW Atlantic DPS.

Inadequacy of Existing Regulatory Mechanisms

The inadequacy of existing regulatory mechanisms was assessed as posing a Moderate/High risk to the SW Atlantic DPS. Given that overutilization in commercial fisheries was identified as the primary threat to this DPS, the team's assessment of regulatory mechanisms was focused on a review of relevant fisheries management measures and their effectiveness. The team agreed that across the SW Atlantic region, regulatory mechanisms are inadequate to address the ongoing threat of overutilization such that this factor contributes significantly to long-term extinction risk of the DPS. Where national-level regulatory measures do exist, they are poorly enforced.

In Brazilian waters, the tope shark is included in Appendix I of the regulation Instrução Normativa do Ministério do Meio Ambiente No. 5, de 21 de maio de 2004 (IN MMA No. 5 (21/5/2004)), which identifies the species as endangered, overexploited, or threatened by overexploitation (Fiedler *et al.* 2017). The regulation bans all catches of listed species (except for scientific purposes) and stipulates a maximum period of 5 years for the creation of management plans, which was not observed (Fiedler *et al.* 2017). Tope sharks have continued to be landed despite this prohibition (Fiedler *et al.* 2017). Further, frequent changes in fisheries management agencies in Brazil have resulted in the loss of historical fisheries data. There is still no official national database available online with Brazil's landings statistics, and improved data collection and management is needed to properly assess the impact of fisheries on the tope shark (Freire *et al.* 2021).

In Uruguay, the tope shark is classified as "fully exploited" under Executive Decree No. 319/998, with the purpose of not increasing fishing vessels or fishing power until the fishing impact produced by the current level of effort is analyzed (Paesch and Pereyra 2024). The team did not find any information regarding whether this analysis has been conducted or whether this regulatory measure has resulted in any changes to the management of fisheries affecting the species.

In Argentina, living marine resources of the Argentine Sea out to 12 nm from the coast are managed and conserved by individual coastal provinces, which have patchwork of regulatory measures relating to sharks including protected areas, size limits, and requirements for release in recreational fisheries (Venerus and Cedrola 2017; Delpiani *et al.* 2020).

Nationwide, there is a maximum allowed catch (MAC) set by the Argentine fisheries authorities on an annual basis, and a ban on commercial landings of sharks over 1.6 m TL; however, enforcement of these rules is deficient (Delpiani *et al.* 2020). The practice of mislabeling seafood allows for bypassing of the MAC and ban on landings of larger sharks (Delpiani *et al.* 2020). Across the country, low enforcement capacity, lack of regulations, and lack of long-term monitoring has contributed to the overutilization of the species (Delpiani *et al.* 2020, Venerus and Cedrola 2017).

Overall, the threat of inadequate regulatory mechanisms was assigned a rating of Moderate/High and all team members agreed that the threat contributes significantly to the long-term risk of extinction of the SW Atlantic DPS. Two team members noted that this threat has persisted over many decades and across the range of the DPS, and has allowed unsustainable levels of exploitation in commercial and artisanal fisheries. They concluded that the threat is likely to contribute to near-term risk of extinction.

Other Natural or Manmade Factors Affecting Its Continued Existence

The team unanimously concluded that the contribution of this factor to the extinction risk of the species across its range could not be determined (see Summary of Section 4(a)(1) Factors Affecting All DPSs).

Demographic Risk Assessment for the SW Atlantic DPS

Abundance

The demographic risk factor of abundance was rated as Moderate, reflecting the team's general agreement that this descriptor contributes significantly to long-term risk of extinction, but does not in itself constitute a danger of extinction in the near future. Keeping in mind the various limitations in the data and the lack of fisheries-independent stock assessment, the team concluded that the available data indicated a population decline of moderate severity throughout the region.

There have not been any formal assessments of tope shark abundance in the SW Atlantic region, and the best available data included several fisheries-derived CPUE datasets and anecdotal accounts from regional experts. A 24-year dataset from the demersal trawl fleet in Argentina indicates that tope shark CPUE declined significantly from 1992 to 2000 and remained at this reduced level until the

end of the dataset in 2015 (Chiaromonte unpublished 2019, cited in Walker *et al.* 2020). Modeling of this trend estimated a 5.9 percent annual decline in abundance and projected a severe long-term reduction of 99.3 percent over three generations (79 years; 1992–2069) (Walker *et al.* 2020). This result is corroborated by a demographic model for the Bahía Anegada region of Argentina, which predicted an annual population decline of between 6.7 percent and 12.8 percent under the most representative fishing conditions at the time and using data from 1999–2001. The general consistency between results of these analyses and evidence of the region's history of intensive fishing pressure and subsequent fishery collapse support the conclusion that the population has been severely depleted. There are, however, significant data limitations and uncertainties that were considered. The Argentine trawl CPUE series, for instance, was based on a metric (kg per trip) that does not fully account for variations in fishing effort between trips.

The team also considered other available datasets relating to the abundance of the SW Atlantic DPS. CPUE calculated from the tope shark gillnet fishery in Necochea from 1990 to 1996 fluctuated significantly during this period without any discernible trend (Chiaromonte 1998). Further, changes to certain features of the tope shark gillnet fishery during the study period limit the reliability of the results as an indication of tope shark abundance. Similarly, CPUE data from Rio Grande do Sul, Brazil, were reported by broad taxonomic category and showed conflicting temporal trends between different gear types, making it difficult to draw strong conclusions (Villwock de Miranda and Vooren 2003).

Other information sources indicate population decline in the region. During the late 1990s, Necochea-based trawlers were forced to set gillnets farther from the coast due to declining yields near shore, likely indicating declining abundance (Chiaromonte 1998). Additionally, modeling of the number of total annual records of tope sharks from a recreational fishing magazine that published monthly between 1973 and 2008 supported trends of population decline similar to those presented above (Barbini *et al.* 2015).

Productivity

This demographic risk factor was assigned a Low/Moderate rating. As discussed previously, the tope shark's low productivity limits its capacity to rebound from depletion. There is evidence of historical fishing of large

pregnant females in pupping and breeding areas in Argentina and Uruguay, which may have further reduced the productivity of the population (Nion 1999, Chiaramonte 2016). Nion (1999) presents evidence that in certain months, females made up the majority of catch in Uruguay, many of them pregnant; other months of the year had catches predominantly made up by males. The team concluded that, while this threat does not by itself contribute significantly to near-term risk of extinction, the DPS's fairly low productivity is likely to contribute to the long-term extinction risk of the DPS in combination with other threats (such as overutilization) and/or demographic risk factors (such as reduced abundance).

Diversity

Regarding genetic structure and connectivity, the team noted that tope sharks throughout this region are considered to comprise a single, large population. Genetic analyses using both mtDNA and microsatellite markers have found no evidence of significant population structure or barriers to gene flow within the region. An analysis of 10 samples of tope sharks captured in the Bahía San Blas MPA in Argentina found 5 haplotypes and resulted in a haplotype diversity (h) of 0.822 ± 0.097 with a nucleotide diversity (π) of 0.002 ± 0.001 (Bester-van der Merwe *et al.* 2017). This was the highest haplotype diversity found in the study by Bester-van der Merwe *et al.* (2017) of five southern hemisphere tope shark populations; however, total number of alleles (3) and unbiased expected heterozygosity (0.373) for the Argentina samples were the lowest of all studied sites. In all, the team did not find evidence that genetic diversity in the SW Atlantic region has declined or is low such that it contributes to the extinction risk of the DPS.

The team highlighted the species' behavioral and ecological plasticity as a factor reducing extinction risk. Given the seasonal patterns in their distribution (Peres and Vooren 1991; Ferreira and Vooren 1991; Elías *et al.* 2005; Lucifora *et al.* 2004; Chiaramonte 2015; Klippel *et al.* 2016; Trobbiani *et al.* 2021; see *Range, Distribution and Habitat Use*), the team assumed tope sharks in this DPS exhibit similarly diverse migratory behaviors as observed in other regions, including "partial migration," where some females undertake long-distance migrations exceeding 2,000 km, while others remain within a relatively localized home range. Furthermore, the DPS utilizes a wide variety of habitats,

ranging from shallow coastal waters and continental shelves to oceanic insular areas and mesopelagic depths. The team reasoned that this diversity in habitat use and migratory strategy may provide the DPS with resilience against catastrophic events that might affect a specific local area or habitat type.

Overall, there is no evidence that the species is at risk due to a substantial change or loss of variation in life-history traits, population demography, morphology, behavior, or genetic characteristics. Therefore, diversity is not considered a significant contributor to the extinction risk of this DPS.

Spatial Structure/Connectivity

Spatial distribution for tope sharks in this DPS was assigned a rating of Very Low, as this demographic factor was not viewed by any team members as contributing significantly to risk of extinction for this DPS, either by itself or in combination with other factors. The tope shark occupies a broad geographic range (from Rio Grande do Sul, Brazil, south to Península San Julián in Argentine Patagonia) and uses multiple habitat types within the SW Atlantic. Within this extensive range, the species utilizes diverse habitats, occupying shallow coastal bays and estuaries—often used as pupping and nursery grounds—as well as deep offshore waters along the continental slope. The team noted that there are no known physical barriers to dispersal within this region that would prevent the species from accessing available habitat or moving between areas in response to environmental or anthropogenic stressors.

Available genetic and tagging data, though limited, support the characterization of the DPS as a single, well-mixed population that migrates seasonally from shelf waters off southern Brazil in colder months to areas southward and deeper during warmer months. This high degree of mobility and genetic exchange suggests that localized depletions or habitat degradation in specific sub-regions are unlikely to threaten the persistence of the DPS as a whole.

In summary, due to the species' wide distribution, lack of barriers to dispersal, and high connectivity, the team concluded that spatial distribution is unlikely to contribute significantly to the risk of extinction for the SW Atlantic DPS, either by itself or in combination with other factors.

Extinction Risk Summary: SW Atlantic DPS

Based on the team's consideration of the best available data regarding threats

and demographic risks to this DPS, they concluded that the SW Atlantic DPS is currently at a Moderate Risk of extinction. Confidence in this conclusion was moderate, as just over half of the likelihood points (16/30) were allocated to the moderate risk category, 11 points were allocated to the High Risk Category, and the remainder of the points (3/30) were allocated to the Low Risk category. The absence of more reliable, historical and long-term abundance data were noted as preventing a higher level of confidence in this rating.

Overutilization and the inadequacy of existing regulatory mechanisms were identified as the most significant threats to the SW Atlantic DPS. Tope sharks in this region experienced intense fishing pressure in the 1940s, with landings in Argentina in 1944 representing the highest reported annual landings of the species anywhere in the world. Over the following decades, the species continued to be targeted in commercial and artisanal fisheries for various purposes (e.g., frozen, salted, and fresh meat for consumption and sale). The stock collapsed across the region by the early 2000s as evidenced by sharp declines in landings of tope sharks, concurrent spikes in landings of similar shark species, and the continuation of intensive shark fishing. Tope sharks continue to be taken primarily as bycatch today, although in much lower numbers due to the collapse of the stock. Historically and currently, there has been a lack of regulations aimed at conserving the species, and where regulatory mechanisms do exist, they are ineffective because of poor enforcement. Further, the lack of systematic data collection and long-term monitoring prevents effective fisheries management and therefore contributes to the overutilization of the species.

General agreement in trends estimated using several fisheries-dependent datasets indicates that the population has experienced significant decline. The strongest evidence of this comes from a 24-year nominal CPUE dataset from the demersal trawl fleet in Argentina. Walker *et al.* (2020) estimated a 5.9 percent annual decline from 1992 to 2015, and projected a 99.3 percent decline over three generations (79 years, from 1992 to 2070). It is worth highlighting that CPUE in this study was calculated in terms of kg per trip, so the dataset does not account for variations in fishing effort between trips. Because the data are from the later stages of the fishery (late 1990s and onward), the downward trend appears to have continued after the collapse of the fishery. Available qualitative

information further supports the conclusion that the tope shark population has undergone significant decline; for example, the lack of landings of tope sharks in productive fishing areas where tope sharks were once frequently caught (e.g., Rio de la Plata). While it is clear that the species has experienced abundance declines, longstanding data limitations and the lack of high-quality fishery-independent data or stock assessments limited the team's ability to draw conclusions about the severity of population decline or about current population abundance. The team did not find evidence that the species is at such a low abundance that compensatory processes are at work or that it constitutes an immediate risk of extinction to the population. Regular landings of the species in locations across its range, though at much lower levels, indicate that the DPS has not been extirpated from any parts of its range.

The team considered how the life history of tope sharks increase the DPS's vulnerability to overutilization. The species is long-lived, slow-growing, and late-maturing, and has low overall productivity. This limits the species' capacity to rebound from depletion. There is evidence of historical fishing of large pregnant females in pupping and breeding areas of the SW Atlantic, which may have further reduced the productivity of the population, contributing to long-term extinction risk.

Data are limited, but the team found no indication of declines in diversity. Data are also limited with respect to the loss or degradation of habitat including pupping areas. Available evidence does not provide any indication that the DPS's range has contracted, or that changing environmental conditions will limit critical habitats in the foreseeable future. There is also no evidence that disease, predation, or other manmade factors are contributing to the SW Atlantic DPS's risk of extinction.

Overall, the team concluded that overutilization in commercial and artisanal fisheries and the inadequacy of existing regulatory mechanisms to address the threat of overutilization have resulted in substantial declines in abundance of tope sharks within this region. Given ongoing bycatch of the species and relatively slow rebound potential of tope sharks, the population will likely remain depleted or continue to decline over the foreseeable future. Despite the recent listing of tope shark on Appendix II of CITES, which will not become effective until June 2027, any improved management or changes in fishing practices would likely take

several generations to be realized at the population level given the life history traits of this species. While the DPS continues to occupy a fairly large, continuous geographic range, its reduced abundance, low productivity, ongoing threats of incidental catch, and inadequate regulatory mechanisms put it at a moderate risk of extinction throughout its range.

Significant Portion of Its Range Analysis: SW Atlantic DPS

Having determined that the SW Atlantic DPS is at moderate risk of extinction throughout all of its range, the team conducted an additional analysis to determine whether the DPS is at high risk of extinction in an SPR. That is, the team assessed whether there is any portion of the DPS's range for which it is reasonably likely they could conclude that both: (1) the portion is significant, and (2) the DPS, in that portion, is at high risk of extinction. To help identify potential "portions" for this analysis, the team first considered whether the threats to this DPS are geographically concentrated in any portion of the DPS's range, or whether identified threats are having a greater impact on the status of the DPS in any portions relative to other portions.

Considering the threats posed by overutilization, the best available data indicate that historical overfishing of tope sharks has been severe across the range, leading to the collapse of the fisheries in Brazil, Argentina and Uruguay. Throughout the range, tope sharks continue to be caught and landed as bycatch, and are occasionally targeted. In Argentina, annual landings averaged about 500 mt from 2016 through 2023 (pers. comm., G.E. Chiamonte, Puerto Quequén Hydrobiological Station, November 30, 2025). In Brazil, reconstructed landings registered under the term *cação* are currently low relative to historical levels (averaging 27 mt/year from 2007–2015) (Freire *et al.* 2021). In Uruguay, annual landings in artisanal fisheries ranged between 16–27 mt (Paesch and Pereyra 2024). Further, there are no parts of the range where the team found regulatory measures to be adequate for the management of threats to the species. Ultimately, the team concluded that the threat of overfishing, although occurring at lower levels relative to historical, is ongoing across the range of the DPS, and there is no information to indicate that the threat of overutilization is geographically concentrated. For these reasons, the team was ultimately unable to identify any portions of the range where threats are concentrated or

clearly having a greater impact on the DPS.

Furthermore, as previously discussed, there is no indication of subpopulations or population structuring within this region; instead, the available evidence indicates that the DPS is a single population that seasonally migrates throughout the entire range. Seasonal peaks in tope shark abundances within different parts of the range at different times of year indicate consistent seasonal movements across the range. In particular, tope sharks have been observed to peak in abundance off southern Brazil (around 30–34° S) in June through September; off Puerto Quequén, Argentina (around 38°32' S) in September through December; Anegada Bay, Argentina (40°30' S) from October to December; and other northern Patagonia gulfs (around 43° S) between January and April (see *Range, Distribution, and Habitat Use*). Genetic studies are limited for this DPS; however, an analysis of mtDNA from two areas of Argentina (Buenos Aires and Golfo San Matias) indicated no significant differences between locations (Cuevas *et al.* 2016, see *Population Structure*). Given the lack of evidence indicating any population structure within the region, fisheries-related mortality occurring within one portion of the DPS's range will likely impact the DPS as a whole, not just tope sharks within any distinct portion. For this additional reason, the team was unable to identify specific portions of the range where the extinction risk of tope sharks could be assessed independently from the remainder of the DPS.

Proposed Listing Determination: SW Atlantic DPS

Based on our review of the best available scientific and commercial data and the extinction risk assessment, as provided in the Status Review Report and summarized herein, we conclude that the SW Atlantic DPS is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. We also considered efforts being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species (see Conservation Efforts). These conservation efforts do not change the conclusion we would otherwise have reached regarding the species' status. Therefore, we find that the SW Atlantic DPS meets the definition of a threatened species and thus warrants listing as a threatened species under the ESA.

Summary and Analysis of Section 4(a)(1) Factors for the SE Pacific DPS

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Threats to tope shark habitat stemming from changes in environmental conditions was assigned a rating of Low based primarily on the available evidence suggesting that the net effect of changing ocean conditions on the availability of suitable habitat for this DPS may be neutral or even positive over the foreseeable future. In particular, the team's analyses, project a 6.6 percent (11,569 sq. km) increase in suitable habitat area for the tope shark in the SE Pacific over the foreseeable future as well as a poleward shift in habitat, with projected losses in the northern part of this DPS's range (e.g., Ecuador) potentially being offset by habitat gains off southern Chile. Based on this, the team concluded that habitat curtailment as a result of changes in environmental conditions is likely not a significant threat to this DPS by itself currently or in the foreseeable future. They noted, however, that the total area of suitable habitat in the SE Pacific is significantly smaller relative to other regions. As with other DPSs, adequate data were also not available regarding other possible changes in ocean conditions to tope shark habitat (e.g., precipitation, salinity, pH).

Habitat-related threats stemming from coastal development and pollution received a Very Low/Low rating based on evidence that habitat destruction from coastal development and pollution are not likely contributing significantly to extinction risk for the SE Pacific DPS; however, impacts to sensitive coastal habitats may, in combination with other factors, contribute to long-term extinction risk of this DPS.

As with other DPSs, this potential threat could affect important pupping and nursery habitats across the range. However, the team did not find any information about known or potential impacts of coastal development on tope sharks in the SE Pacific specifically or elsewhere such that they could reasonably extrapolate to this DPS. Similarly, with respect to toxic contaminants and plastics, specific levels of exposure, contamination, and their consequences on tope shark health and survival are unknown, so they were unable to assess the extinction risk posed by these other potential forms of habitat degradation.

In summary, while this threat could disproportionately affect early life stages and contribute to the long-term extinction risk of the SE Pacific DPS in

combination with other factors, the available information is not sufficient to conclude that this threat is likely to contribute by itself to the long-term or near future risk of extinction of this DPS.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The threat posed by overutilization for commercial purposes was assigned a rating of Very Low, reflecting the conclusion that overutilization of tope sharks is not likely posing a threat to this DPS, either by itself or in combination with other risk factors. Despite extensive shark fishing within the region, the available data do not indicate that tope sharks have historically been or currently are an important target species. Based on available data landings for Ecuador, Peru, and Chile, tope sharks comprise an extremely small percentage of the reported landings. Landings of tope sharks in Ecuador appear to be extremely rare, and the fishing pressure on sharks generally in Chile appears to be relatively low and declining. In Peru, where the volume of shark landings is highest among the three range countries, tope sharks, along with about 11 other species combined, comprised less than 2 percent of the reported annual landings from 1996–2015 (Gonzalez-Pestana *et al.* 2016, López de la Lama *et al.* 2018). Under-reporting of landings and species misidentifications are likely ongoing, but without a clearer indication of harvest pressure on tope sharks, the team could not conclude that overutilization is posing a threat to this DPS. The lack of fisheries-independent surveys or formal stock assessments for the population coupled with the limited fisheries-dependent data led to all reviewers assigning a "low" data sufficiency rating to this factor. This threat is discussed in more detail in section 4.3.6 of the Status Review Report.

Disease and Predation

As with other DPSs, this threat category was assigned a Very Low rating based on consideration of the best available information and conclusion that neither disease nor predation is contributing significantly to the extinction risk of the SE Pacific DPS now or over the foreseeable future.

The team considered the best available information regarding disease and predation on the tope shark throughout its range (see Summary of Section 4(a)(1) Factors Affecting All DPSs) and were unable to find further information specific to the SE Pacific

DPS. Although one of tope sharks' main predators, the broadnose sevengill shark, does co-occur with the SE Pacific DPS, there is no evidence that predation is posing an extinction risk to this DPS.

Inadequacy of Existing Regulatory Mechanisms

This factor was assigned a rating of Low, reflecting the team's conclusion that existing regulatory mechanisms are unlikely to be contributing significantly to extinction risk of this DPS on their own, but they may in combination with other risk factors. Overall, the team agreed there was a "medium" level of data sufficiency to assess this factor.

Shark finning is prohibited throughout the region, and targeted shark fishing is prohibited in Ecuador. Each range country has also taken various steps to improve management of sharks in general, including, for example, increasing onboard monitoring, adopting the use of electronic logbooks, improving standardization and collection of data, and implementing a certification system to improve traceability of fins. However, targeted fishing of tope sharks is allowed through most of the region and there appear to be no size limits or catch limits for bycaught tope sharks. Given some regulatory protections, the general frameworks in place for shark conservation across the region, and the lack of information indicating that overutilization of this DPS is occurring, the team found that the existing regulatory mechanisms are not posing an extinction risk to this DPS. This threat is discussed in more detail in section 4.5.7 of the Status Review Report.

Other Natural or Manmade Factors Affecting Its Continued Existence

As with the other DPSs, the assessment of this factor focused primarily on the potential threat posed by EMFs generated by undersea power cables, and given the general lack of information on this potential threat, the team concluded that the contribution of this threat to the extinction risk of the SE Pacific DPS is Unknown.

Demographic Risk Assessment for the SE Pacific DPS

Abundance

Given the extremely limited data by which to assess the abundance and trends of this DPS, this risk factor was assigned a rating of Unknown. As summarized in section 3.6 of the Status Review Report, fisheries-independent data do not appear to be available, and species-specific landings data are very

limited. Based on the landings and trade information available for Peru and Chile, tope sharks comprise a very small percentage of the total shark harvest in the region. Given the intense and extensive fishing effort within this region and the low reported catch of tope sharks, the species may not be abundant in the region. An alternative hypothesis is that tope sharks had already declined so significantly in abundance that they comprise only a small fraction of the available landings data. However, there is no indication that a targeted or substantial fishery for tope sharks ever occurred in this region, and the estimated landings for 1950 to 2019 fluctuate at relatively low levels with the exception of a spike in 1980 (when landings may have reached ~200 to 300 mt). Overall, the available data do not allow for any strong inferences with respect to total or relative abundance for this DPS over time.

Productivity

As with most of the other DPSs, this demographic risk factor was assigned a rating of Low. The team concluded that, although the relatively low productivity of the tope shark limits its capacity to rebound from depletion, this trait does not, by itself, contribute significantly to long-term or near future risk of extinction. However, the low productivity and life history strategy of tope sharks may, in combination with other threats and/or demographic risk factors, contribute to the long-term extinction risk of the DPS. Beyond this demographic vulnerability inherent to the species generally, the team found no information regarding population growth, mating, fertilization, pupping, or other relevant traits of the SE Pacific DPS specifically.

Diversity

This demographic risk factor was assigned a partial rating of Very Low, reflecting the conclusion that this factor is unlikely to contribute significantly to the risk of the extinction for the SE Pacific DPS, either by itself or in combination with other factors. One team member rated this factor as Unknown given the extremely limited data for this region. Ultimately, the team agreed that based on the best available information, there was no evidence indicating the DPS is at risk due to a substantial change or loss of variation in life-history traits, population demography, morphology, behavior, or genetic characteristics.

Based on analysis of mtDNA (control region) and microsatellites (11 polymorphic loci) from samples collected from 6 different ocean regions,

tope sharks in the SE Pacific (Peru) have been shown to have a comparable but higher mean nucleotide diversity and haplotype diversity relative to tope sharks of other regions but also had the fewest private alleles (Chabot and Allen 2009, Chabot 2015). A similar result was observed in a separate study comparing genetic samples collected from Chile, New Zealand, and Australia; results from this study, which analyzed both mtDNA (control region) and microsatellite DNA (8 loci), indicated tope sharks in Chile had the highest estimated haplotype and nucleotide diversity relative to the two other sample groups ($h = 0.800 \pm 0.089$, $\pi = 0.002 \pm 0.001$) but the fewest mtDNA haplotypes (Hernández *et al.* 2015). Based on their analyses of the genetic data, these authors also suggested that the population of tope sharks in Chile has been stable for the past 20,000 years. Overall, these studies do not provide any clear indication regarding changes in the level of genetic diversity within the SE Pacific DPS or whether any such changes are posing an extinction risk to the DPS. There appear to be no other studies regarding population structure or gene flow within the region, nor other relevant information by which to evaluate this risk factor, such as phenotypic diversity, gene flow, migratory behaviors, or habitat use of tope sharks in this region. Thus, the team found no evidence that genetic diversity or the natural processes of dispersal, migration, or gene flow have been significantly altered in a way that would pose a demographic risk. Given the limited information for this region, the team also noted that there is a high level of uncertainty with respect to this risk factor.

Spatial Structure/Connectivity

This risk factor received a mixed rating of Unknown/Very Low because, while tope sharks in this region may still fully occupy and move throughout their historical range, data to fully assess the spatial structure and connectivity of this DPS are extremely limited. The extremely rare reports of tope sharks in Ecuador's waters despite significant fishing activity caused the team to question whether tope sharks were historically and are currently present in this part of the range with any significant abundance. However, there is no basis to conclude that the current range of this DPS will contract or become fragmented over the foreseeable future, particularly given the lack of physical barriers to movement within the range and the projected poleward expansion of suitable habitat for this DPS over the foreseeable future.

There appear to be no studies regarding movements, habitat use patterns, or regional-scale population structure of tope sharks in the SE Pacific. Overall, there were insufficient data to indicate that the spatial structure or connectivity of this DPS contributes significantly to its extinction risk, either by itself or in combination with other factors.

Extinction Risk Summary: SE Pacific DPS

Based on the best available data regarding threats and demographic risks to this DPS, the team concluded that the SE Pacific DPS is currently at a Low Risk of extinction. Confidence in this conclusion was fairly low: while the majority of the likelihood points (50 percent) were allocated to the low risk category, and the remainder of the points were spread almost equally across the two other categories (27 percent in Moderate, 23 percent in High). This level of uncertainty reflects the fact that extremely limited data were available by which to reliably assess the extinction risk of this DPS.

Despite intense shark fishing in the region, tope sharks consistently comprise a very small portion of the reported landings. There are no data indicating that tope sharks were historically targeted or were commercially desirable in this part of the world. The very limited species-specific data and lack of any stock assessment mean there is no empirical evidence of overutilization of this DPS for commercial or other purposes; however, it also means there is very limited information by which to assess the status of tope sharks in this region. Existing regulatory protections, including the 2007 prohibition on shark fishing in Ecuador and the prohibitions on finning within the region, likely confer a measurable conservation benefit to tope sharks. The lack of any catch and bycatch limits for tope sharks are concerning and mean the threat of potential overutilization of tope sharks has persisted for decades in this region; however, no available data indicate the population has collapsed or is currently declining as a result of overutilization. Overall, because tope sharks do not appear to be a primary target of fisheries, there is no evidence of other operative threats, and there are no available data showing a downward trajectory in tope shark biomass, there is insufficient evidence to conclude that the population is facing risk of extinction—either imminently or over the longer term.

Significant Portion of Its Range Analysis: SE Pacific DPS

Because the team reached a conclusion that the SE Pacific DPS was at low risk of extinction throughout its range, they next considered whether there were any portions of the range in which this DPS may both be at elevated risk of extinction and may qualify as a “significant” portion. Ultimately, and largely as a result of the extremely limited data for this region, they were unable to identify any such portions.

The extremely limited reports of tope sharks in Ecuador could be the result of a historical collapse in tope sharks in this part of the range; however, without further information, this would be a speculative conclusion. They also considered whether tope sharks in Peru, where they are taken in the largest volume, may be at elevated risk of extinction relative to other tope sharks elsewhere within the region. The available and estimated landings data indicate that tope shark landings fluctuate at low levels from 1950 to 2019 (with the exception of a spike in 1980) and comprise a very small fraction of the annual shark landings (Gonzalez-Pestana *et al.* 2016; see Figure 4–26 in the Status Review Report). Given the limited corresponding data on fishing pressure and the available information indicating that other shark species, like blue and mako sharks, were being targeted, the team could not conclude that tope sharks are at elevated risk in Peru. The extremely limited data for Chile similarly does not indicate a decline or an elevated risk of extinction of tope sharks in this portion of the range. In addition, there are no data by which to evaluate the relative contribution of tope sharks within these portions (or combination of portions) to the long-term viability of the DPS. For example, there are no abundance, genetic diversity, or movement data for particular portions of the range to inform an assessment of their relative biological importance to the DPS. Given this lack of data, there is no basis to differentiate between tope sharks that may occur in one portion of the range versus anywhere else within their range, across which they may move and interbreed freely. Therefore, the team found no basis to evaluate the extinction risk of this DPS within only a particular portion of its range.

Listing Determination: SE Pacific DPS

Based on our review of the best available scientific and commercial data and extinction risk assessment, as provided in the Status Review Report and summarized herein, we conclude

this DPS is not in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range. We considered efforts being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species (see Conservation Efforts). These conservation efforts do not change the conclusion we would otherwise have reached regarding the DPS’s status. Therefore, we find that the SE Pacific DPS does not meet the definition of a threatened or endangered species and thus does not warrant listing under ESA.

Summary and Analysis of Section 4(a)(1) Factors for the SW Pacific DPS

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Based on an evaluation of the best available information, the team determined that the threat of habitat modification as a result of changing ocean conditions poses a Very Low/Low risk to the SW Pacific DPS. Their evaluation relied in large part on the modeled projections of habitat suitability, as detailed in Summary of Section 4(a)(1) Factors Affecting All DPSs. The team’s analyses project a 13.4 percent (184,593 sq. km) increase in suitable habitat area for the tope shark in the SW Pacific in the foreseeable future as well as a poleward shift in habitat, with potential losses in the northern part of the range and habitat gains off southern New Zealand. Based on this, the team concluded that widespread habitat curtailment is likely not a significant threat to this DPS by itself currently or in the foreseeable future. Limitations of the analyses, including the lack of specific information on impacts to nursery habitats known to be more susceptible to changes in temperature and salinity, and other considerations (*e.g.*, the impact of ocean acidification), are discussed in Summary of Section 4(a)(1) Factors Affecting All DPSs. Given an apparent lack of research to specifically evaluate these other potential impacts on tope shark habitats in this region; the team was not able to evaluate their likelihood or severity with any certainty.

In summary, the best available information indicates a significant net increase in suitable habitat for the SW Pacific DPS, supporting a Very Low risk score. However, uncertainty regarding potential impacts on vulnerable life stages (juveniles) in critical nursery habitats resulted in modifying the rating to a Very Low/Low risk score, as these

impacts could, in combination with other factors, contribute to the extinction risk of the SW Pacific DPS over the foreseeable future.

The team assessed the best available information on the impacts of coastal development and pollution on tope sharks throughout their range in Summary of Section 4(a)(1) Factors Affecting All DPSs, and no further information specific to this DPS is available. The team acknowledged that impacts to sensitive coastal habitats (and therefore early life stages) could, in combination with other factors, contribute to the extinction risk of the SW Pacific DPS; however, there is no evidence that habitat destruction from coastal development and pollution is contributing significantly by itself to the extinction risk of the DPS now or in the foreseeable future. Therefore, this threat was rated as Very Low/Low.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The threat of overutilization for the SW Pacific DPS was assigned a rating of Low/Moderate based largely on the mixed impact of commercial fishing on the species in different parts of the region. For additional information on the fisheries affecting tope sharks in this region, see section 4.3.5 of the Status Review Report.

In Australia, available data indicate that high historical fishing pressure (beginning in the late 1800s through the 1990s) and absence of fisheries regulations led to declines in abundance of tope sharks. After gillnets were introduced in 1964, catch peaked at 2,500 mt around 1969 (Davis *et al.* 2024). In 1973 tope shark catch fell to 700 mt due to concerns and regulations regarding mercury concentrations in shark meat. As the health standard for mercury in fish was relaxed, landings increased gradually into the mid-1980s, reaching a peak of approximately 2,000 mt in 1986 (Walker 1999; Davis *et al.* 2024). Due to restrictions on gillnet use and the declining abundance of tope sharks in Australian waters, catch declined steadily through the late 1980s and 1990s, and following the introduction of a quota system in 2001, stabilized at around 200 mt per year (Davis *et al.* 2024). Concerning aspects of the historical fishery that were noted by two team members include the practice of targeting large gravid females as they moved into shallow, inshore areas to give birth, reduced abundance of mature adults that were targeted nearshore, and the subsequent geographic shifts of the fishery further offshore to target subadults (Walker

1999). Assessments of the population indicate that biomass has been less than 20 percent of unfished biomass since 1991. The stock has been subject to a rebuilding plan since 2008 and while tope sharks are no longer targeted in Australia, they are bycaught in several fisheries. CKMR assessment models indicate that the stock was on an increasing trajectory between 2000 and 2017 (Thomson *et al.* 2020), and from 2006 through 2020 (Thomson *et al.* in prep) and therefore, reduced fishing pressure resulting from management measures are likely alleviating the threat. However, total landed catch and discards for the 2023–2024 fishing season is estimated to be 338.1 mt (Davis *et al.* 2024), which exceeds the recommended TAC.

In New Zealand, historical fishing pressure was also high. During the 1940s, landings averaged roughly 2,500 mt annually and fell when demand for liver oil fell. Demand and landings fluctuated over the ensuing decades, and reached a peak of 5,600 mt in 1984 due to reopening of Australian export markets that had been closed due to concerns about mercury concentrations, increased fishing effort due to the introduction of monofilament set gillnets, and a decline in the abundance of other more valuable inshore fish species (Francis 1998). This prompted the creation of a quota management system (QMS) and adoption of a conservative TAC in 1986 to ensure the future sustainability of the fishery. During this time, set gillnets made up about half of the catch, with lining making up about a third and the remainder taken by trawl (Fisheries New Zealand 2024b). Total commercial landings have remained near the level of total allowable commercial catch (TACC) (2,613 mt in 2019–2020; 2,830 mt in 2020–2021; 2,407 mt in 2021–2022; and 2,650 mt in 2022–2023 (Fisheries New Zealand 2024b)). In recent years, set gillnets targeting sharks (tope shark, rig, elephantfish, and spiny dogfish) have been responsible for just under half of tope shark landings, while bottom longline and bottom trawl approximately split the remaining 50 percent (Fisheries New Zealand 2024b). The stock status is monitored by Quota Management Area (QMA), and while some areas are unlikely or less likely to be experiencing overfishing, others are likely to be experiencing overfishing or have unknown trends. Overall, the team noted that the fishery has been able to sustain high catch levels (2,500–3,500 mt per year) over multiple decades without any clear evidence of a corresponding decline in abundance.

Recreational catch of tope sharks in Australia occurs using rod and line gears, as well as demersal longline and gillnet gears in Tasmania (Marton *et al.* 2014). Estimates of recreational catch levels are uncertain and not available from all areas (Davis *et al.* 2024). Tope sharks are also caught recreationally in New Zealand and are managed through daily bag limits (Fisheries New Zealand 2024b). Annual landings of recreational catch were estimated at only 6–8 percent of total landings of the species in the 1990s (Francis 1998). In more recent years it is caught regularly by recreational fishers, but is not a desired target and harvest levels (indicated through surveys of fishers) are low (Fisheries New Zealand 2024b).

Two team members found that the available data were not sufficient to find that this threat, on its own, is likely to contribute significantly to the long-term or near future extinction risk of the SW Pacific DPS, but it may in combination with other factors. The long-term stability of fisheries landings and the apparently effective management of tope sharks in New Zealand, as well as focused and active management and monitoring of the stock in Australia, were cited as supporting this conclusion. One team member placed greater weight on indicators of historical overutilization across the region, ongoing exceedance of recommended catch limits in Australia, and localized overfishing and resulting depletion in certain regions of New Zealand, to reach the conclusion that this threat is contributing to the long-term risk of extinction; thus, this team member assigned a Moderate rating to this threat. This team member also noted that the lack of nationwide assessment in New Zealand adds some uncertainty to the level of threat posed by overutilization, especially given the continued high levels of tope shark landings.

Disease and Predation

The team assessed the best available information on disease and predation on the tope shark throughout its range (see Summary of Section 4(a)(1) Factors Affecting All DPSs), and no further information specific to the SW Pacific DPS is available. The team assigned a score of Very Low for the threat of disease or predation, reflecting overall agreement that, based on the best available information, neither disease nor predation is likely to contribute significantly to the extinction risk of the SW Pacific DPS.

Inadequacy of Existing Regulatory Mechanisms

The inadequacy of existing regulatory mechanisms was assessed as posing a Low/Moderate risk to the SW Pacific DPS. Given that overutilization in commercial fisheries was identified as the primary threat to this DPS, the team's assessment of regulatory mechanisms was focused on a review of relevant fisheries management measures and their effectiveness. While genetic and tagging data indicate a single, interbreeding population in this region, trans-Tasman migration is relatively infrequent. For this reason, tope sharks in Australia and New Zealand are managed as separate stocks and have different statuses and management needs. The team agreed that the adequacy of regulatory mechanisms is not uniform across the range of the DPS, and their rating reflects a conclusion that this factor may contribute to long-term extinction risk of the DPS, especially in combination with other threats or demographic factors.

In Australia, the tope shark stock is considered overfished and is experiencing overfishing, and has been subject to a formal rebuilding strategy (the School Shark Stock Rebuilding Strategy) since 2008 (updated in 2015). The strategy's primary objective is to rebuild the stock to the biomass limit reference point (20 percent of unfished biomass) within a biologically reasonable timeframe, which was set at three generation times (66 years) from 2008. After reaching this reference point, the strategy aims for biomass to reach B_{MSY} (set at 40 percent of unfished biomass) and eventually for further targets on the trajectory of rebuilding (AFMA 215).

The strategy takes an adaptive management approach and aims to rebuild the tope shark population through mechanisms such as TAC limits, gear restrictions, closed areas, size restrictions on retained tope sharks, limited entry to fishery, and limits on proportion of tope sharks taken to other species. TAC limits are intended to account for unavoidable, incidental bycatch of the species, primarily in the gummy shark (*Mustelus antarcticus*) fishery. The incidental bycatch TAC for the 2024–2025 fishing season was set at 197 mt, and for the 2025–2026 season, SharkRAG recommended a revised TAC of 207 mt. This was calculated using a logbook-based method that caps total mortality at the threshold projected by the CKMR model (SharkRAG 2024). To further discourage targeting of tope sharks, a “20 percent rule” was introduced in the 2011–2012 season,

requiring that an operator's catch of tope shark in the SESSF not exceed 20 percent of their gummy shark quota holdings (Davis *et al.* 2024). Additionally, since the 2014–2015 season, the mandatory release of all live-caught tope sharks has been required (Davis *et al.* 2024). Among other gear restrictions, gillnet mesh sizes are restricted to 150–165 mm to selectively capture mid-sized sharks while allowing for the escape of large breeding females and smaller juveniles. To prevent the targeting of juveniles, all retained tope sharks must exceed 450 mm in length (AFMA 2015). Lastly, area closures have been implemented to protect pupping and nursery grounds, known habitats, and migration routes of pregnant females; however, recent satellite tracking research revealed that some migrating females use offshore pathways outside the existing inshore closures, leaving those sharks unprotected from fishing (AFMA 2015; McMillan *et al.* 2019).

Compliance is monitored via mandatory EM systems on all full-time vessels, which replaced onboard observers in 2015 (AFMA 2015). EM consists of sensors and video cameras that record fishing activity to verify logbook data. The baseline audit rate was historically 10 percent of recorded hauls. In May 2024, citing high congruence between EM and logbook reporting, AFMA reduced this to 5 percent for a trial period. However, a 100 percent video review rate remains for gillnet boats in Australian Sea Lion Management Zones. Catch rates and biological data for the species are reviewed annually by SharkRAG, which serves as the primary process for assessing whether the objectives of the rebuilding strategy are being met (AFMA 2015).

An assessment of the rebuilding strategy was conducted by AFMA and discussed by SharkRAG in 2021, and the group concluded that there was no evidence to suggest that the strategy was not working or that significant changes to management were needed. Tope sharks are actively and extensively monitored and regulatory mechanisms are increasingly being put in place to recover the stock. There is evidence that reduced fishing mortality is allowing for population growth; however, fisheries mortality for the 2023–2024 season exceeds the level recommended for rebuilding. Overall, the team agreed that the best available information indicates that recent management of the tope shark in Australia has been effective in reducing mortality and has contributed to stabilizing and beginning to recover the stock. Recent catch levels slightly

reduced the team's confidence in this conclusion, however.

In New Zealand, tope sharks have been managed under the QMS since 1986. Catch limits are set, and the stock status is assessed, at the subregional level. TACs are set annually with the goal of maintaining or moving the stock towards a biomass that is at or above the level that can produce the maximum sustainable yield (B_{MSY}) (New Zealand Ministry for Primary Industries 2013). The TAC is divided into allowances for commercial, recreational, and customary non-commercial fishing, as well as other sources of mortality. Commercial quota owners (those that own shares in a fishery stock) receive Annual Catch Entitlement on the first day of the fishing year based on the TACC and how much quota they own (Fisheries New Zealand 2024a). The best available data indicates that the effectiveness of the QMS varies by subregion, with certain regions likely to be at or above target biomass without overfishing occurring, and others likely below target biomass and very likely to be experiencing overfishing (Fisheries New Zealand 2024b). Despite the local-scale occurrences of overfishing or depletion, all team members agreed that regulatory mechanisms appear to be largely adequate in managing the sustainable harvest of tope sharks in New Zealand with no clear evidence of a corresponding decline in abundance. A single, consistent abundance trend has not been established for the entire New Zealand stock, and certain management areas have unknown trends, which adds some uncertainty to this conclusion.

The team concurred that this particular threat is not uniform across the range of the DPS, but is of somewhat greater severity in Australia than in New Zealand. All team members agreed that the threat of inadequate regulatory mechanisms does not in itself constitute a danger of extinction in the near future. Based on the long-term management of the species in New Zealand with a lack of indication of abundance decline, as well as the ongoing adaptive management in Australia, two team members concluded that it is unlikely that this threat contributes significantly to long-term or near future risk of extinction by itself, but there is some concern that it may, in combination with other factors. One team member weighed more heavily the recent exceedance of recommended catch levels in Australia and the mixed stock status in New Zealand, concluding that this factor contributes significantly to long-term extinction risk.

Other Natural or Manmade Factors Affecting Its Continued Existence

The team unanimously concluded that the contribution of this factor to the extinction risk of the species across its range could not be determined (see Summary of Section 4(a)(1) Factors Affecting All DPSs).

Demographic Risk Assessment for the SW Pacific DPS

Abundance

The demographic risk factor of abundance was assigned a rating of Very Low/Low. While the team agreed that abundance by itself is not likely to contribute significantly to extinction risk for the DPS, there was concern from two team members that abundance may contribute to the long-term extinction risk of this DPS in combination with other stressors given the well-documented depletion of the Australian stock.

Heavy fishing pressure on large gravid females and juvenile tope sharks began in Australia in the 1940s and resulted in lower CPUE, mean body size, and numbers of juveniles at surveyed nursery sites (Olsen 1959, Olsen 1984, Stevens and West 1997, Walker 1998, Walker *et al.* 2005). In addition to these indications of population decline, formal stock assessments for the Australian tope shark stock provide evidence of significant reductions in biomass and pup production: by 2007, the biomass of sharks aged 1+ was just 7 percent to 20 percent of pre-exploitation levels and pup production estimated to be only 6 percent to 17 percent of historical levels (Thomson and Punt 2009). Thomson *et al.* (2020) projected population trends to the year 2037 using four rates of constant exploitation (zero catch, the 2016 catch rate, the 2017 catch rate, and the mean catch rate between 2013 and 2017); all resulted in a modest upward trend with estimated annual increases of approximately 1–11 percent. However, the team noted that these projections included very wide confidence intervals and continued decline could not be ruled out. Recent modeling using updated CKMR data estimated that the Australian tope shark population has been increasing in abundance at a rate of 7.5 percent per year between 2006–2020 (Thomson *et al.* in prep). An analysis of tope shark CPUE in the trawl sector of the SESSF shows a decline in catch rate from 1996 to 2003, consistent with the datasets used by Thomson and Punt (2009); after 2003, however, catch rate has increased steadily until the end of the dataset in 2020 (Tuck 2022). This fishery represents a small portion of the

total catch and may not reflect the trend of the overall population.

In New Zealand, population status varies across 5 different management areas, with some regions appearing stable or increasing while others show signs of localized depletion. The Far North (N/1E) region shows a steadily increasing biomass index since 1995 and is likely at or above its target level; the West Coast (7/8/1W) is considered stable and about as likely as not to be at or above B_{MSY} ; Chatham Rise (SCH4) has fluctuated with no discernible trend since 2003/4; the Lower South Island (3S/5) region has seen a gradual decline in biomass since 1999, and it is “very likely” (>90 percent probability) that overfishing is occurring. The status of eastern North Island (2/3N) is unknown due to conflicting/insufficient data, although a fisheries-independent survey tentatively suggests increased CPUE after 2007 compared to pre-1996. There is no consistent nationwide abundance trend, but the team found the lack of evidence of a widespread collapse across the region an indication of the stability of the stock as it continues to be fished at fairly consistent levels for several decades.

The most recent IUCN Red List Assessment finds that based on data from the 2009 stock assessment (Thomson and Punt 2009) annual rates of reduction were estimated at 2.8 percent, consistent with a median reduction of 90.1 percent over 3 generation lengths (79 years). In New Zealand, results indicated annual rates of reduction of 0.5 percent and estimated median reduction of 29.8 percent over three generations (79 years; Walker *et al.* 2020).

The best available data from the range of the SW Pacific DPS indicate mixed population trends. While the historical depletion in Australia is concerning and may exacerbate the species’ extinction risk in combination with other factors, the best available data indicates that the population is increasing. The stability of the New Zealand stock, while unlikely to significantly alter the population status of the Australian stock, provided confidence to the team that the DPS is unlikely to be at risk of extinction currently or in the foreseeable future due to its abundance alone.

Productivity

This demographic risk factor was assigned a Low/Moderate rating. The tope shark’s low productivity limits its capacity to rebound from depletion. There is evidence of historical fishing of large pregnant females and juveniles in pupping and breeding areas in southern Australia and Tasmania (Olsen 1959;

Fowler *et al.* 2005). Reports also indicate that while fishing effort increased sharply between 1944 and 1956, mean body size declined (Olsen 1959). Estimates of pup production by Thomson and Punt (2009) ranged from 6 percent to 17 percent of pre-exploitation levels, indicating reduced productivity of the population. The team concluded that, while this threat does not by itself contribute significantly to near-term risk of extinction, the DPS’s productivity is likely to contribute to the long-term extinction risk of the DPS in combination with other threats (such as overutilization) and/or demographic risk factors (such as reduced abundance).

Diversity

The team assigned this demographic risk factor a rating of Very Low, reflecting their conclusion that this factor is unlikely to contribute significantly to the extinction risk for the SW Pacific DPS, either by itself or in combination with other factors. Based on the best available information, the team found no evidence that the DPS is at risk due to a substantial change or loss of variation in life-history traits, population demography, morphology, behavior, or genetic characteristics.

Regarding genetic structure and connectivity, the team noted that tope sharks throughout this region are considered to comprise a single, large population. Genetic analyses using both mtDNA and microsatellite markers are largely in agreement that there is no significant population differentiation or barrier to gene flow within the region (Ward and Gardner 1997, Hernández *et al.* 2015, Devloo-Delva *et al.* 2019). Bester-van der Merwe *et al.* (2017) did find significant genetic differentiation between tope sharks from Tasmania and New Zealand based on microsatellite markers, however, Devloo-Delva *et al.* (2019) re-examined the samples used in the prior study and suggested that the results may have been due to sampling artifacts and should be interpreted with caution.

The team also highlighted the species’ behavioral and ecological plasticity as a factor reducing extinction risk. Tope sharks exhibit diverse migratory behaviors, including “partial migration,” where some females undertake long-distance migrations exceeding 2,000 km (including across the Tasman Sea), while most others remain within a relatively localized home range (within 500 km). Furthermore, the species utilizes a wide variety of habitats, ranging from shallow coastal waters and continental shelves

to oceanic insular areas and mesopelagic depths. The team reasoned that this diversity in habitat use and migratory strategy may provide the DPS with resilience against catastrophic events that might affect a specific local area or habitat type. Overall, there is no evidence that the species is at risk due to a substantial change or loss of variation in life-history traits, population demography, morphology, behavior, or genetic characteristics. Therefore, diversity is not considered a significant contributor to the extinction risk of this DPS.

Spatial Structure/Connectivity

Spatial distribution for tope sharks in this DPS was assigned a rating of Very Low, as this demographic factor was not viewed by any team members as contributing significantly to risk of extinction for this DPS, either by itself or in combination with other factors. The tope shark occupies a broad geographic range within the SW Pacific, from Houtman’s Abrolhos to Cape Leeuwin in Western Australia, eastward to Moreton Bay in Southern Queensland, around Lord Howe Island, Tasmania, around the North and South Islands of New Zealand, and as far east as the Chatham Islands. Within this extensive range, the species utilizes diverse habitats, occupying shallow coastal bays and estuaries—often used as pupping and nursery grounds—as well as deep offshore waters along the continental slope.

The team noted that there are no known physical barriers to dispersal within this region that would altogether prevent the species from accessing available habitat or moving between areas in response to environmental or anthropogenic stressors. Tope sharks are known to migrate across the Tasman Sea in both directions, and available genetic data support the characterization of the DPS as a single regional population. Such movements are likely infrequent, however, based on relatively few trans-Tasman recaptures in tagging studies and results of CKMR analyses. While movement between New Zealand and Australia is unlikely to allow for any significant population recovery from localized depletions, there is some resilience provided by these movements such that the spatial distribution of the DPS is unlikely to threaten the persistence of the DPS as a whole.

In summary, due to the species’ wide distribution, lack of barriers to dispersal, and genetic connectivity, the team concluded that spatial distribution is unlikely to contribute significantly to the risk of extinction for the SW Pacific

DPS, either by itself or in combination with other factors.

Extinction Risk Summary: SW Pacific DPS

Based on the team's consideration of the best available data regarding threats and demographic risks to this DPS, they concluded that the SW Pacific DPS is currently at a Low Risk of extinction. Their confidence in this conclusion was fairly high as the majority of their likelihood points (70 percent) were allocated to the Low Risk category and the remainder of the points (30 percent) were allocated to the Moderate Risk category.

Overutilization for commercial purposes was identified as the most significant threat to tope sharks in the SW Pacific DPS. The species was targeted and heavily fished across the region historically, leading to significant abundance declines in the Australian stock. Currently, tope sharks are bycaught in several Australian fisheries, including the gillnet, hook and trap sector of the SESSF which targets gummy sharks. The rebuilding strategy for the species (updated in 2015) lays out goals and timeframes for rebuilding the stock through a variety of regulatory mechanisms. An assessment of the rebuilding plan was conducted by AFMA and discussed by SharkRAG in 2021, and SharkRAG concluded that there was no evidence to suggest that the strategy was not working. The team agreed that there is evidence of population increase in modeled CKMR data and observed CPUE trends. However, the team expressed some concern that estimated fisheries mortality for the 2023–2024 season exceeds the level recommended for rebuilding.

In New Zealand, a conservative QMS for tope sharks was implemented in 1986 to ensure the sustainability of the fishery, and team members were in agreement that it appears to have been adequate for managing the sustainable harvest of tope sharks since then. While recent assessments indicate local-scale occurrences of overfishing in certain management areas, the team found no clear evidence of widespread population decline after decades of fishing at relatively steady, high levels (2,500–3,500 mt per year). The IUCN Red List Assessment for New Zealand's tope sharks indicates annual rates of reduction of 0.5 percent and estimated median reduction of 29.8 percent over three generations (79 years; Walker *et al.* 2020).

The team considered how the life history of tope sharks increase the DPS's vulnerability to overutilization. The

species is long-lived, slow-growing, and late-maturing, and has low overall productivity. This limits the species' capacity to rebound from depletion. There is evidence of historical fishing of large pregnant females and juveniles in pupping and breeding areas of the SW Pacific, as well as evidence of significantly reduced pup production in Australia. This reduces the productivity of the population and contributes to long-term extinction risk.

Data are limited, but the team found no indication of declines in diversity. Data are also limited with respect to the loss or degradation of habitat including pupping areas. Available evidence does not provide any indication that the DPS's range has contracted, or that changing environmental conditions will limit critical habitats in the foreseeable future. There is also no evidence that disease, predation, or other manmade factors are contributing to the SW Pacific DPS's risk of extinction.

Overall, the team found that this DPS is at Low Risk of extinction. This conclusion is based on: the lack of evidence of widespread, significant population decline in New Zealand despite sustained high catch over several decades; adequate management and monitoring of the species in New Zealand; an adaptive management strategy aiming to rebuild tope sharks in Australia; and resulting abundance increases in Australia. Several likelihood points were allocated to the Moderate Risk category as a result of fisheries mortality in Australia exceeding the recommended TAC in the most recent season, evidence of reduced pup production in the DPS, and uncertain stock status in certain QMAS in New Zealand.

Significant Portion of Its Range Analysis: SW Pacific DPS

Because the team concluded that this DPS is at low risk of extinction throughout its range, they also considered whether this DPS is at a moderate or high level of extinction risk within an SPR. In order to conduct this analysis, they first identified portions of the DPS's range where there is a reasonable likelihood that the DPS may be both at elevated extinction risk and where the members of the DPS in that portion may be biologically significant to the long-term viability of the DPS.

Given that overutilization has resulted in abundance and productivity declines in Australia, and that fisheries-related mortality is concentrated here, the team identified the Australian portion as potentially being at moderate or high risk of extinction. The effective long-term management of tope shark fisheries

in New Zealand with low to moderate rates of abundance declines indicated by available data led the team to conclude that tope sharks are not at elevated risk of extinction in New Zealand relative to the rest of the range. Thus, this portion was not further considered in the analysis.

To conduct this SPR analysis, the team first addressed the question of whether tope sharks are at moderate or high risk of extinction in the Australian portion of their range. They considered the available information on the historical overfishing and the resulting abundance and productivity declines of tope sharks indicated by the 2009 stock assessment (Thomson and Punt 2009). Since these observed declines, a rebuilding strategy and various management measures have been put in place. There is evidence that these conservation measures have stabilized the stock and led to recent abundance increases: tope shark CPUE in the trawl sector of the SESSF steadily increased from 2003 until the end of the dataset in 2020 (Tuck 2022); modeling indicates likely population increases (between 1–11 percent annual increases depending on exploitation scenario) (Thomson *et al.* 2020); new CKMR data from 3,000 additional tope shark samples indicate that 7.5 percent per annum population increases have occurred over the time period 2006 to 2020 (90 percent CI: 2.7–12.3 percent) (Thomson *et al.* in prep). There are also ongoing updates to Australia's management framework, including the development of a harvest strategy based on absolute abundance estimates provided by the CKMR assessment, rather than reference points defined relative to pristine abundance. While recent fishing mortality has exceeded the level that is recommended for rebuilding, personal communication from R. Thomson (Australia Commonwealth Scientific and Industrial Research Organisation; December 2, 2025) suggests that the fishing industry is finding it increasingly difficult to avoid tope sharks as their population increases in size. In addition, the team considered how connectivity with the New Zealand portion of the range, as evidenced by both tagging and genetic data, provides a degree of population resilience to the Australian portion. In all, considering the increasing abundance trend due to strengthened regulatory measures applicable to the Australian portion of the DPS, and the benefits provided by connectivity with the New Zealand portion of the range, the team concluded that tope sharks in Australia are at a low risk of extinction. Therefore, they

concluded that the Low risk conclusion for the DPS range-wide also applies to tope sharks in the Australian portion of the range.

Listing Determination: SW Pacific DPS

Based on our review of the best available scientific and commercial data and extinction risk assessment, as provided in the Status Review Report and summarized herein, we find that this DPS is not in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range. We considered efforts being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species (see Conservation Efforts). These conservation efforts do not change the conclusion we would otherwise have reached regarding the DPS's status. Therefore, we find that the SW Pacific DPS does not meet the definition of a threatened or endangered species and thus does not warrant listing under ESA.

Summary and Analysis of Section 4(a)(1) Factors for the NE Pacific DPS

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The threat of habitat modification from changing environmental conditions was rated as Very Low/Low based on available evidence indicating that the net effect of changes in environmental conditions on the availability of suitable habitat for this DPS is likely neutral or even positive over the foreseeable future. In particular, the team's analyses project a 28.6 percent (~68,749 sq. km) increase in suitable habitat area for the tope shark in the NE Pacific in the foreseeable future as well as a poleward shift in suitable habitat, with potential losses in the southern part of the range (e.g., off Baja California and in Gulf of California) being more than offset by substantial projected habitat gains off British Columbia, Canada and Southeast Alaska. Based on this, the team concluded that habitat curtailment as a result of changing environmental conditions is likely not a significant threat to this DPS by itself currently or in the foreseeable future. As with other DPSs, the team discussed how more localized impacts of ocean warming could be masked by the coarse scale of the habitat suitability model, and they noted that effects of ocean warming and other environmental variations (e.g., changes in runoff, salinity, pH) could be more severe in nearshore nursery and pupping areas. Such acute habitat

changes could contribute to the DPS's extinction risk in combination with other threats, however, there is insufficient information to evaluate the scope or severity of this potential threat to tope sharks with any confidence. Given these other considerations, they concluded that changes in environmental conditions in tope shark habitat are unlikely to pose an independent extinction risk currently but may, in combination with other factors, contribute to the extinction risk of the NE Pacific DPS over the foreseeable future.

Similar to other DPSs, habitat threats stemming from coastal development and pollution were assigned a rating of Very Low/Low reflecting the team's conclusion that habitat destruction from coastal development and pollution are not likely contributing significantly to extinction risk for the NE Pacific DPS, but impacts to more sensitive coastal habitats may, in combination with other factors, contribute to long-term extinction risk of the DPS. As noted for other DPSs, this potential threat could affect important pupping and nursery habitats across the range; however, no information regarding known or potential impacts of coastal development on tope sharks in the NE Pacific specifically or elsewhere were available to indicate this is an operative threat affecting tope sharks. Similarly, with respect to toxic contaminants and plastics, specific levels of exposure, contamination, and their consequences on tope shark health and survival are unknown, so the team was unable to assess the extinction risk posed by these other potential forms of habitat degradation.

In summary, there is very little information regarding the threat of coastal development and pollution to tope sharks in the NE Pacific. The team acknowledged concerns that this threat could disproportionately affect early life stages and may contribute to the long-term extinction risk of the NE Pacific DPS in combination with other factors; however, the available information is not sufficient to conclude that this threat is likely to contribute by itself to the long-term or near future risk of extinction of this DPS.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The threat of overutilization for the NE Pacific DPS was assigned a rating of Low, as a result of the greatly reduced level of fishing pressure on tope sharks within the region. There have been no directed commercial fisheries for tope sharks within the NE Pacific since the

1950s and recreational catch appears to be limited. Tope sharks, however, continue to be taken as bycatch in some commercial fisheries and in artisanal fisheries, primarily in the southern portion of the range.

Prior to 1936, tope sharks were not a major target species for commercial fishers in the region and were predominantly landed as bycatch from demersal trawl and trammel net fisheries (Walker 1999). From 1916 to 1936, total shark landings in California were relatively stable at approximately 227 mt per year on average (Ripley 1949). Beginning in 1937, tope sharks in this region were subject to an intense, ~8-year long commercial fishery. This fishery developed rapidly after it was discovered that the liver oil of adult *G. galeus* contained high levels of vitamin A and could serve as an effective replacement for the vitamin A from cod liver oil, sources of which had been disrupted by World War II (Ripley 1946). By 1939, approximately 600 vessels were fishing for tope sharks throughout California waters (Ripley 1946), and in the ensuing years, fishermen in Oregon, Washington, and British Columbia followed suit (Barraclough 1948; Cleaver 1951; Nakatsu 1957). In California, where the greatest quantities of tope sharks were landed, tope shark landings peaked at over an estimated 3,000 mt by the late 1930s, were recorded as 2,173 mt in 1941, and declined to 287 mt by 1944 (Ripley 1946). Market demand for tope sharks declined precipitously by the early 1950s when cod liver oil as well as synthetic sources of vitamin A became available, but significant declines in CPUE by the mid-1940s in both Canada and the United States had already signaled the collapse of the fishery. For instance, between 1942 and 1945, estimated CPUE of tope sharks landed in the Eureka, California region declined by about 86 percent (Ripley 1946), and, between 1943 and 1946, estimated CPUE for tope shark livers landed by gillnets in Hecate Strait, British Columbia declined by 93 percent (Barraclough 1948). The steeply declining CPUEs, landings, and concurrent anecdotal reports that tope sharks were increasingly less common provide strong evidence that this historical fishery greatly reduced tope shark abundance. Using the estimated and available tope shark landings data for 1938–1944 in California, Holden (1977) concluded that the steep decline in CPUE observed in California was due to a decline in the stock and not due to recruitment failure. This conclusion suggests that following the collapse of

the fishery the population retained the ability to rebound from the previous fishing pressure.

During the early stages of the tope shark fishery in the United States, tope sharks were primarily fished using bottom-set longlines, as the commercial halibut fleet could quickly repurpose this gear. However, by 1943, bottom-set gillnets, which were found to catch tope sharks more efficiently, largely replaced longlines as the preferred gear in the United States (Ripley 1946; Westrheim 1950). In British Columbia, longlines remained a common fishing method throughout the duration of the fishery due to local regulations on gillnets (Barracough 1948). Due to practical constraints, the use of bottom-set gillnets was largely limited to relatively shallow waters (<150 m). Later, drift nets also gained popularity when it was found that tope sharks in the northern region could also be caught during the spring and summer months near the ocean surface as far as 100 miles (~161 km) from shore (Westrheim 1950). Since 2000, gillnets have been responsible for the vast majority of tope shark captures in the United States (Figure 4–21 in Status Review Report) and are also responsible for most of the tope shark captures in Mexico. Set gillnets are the most widely used gear type in Mexican artisanal elasmobranch fisheries due to their low cost, ease of use, and high catch efficiency (Bizarro *et al.* 2009; Sosa-Nishizaki *et al.* 2020; IMIPAS–CONAPESCA 2025).

Since the 1950s, commercial landings of tope sharks in the NE Pacific have declined significantly. Although increased demand for shark meat in the early 1980s led to a noticeable but brief increase in tope shark landings in California (peaking at about 125 mt per year), fishing effort at this time was not focused on tope sharks, and landings of tope sharks declined to less than 30 mt by 2000 and less than 10 mt by 2008. At the peak of this more recent shark fishery, tope sharks were mainly being caught in southern California, particularly between September and December, in depths less than 180 m and within about 4 nm from shore (Holts 1988). Subsequent declines in tope shark landings were likely attributable, at least in part, to depth- and area-based gillnet restrictions in coastal California, which significantly constrained the location of the state's commercial set gillnet fishery by 1994 (see *Inadequacy of Existing Regulatory Mechanisms* section below). In Canada, total shark landings declined from a peak of 9,000 mt in 2005 to near zero in 2010, with most (99 percent) of the

catch consisting of spiny dogfish (*Squalus suckleyi*; Jabado *et al.* 2024).

Currently, the threat of overutilization is concentrated in the southern portion of the DPS's range, as landings are occurring primarily in Mexican artisanal fisheries and to a lesser extent in offshore waters of southern California. Most of this take occurs along the Pacific coast of the Baja California Peninsula; whereas capture of tope sharks is rare within the Gulf of California (Saldaña-Ruiz *et al.* 2017). Data from the artisanal fisheries in Mexico are very limited due to limited monitoring and species-specific landings data, but various surveys of fishing camps in Baja California and Baja California Sur during 1995–2010 indicate that tope sharks are captured year-round and comprise a very small percentage of the total shark catch (Cartamil *et al.* 2011, Santana-Morales *et al.* 2020). Based on these surveys, smaller tope sharks appear to be captured primarily during summer months by gillnets, while longline captures appear to increase in winter and consist of larger adults. Based on data reported to FAO, total tope shark landings in Mexico averaged 58.4 mt per year between 2019 and 2023. Elsewhere, annual landings are low and have not exceeded 10 mt in the United States or Canada since at least 2010. In addition, gillnet fishing has declined significantly in the United States and is largely prohibited in Canada, and bycatch in other commercial fisheries is rare. Since 2002, total tope shark mortality (*i.e.*, landings plus estimated discard mortality) has averaged 2.3 mt per year in U.S. hook and line fisheries and 3.9 mt per year in U.S. bottom and midwater trawl fisheries (Figure 4–23 in Status Review Report). Likewise, from 2000 to 2018, bycatch of tope sharks averaged 1.3 mt per year in the Canadian hook and line fishery and 0.5 mt in the Canadian trawl fishery (Figure 4–22 in Status Review Report; COSEWIC, 2021).

Overall, while there is continued concern regarding fisheries-related take of tope sharks in the NE Pacific, the scope and severity of the threat of overutilization have declined significantly given existing management measures and the lack of a directed tope shark fishery. The available data suggest that tope shark abundance remains depressed relative to historical levels despite the significant reduction in fishing pressure; however, a population rebound to former peak abundances is likely to require several generations given the tope shark's life history and ongoing fisheries mortality. While no stock assessments are available for this

DPS, available evidence suggests that, as of the early to mid-2000s, abundance of this DPS is stable and possibly increasing (*e.g.*, WCGOP data, see section 3.4 of the Status Review Report, COSEWIC 2021). Given the greatly decreased fishing pressure and evidence that the population may be stable or possibly even increasing, fisheries-related mortality, by itself, is unlikely to contribute significantly to the DPS's long-term or near future risk of extinction, but there is some concern that it may, in combination with other factors. Incomplete fisheries data and the lack of a stock assessment or recent abundance data contribute to substantial uncertainty with respect to the level of extinction risk posed by past and current fishing levels on the NE Pacific DPS, and thus the team rated the available data as having Low to Medium sufficiency. Additional detail regarding fishing activity within this region is provided in section 4.3.4 of the Status Review Report.

Disease and Predation

The team assigned this threat category a rating of Very Low, reflecting agreement that, based on the best available information, neither disease nor predation is contributing significantly to the extinction risk of the NE Pacific DPS now or over the foreseeable future. The best available information on disease and predation on the tope shark throughout its range (see Summary of Section 4(a)(1) Factors Affecting All DPSs), and no further information specific to this DPS is available.

Inadequacy of Existing Regulatory Mechanisms

The inadequacy of existing regulatory mechanisms was assessed as posing a Low risk to the NE Pacific DPS. Given that historical overutilization in commercial fisheries was identified as a major threat to this DPS, the assessment of regulatory mechanisms was focused on a review of relevant fisheries management measures and their effectiveness. The Low rating assigned to this threat reflects the team's conclusion that effective regulatory mechanisms are in place across most of the range of this DPS such that this factor itself is not likely to contribute significantly to long-term or near future risk of extinction, but may in combination with other factors.

Existing regulatory mechanisms in both the United States and Canada have drastically reduced fishing pressure on tope sharks and have likely minimized the threat of overutilization across the range of the DPS. In Canada, shark

finning has been banned since 1994, and targeting and retention of tope sharks in commercial and recreational fisheries has been prohibited since 2011. All commercial longline and trawl vessels have had either at-sea observers or EM since 2006, allowing for effective monitoring of bycatch and enforcement of the requirement to discard tope sharks at sea. Other management measures include a code of conduct, developed in 2010, intended to reduce incidental capture and reduce mortality through safe handling protocols.

In the United States, shark finning has been prohibited since 2000, and in California, a series of regulatory restrictions on gillnet fishing has drastically reduced the total effort in the state's set gillnet fishery, which has historically accounted for the large majority of tope shark landings. For instance, beginning in 1994, a statewide ballot measure (CA Proposition 132) prohibited gillnet fishing (and trammel net fishing) in all waters within 3 nm of the mainland coast and within 1 nm of the Channel Islands. More recently, first through emergency measures in 2000 and 2001 and then through a permanent extension in 2002, the California Fish and Game Commission (CFGC) established an additional depth restriction on the use of set gillnets in central California, prohibiting their use in waters less than 60 fathom deep (110 m) between the Point Reyes headlands and Point Arguello (California Code of Regulations, Title 14, Section 104.1). As a result of these measures, set gillnetting largely shifted to the south of Point Arguello and is now very limited in northern and central portions of the state—where a large percentage of the tope shark landings occurred in the 1940s (Ripley 1946). Using fisheries-independent gillnet survey data, Pondella and Allen (2008) reported a significant increase in tope shark CPUE ($p = 0.02$) from 1995 to 2004 in the Southern California Bight (following enactment of CA Proposition 132), whereas previously they had been declining. These authors attributed the increased CPUE to the nearshore gillnet prohibition and subsequent positive response of the population. In addition to area restrictions, overall gillnet fishing effort has also declined: in 1939, there were an estimated 600 active California gillnet fishermen who were primarily fishing for tope sharks (Ripley, 1946); in 1987, there were over 300 active permittees (CDFW 2023), many of whom were targeting various shark species, including tope shark; and, as of 2023, there were a total of 91 permit holders in the California

commercial set gillnet fishery, primarily targeting California halibut and white seabass (CFGC 2024). Likewise, the total number of gillnetting trips has also declined from 27,798 trips in 1986 to less than 2,000 trips per year since 2012, with the vast majority of landings in the set gillnet fishery (over 90 percent) coming from just 13 vessels (Fang *et al.* 2025). Washington, Oregon, and California have also all enacted measures to prohibit or effectively eliminate the use of drift gillnets. Large, adult tope sharks may potentially benefit from the Driftnet Modernization and Bycatch Reduction Act of 2022, which will prohibit the use of large mesh (>14 inches, ~36 cm) drift gillnet gear in Federal waters off the U.S. West Coast after December 2027.

Mexico has enacted several measures to promote sustainable shark fishing that are likely to have measurable benefits for tope sharks. Most notably, the Norma Oficial Mexicana (NOM–029–PESC–2006), among other restrictions, prohibited landing of shark fins without the carcass, established a moratorium on new commercial shark fishing permits, prohibited the use of sharks as bait, and prohibited the use of gillnets and longlines for shark fishing along much of the Baja California peninsula and in coastal lagoons from December 1 to April 30. Additionally, beginning in 2013, Mexico has imposed a seasonal closure of the shark and ray fishery in federal waters along the Pacific coast from May 1 to July 31 to coincide with the peak pupping and nursery season for many Pacific shark species, including tope sharks. Despite these measures and a reported increased interest in shark conservation, management gaps appear to remain in Mexico due to deficient enforcement and monitoring, particularly at remote fishing camps, and the continued practice of reporting landings under generic categories (Santana-Morales *et al.* 2020, Sosa-Nishizaki *et al.* 2020).

Overall, existing regulatory mechanisms in Canada and in the United States likely minimize the threat of overutilization throughout the majority of the NE Pacific region. A prohibition on the targeting and retention of tope sharks since 2011 has nearly eliminated this threat in Canada. In the United States, despite there not being any species-specific regulations or commercial catch limits, the lack of a directed fishery combined with existing gillnetting restrictions have resulted in a drastic reduction in fishing pressure and catch levels. Mexico has also taken steps to improve the sustainability of the Pacific shark fishery, but deficiencies in monitoring and

enforcement remain. Thus, as with the threat of overutilization, the team found that the scope and severity of this threat are limited, particularly relative to historical levels, and the threat is now largely restricted to the southern portion of the DPS's range. Thus, the team concluded that the threat of inadequate existing regulatory mechanisms, by itself, is unlikely to contribute significantly to the DPS's long-term or near future risk of extinction, but they acknowledge there is some concern that it may, in combination with the depressed abundance stemming from historical overutilization. Additional detail regarding various management measures for this DPS are provided in section 4.5.5.1 of the Status Review Report.

Other Natural or Manmade Factors Affecting Its Continued Existence

As with all other DPSs, the assessment of this factor focused primarily on the potential threat posed by EMFs generated by undersea power cables, which was highlighted by the petitioner as a potential risk to tope sharks. As noted previously, the team was unable to find any data or research regarding tope sharks' reliance on natural electrical or magnetic signals and how EMFs may impact their behaviors. Available research to date (*e.g.*, Kavet *et al.* 2016; SEER 2022) has also not indicated that EMFs pose more than a minor impact on marine fishes. Given the general lack of information on this potential threat, the team concluded that the contribution of this threat to the extinction risk of tope sharks is Unknown.

Demographic Risk Assessment for the NE Pacific DPS

Abundance

The demographic risk factor of abundance was rated as Low, reflecting agreement among the team members that abundance of the NE Pacific DPS is not likely to be contributing to the species' long-term or near future risk of extinction by itself, but may in combination with other factors. Because much of the relevant, available data are derived from other fisheries or surveys designed for other species, and are thus affected by low gear selectivity and low catch rates for tope sharks, the team had a low to moderate confidence in interpreting these data as a measure of tope shark abundance and trends.

Available estimates of CPUE from historical Canadian and U.S. commercial fisheries as well as qualitative descriptions of the historical tope shark fishery, provide clear

evidence that tope shark abundance was significantly reduced during the ~8 years that the directed tope shark fishery was active. Based on historical catch data from California (during 1938–1944), the unexploited population was roughly estimated to consist of 670,000 mature females (Ripley 1946), and based on genetic data collected from tope sharks ($n = 26$) off California (during 1997–2006), mature females were estimated to number 89,545 (Chabot and Allen 2009). While the population very likely remains depleted compared to its historical abundance levels, the available data provide a reasonably strong indication that the population is stable or potentially even increasing. As noted previously, based on data from the Southern California Bight, Pondella and Allen (2008) found that the tope shark population responded positively following enactment of restrictions on gillnetting within California state waters. In addition, analysis of the IPHC FISS data, which are the most statistically robust data available for this DPS, show a significant increase in the mean number of tope sharks caught per sampling station from 2003 to 2018, and a continued increasing trend to 2024 (see Figure 3–19 in Status Review Report). Analysis of these fishery-independent, long-line survey data, which are collected annually (during May to September) at the northern end of the DPS's range and as far south as Northern California, also reveal that the largest increases in tope shark catch has occurred off British Columbia, and may reflect a range shift. However, several other data sources indicate patterns that are consistent with an increase in population abundance: at-sea discard rates of tope sharks in the Pacific hake mid-water trawl fishery have increased since 2015; catch of tope sharks per vessel has increased since 2015 for each gear type where tope sharks are consistently observed in the WCGOP (*i.e.*, bottom trawl, bottom/midwater trawl, fixed gear, and non-trawl net gear fisheries) in California; and logbook data from California gillnet fishery show that tope sharks caught per vessel trip and has generally increased from 2015 to 2021. While there are limitations to each of the available datasets, and changes in effort and location of gillnet fishing during the past decades likely result in a downward skew in the tope shark CPUE data, the consistent pattern across these independent datasets is compelling.

Overall, the available data do not indicate that abundance of this DPS is currently posing an extinction risk for the species. Considering the changes in

fishing practices and management measures across the majority of the DPS's range, the team also concluded that abundance is also unlikely to pose an extinction risk for the species over the foreseeable future.

Productivity

This demographic risk factor was assigned a Low risk rating and a low data sufficiency rating. As noted previously, the tope shark's fairly low productivity clearly limits its capacity to rebound from depletion, but this trait does not, by itself, contribute significantly to long-term or near future risk of extinction. Beyond this inherent demographic vulnerability, the team found no evidence that population growth is currently below the replacement rate or has been compromised to a level that threatens the persistence of the NE Pacific DPS (*e.g.*, via compensatory processes). Rather, consistent observation of seasonal aggregations of adult and pregnant females off the coast of southern California and indications of population rebound suggest that the DPS is successfully reproducing and that the population growth rate may be above replacement rate. The 1994 restrictions on gillnetting, which prohibited gillnetting within shallow nearshore waters of the Southern California Bight where tope sharks were known to pup and where adult females consistently aggregate in summer, may have also had a positive effect on population growth (Pondella and Allen 2008). Ongoing fishing activity in Mexico, however, may hinder productivity, which, in combination with the still-depleted status of the population, warrants some concern.

Diversity

The team assigned this demographic risk factor a rating of Very Low, reflecting their conclusion that this factor is unlikely to contribute significantly to the risk of the extinction for the NE Pacific DPS, either by itself or in combination with other factors. As there are limited genetic data available for this DPS, the data sufficiency for this demographic factor was rated as Low.

Analysis of microsatellite DNA (using 11 polymorphic microsatellite loci) collected from tope sharks off California ($n = 25$) indicated that observed heterozygosity, average allelic richness, and number of private alleles are all within the range observed for tope shark populations in the four other regions sampled (Australia, South America, Africa, Western Europe (Chabot 2015)). Similarly, based on analysis of mtDNA (control region), tope sharks sampled in

the NE Pacific (California) have a comparable level of nucleotide and haplotype diversity relative to tope sharks of other regions (Chabot and Allen 2009). There appear to be no other studies regarding genetic diversity, population structure, or gene flow within the region. The team found no evidence that the DPS is at risk due to a substantial change or loss of variation in life-history traits, population demography, morphology, behavior, or genetic characteristics, nor any evidence that natural processes of dispersal or migration have been significantly altered. Fisheries capture data as well as more recent telemetry data indicate that seasonal movement patterns along the coast as well as distinct movements and aggregations of males and females continue, suggesting there has not been a loss of intra-population ecological variation.

Spatial Structure/Connectivity

Spatial distribution for tope sharks in this DPS was assigned a rating of Very Low, as this demographic risk factor was not viewed by any team members as contributing significantly to risk of extinction for this DPS, either by itself or in combination with other factors. The sufficiency of the available data to assess this risk factor was rated as Medium.

Tope sharks remain broadly distributed across the region, and range from the waters off British Columbia, south to Baja California Sur, Mexico. There are no known extirpations of tope sharks within this range nor are there any known physical barriers to dispersal that would prevent the species from accessing available habitat or moving between areas in response to environmental or anthropogenic stressors. The projected potential net expansion of suitable habitat at the northern end of the range also suggests that the distribution of this DPS is not likely to contract over the foreseeable future. Observational data from the historical fishery as well as more recent telemetry data indicating regular, seasonal movements and long-distance migrations, support the current view that the NE Pacific population of tope sharks consists of a single, migratory stock.

Extinction Risk Summary: NE Pacific DPS

Based on the best available data regarding threats and demographic risks to this DPS, the team concluded that the NE Pacific DPS is currently at Low Risk of extinction. Confidence in this conclusion was moderate, as the majority of the team's likelihood points

(63 percent) were allocated to the low risk category, and the remainder of the points (37 percent) were all allocated to the Moderate Risk category. Limited abundance data and lack of stock assessments, population growth rate estimates, or model projections information were noted as preventing a higher level of confidence in this rating.

Historical overutilization for commercial purposes was identified as the most significant threat to tope sharks in the NE Pacific DPS. Although tope sharks have generally not been targeted since the collapse of the directed liver oil fishery in the 1940s, this intense, short-lived fishery resulted in substantial declines in abundance from which the population has yet to fully rebound. In the decades that followed the end of the tope shark fishery, the decline in commercial value of tope sharks coupled with the significant changes in fishing practices within both Canadian and U.S. waters, particularly as a result of restrictions on gillnetting, drastically reduced the threat of overutilization. Take of tope sharks, however, continues, largely as a result of bycatch in commercial fisheries as well as directed take in artisanal fisheries in Mexico. While sufficient data are not available to quantify the effects of the current exploitation on the population, multiple indicators (*e.g.*, increasing CPUEs from the FISS dataset and increasing discard rates from multiple observed fisheries) suggest that population abundance is increasing, providing further evidence that the threat of overutilization has been greatly reduced.

The life history strategy of this species increases its vulnerability to overutilization; however, the team found no evidence of other demographic risks to this DPS. Based on the limited, available data, for example, they found no indication of declines in productivity or diversity or evidence that the species is at such a low abundance that compensatory processes are at work. There is no indication that habitat degradation has resulted in destruction or loss of habitat, and based on habitat suitability modelling, there is no indication that changing environmental conditions will limit the availability of suitable habitat for this DPS over the foreseeable future. There is also no evidence that disease, predation, or other manmade factors are contributing to the NE Pacific DPS's risk of extinction.

Overall, the team concluded that this DPS is at low risk of extinction over the foreseeable future throughout its range. This conclusion is largely based on the multiple indicators that population

abundance is stable and possibly increasing, the significantly reduced fishing pressure, particularly from gillnets in areas with high overlap with tope shark habitat, and lack of evidence of other operative threats.

Significant Portion of Its Range Analysis: NE Pacific DPS

Because the team concluded that this DPS is at low risk of extinction throughout its range, they also considered whether this DPS is at a moderate or high level of extinction risk within an SPR. In order to conduct this analysis, they first identified portions of the DPS's range where there is a reasonable likelihood that the species may be at elevated extinction risk and where the members of the species in that portion may be biologically significant to the long-term viability of the DPS.

Because risk of fisheries interactions and fisheries-related mortality is mainly occurring in the southern parts of this DPS's range, they identified the southern California (south of Point Arguello) and Mexico (Baja California and Baja California Sur) individually, and the combined area of southern California and Mexico together, as portions for further analysis. The limited bycatch and reduced gillnetting in central and northern portions of the DPS's range, coupled with information indicating that the population trends appear positive and habitat is unlikely to be limiting in the northern portion of the range, led the team to conclude that tope sharks are not at elevated risk of extinction in the central and northern portions of its range.

Ultimately, based on the available data, the team could not conclude that either the southern California or Mexico portion, when considered separately or in combination, qualify as a "significant" portion of the range. Tope sharks in the NE Pacific are viewed as consisting of a single, migratory stock. Repeated, seasonal patterns in their latitudinal and bathymetric distributions along the coast are consistent with the hypothesis of a single migratory population. For example, during the historical fishery in California, annual landings of tope shark captures peaked in colder months in the northern California fishing areas and largely consisted of males that had been caught in deeper water (>37 m); whereas annual landings south of Point Conception peaked in summer months and consistent predominantly of females that had been captured in shallow water (<18 m) (Ripley 1946). Seasonal patterns in fisheries catch are also observed in Canada and Mexico,

suggesting that seasonal movements occur range-wide. Tagging and telemetry data also provide support for the hypothesis of a single migratory stock. In particular, telemetry data from adult females tagged off La Jolla, California, showed these sharks will undertake long distance migrations along the coast, travelling as far north as Oregon and Washington, or south to Mexico (Nosal *et al.* 2021). Of the 40 female sharks tagged by Nosal *et al.* (2021), one was captured in Washington by WDFW, and six were captured in commercial gillnets in Mexico. Most of the sharks detected over subsequent years (12 of 21 sharks) in this study, returned to La Jolla within about 3 years, suggesting movements are tied to reproductive behavior and that there is some degree of fidelity to particular seasonal habitats. As part of an earlier tagging effort, two female tope sharks that were tagged in the Southern California Bight, one in 1943 and one in 1949, were later recaptured in British Columbia after travelling at least 1,600 km during 26 months and at least 1,760 km in 3.3 months, respectively (COSEWIC 2021). While some level of population structuring may exist within the DPS, there are no genetic data yet available to evaluate this, nor any phenotypic data, or data regarding mating patterns. There are also no physical barriers to dispersal or mixing throughout their range.

Under the current view that this is a single, migratory stock, threats operating in the southern portions of the range will impact the status of the DPS throughout its entire range—not in any distinct portion. Similarly, the available data also do not allow for an assessment of the independent contribution of tope sharks in any portions to the long-term viability of the DPS (*e.g.*, by contributing to abundance, productivity, or diversity). Thus, while the team could identify portions of the range where the threat of fisheries-mortality is relatively more concentrated, they could not identify specific portions of the range where extinction risk of tope sharks could be assessed independently from the remainder of the DPS, nor could they evaluate whether tope sharks within any portions may qualify as important to the long-term viability of the DPS. Therefore, the team concluded that the Low risk conclusion for the DPS range-wide also applies to tope sharks in the southern portions of the range.

Listing Determination: NE Pacific DPS

Based on our review of the best available scientific and commercial data and extinction risk assessment, as provided in the Status Review Report

and summarized herein, we conclude this DPS is not in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range. We considered efforts being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species (see Conservation Efforts). These conservation efforts do not change the conclusion we would otherwise have reached regarding the DPS's status. Therefore, we find that the NE Pacific DPS does not meet the definition of a threatened or endangered species, and thus does not warrant listing under ESA.

Conservation Efforts

Section 4(b)(1)(A) of the ESA requires that NMFS make listing determinations based solely on the best available scientific and commercial data after conducting a review of the status of the species and taking into account those efforts, if any, being made by any State or foreign nation, or political subdivisions thereof, to protect and conserve the species. In the preceding sections of this document, we discussed the various international, national, state, and local regulatory mechanisms associated with the management of each of the six DPSs, in the context of evaluating their adequacy in addressing the primary threat of overutilization. Here, we summarize some of the key, non-regulatory efforts to conserve and protect the species globally, but focus the discussion in particular on the two DPSs that we found to be at risk of extinction (SW Pacific and So. Africa), and our consideration of whether efforts being made to protect those DPSs ameliorate their risk of extinction.

Among the protective efforts relevant to tope sharks is the FAO's International Plan of Action for Conservation and Management of Sharks, which is a voluntary international instrument that was adopted in 1999 to address concerns over the increasing fishing pressure on shark populations globally. Its primary goal is to ensure the conservation and long-term sustainable use of all shark species by encouraging nations whose vessels fish for sharks or regularly catch them as bycatch to develop and implement National Plans of Action for Sharks (NPOA-Sharks). The priorities of these plans generally include strengthening regulations for protected species, improving enforcement capacity and outreach to increase compliance with existing regulations, improving scientific knowledge and monitoring, encouraging sustainable fishing practices, and

restoring important habitats such as nursery grounds.

As of 2026, nearly every country within the range of the tope shark has adopted or drafted an NPOA-Sharks and/or falls under the purview of a regional NPOA-Sharks. This includes ten national plans (UK, Netherlands, Türkiye, Israel, Mauritania, Senegal, The Gambia, Guinea-Bissau, Guinea, and Sierra Leone) and three regional plans (EU, Mediterranean, and West Africa) in the NE Atlantic region; three national plans (South Africa, Namibia, Mozambique) in So. Africa; three national plans (Brazil, Uruguay, and Argentina) and one regional plan ("Regional Plan of Action for The Conservation and Management of Sharks and Rays in the Western Central Atlantic Fishery Commission Area") in the SW Atlantic; three national plans (Canada, United States, Mexico) in the NE Pacific; two national plans (Australia, New Zealand) in the SW Pacific; and three national plans (Ecuador, Peru, and Chile) and one regional plan ("Plan de Acción Regional para la Conservación de tiburones, rayas y quimeras en el Pacífico Sudeste") in the SE Pacific.

While the plans are not legally binding on the respective country or countries, they indicate a level of commitment to reducing the impact of commercial fishing on shark populations. However, their effectiveness is contingent on addressing significant challenges in implementation and enforcement, which are explicitly identified in several of the plans. A common theme in many of the plans is a lack of resources and technical capacity for adequate monitoring, control, and surveillance. Furthermore, a critical and widespread challenge is the persistent lack of species-specific catch data. Notably, a global assessment of NPOA-Sharks by Gilman *et al.* (2024) found that they are largely inadequate for effective planning and assessing the efficacy of activities for the conservation and management of chondrichthyans, because most plans are old, do not utilize performance assessments, and do not contain specific, measurable, and time-bound objectives and activities.

In the SW Atlantic, the CTMFM is a binational fisheries management body established by the 1973 Treaty of the Río de la Plata and its Maritime Front between Argentina and Uruguay. Unlike purely advisory bodies, the CTMFM has the authority to adopt binding conservation and management measures for the Common Fishing Zone in the Río de la Plata region, including the setting of TACs, temporal and spatial closures,

and minimum landing sizes. To address the specific vulnerabilities of elasmobranchs, the CTMFM established a technical working group (GT-Condrictios) in 2005 and subsequently adopted the "Regional Action Plan for the Conservation and Sustainable Fishing of Chondrichthyans in the Area of the Treaty of the Río de la Plata and its Maritime Front" in 2018. This plan establishes a framework for the binational management of priority species in the Treaty area, including the tope shark, recognizing its migratory nature and the necessity of coordinated regulatory action to ensure sustainable exploitation.

There are also numerous MPAs throughout the coastal region of Uruguay, Argentina, and southern Brazil. Per the World Database on Protected and Conserved Areas, Uruguay and Argentina have designated approximately 1.5 and 12.0 percent, respectively, of their marine and coastal areas as MPAs (UNEP-WCMC 2026a,b). There are also two small marine wildlife refuges encompassing approximately 1.7 sq. km collectively off the coast of Rio Grande do Sul, Brazil. The Marine Conservation Institute has assessed a small fraction of these areas as providing full protection (*i.e.*, no extractive or destructive activities are allowed; all abatable impacts are minimized) with active management in place, but most others have not yet been evaluated in terms of their protection level or implementation status (<https://mpatlas.org>, accessed February 23, 2026).

In all, while there are various measures that may contribute to the conservation of the SW Atlantic DPS in certain limited areas of its range, they likely do not ameliorate the threat of overutilization to the extent that would change the proposed listing status of the SW Atlantic DPS. Specifically, there is little evidence that the NPOA-Sharks and the CTMFM have addressed the primary challenges related to the threat of overutilization in the region, as it does not appear that they have yet motivated the adoption of stronger regulations, enforcement, or monitoring to control the harvest of tope sharks in Uruguay, Argentina, or southern Brazil. Moreover, given the limited spatial coverage of the MPAs, the uncertainty of their protective level and implementation status, and the highly mobile nature of the tope shark, there is not sufficient evidence that they provide protection to an extent that significantly reduces the species' extinction risk. For these reasons, we do not find that conservation efforts change the

proposed listing status of the SW Atlantic DPS.

With respect to the So. Africa DPS, there are 42 MPAs in South Africa, 26 of which are coastal (Cortelezzi *et al.* 2022). According to the Marine Conservation Institute's Marine Protection Atlas, these MPAs provide full protection (*i.e.*, no extractive or destructive activities are allowed, and all abatable impacts are minimized) for 3.8 percent of the country's total marine area; high protection (*i.e.*, only light extractive activities are allowed that have low total impact, and all other abatable impacts are minimized) for 0.5 percent of the country's marine area; light protection (*i.e.*, some protection of biodiversity exists, but extractive or destructive activities that can have moderate to significant impact are allowed) for 1.1 percent of the country's marine area; and minimal protection (*i.e.*, extensive extraction and other activities with high total impact are allowed) for 9.3 percent of the country's marine area (<https://mpatlas.org>, accessed February 23, 2026). Using baited remote underwater video to measure the effectiveness of the De Hoop MPA, a 288 sq. km no-take reserve on the Western Cape, Albano *et al.* (2021) found that tope shark abundance was higher inside the MPA than outside. Studies of other South African MPAs that are smaller and provide partial protection showed mixed results on benefits to chondrichthyans (Cortelezzi *et al.* 2022; Osgood *et al.* 2019). Overall, although there is some indication that strict no-take MPAs may provide some conservation benefit for tope sharks in certain areas, given the limited spatial coverage of the MPAs relative to the DPS's range, the varying protection levels, and the highly mobile nature of the tope shark, existing MPAs likely do not provide protection to an extent that significantly reduces the species' extinction risk. Therefore, we do not find that conservation efforts change the proposed listing status of the So. Africa DPS.

We also considered non-regulatory efforts to protect or conserve the NE Atlantic, NE Pacific, SE Pacific, and SW Pacific DPSs, but because we are not proposing to list these DPSs as threatened or endangered, the conservation efforts would not change the listing determinations of these DPSs and therefore are not discussed in detail here. Please see the Status Review Report (Manning *et al.* 2026) for further information about conservation efforts relevant to these four DPSs.

Final Determinations and Proposed Listings

Based on our review of the best available scientific and commercial data and considering efforts being made to protect and conserve the species, we find that the SW Atlantic and So. Africa DPSs of tope shark meet the definition of a threatened species. We are therefore proposing to list these two DPSs as threatened species under the ESA.

ESA Section 4(d) Regulations

Under section 4(d) of the ESA, the Secretary is authorized to issue protective regulations he deems necessary and advisable to provide for the conservation of species listed as threatened. The Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1). The petition requested that, if we determine that listing the tope shark (or any DPSs thereof) as threatened is warranted, we simultaneously issue a 4(d) rule outlining necessary and advisable regulations for the species' conservation. The petitioners urged us, "as part of the 4(d) rule and in light of the threat posed to the tope shark by trade," to extend to the tope shark all prohibitions of ESA section 9, and to promulgate additional protective regulations needed for survival and recovery of the tope shark.

We have considered the petitioners' request to issue section 4(d) protective regulations for the SW Atlantic and So. Africa DPSs; however, we are not proposing to extend the prohibitions of section 9 or apply any other protective regulations under section 4(d) to these DPSs. As discussed in the extinction risk analysis, the greatest threats to these two DPSs of tope shark are overutilization in fisheries and inadequacy of existing regulatory mechanisms to control fisheries mortality. Fisheries regulations impacting overutilization in each DPS are established and enforced by range countries for each DPS, and we are unable to control fishing activities in other countries' waters. The threat posed by international trade in tope shark meat, fins, and other products is expected to be addressed by the recent inclusion of the tope shark and the entire *Mustelus* genus in Appendix II of CITES (effective June 5, 2027). Trade in specimens of the species would require that certain conditions be met; for example, exporting specimens of tope shark would require that the specimens were legally obtained, and that the export is non-detrimental to the survival of the species in the wild. Because

international trade in tope sharks will be regulated and monitored through CITES management authorities worldwide, and because we have no jurisdiction to manage fisheries for these DPSs, we cannot identify any protective regulations at this time that are necessary and advisable to provide for the conservation of the two DPSs.

ESA Section 4(e) Regulations

The petitioners also requested that if the tope shark or any DPS thereof is listed as endangered or threatened, NMFS promulgate a rule under ESA section 4(e) for species similar in appearance to the tope shark. Under section 4(e) of the ESA, the Secretary may treat any species as an endangered species or threatened species even though it is not listed pursuant to section 4 of this Act if he finds that (A) such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species; (B) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and (C) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this Act.

We are not proposing to promulgate a 4(e) rule for species similar in appearance to the tope shark. The CITES Appendix II listing for the species also includes the entire genus *Mustelus* because the form of tope shark products in trade (meat and fins, largely) are difficult to distinguish between those of *Mustelus* spp. As this mechanism to control the trade of tope sharks will soon be effective, and no additional enforcement issues have been identified, a separate 4(e) regulation is not necessary at this time.

Critical Habitat Designation

Under the ESA, we are authorized to designate critical habitat within U.S. jurisdiction only (50 CFR 424.12(g)). Given the So. Africa and SW Atlantic DPSs of tope sharks have wholly foreign ranges, we are not proposing to designate critical habitat for these two DPSs of tope shark.

Effects of Listing

Conservation measures provided for species listed as threatened under the ESA include the development and implementation of recovery plans (16 U.S.C. 1533(f)); designation of critical habitat, if prudent and determinable (16 U.S.C. 1533(a)(3)(A)); and a requirement

that Federal agencies consult with NMFS under section 7 of the ESA to ensure their actions do not jeopardize the species or result in adverse modification or destruction of designated critical habitat (16 U.S.C. 1536). Recognition of the species' threatened status through listing may also promote conservation actions by Federal and state agencies, foreign entities, private groups, and individuals. In this case, as both of the DPSs being proposed for listing are wholly foreign, we will consider whether a recovery plan would promote the conservation of the DPSs. As noted above, we are not proposing to designate critical habitat for either of these foreign DPSs. It is unlikely that the listing of this species under the ESA will increase the number of section 7 consultations. As both DPSs occur wholly in foreign waters, listing of these DPSs will not create section 7 consultation requirements for commercial fisheries, energy development, aquaculture, or other activities in U.S. waters with a federal nexus.

Public Comments Solicited

We are soliciting comments, information, and/or recommendations on any aspect of this proposed rule from all concerned parties (see **DATES** and **ADDRESSES**). We will consider all relevant information, comments, and recommendations received before reaching a final listing determination.

Public Hearing

The ESA provides for a public hearing on this proposal, if requested. Requests must be filed by the date specified in the **DATES** section above.

Peer Review

In December 2004, the Office of Management and Budget issued a Final Information Quality Bulletin for Peer Review (Peer Review Bulletin), establishing minimum peer review standards, a transparent process for public disclosure, and opportunities for public input. The Peer Review Bulletin, implemented under the Information Quality Act (Pub. L. 106–554), is intended to provide public oversight on the quality of agency information, analyses, and regulatory activities. The text of the Peer Review Bulletin was published in the **Federal Register** on January 14, 2005 (70 FR 2664). The Peer Review Bulletin requires Federal agencies to subject “influential” scientific information to peer review

prior to public dissemination. Influential scientific information is defined as “information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions,” and the Peer Review Bulletin provides agencies broad discretion in determining the appropriate process and level of peer review. The Peer Review Bulletin establishes stricter standards for the peer review of “highly influential” scientific assessments, defined as information whose “dissemination could have a potential impact of more than \$500 million in any 1 year on either the public or private sector or that the dissemination is novel, controversial, or precedent-setting, or has significant interagency interest.” As stated previously, in developing this rule, we relied on previous NMFS reviews of this species, and thus we do not consider the scientific information underlying the proposed protective regulations to constitute newly compiled or disseminated influential scientific information requiring peer review per the Peer Review Bulletin.

References

A complete list of the references used in this proposed rule is available online (see **ADDRESSES**) and upon request (see **FOR FURTHER INFORMATION CONTACT**).

Classification

National Environmental Policy Act

Section 4(b)(1)(A) of the ESA restricts the information that may be considered when assessing species for listing and sets the basis upon which listing determinations must be made. Based on the requirements in section 4(b)(1)(A) of the ESA and the opinion in *Pacific Legal Foundation v. Andrus*, 675 F. 2d 825 (6th Cir. 1981), we have concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA). See also “Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities: Companion Manual for NOAA Administrative Order 216–6A” (June 30, 2025) at 2–3.

Executive Order 12866, Regulatory Flexibility Act, and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species.

Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this proposed rule is exempt from review under Executive Order 12866. This proposed rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

Executive Order 13132, Federalism

In accordance with E.O. 13132, we determined that this proposed rule does not have significant federalism effects and that a federalism assessment is not required. Given that the DPSs we propose to list occur entirely outside of U.S. waters, any final listing will not affect state programs; therefore, there will be no federalism impacts. This proposed rule will be given to the relevant governmental agencies in the countries in which the DPSs occur, and they will be invited to comment.

Executive Order 14192, Unleashing Prosperity Through Deregulation

This proposed rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

List of Subjects in 50 CFR Part 223

Endangered and threatened species.

Dated: April 10, 2026.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 223 as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.102, amend paragraph (e), by adding entries for “Shark, tope (Southern Africa DPS)” and “Shark, tope (Southwest Atlantic DPS)” in alphabetical order under the “Fishes” table subheading to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) * * *

Species ¹			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*
Fishes					
*	*	*	*	*	*
Shark, tope (Southern Africa DPS).	<i>Galeorhinus galeus</i>	Tope sharks originating from and occurring in waters off the southern coast of Africa, including waters off Namibia, Angola, and South Africa.	[Insert Federal Register page where the document begins], 4/15/2026.	NA	NA
Shark, tope (Southwest Atlantic DPS).	<i>Galeorhinus galeus</i>	Tope sharks originating from and occurring in waters off southern Brazil, Uruguay, and Argentina.	[Insert Federal Register page where the document begins], 4/15/2026.	NA	NA
*	*	*	*	*	*

¹ Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

[FR Doc. 2026-07294 Filed 4-14-26; 8:45 am]

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Wednesday, April 15, 2026

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FEDERAL REGISTER PAGES AND DATE, APRIL

16151-16538	1
16539-16814	2
16815-17128	3
17129-17602	6
17603-17756	7
17757-17838	8
17839-18274	9
18275-18766	10
18767-19056	13
19057-20062	14
20063-20316	15

CFR PARTS AFFECTED DURING APRIL

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR	40.....18772
50.....17757, 18772, 20063	
51.....18772, 20063	
Proposed Rules:	52.....20063
6001.....18134	53.....18772, 20063
	70.....18772
3 CFR	72.....16541, 18772
Proclamations:	73.....18772
11020.....18183	74.....18772
11021.....18201	75.....18772
Executive Orders:	95.....18772
14324 (amended by	140.....18772
EO 14388).....17839	150.....18772
14388 (republishing).....17839	170.....18772
14399.....17125	171.....18772
14100.....18267	455.....19063
Administrative Orders:	Proposed Rules:
Notices:	37.....17893
Notice of April 8,	50.....16584
2026.....18765	53.....16584
Orders:	72.....16588
Order of 3 April,	
2026.....18273	
5 CFR	12 CFR
Proposed Rules:	1.....18279
212.....16584	4.....18279
213.....16584	30.....16156, 18279
302.....16584	302.....18279
591.....19057	364.....18279
930.....16584	618.....16815
Proposed Rules:	Proposed Rules:
532.....19081	21.....18304
550.....19081	210.....18330
	324.....18534
7 CFR	326.....18304
1b.....17061	330.....18534
2.....18767	350.....18534
400.....16151	701.....17769
402.....16151	748.....18304
407.....16151	Ch. XV.....16844
457.....16151	
925.....17845	14 CFR
956.....16539	39.....16160, 16546, 16815,
3560.....18275, 18769	16818, 16821, 16824, 17129,
Proposed Rules:	17132, 17135, 17137, 17141,
6.....17893	19066, 19068, 19070, 19073,
	19076
9 CFR	71.....16826, 17143, 17762,
93.....18277	17764, 17847, 17849, 17850,
	18773
10 CFR	73.....17765
1.....18772	95.....20068
2.....18772, 20063	97.....17603, 17604
10.....18772	Proposed Rules:
11.....18772	39.....16590, 16593, 16595,
19.....18772	16867, 16869, 17161, 17610,
20.....18772	17614, 17772, 18333, 18790,
21.....18772	18792, 19087, 20079, 20081
25.....18772	71.....16168, 17164, 17616,
26.....18772	17618, 17775, 17906, 17908,
30.....18772	17909, 17910, 19089
	141.....18337

15 CFR	1010 16328, 18582, 18704	81.....16558, 16562	1080.....17777
774.....17851	1020.....18704	180.....17607, 18294, 18299	1351.....17235
950.....19078	1021.....18704	271.....16566	1370.....17239
16 CFR	1022.....18704	705.....18786	
1239.....16162	1023.....18704	745.....16578	47 CFR
20 CFR	1024.....18704	1090.....16388	1.....17863, 18670
404.....16548, 16828	1025.....18704	Proposed Rules:	54.....18134
406.....16828	1026.....18704	52.....16605, 16614, 17913,	64.....18134
21 CFR	1027.....18704	18341, 18347, 18349, 18355,	73.....18670
1300.....16167	1028.....18704	18372, 18383	Proposed Rules:
1301.....16167	1029.....18704	68.....16621	1.....20084
1304.....16167	1030.....18704	70.....16621	2.....17914, 20084
1306.....16167	1033.....18582	81.....18355, 18372, 18383	25.....17914, 20084
1307.....16167	32 CFR	82.....17176	27.....20084
1310.....16831	Proposed Rules:	141.....17186	54.....16871, 17888
Proposed Rules:	310.....18337	257.....18968	64.....17888
73.....16169	33 CFR	42 CFR	101.....20084
22 CFR	Proposed Rules:	422.....17384	48 CFR
22.....16837	100.....17170	423.....17384	Ch. 13.....16578
26 CFR	34 CFR	Proposed Rules:	Proposed Rules:
1.....19026	75 (2 documents) 18774,	403.....19890	1523.....17780
Proposed Rules:	18780	405.....19312	1552.....17780
40.....18797	Proposed Rules:	412.....17195, 17720, 19312	
49.....18797	Ch. III.....16599	413.....17678, 19312	49 CFR
300.....19090	36 CFR	414.....17195	192.....16167
29 CFR	Proposed Rules:	415.....19312	571.....17144
4044.....16838	13.....18340	418.....17338	Proposed Rules:
Proposed Rules:	39 CFR	419.....19312	367.....17618
1910.....17165	Ch. III.....20073	422.....19890	571.....16172
30 CFR	Proposed Rules:	431.....19890	1102.....19090
56.....17143	111.....16601, 19274	438.....19890	
57.....17143	211.....16601	440.....19890	50 CFR
Proposed Rules:	40 CFR	457.....19890	600.....17159
950.....17912	52.....16550, 16553, 16555,	495.....19312	622.....16580
31 CFR	16556, 16558, 16562, 17144,	512.....19312	648.....17766, 17767, 19079
Proposed Rules:	17852, 17855, 17857	45 CFR	679.....16167, 16581, 16583,
502.....18582	60.....18056	Proposed Rules:	16840, 16842, 17767, 18303
	63.....16388, 16502	96.....17777	Proposed Rules:
	80.....16388	156.....19890	217.....16893
		162.....19890	223.....20260
		170.....19890	622.....16623
		261.....17230	679.....20085
		1000.....17777	

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion

in today's **List of Public Laws**.

Last List March 30, 2026

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