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

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

DEPARTMENT OF AGRICULTURE

7 CFR Part 16

RIN 0503-AA73

Partnerships With Faith-Based and Neighborhood Organizations; Correction

AGENCY: Office of the Assistant Secretary for Civil Rights (OASCR), U.S. Department of Agriculture (USDA).

ACTION: Final rule; correcting amendments.

SUMMARY: The Office of the Assistant Secretary for Civil Rights is correcting a final rule which appeared in the **Federal Register** on March 4, 2024. This final rule amends the USDA's regulations to clarify protections for beneficiaries and prospective beneficiaries of federally funded social services and the rights and obligations of organizations providing such services. The overarching goal of the regulation noted the rule is intended to cover recipients and subrecipients of domestic social service programs. However, the regulatory language did not reference social service programs. The current regulatory text specifies the policy applies to all recipients and subrecipients of USDA assistance to which USDA uniform administrative requirements for recipients applies, and to recipients and subrecipients of Commodity Credit Corporation assistance that is administered by agencies of USDA. The amendment will specifically state the rule is intended to cover recipients and subrecipients of USDA domestic social service programs to which USDA uniform administrative requirements for recipients applies.

DATES: This rule is effective May 18, 2026.

FOR FURTHER INFORMATION CONTACT: Ramonda Reed, Director, Compliance Division, U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400

Independence Avenue SW, Washington, DC 20250 at 202-815-3544 or Ramonda.Reed@usda.gov.

SUPPLEMENTARY INFORMATION: The USDA is issuing a correction to its regulations in 7 CFR part 16, which were amended by a final rule that published in the **Federal Register** on March 4, 2024 (89 FR 15671).

List of Subjects in 7 CFR Part 16

Administrative practice and procedure, Grant programs.

Accordingly, 7 CFR part 16 is corrected by making the following correcting amendments:

PART 16—EQUAL OPPORTUNITY FOR RELIGIOUS ORGANIZATIONS

■ 1. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 2000bb *et seq.*; E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258; E.O. 13280, 67 FR 77145, 3 CFR, 2002 Comp., p. 262; E.O. 13559, 75 FR 71319, 3 CFR, 2010 Comp., p. 273; E.O. 13831, 83 FR 20715, 3 CFR, 2018 Comp., p. 806; E.O. 14015, 86 FR 10007, 3 CFR, 2021 Comp., p. 517.

■ 2. Amend § 16.1 by revising paragraph (b) to read as follows:

§ 16.1 Purpose and applicability.

* * * * *

(b) Except as otherwise specifically provided in this part, the policy outlined in this part applies to all recipients and subrecipients of USDA domestic social service programs to which 2 CFR part 400 applies, and to recipients and subrecipients of Commodity Credit Corporation assistance that is administered by agencies of USDA for the purpose of domestic social service programs.

Devon Westhill,

Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights.
[FR Doc. 2026-07525 Filed 4-16-26; 8:45 am]

BILLING CODE 3410-9R-P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 15f

RIN 0503-AA88

Removing Outdated and Unnecessary Provisions

AGENCY: Office of the Secretary, United States Department of Agriculture.

ACTION: Final rule.

SUMMARY: The Office of the Secretary (OSEC) is in the process of reviewing regulations within its purview to reduce regulatory burdens and costs. Pursuant to this review, OSEC identified obsolete, unnecessary, and outdated provisions in Title 7 of the Code of Federal Regulation (CFR). OSEC is removing the provision identified in Part 15f to streamline and clarify the dictates of Title 7 of the CFR.

DATES: *Effective Date:* This Rule is effective on April 17, 2026.

FOR FURTHER INFORMATION CONTACT: Ramonda Reed, Director, Compliance Division, Office of the Assistant Secretary for Civil Rights, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250 at 202-815-3544 or Ramonda.Reed@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Executive Order (E.O.) 14219, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative, 90 FR 10583, and subsequent implementing memorandum(s) directed agency heads to review regulations within their purview and rescind those that are, among other things, unlawful or unnecessary. OSEC has undertaken such a review and is accordingly rescinding obsolete, unnecessary, and outdated provisions from Title 7 of the CFR.

Regulatory Certifications

Executive Orders

This Rule does not meet the criteria for a significant regulatory action as specified by E.O. 12866, Regulatory Planning and Review. No federalism or tribal implications were identified by taking this action and rescinding Part 15f will not impose substantial unreimbursed compliance costs on

states, local governments, or Indian tribal governments. Consequently, impact statements are not required under E.O. 13132, Federalism, or 13175, Consultation and Coordination with Indian Tribal Governments.

Environmental Evaluation

This Rule will have no significant effect on the human environment; therefore an environmental assessment and impact statement are not required.

Paperwork Reduction Act

This Rule does not contain reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980, (Pub. L. 96–511, 94 Stat. 2812, codified at 44 U.S.C. 3501–3521).

Explanation of Provisions

The regulation removed is 7 CFR part 15f, Adjudications under Section 741. OSEC is eliminating the regulation at 7 CFR part 15f—Adjudications Under Section 741. The provisions in this regulation apply only to requests for Section 741 hearings filed by October 21, 2000, alleging non-employment discrimination that occurred between January 1, 1981, and December 31, 1996. Since it has been nearly 25 years since the last possible filing of a Section 741 hearing request, this regulation is no longer necessary. Therefore, pursuant to the reasons laid out in the preamble, OSEC is eliminating this part to streamline Title 7 of the CFR. No comments are requested for this regulatory action, as this provision is deemed obsolete.

List of Subjects in 7 CFR Part 15f

Administrative practice and procedure, Agriculture, Appeal procedures, Civil rights, Equal access to justice, Ex parte communications, Farmers, Federal aid programs, Guaranteed loans, Insured loans, Loan programs, Nondiscrimination, Price support programs.

PART 15f—[REMOVED AND RESERVED]

■ For the reasons stated in the preamble, and under the authority of 5 U.S.C. 301., OSEC removes and reserves 7 CFR part 15f.

Devon Westhill,

Assistant Secretary for Civil Rights, Office of Assistant Secretary for Civil Rights.

[FR Doc. 2026–07526 Filed 4–16–26; 8:45 am]

BILLING CODE 3410–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 48, 61, 89, 91, 107, 135, and 137

Settlement Policy for Small Unmanned Aircraft System (UAS) Cases

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notification of enforcement policy.

SUMMARY: This notification announces Federal Aviation Administration (FAA)'s new Drone Expedited and Targeted Enforcement Response (DETER) Program to expedite and increase enforcement actions against small Unmanned Aircraft System (UAS) operators who violate Federal Aviation Administration regulations. The program establishes prompt settlement procedures for certificated and noncertificated UAS operators who are individuals, first-time violators, and meet the eligibility provisions of the policy. This policy will incentivize drone operators to follow FAA regulations, deterring clueless, careless, and criminal violations of UAS regulations by incentivizing violators to admit to liability and waive lengthy appeals processes in exchange for reduced fees. This policy effectuates President Trump's Executive Order directing zealous enforcement of UAS laws and regulations.

DATES: This enforcement policy is effective April 17, 2026.

FOR FURTHER INFORMATION CONTACT:

Nicole Zenerovitz, Manager, Aviation Litigation Division, AGC–300, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; phone: 718–909–5863; email: nicole.zenerovitz@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA's safety mandate under 49 U.S.C. 40103 requires the agency to regulate aircraft operations in the National Airspace System, including those involving UAS, to prevent aircraft collisions and protect persons and property on the ground.

On June 6, 2025, President Trump issued the Restoring American Airspace Sovereignty Executive Order (E.O.). Section 6 of the E.O. requires steps to ensure full enforcement of applicable civil and criminal laws when UAS operators endanger the public, violate established airspace restrictions, or operate a drone in furtherance of an element of another crime. This policy

furtheres FAA's compliance with that order.

Pursuant to the E.O., on January 21, 2026, the FAA issued FAA Order 2150.3C, Change 13, Compliance and Enforcement Bulletin No. 2026–1 (UAS Enforcement C&E Bulletin). The UAS Enforcement C&E Bulletin requires mandatory legal enforcement action for all UAS operations that endanger the public, violate established airspace restrictions, or are in furtherance of an element of another crime.

The FAA investigates UAS violations and takes appropriate action based on guidance in FAA Order 2150.3C, FAA Compliance and Enforcement Program, and FAA Order 8000.373C, Federal Aviation Administration Compliance Program. Prior to the issuance of the UAS Enforcement C&E Bulletin, the FAA used compliance actions to resolve UAS cases when UAS operators acted carelessly and were willing and able to comply with the Federal Aviation Regulations. After the issuance of the UAS Enforcement C&E Bulletin, most UAS violations are no longer eligible for compliance actions and must be handled with legal enforcement action.

When legal enforcement action is pursued for a UAS-related violation, the Flight Standards Service, Office of General Aviation Safety Assurance (AFG) investigates the apparent violation and develops an enforcement investigative report (EIR), which is subject to AFG management review. If AFG management deems the EIR sufficient, it transmits the EIR to the Office of the Chief Counsel's Aviation Litigation Division (AGC–300). AGC–300 reviews the EIR to ensure, among other things, evidentiary sufficiency and compliance with law and policy. If legal enforcement is appropriate, AGC–300 issues a Notice of Proposed Civil Penalty, Notice of Proposed Certificate Action, or Emergency Order of Revocation, depending on the circumstances. This process, while necessary to ensure fairness and legal sufficiency, delays prompt enforcement of FAA regulations relating to UAS operations. Accordingly, the FAA is issuing this procedure for prompt settlement to streamline the legal enforcement action process for UAS-related cases to deter UAS-related violations better and enhance aviation safety while ensuring UAS operators' due process rights are protected.

Policy Statement

The FAA's DETER Program outlined in this notification will accelerate and increase enforcement actions against UAS operators who violate FAA regulations by allowing eligible

operators of small UAS, as defined in 14 CFR 1.1, to pay a significantly reduced civil penalty or serve a significantly reduced certificate suspension period, as applicable, in exchange for quickly resolving the matter and paying the reduced civil penalty or submitting to the reduced suspension period. As an exercise of its prosecutorial discretion, the FAA will determine the locations and times for which the DETER Program will apply to otherwise eligible UAS operations. The program will initially focus on select locations during periods in which a high volume of UAS operations are expected. Operations in locations and times not covered by the DETER Program are subject to the FAA's regular legal enforcement action process.

Under the new DETER Program, the FAA will send a Violation Notice to eligible UAS operators. The Violation Notice will be issued to the UAS operator via Federal Express and email, if known. The FAA will use the following email address to send the notice: UASNotice@faa.gov.

The Violation Notice will state the EIR Number, Investigator Name, Date of Issuance, Date and Time of Offense, Place of Offense, 14 CFR Offenses Violated,¹ and Identifying Information for the UAS operator. The Violation Notice will provide the UAS operator with the option to elect to continue pursuant to the FAA's DETER Program or to continue under the FAA's regular legal enforcement action process. The Violation Notice will state the civil penalty amount or certificate suspension period proposed and any corrective actions that the UAS operator is required to complete. The Violation Notice will have an instructions page explaining the program, the two options available to the UAS operators, and what each option entails. The Violation Notice will provide an email address for UAS operators to contact if they elect to participate in the DETER Program. The Violation Notice will explain that if any of the information provided is fraudulent or false, then the UAS operator will be subject to the FAA's regular legal enforcement action process for making a fraudulent or false statement to the FAA, the offer to participate in the DETER Program will be rescinded, and the FAA will take any other appropriate enforcement action. If the case involves a certificated airman, the Violation Notice will also provide the timely written notification required

by the Pilots Bill of Rights, Public Law 11–152, as amended by Public Law 118–63, enacted May 16, 2024 (codified at 49 U.S.C. 44703 note).

If the UAS operator elects not to proceed with the DETER Program, the FAA will pursue regular legal enforcement action as described in the Background section.

If the UAS operator elects to proceed with the DETER Program, they will be required to return the signed form and take the applicable action, which may be to pay the civil penalty at www.pay.gov, to surrender their airman certificate and serve the suspension, or to complete the corrective action, all within 10 days of its issuance. The UAS operator must attach proof of payment of the civil penalty and proof of completion of the corrective actions required, if any. If the UAS operator is a certificated airman, they must also surrender their remote pilot certificate to the address provided in the Violation Notice. By signing the Violation Notice, the UAS operator certifies under penalty of perjury that they paid the proposed civil penalty amount, surrendered their certificate, and completed the required corrective action, as applicable. If the UAS operator elects to participate in the DETER Program, the Violation Notice will constitute a finding of violation and will be considered a violation history. By participating in the DETER Program, UAS operators waive all rights to appeal or otherwise seek review of the Violation Notice. They also agree (1) not to initiate any litigation under any regulatory or statutory provision, including, but not limited to, the Equal Access to Justice Act, to collect any fees or costs they may have incurred arising from the matter, (2) not to seek review of the validity or amount of the debt owed by them to the United States of America, and (3) to waive any potential causes of action against the FAA, its employees, and agents, past and present, whether in their official or personal capacities, arising out of the matter. If the UAS operator elects to participate in the DETER Program and fails to return the signed Violation Notice or to take the appropriate action—whether to pay the amount due, surrender their airman certificate, or complete the required corrective action—within 10 days of the issuance of the Violation Notice, the FAA may proceed with the regular legal enforcement action process.

Generally, the DETER Program may be used to address operational violations. The DETER Program will only be available to individuals who are first-time violators of UAS provisions, and a UAS operator can only participate in the

DETER Program once. The DETER Program will not be used in cases involving the following categories of violations:

- Alcohol or drug-related offenses;
- Weaponized drones;
- Operations involving criminal activity unrelated to regulatory violations (e.g., the carriage of narcotics, assault, photographing sensitive military installations, harassment);
- Operations involving a Temporary Flight Restriction (TFR) issued under Part 91.141;
- UAS operations involving particularly egregious conduct; or
- UAS operations demonstrating a lack of qualifications to hold a remote pilot certificate.

The DETER Program is expected to streamline the enforcement process to allow for a quicker resolution of UAS operational violations, thus providing stronger deterrence against UAS-related violations and enhancing aviation safety and security.

The FAA retains prosecutorial discretion to determine that a specific alleged violation is not eligible to participate in this program and nothing in this policy or notice will require the FAA to offer the DETER Program to in such a case.

Issued in Washington, DC, on April 15, 2026

William McKenna,
Chief Counsel.

[FR Doc. 2026–07585 Filed 4–15–26; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–1256; Airspace Docket No. 26–AEA–3]

RIN 2120–AA66

Amendment of Class D and Class E2 Airspace Over Wilmington, DE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D and Class E2 airspace at New Castle Airport, Wilmington, DE. This action increases the lateral dimensions of the Wilmington, DE Class D and Class E2 airspace, which are overlays, by adding a 2-mile wide, 0.2-mile long extension to the existing 4.2-mile radius, along the 008° bearing from the New Castle Airport, to support instrument flight rules (IFR) operations. This action also

¹ The Violation Notice will not list all possible 14 CFR offenses violated. If the UAS operator elects to proceed with the regular legal enforcement action process, additional regulatory violations may be alleged as part of that action.

updates language in the airspace legal description to comply with current FAA directives.

DATES: Effective 0901 UTC, July 9, 2026. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the notice of proposed rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours a day, 365 days a year. An electronic copy of this document may also be downloaded from www.federalregister.gov.

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, as well as subsequent amendments, can be viewed online at www.faa.gov/air_traffic/publications/. For further information, you may also contact the Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; Telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Marc Ellerbee, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305-5589.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class D and Class E2 airspace in Wilmington, DE.

History

The FAA published an NPRM for Docket No. FAA-2026-1256 in the **Federal Register** (91 FR 7186; February 17, 2026), proposing to amend Class D and Class E2 airspace above

Wilmington, DE. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received that summarized the proposal, identified perceived advantages and disadvantages, and concluded with a statement of support.

Incorporation by Reference

Class D and Class E2 airspace designations are published in paragraphs 5000 and 6002 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the latest version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action amends 14 CFR part 71 by modifying both the Class D airspace and Class E2 airspace for New Castle Airport, Wilmington, DE. Controlled airspace is necessary for the safety and management of IFR operations in the area for existing instrument approach procedures. A review of the preexisting airspace revealed a need for a modification to the lateral dimensions. This action adds an arrival extension to the north to encompass IFR operations on the RNAV RWY 19 approach to Newcastle Airport. Prior to this final rule, the 1,000 ft. above ground level (AGL) point on the arrival was outside the basic radius of the Class D/E2 (3.72 NM from the arrival runway threshold), so a .2 NM extension was required.

Specifically, this action increases the lateral dimensions of the Wilmington, DE Class D airspace, serving New Castle Airport, from a 4.2-mile radius of the airport to a 4.2-mile radius of the airport, and within 1 mile each side of the 008° bearing from the airport extending from the 4.2-mile radius to 4.4 miles north of the airport.

This action also increases the lateral dimensions of the Wilmington, DE Class E2 airspace, serving New Castle Airport, from a 4.2-mile radius of the airport to a 4.2-mile radius of the airport, and within 1 mile each side of the 008° bearing from the airport extending from the 4.2-mile radius to 4.4 miles north of the airport.

This action also updates the language in both the Class D and Class E2

airspace legal descriptions for Wilmington, DE by changing "Notice to Air Missions" to "Notice to Airmen." This change brings the airspace legal descriptions into compliance with current FAA directives.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Order 2100.6B, "Rulemaking and Guidance Procedure" (March 10, 2025); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1G, "FAA National Environmental Policy Act Implementing Procedures" paragraph B-2.5(a). This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11K,

Airspace Designations and Reporting Points, dated August 4, 2025, and effective September 15, 2025, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AEA DE D Wilmington, DE [Amended]

New Castle Airport, DE

(Lat. 39°40'43" N, long. 75°36'24" W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.2-mile radius of the New Castle Airport, and within 1 mile each side of the 008° bearing from the airport extending from the 4.2-mile radius to 4.4 miles north of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

AEA DE E2 Wilmington, DE [Amended]

New Castle Airport, DE

(Lat. 39°40'43" N, long. 75°36'24" W)

That airspace extending upward from the surface within a 4.2-mile radius of the New Castle Airport, and within 1 mile each side of the 008° bearing from the airport extending from the 4.2-mile radius to 4.4 miles north of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Issued in College Park, Georgia, on April 15, 2026.

Patrick Young,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2026-07518 Filed 4-16-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2026-1816; Airspace Docket No. 26-ASO-3]

RIN 2120-AA66

Amendment of Class E5 Airspace Over Elizabeth City, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E5 airspace over Elizabeth City, NC. This

action adds Class E airspace extending upward from 700 feet above the surface within a 6-mile radius of Sentara Albemarle Medical Center Heliport. This addition of airspace is necessary because of new instrument approach procedures that have been developed for the heliport.

DATES: Effective 0901 UTC, July 9, 2026. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the notice of proposed rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours a day, 365 days a year. An electronic copy of this document may also be downloaded from www.federalregister.gov.

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, as well as subsequent amendments, can be viewed online at www.faa.gov/air_traffic/publications/. For further information, you may also contact the Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; Telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Marc Ellerbee, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305-5589.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E5 airspace in Elizabeth City, NC.

History

The FAA published an NPRM for Docket No. FAA-2026-1816 in the **Federal Register** (91 FR 9210; February 25, 2026), proposing to amend Class E5 airspace above Elizabeth City, NC. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class E5 airspace designations are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the latest version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action amends 14 CFR part 71 by modifying Class E5 airspace over Elizabeth City, NC. Controlled airspace is necessary for the safety and management of IFR operations in the area for new and existing instrument approach procedures. This action adds Class E5 airspace extending upward from 700 feet above the surface within a 6-mile radius of Sentara Albemarle Medical Center Heliport to the pre-existing Elizabeth City, NC Class E5 airspace. The addition of this airspace is necessary because of new instrument approach procedures that have been developed for the heliport.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Order 2100.6B, "Rulemaking and Guidance Procedure" (March 10, 2025); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, does not have a significant economic impact on a

substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1G, “FAA National Environmental Policy Act Implementing Procedures” paragraph B–2.5(a). This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11K, Airspace Designations and Reporting Points, dated August 4, 2025, and effective September 15, 2025, is amended as follows:

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

* * * * *

ASO NC E5 Elizabeth City, NC [Amended]

Elizabeth City CGAS/Regional Airport, NC (Lat. 36°15′38″ N, long. 76°10′28″ W)
Elizabeth City VOR/DME (Lat. 36°15′27″ N, long. 76°10′32″ W)
Sentara Albemarle Medical Center Heliport, NC (Lat. 36°18′01″ N, long. 76°16′15″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Elizabeth City CGAS/Regional Airport, and within 8 miles east and 4 miles west of Elizabeth City VOR/DME 189° radial, extending from the VOR/DME to 9.5 miles south of the VOR/DME, and within a 6-mile radius of Sentara Albemarle Medical Center Heliport.

* * * * *

Issued in College Park, Georgia, on April 15, 2026
Patrick Young,
Manager, Airspace & Procedures Team North,
Eastern Service Center, Air Traffic
Organization.
[FR Doc. 2026–07571 Filed 4–16–26; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

15 CFR Part 1300

[Docket No. 260413–0098]

RIN 0605–AA88

Eliminating Outdated Regulation Related to Reports on Exports of Technology

AGENCY: Department of Commerce (Department).
ACTION: Final rule.

SUMMARY: By this rule, the Department eliminates an outdated regulation related to reports on exports of technology. The cited statutory basis for the regulation has been repealed, and its contents are plainly obsolete and pose a genuine risk of confusion. This action is necessary to ensure that the Department’s body of regulations remains accurate, up-to-date, and in conformity with statutory law. This action is intended to reduce the possibility of public confusion and promote administrative efficiency.
DATES: The rule is effective April 17, 2026.

FOR FURTHER INFORMATION CONTACT: Daniel Sweeney, Senior Counsel, Office of the General Counsel, at (202) 482–1395.

SUPPLEMENTARY INFORMATION: This action eliminates the Department’s regulation at 15 CFR Subtitle B, Chapter XIII, which consists of a single part (15 CFR part 1300) and pertains to reports on exports of technology. The regulatory language in part 1300 was promulgated by the East-West Foreign Trade Board on July 14, 1975 (40 FR 29534), pursuant to section 411 of the Trade Act of 1974 (19 U.S.C. 2441). However, the East-West Foreign Trade Board is no longer in existence, and section 411 of the Trade Act of 1974 has been repealed (see Pub L. 105–362, title XIV, § 1401(b)(2), Nov. 10, 1998, 112 Stat. 3294; Pub. L. 106–36, title I, § 1001(a)(4), June 25, 1999, 113 Stat. 130). Moreover, the discussion in § 1300.1(b) of “Country Groups Q, W, Y, and Z of the export control regulations” is plainly obsolete, as those groups have not been included in the Export

Administration Regulations (EAR) since the restructuring and reorganization of the EAR in 1996 (61 FR 12714). In sum, 15 CFR Subtitle B, Chapter XIII is appropriate for removal, as its statutory basis has been repealed and its contents are plainly obsolete and pose a genuine risk of confusion.

Regulatory Classifications

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), the Department finds good cause to waive the prior notice and opportunity for public participation requirements of the Administrative Procedure Act for this final rule. The Department considers this rule to be uncontroversial, and has determined that prior notice and opportunity for public participation is unnecessary, because this rule merely removes a regulation that lacks a valid statutory authorization, no longer serves any meaningful function, and poses a genuine risk of confusing the public; public participation would not justify the continued maintenance of such a regulation under the Department’s broader regulatory policies. For the same reason, the Department has determined that delaying the effectiveness of this elimination would be contrary to the public interest. The described removal will ensure conformity with statutory law and immediately eliminate a potential source of confusion, thereby benefiting the public at little to no cost. The Department therefore finds good cause to waive the public notice and comment period under 553(b)(B) and to waive the 30-day delay in effectiveness under 553(d).

B. Executive Orders 12866, 14192, and 13132

The Office of Management and Budget has determined this rule is not significant pursuant to Executive Order (E.O.) 12866. This rule is an E.O. 14192 deregulatory action. This rule does not contain policies having federalism implications as the term is defined in E.O. 13132.

C. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public participation are not required to be given for this rule by 5 U.S.C. 553(b)(B), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

D. Paperwork Reduction Act

This rule will not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects in 15 CFR Part 1300

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements, Technology transfer.

Dated: April 13, 2026.

Paul Dabbar,

Deputy Secretary of Commerce.

CHAPTER XIII—[REMOVED AND RESERVED]

■ Accordingly, for the reasons set forth above and under the authority of 5 U.S.C. 301, chapter XIII, consisting of part 1300, of subtitle B of title 15 of the Code of Federal Regulations is removed and reserved.

[FR Doc. 2026–07535 Filed 4–16–26; 8:45 am]

BILLING CODE 3510–20–P

DEPARTMENT OF STATE**22 CFR Part 22**

[Public Notice: 12998]

RIN 1400–AF61

Schedule of Fees for Consular Services—Fee for Administrative Processing of Request for Certificate of Loss of Nationality of the United States; Correction

AGENCY: Department of State.

ACTION: Correcting amendment.

SUMMARY: The Department of State is correcting a rulemaking that appeared in the *Federal Register* on March 13, 2026. There was an erroneous paragraph designation in an amendatory instruction.

DATES: Effective April 16, 2026. This rule is applicable as of April 13, 2026.

FOR FURTHER INFORMATION CONTACT: Alice Kottmyer, Office of the Legal Adviser, Department of State, email kottmyeram@state.gov, (202) 6472199.

SUPPLEMENTARY INFORMATION: On March 13, 2026, the Department published a final rule amending the fee for a Certificate of Loss of Nationality (“Final Rule”). 91 FR 12296. The rule was effective on April 13, 2026. There was an error in amendatory instruction 2, and this final rule corrects that error.

Regulatory Analysis

The Department incorporates the regulatory analyses from the Final Rule.

List of Subjects in 22 CFR Part 22

Consular services, Fees.

Accordingly, for the reasons stated above and in the Final Rule, 22 CFR part 22 is corrected by making the following correcting amendment:

PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

■ 1. Revise the authority citation for part 22 to read as follows:

Authority: 8 U.S.C. 1101 note, 1153 note, 1157 note, 1183 note, 1184(c)(12), 1201(c), 1351, 1351 note, 1713, 1714, 1714 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 214 note, 1475e, 2504(h), 2651a, 4206, 4215, 4219, 6551; 31 U.S.C. 9701; E.O. 10718, 22 FR 4632, 3 CFR, 1954–1958 Comp., p. 382; E.O. 11295, 31 FR 10603, 3 CFR, 1966–1970 Comp., p. 570.

■ 2. In § 22.1, amend the table by revising entry 8 under the heading “Passport and Citizenship Services” to read as follows:

§ 22.1 Schedule of fees.

* * * * *

SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
Passport and Citizenship Services	
8. Administrative Processing of Request for Certificate of Loss of Nationality	\$450

Alice M. Kottmyer,

*Attorney Adviser, Office of the Legal Adviser,
Department of State.*

[FR Doc. 2026–07601 Filed 4–16–26; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF LABOR**Occupational Safety and Health Administration****29 CFR Part 1917**

[Docket No. OSHA–2025–0008]

RIN 1218–AD52

House Falls in Marine Terminals

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule.

SUMMARY: OSHA is finalizing the revocation of the agency’s House Falls in Marine Terminals Standard.

DATES: The final rule is effective April 17, 2026.

ADDRESSES: *Docket:* The docket for this rulemaking (Docket No. OSHA–2025–0008) is available at <https://www.regulations.gov>, the Federal eRulemaking Portal. Most exhibits are available at <https://www.regulations.gov>; some exhibits (e.g., copyrighted material) are not available to download from that web page. However, all materials in the dockets are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2500 (TDY number 877–889–5627) for assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Contact Frank Meilinger, Director, OSHA Office of

Communications, Occupational Safety and Health Administration; telephone: (202) 693–1999; email:

meilinger.francis2@dol.gov.

General information and technical inquiries: Contact Andrew Levinson, Director, OSHA Directorate of Standards and Guidance, Occupational Safety and Health Administration; telephone: (202) 693–1950; email: osha.dsg@dol.gov.

Copies of this Federal Register notice: Electronic copies are available at <https://www.regulations.gov>. This **Federal Register** notice, as well as news releases and other relevant information, also are available at OSHA's web page at <https://www.osha.gov>.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Executive Summary
- II. Legal Authority
- III. Background
- IV. Explanation of the Revocation of the House Falls in Marine Terminals Standard
- V. Final Economic Analysis
- VI. Additional Requirements
- VII. Authority and Signature

I. Executive Summary

This final rule revokes OSHA's House Falls in Marine Terminals Standard, 29 CFR 1917.41 ("House Falls Standard"). OSHA has determined that this standard is no longer necessary to protect employees working in marine terminals from occupational safety and health hazards. This is a deregulatory action per Executive Order 14192, "Unleashing Prosperity Through Deregulation" (90 FR 9065 (Feb. 6, 2025)).

II. Legal Authority

The purpose of the Occupational Safety and Health Act (29 U.S.C. 651 *et seq.*) ("the Act" or "the OSH Act") is "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources" (29 U.S.C. 651(b)). To achieve this goal Congress authorized the Secretary of Labor ("the Secretary") to promulgate standards to protect workers, including the authority "to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce" (29 U.S.C. 651(b)(3); see also 29 U.S.C. 654(a)(2) (requiring employers to comply with OSHA standards), 29 U.S.C. 655(a) (authorizing summary adoption of existing consensus and established federal standards within two years of the Act's enactment), and 29 U.S.C. 655(b) (authorizing promulgation, modification or revocation of standards pursuant to notice and comment)). An occupational

safety and health standard is "... a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment" (29 U.S.C. 652(8)).

Before OSHA may promulgate a health or safety standard, it must find that a standard is reasonably necessary or appropriate within the meaning of section 652(8) of the OSH Act. As required by the OSH Act, OSHA originally determined that the Standards for Marine Terminals would substantially reduce a significant risk of material harm when promulgating those standards (see 48 FR 30886, 30887 (July 5, 1983)). Once OSHA makes a general significant risk finding in support of a standard, the next question is whether a particular requirement is reasonably related to the purpose of the standard as a whole. See *Asbestos Info. Ass'n/N. Am. v. Reich*, 117 F.3d 891, 894 (5th Cir. 1997); *Forging Indus. Ass'n v. Sec'y of Labor*, 773 F.2d 1436, 1447 (4th Cir. 1985); *United Steelworkers of Am., AFL-CIO-CLC v. Marshall*, 647 F.2d 1189, 1237–38 (D.C. Cir. 1980) ("Lead I").¹

The Administrative Procedure Act (APA) directs agencies to include in each rule adopted "a concise general statement of [the rule's] basis and purpose" (5 U.S.C. 553(c); *cf.* 29 U.S.C. 655(e) (requiring the Secretary to publish a "statement of reasons" for any standard promulgated)). This notice satisfies this concise statement requirement.

The effective date of this final rule is its date of publication. It is exempt from the APA's requirement for delay in effective date because the rule relieves a restriction (5 U.S.C. 553(d)(1)).

III. Background

OSHA first adopted the House Falls Standard in 1983, as part of its Marine Terminals rulemaking, to address serious occupational safety and health hazards in the marine terminals industry (see 48 FR 30886 (July 5, 1983)). The House Falls Standard requires that: span beams be secured to prevent accidental dislodgement; a safe means of access be provided for employees working with house fall blocks; and designated employees inspect chains, links, shackles, swivels, blocks and other loose gear used in house fall operations before each day's

use. Defective gear is not to be used (29 CFR 1917.41). House falls are spans and supporting members, winches, blocks, and standing and running rigging forming part of a marine terminal and used with a vessel's cargo gear to load or unload by means of married falls (29 CFR 1917.2).

The House Falls standard is one of several intended to protect employees working in marine terminals from the occupational safety and health hazards to which they are exposed (see 29 CFR Pt. 1917). For example, in addition to containing the House Falls Standard, the Marine Terminals Standards contain standards protecting employees from slippery conditions (29 CFR 1917.12) and hazardous cargo (29 CFR 1917.22). The Marine Terminals Standards apply to work such as loading, unloading, movement or other handling of cargo in marine terminals (29 CFR 1917.1). Marine terminals are wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or adjacent areas and structures associated with the primary movement of cargo or materials from vessel to shore or shore to vessel including structures which are devoted to receiving, handling, holding, consolidating and loading or delivery of waterborne shipments or passengers, including areas devoted to the maintenance of the terminal or equipment.

IV. Explanation of the Revocation of the House Falls in Marine Terminals Standard

OSHA proposed removing the House Falls Standard from the CFR because that standard is no longer necessary to protect employees working in marine terminals from occupational safety and health hazards. When OSHA first promulgated the Marine Terminals Standards in 1983, house falls were generally employed by the marine terminals industry to load and unload cargo. In the Notice of Proposed Rulemaking for this rule, OSHA stated that the agency's understanding is that the marine terminals industry does not currently employ house falls because most cargo has been containerized and is moved by cranes. Moreover, OSHA has no records of any citations for a violation of this standard (OSHA's accessible records extend back to 2012, and OSHA did not receive any public comment or evidence suggesting earlier citations). Therefore, consistent with Executive Order (E.O.) 14219, "Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative," E.O. 14192, "Unleashing

¹ OSHA standards must also be both technologically and economically feasible. *Lead I*, 647 F.2d at 1264 (D.C. Cir. 1980). Because this final rule eliminates an existing standard, OSHA finds that it raises no feasibility concerns.

Prosperity Through Deregulation,” and the goal of significantly reducing the private expenditures required to comply with Federal regulations to secure America’s economic prosperity and national security and the highest possible quality of life for each citizen, OSHA preliminarily found that removing the House Falls Standard from the CFR would reduce the compliance burden on the regulated community without compromising worker safety.

OSHA received two substantive comments in response to the proposal. One commenter, the National Federation of Independent Business (NFIB), agreed with OSHA’s rationale for proposing to revoke the House Falls Standard and fully supported the standard’s removal (OSHA–2025–0008–0004). A second commenter, the Occupational Safety and Health State Plan Association (“OSHSPA”), conceded that employing house falls is no longer a “typical practice,” but disagreed with OSHA’s proposal to eliminate the standard, asserting that house falls are “still in use” (OSHA–2025–0008–0005).² However, they provided no information to support this assertion. Without supporting information, OSHA cannot assess the claim or determine how often this atypical practice might be used. The absence of any record of citations over the last decade, combined with the lack of any other evidence that this practice is still actually used or presents the same hazards that it did at the time of promulgation, indicate that the standard is no longer necessary. The agency notes that if OSHSPA is correct and house falls are still used in rare cases, and OSHA revokes its house falls standard, employers in marine terminals would be obligated under the OSH Act’s general duty clause (29 U.S.C. 654(a)(1)) to protect employees from the known hazards arising from their use. For these reasons, OSHA finds that a specific House Falls Standard is no longer necessary to protect employees working in marine terminals from occupational safety and health hazards.

V. Final Economic Analysis

Executive Orders 12866 and 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1532(a)) require that OSHA estimate the benefits, costs, and net benefits of regulations, and analyze the impacts of certain rules that OSHA promulgates. Executive

Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This final rule is not a “significant regulatory action” under Executive Order 12866 or UMRA, or a “major rule” under the Congressional Review Act (5 U.S.C. 801 *et seq.*). Neither the benefits nor the costs of this final rule will exceed \$100 million in any given year. This final rule will, however, result in a net cost savings for employers in marine terminal and longshoring operations, which are the only industries throughout OSHA’s jurisdiction affected by the rescission of 29 CFR 1917.41.

Furthermore, as discussed below in Review Under the Regulatory Flexibility Act, because the final rule will not impose any costs, OSHA certifies that it will not have a significant economic impact on a substantial number of small entities.

OSHA estimates that there are currently 2,617 establishments in maritime affected by OSHA standards addressing house falls (U.S. Census Bureau, 2024). These establishments are found in the following industries: Port and Harbor Operations (NAICS 488310), Marine Cargo Handling (NAICS 488320), Navigational Services to Shipping (NAICS 488330), and Other Support Activities for Water Transportation (NAICS 488390). The revocation of the House Falls Standard will, among other things, eliminate the time necessary for new establishments and newly hired occupational health and safety specialists at existing establishments to familiarize themselves with the requirements found in 29 CFR 1917.41. Based on an average annual establishment entry rate of 10 percent (U.S. Census Bureau, 2025), an average hire rate of 43.9 percent (BLS, 2025), and 10 minutes less time spent on regulatory familiarization at a loaded hourly wage rate for an occupational health and safety specialist of \$65.41, OSHA estimates that this deregulatory action will result in \$15,377 in cost savings annually.

OSHA also estimated the impacts under an alternative scenario where only new entrants into the industry would be affected by the revocation of 29 CFR 1917.41. This scenario assumes that for non-entrant (*i.e.*, existing) establishments within an industry, the familiarization time saved for newly hired occupational health and safety specialists is negligible due to knowledge of the requirements in section 1917.41 retained institutionally within the business entity by team leaders and other senior staff. For this

scenario, costs savings that result from rescinding section 1917.41 would be \$2,853 annually.

A third impacts scenario, one that is likely closer to the real-world environment for the retention and communication of safety and health information in most workplaces, would be the midpoint of the two extreme cases described above. Under this mid-range scenario, approximately half of affected establishments would retain staff whose complete knowledge of the rescinded standards would substitute for the familiarization time needed by the newly hired health and safety specialists. Viewed alternatively, under this mid-range scenario, all affected establishments retain veteran staff who can briefly inform the new safety and health specialist of the status of standards such as section 1917.41 in less time (roughly five minutes) than would be necessary in the absence of institutional knowledge (ten minutes). OSHA estimates that this would result in cost savings of \$9,115 annually.

OSHA’s estimate of cost savings may underestimate total cost savings if the elimination of the labor burden for regulatory familiarization extends to the avoidance of unnecessary safety training of employees.

OSHA presented this analysis in its proposed rule and requested public comment on its analysis of the cost savings for employers affected by the revocation of the House Falls Standard. One commenter, NFIB, fully supported that analysis (OSHA–2025–0008–0004). No commenter objected to OSHA’s estimates. Therefore, OSHA’s estimates of the costs and benefits of this final rule remain unchanged from the proposal.

Sources

- Bureau of Labor Statistics (BLS). (2025). Occupational Employment and Wage Statistics—May 2024 (Released April 2, 2025). Available at <https://www.bls.gov/oes/tables.htm> (Accessed April 11, 2025).
- U.S. Census Bureau. (2024). County Business Patterns 2022 (Released June 27, 2024). Available at <https://www.census.gov/programs-surveys/cbp.html> (Accessed July 17, 2024).
- U.S. Census Bureau. (2025). Business Dynamics Statistics. Available at https://bds.explorer.ces.census.gov/?xaxis-id=year&xaxis-selected=2018,2019,2020,2021,2022&group-id=none&measure-id=estabs_entry_rate&chart-type=bar (Accessed June 6, 2025).

Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility

² A third, anonymous commenter stated the following: “Enhanced Social Responsibility” (OSHA–2025–0008–0003). This commenter did not provide OSHA with sufficient information to provide a response.

analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

OSHA reviewed this rescission under the provisions of the Regulatory Flexibility Act. This rule eliminates a burdensome regulation. Therefore, OSHA certifies that the rescission will not have a “significant economic impact on a substantial number of small entities,” and that the preparation of a FRFA is not warranted. OSHA will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

VI. Additional Requirements

A. Requirements for States With OSHA-Approved State Plans

Under section 18 of the OSH Act (29 U.S.C. 651 *et seq.*), Congress expressly provides that States may adopt, with Federal approval, a plan for the development and enforcement of occupational safety and health standards that are “at least as effective” as the Federal standards in providing safe and healthful employment and places of employment (29 U.S.C. 667). OSHA refers to these OSHA-approved, State-administered occupational safety and health programs as “State Plans.”³

When Federal OSHA promulgates a new standard or a more stringent amendment to an existing standard, State Plans must either amend their standards to be identical to or “at least as effective as” the new Federal standard or amendment or show that an existing State Plan standard covering this issue is “at least as effective” as the new Federal standard or amendment (29 CFR 1953.5(a)). However, when OSHA promulgates a new standard or amendment that does not impose additional or more stringent requirements than an existing standard, State Plans do not have to amend their standards, although they may opt to do so.

In the proposed rule, OSHA preliminarily determined this rule

would not impose additional or more stringent requirements than the existing standard, and therefore State Plans would not be required to amend their standards in response. OSHA received one comment related to this determination. The comment was from the OSHSPA, which agreed with OSHA’s determination that State Plans should not be required to amend their standards to adopt this rule. OSHA received no other comments disputing OSHA’s preliminary conclusion that this proposed rule does not impose additional or more stringent requirements than the existing standard. Therefore, OSHA is finalizing its determination that State Plans are not required to amend their standards. OSHA agrees with OSHSPA that the OSH Act requires State Plans to have standards that are “at least as effective” as OSHA’s but allows State Plans to be more stringent than OSHA in protecting the safety and health of workers in their respective jurisdictions. This rulemaking does not change that authority. Consequently, State Plans are not obligated to make any changes to their existing standards in response to this final rule.

B. OMB Review Under the Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) defines “collection of information” to mean “the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format” (44 U.S.C. 3502(3)(A)). Under the PRA, a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA and the agency displays a currently valid OMB control number (44 U.S.C. 3507). Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512(a)(1)). The process for OMB approval is found in 5 CFR part 1320. This final rule imposes no new information collection requirements and does not affect the currently approved information collections in Marine Terminals (29 CFR Pt. 1917) and Longshoring (29 CFR Pt. 1918) (OMB Control Number 1218–0196). Accordingly, OMB approval of information collections is not required for this final rule.

C. Review Under Executive Order 12866

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

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has determined that this final rule does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this final rule was not submitted to OIRA for review under E.O. 12866.

D. Environmental Impacts/National Environmental Policy Act (NEPA)

OSHA has reviewed this final rule according to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), as amended by the Fiscal Responsibility Act of 2023 (Pub. L. 118–5, 321, 137 Stat. 10), and the Department of Labor’s NEPA procedures (29 CFR part 11).

Pursuant to 29 CFR 11.10, the promulgation, modification, or revocation of any OSHA safety standard is categorically excluded from the requirement to prepare an environmental assessment under NEPA absent extraordinary circumstances indicating the need for such an assessment. OSHA finds that this final rule presents no such extraordinary circumstances.

E. Other Statutory and Executive Order Considerations

OSHA has considered its obligations under the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*) and the Executive Orders on Consultation

³ Of the 29 States and U.S. territories with OSHA-approved State Plans, 22 cover public and private-sector employees: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. The remaining six States and one U.S. territory cover only State and local government employees: Connecticut, Illinois, Maine, Massachusetts, New Jersey, New York, and the Virgin Islands.

and Coordination With Indian Tribal Governments (E.O. 13175, 65 FR 67249 (Nov. 6, 2000)), Federalism (E.O. 13132, 64 FR 43255 (Aug. 10, 1999)), and Protection of Children From Environmental Health Risks and Safety Risks (E.O. 13045, 62 FR 19885 (Apr. 23, 1997)). Given that this is a final deregulatory action that involves the removal of requirements, that OSHA does not foresee economic impacts of \$100 million or more, and that the action does not constitute a policy that has federalism or tribal implications, OSHA has determined that no further agency action or analysis is required to comply with these statutes and executive orders. Furthermore, OSHA has determined that this final rule is consistent with the policies and directives outlined in E.O. 14192, “Unleashing Prosperity Through Deregulation” and is an Executive Order 14192 deregulatory action.

List of Subjects in 29 CFR 1917

Health, Longshore and Harbor workers, Occupational safety and health.

VII. Authority and Signature

This document was prepared under the direction of David Keeling, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under the authority of sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); section 41 of the Longshore and Harbor Worker’s Compensation Act (33 U.S.C. 941); Secretary of Labor’s Order No. 7–2025 (90 FR 27878, June 30, 2025); and 29 CFR part 1911.

Dated: April 14, 2026.

David Keeling,

Assistant Secretary of Labor for Occupational Safety and Health.

For the reasons set forth in the preamble, OSHA amends 29 CFR part 1917 as follows:

PART 1917—MARINE TERMINALS

■ 1. The authority for part 1917 is revised to read as follows:

Authority: 33 U.S.C. 941; 29 U.S.C. 653, 655, 657; Secretary of Labor’s Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), 1–2012 (77 FR 3912), 8–2020 (85 FR 58393), or 7–2025 (90 FR 27878), as applicable; and 29 CFR part 1911.

Sections 1917.28 and 1917.31 also issued under 5 U.S.C. 553. Section 1917.29 also issued under 49 U.S.C. 1801–1819 and 5 U.S.C. 553.

Subpart C—Cargo Handling Gear and Equipment

§ 1917.41 [Removed and Reserved]

■ 2. Remove and reserve § 1917.41.

[FR Doc. 2026–07600 Filed 4–16–26; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2024–0385; FRL–10808–02–R3]

Air Plan Approval; Virginia; Amendment to the State Operating Permit for GP Big Island, LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted on December 14, 2022, by the Commonwealth of Virginia’s (Commonwealth or Virginia) Department of Environmental Quality (VADEQ). The revision pertains to an amendment to an operating permit limiting visibility-impairing air emissions from the GP Big Island, LLC pulp and paper mill facility located in Bedford County, Virginia. The EPA is approving the inclusion of the revised state operating permit to the Virginia SIP. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on May 18, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2024–0385. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through www.regulations.gov, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Philip McGuire, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John

F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2251. Mr. McGuire can also be reached via electronic mail at mcguire.philip@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 11, 2025 (90 FR 57409), the EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Virginia. In the NPRM, the EPA proposed approval of a revision to the Virginia SIP which aligns the SIP with the December 12, 2022, state operating permit for Best Available Retrofit Technology (BART permit) and the Title V permit for the GP Big Island pulp and paper mill (GP Big Island) located in Bedford County, Virginia. The revision lowers the permitted emission limits for particulate matter (PM₁₀), sulfur dioxide (SO₂), and nitrogen oxides (NO_x) at the Number 5 Power Boiler and removes conditions related to the use of coal. The formal SIP revision was submitted by Virginia on December 14, 2022. The public comment period for the proposed rulemaking ended on January 12, 2026, and the EPA received no comments during the public comment period.

II. Summary of SIP Revision and EPA Analysis

The December 11, 2025, NPRM proposed changing two main aspects of the Virginia SIP, and this final action approves those proposed changes. The first aspect of the proposed SIP revision submitted to the EPA on December 14, 2022, requested the removal of conditions pertaining to controlling sulfur dioxide emissions when coal is used in the Number 5 Power Boiler. Specifically, the December 12, 2022, amended BART permit no longer contains requirements that were in the October 5, 2012, amended BART permit related to limiting coal sulfur content and limiting the firing of coal to a maximum percentage of the annual capacity factor when firing coal at the Number 5 Power Boiler. The second aspect of the proposed SIP revision lowered the permitted emission limits for the Number 5 Power Boiler for PM₁₀, SO₂, and NO_x. The proposed reduced annual limits included lowering PM₁₀ emissions limits from 103.9 tons per year (TPY) to 88.9 TPY, lowering SO₂ emissions limits from 374 TPY to 104.7 TPY, and lowering NO_x emissions limits from 610.1 TPY to 529.9 TPY. The proposed reduced hourly limits included lowering PM₁₀ emissions limits from 23.7 pounds per hour (lbs/hr) to 20.3 lbs/hr, lowering SO₂ emissions limits from 485.1 lbs/hr to

23.9 lbs/hr, and lowering NO_x emissions limits from 139.3 lbs/hr to 121.0 lbs/hr. Additional rationale for the EPA's proposed action are explained in the NPRM, and will not be restated here. No public comments were received on the NPRM.

III. Final Action

The EPA is approving Virginia's December 12, 2022, amended BART permit for the GP Big Island, LLC pulp and paper mill facility located in Bedford County as a revision to the Virginia SIP. The SIP revision lowers the permitted emission limits for PM₁₀, SO₂, and NO_x at the Number 5 Power Boiler and removes conditions related to the use of coal. Simultaneously—at the request of VADEQ—the EPA is removing the October 5, 2012, amended BART permit from the Virginia SIP.¹ The previous SIP revision was approved into the Virginia SIP effective June 17, 2014, and this final action updates the June 17, 2014, SIP revision.

IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) “privilege” for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a

clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information “required by law,” including documents and information “required by Federal law to maintain program delegation, authorization or approval,” since Virginia must “enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. . . .” The opinion concludes that “[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.”

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that “[t]o the extent consistent with requirements imposed by Federal law,” any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998, opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since “no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.”

Therefore, the EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because the EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, the EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

V. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the December 12, 2022, amended Virginia state operating permit for GP Big Island, LLC described in section I “Background” and in section II “Summary of SIP Revision and EPA Analysis,” in this preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.²

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

¹ The October 5, 2012, amended BART permit and the original June 12, 2008, BART permit are available in the docket for this action as VADEQ_State_Operating_Permit_2008_and_2012_revision.

² 62 FR 27968 (May 22, 1997).

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
 - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
 - Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose

substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This rule is exempt from the Congressional Review Act because it is a rule of particular applicability.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 16, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate

matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Amy Van Blarcom Lackey,

Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart VV—Virginia

- 2. In § 52.2420, the table in paragraph (d) is amended by removing the entry “GP Big Island, LLC” and adding the entry “GP Big Island, LLC” at the end of the table to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(d) * * *

EPA—APPROVED SOURCE SPECIFIC REQUIREMENTS

Source name	Permit/order or registration No.	State effective date	EPA approval date	40 CFR part 52 citation
*	*	*	*	*
GP Big Island, LLC.	Registration No. 30389.	12/12/22	4/17/26, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	52.2420(d); Revised BART permit replacing permit dated 6/12/08 and permit revision dated 10/5/12.

* * * * *

[FR Doc. 2026–07527 Filed 4–16–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2024–0202; FRL–13250–01–OCSPP]

Methoxyfenozide; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of methoxyfenozide, including its metabolites and degradates, (CASRN 161050–58–4) in or on the food and feed commodities listed under Unit II. Petitioned-For Tolerances. Under the Federal Food, Drug, and Cosmetic Act (FFDCA), The Interregional Research

Project Number 4 (IR–4) submitted a petition to EPA requesting that EPA establish a maximum permissible level for residues of this pesticide in or on the identified commodities.

DATES: This regulation is effective April 17, 2026. Objections and requests for hearings must be received on or before June 16, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2024–0202, is available online at <https://www.regulations.gov>. Additional information about dockets generally, along with instructions for visiting the docket in person, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Smith, Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection

Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: RDfRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).

- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is EPA's authority for taking this action?

EPA is issuing this rulemaking under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(b)(2)(A)(i) allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." FFDCA section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. FFDCA section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . ." Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider, among other things, "available information concerning the cumulative effects of a particular pesticide's residues" and "other substances that have a common mechanism of toxicity."

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify the docket ID number EPA-HQ-OPP-2024-0202 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before June 16, 2026.

EPA's Office of Administrative Law Judges (OALJ), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. See "Order Urging Electronic Filing and Service," dated December 3, 2025, which can be found at <https://www.epa.gov/system/files/documents/2025-12/2025-12-03-order-urging-electronic-filing-and-service.pdf>. Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at https://yosemite.epa.gov/oal/eab/eab-alj_upload.nsf.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute. If you wish to include CBI in your request, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Office of the Federal Register's e-CFR site at <https://www.ecfr.gov/>.

II. Petitioned-For Tolerance

In the **Federal Register** of July 3, 2025 (90 FR 29516) (FRL-12474-05- OCSPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petition (PP4E9107) by the Interregional Research Project Number 4 (IR-4), IR-4 Project Headquarters, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606. The petition requests that EPA amend 40 CFR 180.544 by establishing tolerances for residues of methoxyfenozide, including its metabolites and degradates, in or on the following commodities: Edible podded

bean subgroup 6-22A at 2 parts per million (ppm); Edible podded pea subgroup 6-22B at 2 ppm; Field corn subgroup 15-22C at 0.05 ppm; Grain sorghum and millet subgroup 15-22E at 6 ppm; Pulses, dried shelled bean, except soybean, subgroup 6-22E, except pea, blackeyed, seed and pea, southern, seed at 0.5 ppm; Pulses, dried shelled pea subgroup 6-22F at 0.5 ppm; Succulent shelled bean subgroup 6-22C at 0.3 ppm; Succulent shelled pea subgroup 6-22D at 0.3 ppm; Sweet corn subgroup 15-22D at 0.05 ppm; and Tropical and Subtropical, Medium to Large Fruit, edible peel, subgroup 23B at 6 ppm. The petition also requests EPA to establish a regional tolerance for residues of methoxyfenozide, including its metabolites and degradates, in or on Rice subgroup 15-22F at 30 ppm.

The petition requests, upon the approval of the requested tolerances, the removal of the established tolerances for residues of methoxyfenozide, including its metabolites and degradates in or on the raw agricultural commodities: Bean, adzuki, dry seed at 0.5 ppm; Bean, American potato, dry seed at 0.5 ppm; Bean, asparagus, dry seed at 0.5 ppm; Bean, asparagus, edible podded at 2 ppm; Bean, black, dry seed at 0.5 ppm; Bean, broad, dry seed at 0.5 ppm; Bean, broad, succulent shelled at 0.3 ppm; Bean, catjang, dry seed at 0.5 ppm; Bean, catjang, edible podded at 2 ppm; Bean, catjang, succulent shelled at 0.3 ppm; Bean, cranberry, dry seed at 0.5 ppm; Bean, dry, dry seed at 0.5 ppm; Bean, field, dry seed at 0.5 ppm; Bean, French, dry seed at 0.5 ppm; Bean, French, edible podded at 2 ppm; Bean, garden, dry seed at 0.5 ppm; Bean, garden, edible podded at 2 ppm; Bean, goa, dry seed at 0.5 ppm; Bean, goa, edible podded at 2 ppm; Bean, goa, succulent shelled at 0.3 ppm; Bean, great northern, dry seed at 0.5 ppm; Bean, green, dry seed at 0.5 ppm; Bean, green, edible podded at 2 ppm; Bean, guar, dry seed at 0.5 ppm; Bean, guar, edible podded at 2 ppm; Bean, kidney, dry seed 0.5 ppm; Bean, kidney, edible podded at 2 ppm; Bean, lablab, dry seed at 0.5 ppm; Bean, lablab, edible podded at 2 ppm; Bean, lablab succulent shelled 0.3 ppm; Bean, lima, dry seed at 0.5 ppm; Bean, lima, succulent shelled at 0.3 ppm; Bean, morama, dry seed at 0.5 ppm; Bean, moth, dry seed at 0.5 ppm; Bean, moth edible podded at 2 ppm; Bean, moth, succulent shelled at 0.3 ppm; Bean, mung, edible podded at 2 ppm; Bean, navy, dry seed at 0.5 ppm; Bean, navy, edible podded at 2 ppm; Bean, pink, dry seed at 0.5 ppm; Bean, pinto, dry seed at 0.5 ppm; Bean, red, dry seed at 0.5 ppm; Bean, rice, dry seed

at 0.5 ppm; Bean, rice, edible podded at 2 ppm; Bean, scarlet runner, dry seed at 0.5 ppm; Bean, scarlet runner, edible podded at 2 ppm; Bean, scarlet runner, succulent shelled at 0.3 ppm; Bean, snap, edible podded at 2 ppm; Bean, sword, dry seed at 0.5 ppm; Bean, sword, edible podded at 2 ppm; Bean, tepary, dry seed at 0.5 ppm; Bean, urd, dry seed at 0.5 ppm; Bean, urd, edible podded at 2 ppm; Bean, wax, edible podded at 2 ppm; Bean, wax, succulent shelled at 0.3 ppm; Bean, yardlong, dry seed at 0.5 ppm; Bean, yardlong, edible podded at 2 ppm; Bean, yellow, dry seed at 0.5 ppm; Chickpea, dry seed at 0.5 ppm; Chickpea, edible podded at 2 ppm; Chickpea, succulent shelled at 0.3 ppm; Corn, field, grain at 0.05 ppm; Corn, pop, grain at 0.05 ppm; Corn, sweet, kernel plus cob with husks removed at 0.05 ppm; Cowpea, dry seed at 0.5 ppm; Cowpea, edible podded at 2 ppm; Cowpea, succulent shelled at 0.3 ppm; Feijoa at 0.4 ppm; Gram, horse, dry seed at 0.5 ppm; Grass pea, dry seed at 0.5 ppm; Grass pea, edible podded at 2 ppm; Guava at 0.4 ppm; Jaboticaba at 0.4 ppm; Jackbean, dry seed at 0.5 ppm; Jackbean, edible podded at 2 ppm; Jackbean, succulent shelled at 0.3 ppm; Lentil, dry seed at 0.5 ppm; Lentil, edible podded at 2 ppm; Lentil, succulent shelled at 0.3 ppm; Longbean, Chinese, dry seed at 0.5 ppm; Longbean, Chinese, edible podded at 2 ppm; Lupin, Andean, succulent shelled at 0.3 ppm; Lupin, blue, dry seed at 0.5 ppm; Lupin, blue, succulent shelled at 0.3 ppm; Lupin, grain, dry seed at 0.5 ppm; Lupin, grain, succulent shelled at 0.3 ppm; Lupin, sweet, dry seed at 0.5 ppm; Lupin, sweet, succulent shelled at 0.3 ppm; Lupin, sweet white, dry seed at 0.5 ppm; Lupin, sweet white, succulent shelled at 0.3 ppm; Lupin, white, dry seed at 0.5 ppm; Lupin, white, succulent shelled at 0.3 ppm; Lupin, yellow, dry seed at 0.5 ppm; Lupin, yellow, succulent shelled at 0.3 ppm; Pea, blackeyed, succulent shelled at 0.3 ppm; Pea, crowder, dry seed at 0.5 ppm; Pea, crowder, succulent shelled at 0.3 ppm; Pea, dry, dry seed at 0.5 ppm; Pea, dwarf, edible podded at 2 ppm; Pea, English, succulent shelled 0.3 ppm; Pea, field, dry seed at 0.5 ppm; Pea, garden, dry seed at 0.5 ppm; Pea, garden, succulent shelled at 0.3 ppm; Pea, green, dry seed at 0.5 ppm; Pea, green, edible podded at 2 ppm; Pea, green, succulent shelled at 0.3 ppm; Pea, pigeon, dry seed at 0.5 ppm; Pea, pigeon, edible podded at 2 ppm; Pea, pigeon, succulent shelled at 0.3 ppm; Pea, snap, edible podded at 2 ppm; Pea, snow edible podded at 2 ppm; Pea, southern, succulent shelled at 0.3 ppm;

Pea, sugar snap, edible podded at 2 ppm; Pea, winged, dry seed at 0.5 ppm; Pea, winged, edible podded at 2 ppm; Rice, grain at 30 ppm; Sorghum, grain at 6 ppm; Sorghum, sweet, grain at 6 ppm; Soybean, vegetable, dry seed at 0.5 ppm; Soybean, vegetable, edible podded at 2 ppm; Soybean, vegetable, succulent shelled at 0.3 ppm; Starfruit at 0.4 ppm; Velvet bean, dry seed at 0.5 ppm; Velvet bean, edible podded at 2 ppm; Velvet bean, succulent shelled at 0.3 ppm; and Yam bean, African, dry seed at 0.5 ppm.

The notice of filing document referenced a summary of the petition prepared by IR-4, the petitioner, which is available in docket ID number EPA-HQ-OPP-2024-0202 at <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

EPA is establishing tolerances that vary from what the petitioner proposed. The reason for this change is explained in Unit IV.C.

III. Final Tolerance Actions

A. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” Section 408(b)(2)(A)(ii) of FFDCA defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .”

Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for methoxyfenozide including exposure resulting from the tolerances established by this action. EPA’s assessment of exposures and risks associated with methoxyfenozide follows.

In an effort to streamline its publications in the **Federal Register**, EPA is not reprinting sections that repeat what has been previously published for tolerance rulemakings for the same pesticide chemical. Where scientific information concerning a particular chemical remains unchanged, the content of those sections would not vary between tolerance rulemakings, and EPA considers referral back to those sections as sufficient to provide an explanation of the information EPA considered in making its safety determination for the new rulemaking.

EPA has previously published tolerance rulemakings for methoxyfenozide in which EPA concluded, based on the available information, that there is a reasonable certainty that no harm would result from aggregate exposure to methoxyfenozide and established tolerances for residues of that chemical. EPA is incorporating previously published sections from these rulemakings as described further in this rulemaking, as they remain unchanged.

B. Toxicological Profile

For a discussion of the Toxicological Profile of methoxyfenozide, see Unit III.A. of the methoxyfenozide tolerance rulemaking published in the **Federal Register** of March 12, 2019 (84 FR 8820) (FRL-9985-06).

C. Toxicological Points of Departure/ Levels of Concern

Once a pesticide’s toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level, generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD), and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles

EPA uses in risk characterization and a complete description of the risk assessment process, see <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides>.

For a summary of the Toxicological Points of Departure/Levels of Concern for methoxyfenozide used for human health risk assessment, see Unit III.B. of the March 12, 2019, rulemaking 2019 (84 FR 8820) (FRL-9985-06).

D. Exposure Assessment

Much of the exposure assessment for methoxyfenozide remains unchanged from the discussions in Unit III.C. of the March 12, 2019, rulemaking, Unit III of the methoxyfenozide tolerance rulemaking published in the **Federal Register** of October 11, 2022 (87 FR 61259) (FRL-9525-01), and Unit III of the streamlined tolerance rulemaking published in the **Federal Register** of August 28, 2023 (88 FR 58506) (FRL-11276-01), except as described in this unit.

EPA's dietary exposure assessments have been updated to include the additional exposures from the petitioned-for tolerances. An acute dietary exposure assessment was not performed for methoxyfenozide as there are no effects in the toxicity database that can be attributed to a single dose. A chronic aggregate dietary (food and drinking water) exposure and risk assessment was conducted using the Dietary Exposure Evaluation Model software using the Food Commodity Intake Database (DEEM-FCID) Version 4.02. This software uses 2005–2010 food consumption data from the USDA's National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). The chronic dietary analysis was conducted using tolerance level residues and 100 percent crop treated (PCT) assumptions for all existing and proposed uses. EPA's default processing factors were used for most processed commodities that do not have individual tolerances. Drinking water was incorporated directly into the dietary assessment using the maximum estimated drinking water concentration (EDWC) for groundwater, which is 232 parts per billion. The chronic food and drinking water exposure and dietary risk estimates for methoxyfenozide do not exceed EPA's level of concern for the general U.S. population, or any of the population subgroups ($\leq 100\%$ PAD).

Non-occupational exposure. There are no proposed or currently registered residential handler uses of methoxyfenozide. However, there are registered uses on ornamentals that have

previously been assessed for potential residential dermal and inhalation post-application exposure. A dermal endpoint was not selected for methoxyfenozide due to a lack of toxic effects via the dermal route observed in the toxicological database. Post-application inhalation exposure is considered negligible, and incidental oral exposure is not expected from the use on ornamentals; therefore, a quantitative residential assessment was not conducted. The assessment of residential post-application exposure is the same as described in Unit III.C.3 of the March 12, 2019, rulemaking.

Cumulative effects from substances with a common mechanism of toxicity. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide's residues and “other substances that have a common mechanism of toxicity.” In 2016, EPA's Office of Pesticide Programs released a guidance document entitled Pesticide Cumulative Risk Assessment: “Framework for Screening Analysis” (<https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/pesticide-cumulative-risk-assessment-framework>). This document provides guidance on how to screen groups of pesticides for cumulative evaluation using a two-step approach beginning with the evaluation of available toxicological information and, if necessary, followed by a risk-based screening approach. This framework supplements the existing guidance documents for establishing common mechanism groups (CMGs) and conducting cumulative risk assessments (CRA).

The Agency has utilized this framework for methoxyfenozide and determined that the diacylhydrazine class of insecticides (methoxyfenozide, halofenozide and tebufenozide) form a candidate CMG. This group of pesticides is considered a candidate CMG because they share characteristics to support a testable hypothesis for a common mechanism of action.

EPA updated the cumulative dietary and residential aggregate exposure estimates for methoxyfenozide and tebufenozide (there are currently no registered uses of or tolerances for halofenozide) to take into account the proposed new use on fig and crop group expansions and conversions for methoxyfenozide. The updated cumulative dietary and aggregate risk estimates for methoxyfenozide and tebufenozide are not of concern. More detailed information on the updated

cumulative dietary and aggregate risk estimates can be found in Appendix D of the document titled “Methoxyfenozide. Human Health Risk Assessment for the Establishment of a Tolerance and Registration for Use on Figs and for Several Crop Group Expansions and Conversions,” available at docket ID number EPA-HQ-OPP-2024-0202.

E. Safety Factor for Infants and Children

EPA continues to conclude that there are reliable data to support the reduction of the Food Quality Protection Act (FQPA) safety factor from 10X to 1X. See Unit III.D. of the March 12, 2019, rulemaking for a discussion of the Agency's rationale for that determination.

F. Aggregate Risk and Determination of Safety

Aggregate risks and determination of safety. EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate points of departure to ensure that an adequate MOE exists. For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure.

An acute dietary risk assessment was not needed for methoxyfenozide since no toxic effects attributable to a single dose were identified in the toxicity database. Chronic dietary risks are below the Agency's level of concern of 100% of the cPAD; they are 91% of the cPAD for children 1 to 2 years old, the group with the highest exposure. There are currently no registered residential uses for methoxyfenozide, and none are pending before the Agency. Therefore short- and intermediate-term residential exposure to methoxyfenozide is not expected, and the short- and intermediate-term aggregate risk is equivalent to the chronic dietary risk, which is not of concern. Methoxyfenozide is classified as “Not Likely to Be Carcinogenic to Humans”; therefore, EPA does not expect methoxyfenozide exposures to pose an aggregate cancer risk.

Determination of safety. Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to

methoxyfenozide residues. More detailed information on this action can be found in the document titled “Methoxyfenozide. Human Health Risk Assessment for the Establishment of a Tolerance and Registration for Use on Figs and for Several Crop Group Expansions and Conversions,” available at docket ID number EPA–HQ–OPP–2024–0202. Based upon review of the data supporting the petition and in accordance with its authority under FFDCA section 408(d)(4)(A)(i), EPA is establishing tolerances that vary from what the petitioner proposed. The reason for this change is explained in Unit IV.C.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate methods using high performance liquid chromatography (HPLC) with ultraviolet (UV) or mass spectrometric (MS) detection are available for enforcing the current and recommended tolerances for methoxyfenozide in primary and rotational crops, and in animal commodities. Depending on the plant commodity, the limits of quantitation (LOQs) for methoxyfenozide in primary crop commodities are 0.01–0.05 ppm.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has established MRLs for methoxyfenozide in or on commodities of the following crop groups: Edible podded bean subgroup 6–22A at 2 ppm; Edible podded pea subgroup 6–22B at 2 ppm; Pulses, dried shelled bean, except soybean, subgroup 6–22E, except pea, blackeyed, seed and pea, southern, seed at 0.5 ppm; Succulent shelled bean subgroup 6–22C at 0.3 ppm; and Succulent shelled pea subgroup 6–22D

at 0.3 ppm. These MRLs are the same as the tolerances established for methoxyfenozide in the United States. The Codex has an established MRL for Corn, grain at 0.02 ppm and Corn, sweet at 0.02 ppm. EPA is departing from the Codex MRLs by establishing tolerances for Field corn subgroup 15–22C at 0.05 ppm and Sweet corn subgroup 15–22D at 0.05 ppm because the use patterns do not support decreasing the tolerance from 0.05 ppm to 0.02 ppm for the proposed crop group expansions. There is no established Codex MRL for methoxyfenozide in/on fig.

C. Revisions to Petitioned-For Tolerances

EPA reviewed the available residue data and is establishing a different tolerance than what was requested for Tropical and subtropical, medium to large fruit, edible peel, subgroup 23B. A tolerance on Tropical and subtropical, medium to large fruit, edible peel, subgroup 23B requires data on both fig and guava. Guava residue data were previously submitted to the EPA for review, and a tolerance of 0.4 ppm was established in 2008 (73 FR 11820). The petitioner requested the removal of the guava tolerance in its petition, upon establishment of the proposed tolerance on Tropical and subtropical, medium to large fruit, edible peel, subgroup 23B, which includes guava. The submitted fig residue data support a tolerance for residues of methoxyfenozide in/on fig at 6 ppm. The Agency will not ordinarily establish a crop group or subgroup tolerance if maximum residues (tolerances) for the representative crops vary by more than a factor of 5. *See* 40 CFR 180.40(g). In this case, the fig and guava tolerances differ by a factor of 15, therefore, EPA maintains the existing tolerance for residues in/on guava (0.4 ppm) and is establishing an individual tolerance for residues in/on fig at 6 ppm. EPA is establishing tolerances for residues in/on the following individual commodities of Tropical and subtropical, medium to large fruit, edible peel, subgroup 23B, for which the representative commodity is fig, at 6 ppm: achachairu; ambarella; araza; babaco; bilimbi; borojo; cajou, fruit; cambuca; carob; cashew apple; ciruela verde; Davidson’s plum; feijoa; gooseberry; Indian; imbe; imbu; jaboticaba; jujube, Indian; kwai muk; mangaba; Marian plum; mombin, Malayan; mombin, purple; monkeyfruit; nance; natal plum; noni; papaya, mountain; persimmon, Japanese; pomerac; rambai; rose apple; sentul; starfruit; Surinam cherry; tamarind; and uvalha.

During Agency review, the petitioner amended the tolerance petition, requesting to maintain the established tolerance for residues of methoxyfenozide in/on Sorghum, sweet, grain at 6.0 ppm. The initial petition requested the removal of the individual tolerance in/on Sorghum, sweet, grain upon the establishment of the proposed tolerance for Grain sorghum and millet subgroup 15–22E. However, sweet sorghum is not part of crop subgroup 15–22E, and the petitioner rescinded the request to remove the established tolerance for residues of methoxyfenozide in/on Sorghum, sweet, grain at 6.0 ppm.

D. Effective and Expiration Date(s)

In general, a tolerance action is effective on the date of publication of the final rule in the **Federal Register**. For actions in the final rule that lower or revoke existing tolerances, EPA will set an expiration date for the existing tolerance of six months after the date of publication of the final rule in the **Federal Register**, in order to allow a reasonable interval for producers in exporting members of the World Trade Organization’s (WTO’s) Sanitary and Phytosanitary (SPS) Measures Agreement to adapt to the requirements.

V. Conclusion

Therefore, tolerances are established for residues of methoxyfenozide (CASRN 161050–58–4), including its metabolites and degradates, in or on the raw agricultural commodities: Achachairu at 6 ppm; Ambarella at 6 ppm; Araza at 6 ppm; Babaco at 6 ppm; Bilimbi at 6 ppm; Borojo at 6 ppm; Cajou, fruit at 6 ppm; Cambuca at 6 ppm; Carob at 6 ppm; Cashew apple at 6 ppm; Ciruela verde at 6 ppm; Davidson’s plum at 6 ppm; Edible podded bean subgroup 6–22A at 2 ppm; Edible podded pea subgroup 6–22B at 2 ppm; Feijoa at 6 ppm; Field corn subgroup 15–22C at 0.05 ppm; Fig at 6 ppm; Gooseberry, Indian at 6 ppm; Grain sorghum and millet subgroup 15–22E at 6 ppm; Imbe at 6 ppm; Imbu at 6 ppm; Jaboticaba at 6 ppm; Jujube, Indian at 6 ppm; Kwai muk at 6 ppm; Mangaba at 6 ppm; Marian plum at 6 ppm; Mombin, Malayan at 6 ppm; Mombin, purple at 6 ppm; Monkeyfruit at 6 ppm; Nance at 6 ppm; Natal plum at 6 ppm; Noni at 6 ppm; Papaya, mountain at 6 ppm; Persimmon, Japanese at 6 ppm; Pomerac at 6 ppm; Pulses, dried shelled bean, except soybean, subgroup 6–22E, except pea, blackeyed, seed and pea, southern, seed at 0.5 ppm; Pulses, dried shelled pea subgroup 6–22F at 0.5 ppm; Rambai at 6 ppm; Rose apple at 6 ppm; Sentul at

6 ppm; Starfruit at 6 ppm; Succulent shelled bean subgroup 6–22C at 0.3 ppm; Succulent shelled pea subgroup 6–22D at 0.3 ppm; Surinam cherry at 6 ppm; Sweet corn subgroup 15–22D 0.05 ppm; Tamarind at 6 ppm; and Uvalha at 6 ppm. A regional tolerance is established for residues of methoxyfenozide, including its metabolites and degradates, in or on Rice subgroup 15–22F at 30 ppm.

VI. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review

This action is exempt from review under Executive Order 12866 (58 FR 51735, October 4, 1993), because it establishes or modifies a pesticide tolerance or a tolerance exemption under FFDCA section 408 in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because actions that establish a tolerance under FFDCA section 408 are exempted from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA 44 U.S.C. 3501 *et seq.*, because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

Since tolerance actions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the RFA, 5 U.S.C. 601 *et seq.*, do not apply to this action.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or

more (in 1995 dollars and adjusted annually for inflation) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local, or Tribal governments or on the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because tolerance actions like this one are exempt from review under Executive Order 12866. However, EPA's 2021 *Policy on Children's Health* applies to this action. This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .” (FFDCA 408(b)(2)(C)). The Agency's consideration is summarized in Unit III.E.

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

This action is not subject to Executive Order 13211 (66 FR 28355) (May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act (NTTAA)

This action does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 15, 2026.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

For the reasons set forth in the preamble, 40 CFR chapter I is amended as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Amend § 180.544 by:

■ a. Revising and republishing Table 1 to paragraph (a)(1); and

■ b. Revising and republishing Table 3 to Paragraph (c).

The revisions read as follows:

§ 180.544 Methoxyfenozide; tolerances for residues.

- (a) * * *
(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

Commodity	Parts per million
Acerola	0.4
Achachairu	6
Almond, hulls	25

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Commodity	Parts per million
Ambarella	6
Animal feed, nongrass, group 18, forage	50.0
Animal feed, nongrass, group 18, hay	150.0
Apple, wet pomace	7.0
Araza	6
Artichoke, globe	3.0
Atemoya	0.60
Avocado	0.6
Babaco	6
Beet, sugar, roots	0.50
Berry, low growing, subgroup 13–07G, except cranberry	2.0
Bilimbi	6
Biriba	0.60
Borojo	6
Bushberry subgroup 13–07B	3.0
Cajou, fruit	6
Cambuca	6
Caneberry subgroup 13–07A	6.0
Canistel	0.6
Carob	6
ashew apple	6
Cattle, fat	0.50
Cattle, meat	0.02
Celtuce	25
Cherimoya	0.60
Chive, fresh leaves	30
Ciruela verde	6
Citrus, oil	100
Coffee bean ²	0.15
Corn, field, forage	15
Corn, field, refined oil	0.20
Corn, field, stover	125
Corn, pop, stover	125
Corn, sweet, forage	30
Corn, sweet, stover	60
Cotton, gin byproducts	35
Cottonseed subgroup 20C	7
Cranberry	0.5
Custard apple	0.60
Davidson's plum	6
Edible podded bean subgroup 6–22A	2
Edible podded pea subgroup 6–22B	2
Feijoa	6
Fennel, Florence, fresh leaves and stalk	25
Field corn subgroup 15–22C	0.05
Fig	6
Fruit, citrus, group 10–10	3.0
Fruit, pome, group 11–10	2.0
Fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F	1.0
Fruit, stone, group 12–12, except plum, prune, fresh	3.0
Goat, fat	0.50
Goat, meat	0.02
Gooseberry, Indian	6
Grain, aspirated grain fractions	120
Grain sorghum and millet subgroup 15–22E	6
Grape, raisin	1.5
Grass, forage, fodder and hay, group 17, forage	18.0
Grass, forage, fodder and hay, group 17, hay	30.0
Guava	0.4
Herb subgroup 19A, except chive, fresh leaves	400
Hog, fat	0.1
Hog, meat	0.02
Horse, fat	0.50
Horse, meat	0.02
llama	0.60
Imbe	6
Imbu	6
Jaboticaba	6
Jujube, Indian	6
Kohlrabi	7
Kwai muk	6
Leaf petiole vegetable subgroup 22B	25

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Commodity	Parts per million
Mangaba	6
Mango	0.6
Marian plum	6
Milk	0.10
Mombin, Malayan	6
Mombin, purple	6
Monkeyfruit	6
Nance	6
Natal plum	6
Noni	6
Nut, tree, group 14–12	0.10
Onion, green, subgroup 3–07B, except chive, fresh leaves	5.0
Papaya	0.6
Papaya, mountain	6
Passionfruit	0.4
Pea, blackeyed, seed	4.0
Pea, southern, seed	4.0
Peanut	0.02
Peanut, hay	55.0
Peanut, oil	0.04
Peppermint, tops	7.0
Persimmon, Japanese	6
Pineapple	0.70
Plum, prune, fresh	0.30
Pomegranate	0.6
Pomerac	6
Poultry, fat	0.02
Poultry, meat	0.02
Pulasan	2.0
Pulses, dried shelled bean, except soybean, subgroup 6–22E, except pea, blackeyed, seed and pea, southern, seed	0.5
Pulses, dried shelled pea subgroup 6–22F	0.5
Rambai	6
Rambutan	2.0
Rose apple	6
Sapodilla	0.6
Sapote, black	0.6
Sapote, mamey	0.6
Sentul	6
Sheep, fat	0.50
Sheep, meat	0.02
Sorghum, grain, forage	15
Sorghum, grain, stover	20
Sorghum, sweet, forage	15
Sorghum, sweet, grain	6
Sorghum, sweet, stalk	15
Sorghum, sweet, stover	20
Soursop	0.60
Soybean, aspirated grain fractions	160
Soybean, forage	30
Soybean, hay	80
Soybean, hulls	2.0
Soybean, seed	1.0
Spearmint, tops	7.0
Star apple	0.6
Starfruit	6
Succulent shelled bean subgroup 6–22C	0.3
Succulent shelled pea subgroup 6–22D	0.3
Sugar apple	0.60
Sugar cane ²	0.03
Sugar cane, molasses ²	0.1
Surinam cherry	6
Sweet corn subgroup 15–22D	0.05
Tamarind	6
Tea, dried ¹	20
Tea, instant ¹	20
Tropical and subtropical, palm fruit, edible peel, subgroup 23C	8
Tropical and subtropical, small fruit, inedible peel, subgroup 24A	2
Uvalha	6
Vegetable, <i>brassica</i> , head and stem, group 5–16	7
Vegetable, cucurbit, group 9	0.3
Vegetable, foliage of legume, except soybean, subgroup 7A	35
Vegetable, fruiting, group 8–10	2.0

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Commodity	Parts per million
Vegetable, leafy, group 4–16	30
Vegetable, leaves of root and tuber, group 2	30
Vegetable, root, except sugar beet, Subgroup 1B	0.90
Vegetable, tuberous and corm, except potato, subgroup 1D	0.02
Wax jambu	0.4

¹ There are no U.S. registrations as of March 12, 2019 for use on tea.

² There are no U.S. registrations as of August 28, 2023.

* * * * *

(c) * * *

TABLE 3 TO PARAGRAPH (c)

Commodity	Parts per million
Rice, hulls	55
Rice subgroup 15–22F	30

* * * * *

[FR Doc. 2026–07560 Filed 4–16–26; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register

Vol. 91, No. 74

Friday, April 17, 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 71

[Docket No. FAA-2026-4093; Airspace
Docket No. 26-ASW-8]

RIN 2120-AA66

Establishment of Class E Airspace; Rosenberg, TX

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking
(NPRM).

SUMMARY: This action proposes to establish Class E airspace at Lane Airpark, Rosenberg, TX. The FAA is proposing this action to support new instrument procedures and instrument flight rule (IFR) operations.

DATES: Comments must be received on or before June 1, 2026.

ADDRESSES: Send comments identified by FAA Docket No. FAA-2026-4093 and Airspace Docket No. 26-ASW-8 using any of the following methods:

* *Federal eRulemaking Portal:* Go to www.regulations.gov and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493-2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12-140 of the

West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Raul Garza Jr., Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, OH 76177; telephone (817) 222-5874.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace extending upward from 700 feet above the surface at Lane Airpark, Rosenberg, TX, to support IFR operations at this airport.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should

send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov as described in the system of records notice (DOT/ALL-14FDMS), which can be reviewed at www.dot.gov/privacy.

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at www.regulations.gov. Recently published rulemaking documents can also be accessed through the FAA's web page at www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address, phone number, and hours of operation). An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, OH 76177.

Incorporation by Reference

Class E airspace is published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These updates would be published subsequently in the next

update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the ADDRESSES section of this document.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 that would establish Class E airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Lane Airpark, Rosenberg, TX.

This action is the result of instrument procedures being developed for this airport to support IFR operations.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Order 2100.6B, “Policies and Procedures for Rulemakings” (March 10, 2025); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1G, “FAA National Environmental Policy Act Implementing Procedures” prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11K, Airspace Designations and Reporting Points, dated August 4, 2025, and effective September 15, 2025, is amended as follows:

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

* * * * *

ASW TX E5 Rosenberg, TX [Establish]

Lane Airpark, TX

(Lat. 29°31′24″ N, long. 95°46′47″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Lane Airpark.

* * * * *

Issued in Fort Worth, Texas, on April 15, 2026.

Jerry J. Creecy,

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

[FR Doc. 2026–07605 Filed 4–16–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[REG–113229–25]

RIN 1545–BR73

Increase in Threshold for Requiring Information Reporting With Respect to Certain Payees; Extension and Modification of Limitation on Wagering Losses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments relating to the dollar thresholds in regulations governing information reporting for payments made in the course of a trade or business and the corresponding backup withholding regulations. This document also contains proposed amendments to the regulations governing wagering losses. The proposed regulations reflect recent changes to the statutory law. These changes will affect persons who make payments in the course of their trade or business and those persons claiming a deduction for wagering losses.

DATES: Electronic or written comments and requests for a public hearing must be received by June 16, 2026.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG–113229–25) by following the online instructions for submitting comments. As required by 5 U.S.C. 553(b)(4), a plain language summary of the proposed rule is also available on the Federal eRulemaking Portal. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted to the IRS’s public docket. Send paper submissions to: CC:PA:01:PR (REG–113229–25), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, William Prater at (202) 317–6845 (not toll-free number); concerning submissions of comments or requests for a hearing, the Publications and Regulations Section at (202) 317–6901 (not toll-free number) or by email at publichearings@irs.gov (preferred).

SUPPLEMENTARY INFORMATION:

Authority

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under sections 165, 6041, and 6041A of the Internal Revenue Code (Code) and the Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR part 31) under section 3406 of the Code. The proposed regulations are issued under the authority of sections 6041(a) and 6041A(a), which provide the Secretary of the Treasury or the Secretary’s delegate (Secretary) with authority to prescribe regulations to carry out sections 6041 and 6041A. The proposed regulations are also issued under the authority conferred by section 3406 and 3406(i), which provides the Secretary with authority to prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 3406.

Additionally, these proposed regulations are issued pursuant to section 7805(a) of the Code, which authorizes the Secretary to “prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be

necessary by reason of any alteration of law in relation to internal revenue.”

Background

This document contains proposed amendments to regulations impacted by amendments to the Code made by sections 70114 and 70433 of Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA).

I. Section 165

Section 165(a) provides an itemized deduction for losses sustained during the taxable year that are not otherwise compensated for by insurance or otherwise. Section 165(d) limits the deduction available for losses from wagering transactions, including any deduction otherwise allowable that is incurred in carrying on wagering transactions.

Prior to the changes made by the OBBBA, section 165(d) limited losses from wagering transactions to the extent of the gains from such transactions. Current § 1.165–10 restates this limitation and provides a rule for the treatment of wagering losses on a joint return.

OBBBA section 70114(a) amended section 165(d) to limit this deduction to 90 percent of the amount of wagering losses during a taxable year and only to the extent of gains from wagering transactions during a taxable year.

II. Section 6041

Section 6041(a) requires persons engaged in a trade or business to file information returns reporting payments of fixed or determinable gains, profits, and income equal to, or in excess of, a particular dollar threshold made to another person in the course of that trade or business. Prior to the enactment of the OBBBA, this dollar threshold was \$600. OBBBA section 70433(a) increased the \$600 threshold in section 6041 to a base threshold of \$2,000 for payments made after December 31, 2025. Additionally, OBBBA section 70433(b) added section 6041(h), which provides that, for calendar years after 2026, this base threshold will be indexed to inflation. Lastly, OBBBA section 70433(e)(1) and (2) amended section 6041 by amending the section heading from “\$600 or More” to “Exceeding Threshold” and changing the phrase “taxable year” to “calendar year.” Pursuant to OBBBA section 70433(f), these changes are effective for payments made after December 31, 2025.

Several existing regulations promulgated under section 6041 reference the prior \$600 threshold

amount in their text. However, § 1.6041–10, which was published in the **Federal Register** (TD 9807, 81 FR 96374) on December 30, 2016, contains a \$1,200 reporting threshold for winnings from bingo and slot machine play and a \$1,500 reporting threshold for winnings from keno.

III. Section 6041A

Section 6041A(a) requires persons engaged in a trade or business to file information returns reporting payments of remuneration for services made in the course of that trade or business that equal or exceed a dollar threshold. Prior to the enactment of the OBBBA, this dollar threshold was \$600. OBBBA section 70433(c) amended the \$600 threshold in section 6041A(a)(2) to cross-reference “the dollar amount in effect for such calendar year under section 6041(a).” Pursuant to OBBBA section 70433(f), this change is effective for payments made after December 31, 2025.

IV. Section 3406

Section 3406(a)(1) requires backup withholding for reportable payments if certain conditions are met. Sections 3406(b)(1)(B), (b)(3)(A), and (b)(3)(B) provide that payments required to be shown on a return under sections 6041 and 6041A are reportable payments. Section 3406(b)(4) provides that, generally, whether a payment is reportable is determined without regard to the minimum amount that must be paid before a return is required. However, pursuant to section 3406(b)(6)(A) payments described in sections 6041 and 6041A were only treated as reportable payments for backup withholding if the aggregate amount of payments to a payee in the calendar year equaled or exceeded \$600.

OBBBA section 70433(d)(1) amended the \$600 threshold in section 3406(b)(6)(A) to cross reference “the dollar amount in effect for such calendar year under section 6041(a).” In addition, OBBBA section 70433(d)(2) amended the reference to “\$600 or More” in the heading of section 3406(b)(6) to say “Only Where in Excess of Threshold.” These changes are effective for payments made after December 31, 2025.

Explanation of Provisions

I. Limitation on Deduction for Wagering Losses

Following the enactment of OBBBA section 70114(a), the first sentence of § 1.165–10, providing that losses from wagering transactions are limited to the extent of gains from such transactions,

no longer accurately describes the limitations on wagering losses in section 165(d). The proposed regulations would amend this sentence to limit the deduction to 90 percent of the amount of wagering losses during a taxable year and only to the extent of gains from wagering transactions during a taxable year. The proposed regulations would also make corresponding changes to the treatment of combined losses of spouses from wagering transactions to reflect the changes made by the OBBBA.

II. Thresholds for Payments Reported Under Sections 6041 and 6041A

The proposed regulations would also update the regulations under sections 6041, 6041A, and 3406 to change the references to the pre-OBBBA \$600 threshold. Consistent with the wording of the OBBBA, these references (specifically, in §§ 1.6041–1, 1.6041–2, 1.6041–7, 1.6041A–1, 31.3406(b)(3)–1, and 31.3406(g)–2) would be replaced with a reference to an amount equaling or exceeding the dollar threshold in effect for the calendar year under section 6041(a) and (h). The references in the proposed regulations have non-substantive variations in the wording, for readability.

Proposed § 1.6041–1(a)(3) would define the dollar amount in effect for the calendar year under section 6041(a) as \$2,000 for calendar year 2026, adjusted for inflation in subsequent calendar years as provided in section 6041(h). Proposed § 1.6041–1(a)(1)(iv) also contains non-substantive revisions to improve readability.

Because the dollar thresholds for reporting winnings from bingo, keno, and slot machine play provided in current § 1.6041–10(b)(2)(i) are below the threshold established in the OBBBA, the proposed regulations would update those thresholds to match the new statutory threshold in section 6041(a) as revised by Congress. Accordingly, the proposed regulations would modify § 1.6041–10 to provide that the threshold for reporting payments of winnings from bingo, keno, and slot machine play is \$2,000 for calendar year 2026, adjusted for inflation in subsequent calendar years as provided in section 6041(h). The existing limitations related to the amount wagered in each of the affected games would be maintained under the proposed regulations.

Proposed Applicability Date

Section 1.165–10 is proposed to apply to taxable years beginning after December 31, 2025. Sections 1.6041–1, 1.6041–2, 1.6041–7, 1.6041–10, 1.6041A–1, 31.3406(b)(3)–1, and

31.3406(g)–2 are proposed to apply to payments made on or after January 1, 2026.

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule is expected to be an Executive Order 14192 deregulatory action.

These proposed regulations have been designated by the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (MOA, July 4, 2025) between the Treasury Department and the OMB regarding review of tax regulations. OIRA has determined that these proposed regulations are economically significant and subject to review under section 3(f) of Executive Order 12866 and section 1(c) of the MOA. Accordingly, the proposed regulations have been reviewed by OMB.

A. Background, Statute, and Proposed Regulations

Under section 6041 of the Internal Revenue Code (Code), persons engaged in a trade or business that make certain payments in the course of their trade or business (payors) must file an information return with the Internal Revenue Service (IRS) to report such payments. The return contains information about the payment; the name of the payment recipient (payee); and the address of the payee; and provides the IRS with a third-party verification of income that the payee may report on their Federal income tax return. Similarly, under section 6041A, persons engaged in a trade or business that make payments in the course of that trade or business as remuneration for services must file information returns to report those payments. Under section 3406 of the Code, when certain conditions are met, reportable payments under sections 6041 or 6041A may be subject to backup withholding, wherein the payor withholds a specified

percentage of the payment and remits that amount to the IRS. Backup withholding ensures that Federal income tax is paid on a payment that the payee might otherwise fail to report. In addition, when payors withhold amounts from payments subject to backup withholding, they are required to file an annual return to report the amounts withheld during the year. That same return is also used by payors to report Federal income tax withheld from other nonpayroll payments, such as pensions, annuities, gambling winnings, etc.

Under sections 6041 and 6041A, an information return is required to be submitted to the IRS only when the aggregate dollar amount of payments made to a payee over a reportable period equals or exceeds the statutory threshold in section 6041(a). Under section 3406, backup withholding, when certain conditions are met, is also generally required only when the aggregate dollar amount of payments made to a payee over the reportable period equals or exceeds the threshold described in section 6041(a). These statutory dollar thresholds apply to certain payments reported on four information returns—Form 1099–MISC (Miscellaneous Information), Form 1099–NEC (Nonemployee Compensation), Form W–2 (Wage and Tax Statement), and Form W–2G (Certain Gambling Winnings)—as well as backup withholding with respect to these payments reported on Form 945 (Annual Return of Withheld Federal Income Tax), as affected by the enactment of Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA).

The OBBBA increased the statutory threshold in section 6041(a) to a base threshold of \$2,000 for payments made after December 31, 2025, and indexed the threshold for inflation for calendar years after 2026. Prior to the enactment of the OBBBA, the dollar threshold for reporting certain payments on Form 1099–MISC, Form 1099–NEC, and Form W–2 was \$600. This reporting level had been in place since 1954 and had not been indexed to inflation. Information reporting on gambling winnings reported on Form W–2G was governed by the same statutory threshold, but regulations under section 6041 provided that the dollar threshold was \$1,200 for a single winning from bingo and slot machine play and \$1,500 for a single winning from keno. The statutory amendments made by the OBBBA change the dollar thresholds for all of these payments to be \$2,000 in a calendar year for payments made after

December 31, 2025, with an adjustment for inflation in calendar years after 2026. The proposed regulations would conform the language in the regulations to match the new statutory threshold, including the regulatory thresholds for reporting winnings from keno, bingo, and slot machine play.

The OBBBA also modified the rules governing the itemized deduction for losses from wagering transactions under section 165(d) of the Code. Prior to the statutory change in the OBBBA, such deduction was limited to the extent of the gains from wagering transactions during a taxable year (reported as income elsewhere on the tax return). The OBBBA amended the deduction to be 90 percent of the amount of wagering losses, up to the extent of gains from wagering transactions during the taxable year. The proposed regulations would modify the existing regulations to reflect this statutory change.

B. Need for Regulation

The proposed amendments ensure that the regulations reflect current law, thereby preventing confusion by individuals and entities who are impacted by the updates to the relevant statutory provisions.

C. Economic Analysis

1. Baseline

The Treasury Department and the IRS have assessed the benefits and costs of the proposed regulations relative to a no-action baseline reflecting anticipated Federal income tax-related behavior in the absence of the proposed regulations.

2. Economic Effects of the Proposed Regulations

a. Reporting and Backup Withholding Threshold

The proposed amendments revise the existing regulations to reflect the aforementioned statutory changes made by the OBBBA. In addition to the proposed regulations, the IRS may publish sub-regulatory and informal guidance, such as notices, announcements, publications on form instructions, website materials, etc., to instruct taxpayers about how to interpret and apply the new statutory language to their situations. Published draft Publication 1099, General Instructions for Certain Information Returns, for Tax Year 2026 already contains references to the statutory changes to the reporting threshold made by the OBBBA. Because the interpretation and application of the newly enacted statutory language is likely to have no ambiguity, the sub-regulatory and informal guidance will

likely provide sufficient guidance for taxpayers, and the benefits of the proposed regulations beyond such guidance may be limited.

Failure to update now-outdated regulations after law changes could create confusion and uncertainty for taxpayers impacted by the statutory changes. Taxpayers and practitioners who normally rely on the existing regulations must turn to other sources to learn about how to apply the statutory changes to their situations or else use their own interpretations. In cases of interpretive uncertainty, taxpayers and practitioners would incur additional compliance costs as they try to understand how to apply accurately the new statutory requirements. Some taxpayers and practitioners may apply the lower, outdated thresholds in the regulations despite the new, higher thresholds in the statutes. This is especially true for payors of winnings from keno, bingo, and slot machine play, which have historically followed a regulatory exception to the statutory threshold.

For payors, the enacted higher dollar threshold eliminates the reporting and backup withholding requirements on affected payments between the old and new thresholds. This change will reduce the compliance costs incurred by these payors to report payments and withhold taxes. Because this is a change in the statute, these dollar thresholds apply regardless of these proposed regulations. However, because payors may follow the existing regulations, failing to update the regulations to reflect the changes in the statute increases the likelihood that payors will not take full advantage of the burden reductions associated with the lessened reporting and withholding requirements. The dollar thresholds specified in the existing regulations for reporting winnings from keno, bingo, and slot machine play are above the pre-OBBBA statutory level of \$600 and below the \$2,000 level in current law. Because the new statutory level exceeds the pre-OBBBA regulatory reporting thresholds for these games, the proposed regulations amend these thresholds to match the new statutory level of \$2,000. In the absence of the proposed regulations, the new dollar threshold of \$2,000 would still apply for reporting winnings from keno, bingo, and slot machine play. Updating the regulations would provide clear and consistent guidance to taxpayers with respect to the increased reporting threshold.

Because the proposed regulations only modify the existing regulations to comport with the new statutory thresholds, the discretionary effects of

the proposed regulations hinge on the extent to which they eliminate interpretive ambiguity and informational inconsistency and, as a result, facilitate application of the new statutory law by affected taxpayers and entities. Persons engaged in a trade or business are no longer required to report to the IRS certain payments below \$2,000, effective for payments made in calendar year 2026. The Treasury Department and IRS estimate that, for tax year 2024, more than 328,000 payors filed 7.9 million Forms 1099-MISC reporting affected payments of at least \$600 and less than \$2,000, and approximately 3.3 million payors filed 18.8 million Forms 1099-NEC reporting payments of non-employee compensation of at least \$600 and less than \$2,000. For the same tax year, more than 4,000 payors filed 17.3 million Forms W-2G reporting gambling winnings in the range between the old and new reporting thresholds, almost 80 percent of which were for winnings from slot machine play. These payors also filed Forms 945 to report Federal income tax they withheld on the reportable payments, when certain conditions are met. In addition, for tax year 2024 approximately 32,000 employers filed 0.9 million W-2s with paid wages of at least \$600 and less than \$2,000 that were not subject to withholding for social security, Medicare, or federal income taxes. This situation applies in a narrow set of circumstances where withholding for social security and Medicare taxes is not required, such as for cases of foreign agricultural workers, election workers, and certain members of the clergy.

In total, 3.5 million payors filed information returns for tax year 2024 that were between the old and new filing thresholds. This estimate counts a payor only once if they are in the affected range for more than one type of return. After adjusting for an expected growth rate to tax year 2026, the Treasury Department and the IRS estimate that 3.6 million payors are potentially affected by the statutory change and the clarity provided by these proposed regulations. The Treasury Department and IRS expect that most of these affected payors will only file information returns that are above the new threshold provided by OBBBA, without needing clarification from the proposed regulations. However, the proposed regulations will provide clarity and save some affected payors time and resources to identify the appropriate filing threshold.

For the projected reductions in compliance burdens associated with filing these returns as a result of the

higher reporting thresholds established in the OBBBA, please refer to the Paperwork Reduction Act section of this document found in Part II of this Special Analyses.

b. Treatment of Wagering Losses

The statutory change in the percentage of wagering losses that may be deducted from 100 percent to 90 percent reduces the expected after-tax return to wagering transactions for taxpayers who claim an itemized deduction for wagering losses. For taxpayers who do not itemize deductions no deduction may be claimed for wagering losses. Most taxpayers that report gains from wagering transactions do not itemize deductions and would be unaffected by the statutory change. For tax year 2022, the Treasury Department and IRS estimate that about 2.3 million taxpayers reported gains from wagering transactions on individual tax returns, but less than a third of these taxpayers, approximately 670,000, also claim an itemized deduction for wagering losses. The Treasury Department and the IRS project a total of 673,000 taxpayers will take an itemized deduction for wagering losses for tax year 2026. The relatively small share of taxpayers that report an itemized deduction for wagering losses is consistent with the small share of taxpayers overall that itemize deductions. The Treasury Department and the IRS estimate that 15 percent or fewer taxpayers itemize under current law.

The proposed regulations provide clarity regarding how to report wagering losses on a tax return and certainty to affected taxpayers about the expected after-tax return on wagering transactions. However, it is expected that tax software companies and tax professionals will update their products and services to reflect the law change even in the absence of updated regulations. The Treasury Department estimates that, of the more than 161 million individual income tax returns filed for tax year 2022, nearly 98 percent used assistance from a preparer or tax software while less than 3 percent were self-prepared paper returns filed by taxpayers without software assistance, likely following IRS instructions on tax forms. For these reasons, although updating the existing regulations helps reduce interpretive ambiguity and informational inconsistency, the economic impacts of any discretionary aspects of the proposed regulations relating to the deduction of wagering losses are likely minimal.

3. Summary

Based on the available models and data, the Treasury Department and the IRS estimate that the economic costs and benefits of the proposed regulations would be small. The Treasury Department and the IRS invite public comments and additional data on the economic effects that would result from these proposed regulations.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520 (PRA), generally requires that a Federal agency obtain the approval of the OMB before collecting information from the public, whether that collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

The collections of information in the proposed regulations with respect to sections 6041 and 6041A are in proposed §§ 1.6041–1 and 1.6041A–1. The likely respondents are persons who make payments in the course of their trade or business. For purposes of the PRA, the reporting burden associated with the collection of information in proposed §§ 1.6041–1 and 1.6041A–1 will be reflected in the Paperwork Reduction Act Submissions associated with Forms 1099–MISC, 1099–NEC, W–2, and W–2G (OMB control numbers 1545–0115, 1545–0116, 1545–0029, and 1545–0238, respectively). The collection of information in the proposed regulations with respect to section 3406 is in proposed §§ 31.3406(b)(3)–1 and 31.3406(g)–2. The collected information would be used by the payor to determine whether payments to the payee exceed a threshold that would require backup withholding and the issuance of an information return. The burden for these requirements is included with the Form and

Instructions for Form 945, *Annual Return of Withheld Federal Income Tax*. The Form 945 and Instructions for Form 945 are approved under OMB control number 1545–0029.

The higher reporting threshold set by OBBBA leads to a significant reduction in the expected number of Forms 1099–MISC, 1099–NEC, W–2G, and to a lesser extent, Forms W–2 and 945, that will need to be filed. For calendar year 2027, reflecting tax year 2026 returns, the Treasury Department and the IRS estimate that the higher reporting threshold will result in an overall reduction in filing burden of \$982 million in 2024 dollars as described below and summarized in the accompanying table.

Prior to the passage of the OBBBA, the IRS projected that 42.60 million Form 1099–MISCs would be filed in calendar year 2027 (see IRS Publication 6961 (Rev. 9–2025)). The Treasury Department and the IRS estimate that 9.32 million of these forms would have payments in the range affected by the change in the filing threshold and would no longer need to be filed. Multiplying the reduction in 9.32 million forms filed by the 0.41 hours per form time burden yields a decrease of 3.82 million burden hours and then multiplying by the \$58.40 per hour monetization rate (in 2024 dollars) provides an expected reduction in filing burden of \$223 million.

Similarly, prior to the passage of the OBBBA, the IRS projected that 62.72 million Form 1099–NECs would be filed in calendar year 2027. The Treasury Department and the IRS estimate that 19.54 million of these forms would have payments affected by the change in the filing threshold and would no longer need to be filed. Multiplying the reduction in 19.54 million forms filed by the 0.25 hours per form time burden yields a decrease of 4.89 million burden hours and then multiplying by the \$58.40 per hour monetization rate provides an expected reduction in filing burden of \$285 million.

In addition, prior to the passage of the OBBBA, the IRS projected that 267.82 million Form W–2s would be filed in calendar year 2027. The Treasury Department and the IRS estimate that 0.94 million of these forms would have payments affected by the change in the filing threshold and would no longer need to be filed. Multiplying the reduction in 0.94 million forms filed by the 0.51 hours per form time burden yields a decrease of 0.48 million burden hours and then multiplying by the \$58.40 per hour monetization rate provides an expected reduction in filing burden of \$28 million.

Also, prior to the passage of the OBBBA, the IRS projected that 34.06 million Form W–2Gs would be filed in calendar year 2027. The Treasury Department and the IRS estimate that 19.06 million of these forms would have payments affected by the change in the filing threshold and would no longer need to be filed. Multiplying the reduction in 19.06 million forms filed by the 0.4 hours per form time burden yields a decrease of 7.62 million burden hours and then multiplying by the \$58.40 per hour monetization rate provides an expected reduction in filing burden of \$445 million.

Finally, prior to the passage of the OBBBA, the IRS projected that 47.8 thousand Form 945s would be filed in calendar year 2027. The Treasury Department and the IRS estimate that 600 of these forms would have payments affected by the change in the filing threshold and would no longer need to be filed. Multiplying the reduction in 610 forms filed by the 8.18 hours per form time burden yields a decrease of 5 thousand burden hours and then multiplying by the \$58.40 per hour monetization rate provides an expected reduction in filing burden of \$292 thousand.

The Treasury Department and the IRS request comments on all aspects of these estimates.

TABLE 1—ESTIMATE OF THE REDUCTION IN FILING BURDEN FROM INCREASED REPORTING THRESHOLD, CALENDAR YEAR 2027

Form	Estimated reduction in forms filed due to increase in reporting threshold	Burden hours per form	Total reduction in burden hours	Total reduction in monetized hours
1099–MISC	9,320,000	0.41	3,821,200	\$223,146,000
1099–NEC	19,540,000	0.25	4,885,000	285,284,000
W–2	944,000	0.51	481,000	28,090,000
W–2G	19,060,000	0.40	7,624,000	445,242,000
945	600	8.18	5,000	292,000
Total	48,864,600	N/A	16,816,000	982,054,000

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Tax returns and tax return information are confidential, unless section 6103 authorizes disclosure.

III. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. chapter 6) (RFA), it is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Although the proposed regulations may affect a substantial number of small entities, the economic impact of the proposed regulations is not likely to be significant. The Treasury Department and the IRS estimate that approximately 3.6 million taxpayers are affected by the proposed regulations, of which approximately 98 percent are considered small entities with gross receipts under \$40 million. The economic impact of these proposed regulations is not likely to be significant, however, because they do not impose any new requirements on small entities but rather increase the threshold at which they are required to issue information returns, thus reducing the amount of information returns entities must issue. For example, small entities with less than \$40 million in gross receipts will on average need to issue 10 fewer information returns under the increased threshold. The benefits from the higher filing threshold and the increased certainty from the proposed regulations will be less than one percent of gross revenues for these small entities. Notwithstanding this certification, the Treasury Department and the IRS welcome comments on the impact of these proposed regulations on small entities.

IV. Submission to Small Business Administration

Pursuant to section 7805(f) of the Code, these proposed regulations will be submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector,

of \$100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These proposed regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are timely submitted to the Treasury Department and the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any electronic and paper comments submitted will be available at <https://www.regulations.gov> or upon request. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn.

A public hearing will be scheduled if requested in writing by any person that timely submits electronic or written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping

requirements, Social security, Unemployment compensation.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and IRS propose to amend 26 CFR parts 1 and 31 as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *
* * * * *

Par. 2. Section 1.165–10 is revised to read as follows:

§ 1.165–10 Wagering losses.

(a) *In general.* For purposes of losses from wagering transactions, a deduction is allowed under section 165(d) of the Internal Revenue Code for 90 percent of the amount of such losses during the taxable year, but only to the extent of the gains from wagering transactions during that year.

(b) *Joint returns.* In the case of spouses making a joint return, 90 percent of the combined losses of the spouses from wagering transactions during the taxable year are allowed as a deduction under section 165(d) only to the extent of the combined gains of the spouses from wagering transactions during that year.

(c) *Applicability date.* This section applies to taxable years beginning after December 31, 2025.

Par. 3. Section 1.6041–1 is amended by:

- 1. Revising the section heading, paragraphs (a)(1)(i)(A) and (B), and paragraph (a)(1)(iii).
- 2. In paragraph (a)(1)(v), designating *Example 1* and 2 as paragraphs (a)(1)(v)(A) and (B).
- 3. Revising the first sentence of newly designated paragraph (a)(1)(v)(A).
- 4. Revising newly designated paragraph (a)(1)(v)(B).
- 5. Adding paragraph (a)(3).
- 6. Revising paragraph (j).

The revisions and addition read as follows:

§ 1.6041–1 Return of information as to payments exceeding threshold.

(a) * * *
(1) * * *
(i) * * *

(A) Salaries, wages, commissions, fees, and other forms of compensation for services rendered that equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h).

(B) Interest (including original issue discount), rents, royalties, annuities,

pensions, and other gains, profits, and income that equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h).

* * * * *

(iii) *Information returns required under section 6045(f) on or after January 1, 2007.* For payments made on or after January 1, 2007, to which section 6045(f) (relating to payments to attorneys) applies, the following rules apply. Notwithstanding the provisions of paragraph (a)(1)(ii) of this section, payments to an attorney that are described in paragraph (a)(1)(i) of this section but which otherwise would be reportable under section 6045(f) are reported under section 6041 and this section and not section 6045(f) of the Code. This exception applies only if the payments are reportable with respect to the same payee under both sections 6041 and 6045(f). Thus, a person who, in the course of a trade or business, pays taxable damages in an amount that equals or exceeds the dollar threshold in effect for the calendar year under section 6041(a) and (h) to a claimant by paying that amount to the claimant's attorney is required to file an information return under section 6041 with respect to the claimant, as well as another information return under section 6045(f) with respect to the claimant's attorney. For provisions relating to information reporting for payments to attorneys, see § 1.6045–5.

* * * * *

(v) * * *

(A) * * * In 2026, Restaurant owner A, in the course of business, pays \$2,500 of fixed or determinable income to B, a repairman, by credit card. * * *

(B) *Example 2.* In 2026, Restaurant owner A, in the course of business, pays \$2,500 of fixed or determinable income to B, a repairman, through a third party payment network. B is one of a substantial number of persons who have established accounts with Y, a third party settlement organization that provides standards and mechanisms for settling the transactions and guarantees payments to those persons for goods or services purchased through the network. Y is responsible for making the payment to B. Under paragraph (a)(1)(iv) of this section, A, as payor, is not required to file an information return under section 6041 with respect to the transaction because the transaction is a third party network transaction that is subject to reporting under section 6050W. Solely for purposes of determining whether A is required to report under section 6041, the de minimis threshold for third party

network transactions in § 1.6050W–1(c)(4) is disregarded.

* * * * *

(3) *Dollar threshold in effect for the calendar year.* For payments made before January 1, 2026, the dollar threshold in effect for the calendar year under section 6041(a) is \$600. For payments made after December 31, 2025, and before January 1, 2027, the dollar threshold in effect for the calendar year under section 6041(a) is \$2,000. For payments made after December 31, 2026, the dollar threshold in effect for the calendar year under section 6041(a) is \$2,000 plus the inflation adjustment provided in section 6041(h).

* * * * *

(j) *Applicability date.* This section applies to payments made on or after January 1, 2026.

Par. 4. Section 1.6041–2 is amended by:

- 1. Adding a heading to paragraph (a).
- 2. Revising the third and fourth sentences of paragraph (a)(1).
- 3. Revising paragraphs (b)(1)(ii) and (d).

The addition and revisions read as follows:

§ 1.6041–2 Return of information as to payments to employees.

(a) *Reporting payments to employees—*(1) * * * All other payments of compensation, including the cash value of payments made in any medium other than cash, to an employee by the employee's employer in the course of the trade or business of the employer must also be reported on Form W–2 if the total of such payments and the amount of the employee's wages (as defined in section 3401), if any, required to be reported on Form W–2 equals or exceeds the dollar threshold in effect for the calendar year under section 6041(a) and (h). For example, in 2026, when the threshold in effect under section 6041(a) is \$2,000, if a payment of \$2,500 is made to an employee and \$1,500 thereof represents wages subject to withholding under section 3402 and the remaining \$1,000 represents compensation not subject to withholding, such wages and compensation must both be reported on Form W–2. * * *

* * * * *

(b) * * *

(1) * * *

(ii) Described in section 72(m)(3)(B), shall be reported on Forms 1096 and 1099 to the extent such amounts are includible in the gross income of such beneficiary if the amounts so includible equal or exceed the dollar threshold in

effect for the calendar year under section 6041(a) and (h). In addition, every trust described in section 501(c)(17) which makes one or more payments (including separation and sick and accident benefits) in an amount that equals or exceeds the dollar threshold in effect for the calendar year under section 6041(a) and (h) to an individual must file an annual information return on Form 1096, accompanied by a statement on Form 1099, for each such individual. Payments made by an employer or a person other than the trustee of the trust should not be considered in determining whether the amount paid by the trustee equals or exceeds the dollar threshold in effect for the calendar year under section 6041(a) and (h).

* * * * *

(d) *Applicability date.* This section applies to returns filed with respect to payments made on or after January 1, 2026.

Par. 5. Section 1.6041–7 is amended by revising paragraph (b)(1) to read as follows:

§ 1.6041–7 Magnetic media requirement.

* * * * *

(b) * * *

(1) For calendar years beginning on or after January 1, 1971, a health care carrier, or an agent thereof, making payment of fees or other compensation to providers of medical and health care services, may make a separate return on magnetic media for each separate department within a specific line of such carrier's business, so long as all of such returns taken together contain all of the information required by section 6041 with respect to each provider of medical and health care services to whom such health care carrier makes payments that equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h).

* * * * *

Par. 6. Section 1.6041–10 is amended by:

- 1. Revising paragraph (b)(1)(i).
- 2. Revising the introductory text of paragraph (g)(5).
- 3. In paragraph (g)(5), designating *Examples 1 through 6* as paragraphs (g)(5)(i) through (vi).
- 4. Revising newly designated paragraphs (g)(5)(i) and (ii).
- 5. In newly designated paragraph (g)(5)(iv), removing the language “example 3” and adding, in its place, the language “in paragraph (g)(5)(iii) of this section (*Example 3*)”.
- 6. Revising newly designated paragraph (g)(5)(v).
- 7. Revising paragraph (i).

The revisions read as follows:

§ 1.6041–10 Return of information as to payments of winnings from bingo, keno, and slot machine play.

* * * * *

(b) * * *

(1) * * *

(i) For purposes of this section, the term *reportable gambling winnings* is defined as follows:

(A) For bingo, the term *reportable gambling winnings* means winnings that equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h) from one bingo game, without reduction for the amount wagered. All winnings received from all wagers made during one bingo game are combined (for example, all winnings from all cards played during one bingo game are combined).

(B) For keno, the term *reportable gambling winnings* means winnings that equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h) from one keno game reduced by the amount wagered on the same keno game. All winnings received from all wagers made during one keno game are combined (for example, all winnings from all “ways” on a multi-way keno ticket are combined).

(C) For slot machine play, the term *reportable gambling winnings* means winnings that equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h) from one slot machine play, without reduction for the amount wagered.

* * * * *

(g) * * *

(5) *Examples.* The following examples illustrate the provisions of this section. For each example, assume that for purposes of the aggregate reporting method in this paragraph (g), casino R’s “information reporting period” for all calendar years is a gaming day that begins at 3 a.m. and ends at 2:59 a.m. the following day (except for January 1 and December 31), that (ignoring the inflation adjustment in 6041(h) for simplicity of illustration) the dollar threshold in effect for each calendar year under section 6041(a) is \$2,000, and that individuals C, D, and E are U.S. persons.

(i) *Example 1.* On Day 1, between 7 a.m. and 4 p.m., C places five wagers at casino R on five different slot machines. The first two wagers result in no win. The third wager results in a \$2,000 win. The fourth wager results in a \$2,500 win. The fifth wager results in an \$800 win:

(A) Under paragraph (b)(1)(i)(C) of this section, there are reportable

gambling winnings from the slot machine play of \$4,500 (\$2,000 + \$2,500). The \$800 win is not a reportable gambling winning from slot machine play because it does not equal or exceed the dollar threshold.

(B) Because all the amounts were won on the same type of game (even though each of the winnings occurred on different machines) during the same information reporting period, R is permitted to use the aggregate reporting method under this paragraph (g). If R decides not to use the aggregate reporting method, a separate Form W-2G would have to be filed and furnished for the payment of reportable gambling winnings of \$2,000 and for the payment of reportable gambling winnings of \$2,500. However, if R decides to use the aggregate reporting method, R may report total reportable gambling winnings from slot machine play of \$4,500 (\$2,000 + \$2,500) on one Form W-2G.

(ii) *Example 2.* Assume the same facts as in paragraph (g)(5)(i) of this section (*Example 1*), except that in addition to the winnings described in paragraph (g)(5)(i) of this section (*Example 1*), at 5 a.m. on Day 2, C wins \$3,250 from one slot machine play at casino R. Even though C played the same type of game (slot machine play) on Day 1 and Day 2, under paragraph (b)(2) of this section, the win at 5 a.m. on Day 2 is a win during a separate information reporting period. Under paragraph (g)(2)(i) of this section, the \$3,250 of reportable gambling winnings on Day 2 cannot be aggregated with the reportable gambling winnings of \$4,500 from Day 1 on a single Form W-2G. Accordingly, if R uses the aggregate reporting method, R must file two Forms W-2G with respect to C’s reportable gambling winnings on Day 1 and Day 2. R must report \$4,500 of reportable gambling winnings from slot machine play paid to C on Day 1 on the first Form W-2G, and \$3,250 of reportable gambling winnings from slot machine play paid to C on Day 2 on the second Form W-2G.

* * * * *

(v) *Example 5.* At 2 p.m. on Day 1, D won \$2,000 (after reducing the amount of the win by the amount wagered) playing one keno game at casino R. D provides R with his driver’s license. The driver’s license has D’s photograph on it, as well as D’s name and address. The driver’s license does not include D’s social security number. D cannot remember his social security number and has no other identification at the time with his social security number on it. D does not provide R with his social security number before R pays the

winnings to D. Because D cannot remember his social security number, D cannot complete and sign a Form W-9. R deducts and withholds under the backup withholding provisions of section 3406(a) and pays the remainder to D. D returns to casino R and at 6 p.m. on Day 1 wins \$2,500 (after reducing the amount of the win by the amount wagered) in one keno game. D provides R with his driver’s license as well as D’s social security card. R generally uses the aggregate reporting method and, in all cases where it is used, R complies with the requirements of this paragraph (g). At 8 p.m. and 10 p.m. on Day 1, D wins an additional \$2,800 and \$2,700 (after reducing the amount of the win by the amount wagered), respectively, from two different keno games. For each of these two wins, an employee of R obtains the information from D required by this paragraph (g). Under paragraph (b)(1)(i)(B) of this section, each of D’s wins from the four games of keno on Day 1 (\$2,000, \$2,500, \$2,800, and \$2,700) are reportable gambling winnings. Because D’s first win on Day 1 was at 2 p.m. and D’s last win on Day 1 was at 10 p.m., all of D’s reportable gambling winnings from keno are won during the same information reporting period. Because R satisfies the requirements of paragraph (g)(2)(i) of this section, R may use the aggregate reporting method to report D’s reportable gambling winnings from keno. However, pursuant to paragraph (g)(4)(iii) of this section, the \$2,000 payment made to D at 2 p.m. cannot be reported under the aggregate reporting method because that payment was subject to backup withholding. Accordingly, if R uses the aggregate reporting method under this paragraph (g), R will have to file two Forms W-2G with respect to D’s reportable gambling winnings from keno on Day 1. On the first Form W-2G, R will report \$2,000 of reportable gambling winnings and of the amount of backup withholding with respect to the 2 p.m. win from keno, and, on the second Form W-2G, R will report \$8,000 of reportable gambling winnings from keno (representing the three payments of \$2,500, \$2,800, and \$2,700 that D won between 6 p.m. and 10 p.m. on Day 1).

* * * * *

(i) *Applicability date.* This section applies to payments of reportable gambling winnings from bingo, keno, or slot machine play made on or after January 1, 2026.

* * * * *

Par. 7. Section 1.6041A–1 is amended by revising paragraphs (d)(4)(ii) and (iii) to read as follows:

§ 1.6041A-1 Returns regarding payments of remuneration for services and certain direct sales.

* * * * *

(d) * * *

(4) * * *

(ii) *Examples.* The provisions of this paragraph (d)(4) are illustrated by the following examples:

(A) *Example 1.* In 2026, service recipient A, in the course of its business, pays by credit card remuneration of \$2,500 to service provider B for services performed by B. B is one of a network of unrelated persons that has agreed to accept A's credit card as payment under an agreement that provides standards and mechanisms for settling the transactions between a merchant acquiring bank and the persons who accept the cards. Merchant acquiring bank Y is responsible for making the payment to B. Under paragraph (d)(4)(i) of this section, A is not required to file an information return under section 6041A(a) with respect to the transaction because Y, as the payment settlement entity for the payment card transaction, is required to file an information return under section 6050W.

(B) *Example 2.* In 2026, service recipient A, in the course of business, pays through a third party payment network \$2,500 to B, a repairman, through a third party payment network. B is one of a substantial number of persons who have established accounts with Y, a third party settlement organization that provides standards and mechanisms for settling the transactions and guarantees payments to those persons for goods or services purchased through the network. Y is responsible for making the payment to B. Under paragraph (d)(4)(i) of this section, A is not required to file an information return under section 6041A(a) with respect to the transaction because the transaction is a third party network transaction that is subject to reporting under section 6050W. Solely for purposes of determining whether the transaction is subject to reporting under section 6041A, the de minimis threshold for third party network transactions in § 1.6050W-1(c)(4) is disregarded.

(iii) *Applicability date.* This section applies to payments made by payment card or through a third party payment network on or after January 1, 2026.

* * * * *

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 8. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Par. 9. Section 31.3406-0 is amended by revising the entry for § 31.3406(b)(3)-1(b)(3) to read as follows:

§ 31.3406-0 Outline of the backup withholding regulations.

* * * * *

§ 31.3406(b)(3)-1 Reportable Payments of Rents, Commissions, Nonemployee Compensation, etc.

* * * * *

(b) * * *

(3) Payments exceeding threshold.

* * * * *

Par. 10. Section 31.3406(b)(3)-1 is amended by:

- 1. Revising the second sentence of paragraph (a).
- 2. Revising the heading of paragraph (b)(3) and revising paragraph (b)(3)(i).
- 3. Revising paragraph (b)(3)(ii)(A).
- 4. Revising the heading and the first sentence of paragraph (b)(3)(ii)(B).

The revisions read as follows:

§ 31.3406(b)(3)-1 Reportable payments of rents, commissions, nonemployee compensation, etc.

(a) * * * See paragraph (b) of this section for an exception concerning payments aggregating less than the dollar threshold in effect for the calendar year under section 6041(a) and (h). * * *

(b) * * *

(3) *Payments exceeding threshold—(i) In general.* A payment is a reportable payment under paragraph (a) of this section only if the aggregate amount of the current payment and all previous payments to the payee during the calendar year equals or exceeds the dollar threshold in effect for the calendar year under section 6041(a) and (h). The amount subject to withholding is the entire amount of the payment that causes the total amount paid to the payee to equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h), plus the amount of any subsequent payments made to the payee during that calendar year. This paragraph (b)(3)(i) does not apply to gambling winnings (as provided in § 31.3406(g)-2(d)(1)).

(ii) * * *

(A) *The aggregation rule.* The aggregation rule of paragraph (b)(3)(i) of this section does not apply if the payor

was required to make an information return under section 6041 or 6041A(a) for the preceding calendar year with respect to payments to the payee, or the payor was required to withhold under section 3406 during the preceding calendar year with respect to payments to the payee that were reportable under section 6041 or 6041A(a).

(B) *Determination of whether payments exceed the dollar threshold.* In determining whether payments to a payee equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h) for purposes of withholding under section 3406, the payor must aggregate only payments of the same kind made to the same payee. * * *

* * * * *

Par. 11. Section 31.3406(g)-2 is amended by:

- 1. Revising the second sentence of paragraph (d)(2).
- 2. Revising paragraph (h).

The revisions read as follows:

§ 31.3406(g)-2 Exception for reportable payment for which withholding is otherwise required.

* * * * *

(d) * * *

(2) * * * A gambling winning (other than a winning from bingo, keno, or slot machines) is a reportable gambling winning only if the amount paid with respect to the wager equals or exceeds the dollar amount in effect for the calendar year under section 6041(a) and (h) and if the proceeds are at least 300 times as large as the amount wagered.

* * *

* * * * *

(h) *Applicability date.* This section applies to payments of reportable gambling winnings paid with respect to a winning event that occurs on or after January 1, 2026.

Frank J. Bisignano,
Chief Executive Officer.

[FR Doc. 2026-07519 Filed 4-16-26; 8:45 am]

BILLING CODE 4831-GV-P

DEPARTMENT OF EDUCATION**34 CFR Chapter II**

[ED-2026-OESE-0826]

Proposed Waiver and Extension of the Project Period With Funding—Title I, Part C Consortium Incentive Grant Program

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education.

ACTION: Proposed waiver and extension of project period with funding.

SUMMARY: The Secretary proposes to waive the requirements in the Education Department General Administrative Regulations (EDGAR) that generally prohibit project period extensions involving the obligation of additional Federal funds. The proposed waiver and extension would enable 39 projects under Assistance Listing Number (ALN) 84.144F to receive funding for up to two additional 12-month periods, not to exceed September 30, 2028.

DATES: We must receive your comments on or before May 18, 2026.

ADDRESSES: Comments must be submitted via the Federal eRulemaking Portal at www.regulations.gov. However, if you require an accommodation or cannot otherwise submit your comments via www.regulations.gov, please contact the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. The Department will not accept comments submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using www.regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under “FAQ.”

Privacy Note: OESE’s policy is generally to make comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should include in their comments only information about themselves that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Michael Meltzer, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202–5076. Telephone: (202) 453–6068. Email: Michael.Meltzer@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this proposed waiver and extension. To ensure that your comments have maximum effect in developing the notice of final waiver and extension, we urge you to identify clearly the specific grantee or grantees (listed in the table under the *Background* section) that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 14192 and their overall requirement of reducing regulatory burden that might result from the proposed waiver and extension. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice of proposed waiver and extension by accessing www.regulations.gov.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed waiver and extension. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

Title I, Part C, authorized under sections 1301–1309 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, is a State-operated and State-administered formula grant program for the education of migratory children—*i.e.*, children of migratory agricultural workers and migratory fishers. One component of the Title I, Part C program is the Consortium Incentive Grant (CIG) program, authorized in section 1308(d) of the ESEA (20 U.S.C. 6398(d)). Through the CIG program, the Department of Education (Department) may set aside up to \$3,000,000 from the annual Title I, Part C appropriation to award grants on a competitive basis to State educational agencies (SEAs) to participate in consortia with another State or appropriate entity that will improve the delivery of services to migratory children whose education is interrupted.

The Department published a notice of final requirements for the CIG program in the **Federal Register** on March 3, 2004 (69 FR 10110) (2004 Notice), a notice of final priority on March 12, 2008 (73 FR 13217), and a notice of final requirement on December 31, 2013 (78 FR 79613), in which we increased the maximum project period for the CIG program to three years.

On February 23, 2023, the Department published in the **Federal Register** (88 FR 11422) a notice inviting applications for the CIG program. A table listing the 39 FY 2023 grantees follows. One grantee declined to participate in the CIG program immediately after receiving the FY 2023 award and one grantee declined to participate in the Title I, Part C program, including the CIG program, after receiving FY 2024 awards. These two grantees would not be eligible for an extension and are therefore not included in the table below.

FY 2023 AWARDS UNDER ALN 84.144F

PR Award No.	Grantee name
S144F230001	Kansas State Department of Education.
S144F230003	Utah State Board of Education.
S144F230004	Commonwealth of Pennsylvania Department of Education.
S144F230005	Nebraska Department of Education.
S144F230006	Colorado Board of Education.
S144F230008	Delaware Department of Education.
S144F230011	Georgia Department of Education.
S144F230012	Idaho State Board of Education.
S144F230013	Illinois State Board of Education.
S144F230014	Indiana Department of Education.
S144F230015	Iowa Department of Education.
S144F230017	Kentucky Department of Education.
S144F230018	Louisiana Department of Administration.
S144F230019	Maine Department of Education.

FY 2023 AWARDS UNDER ALN 84.144F—Continued

PR Award No.	Grantee name
S144F230021	Massachusetts Department of Elementary & Secondary Education.
S144F230022	Michigan Department of Education.
S144F230023	Minnesota Department of Education.
S144F230024	Mississippi Department of Education.
S144F230025	Missouri Department of Elementary & Secondary Education.
S144F230026	Montana Office of Public Instruction.
S144F230028	Nevada Department of Education.
S144F230030	New Jersey Department of Education.
S144F230031	State of New Mexico Public Education Department.
S144F230032	New York State Education Department.
S144F230033	North Carolina Department of Public Instruction.
S144F230034	North Dakota Department of Public Instruction.
S144F230035	Ohio Department of Education.
S144F230037	Oregon Department of Education.
S144F230041	South Carolina Department of Education.
S144F230042	South Dakota Department of Education.
S144F230044	Texas Education Agency.
S144F230046	Vermont State Agency of Education.
S144F230047	Commonwealth of Virginia State Board of Education.
S144F230048	Washington Superintendent of Public Instruction.
S144F230050	Wisconsin Department of Public Instruction.
S144F230052	Hawaii State Department of Education.
S144F230054	Alabama State Department of Education.
S144F230055	Arizona Department of Education.
S144F230056	Arkansas Department of Education.

The current project period for these grantees ends on September 30, 2026.

Waivers and Extensions

The Department proposes to extend the project period for the 39 current CIG program grantees for up to two additional 12-month periods. We are proposing to extend the project period to allow grantees' work to continue as the Department considers changes to the priorities and structure of the CIG program. Specifically, the Secretary will consider the CIG program in the context of the Administration's priorities. An extension would allow current grantees to plan for potential future changes to their Title I, Part C funding and best align their work to the Administration's priorities.

We have concluded that it would be contrary to the public interest to have a lapse in the work of current CIG program grantees while the Department considers changes to the CIG program. As such, the Secretary proposes to waive the requirement in 34 CFR 75.261(b)(2), which limits the extension of a project period if the extension involves the obligation of additional Federal funds. The waiver would allow the Department to issue continuation awards to current CIG grantees in FY 2026 and potentially, in FY 2027, at the Department's discretion and pending availability of FY 2027 funds.

Any activities carried out under these continuation awards must be consistent with, or a logical extension of, the scope, goals, and objectives of the

grantee's application as approved in the FY 2023 competition. The requirements for continuation awards are set forth in 34 CFR 75.253 and the 2004 Notice. Specifically, in making a continuation award, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its Title I Part C program; whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application; or whether the continuation of the project is in the best interest of the Federal Government.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed waiver and extension of the project period would not have a significant economic impact on a substantial number of small entities.

The entities that would be affected by this proposed waiver and extension are:

- (a) The FY 2023 SEA grantees currently receiving Federal funds; and
- (b) SEAs that otherwise would have been eligible to apply for an award in FY 2026 under the CIG program if the Department had held that competition.

The Secretary certifies that the proposed waiver and extension would not have a significant economic impact on these entities because the extension of an existing project period imposes minimal compliance costs, and the activities required to support the additional year(s) of funding would not impose additional regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1995

This notice of proposed waiver and extension of the project period does not contain any information collection requirements.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format.

The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: www.govinfo.gov. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov.

Kirsten Baesler,

Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2026-07504 Filed 4-16-26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-HQ-ES-2026-0397;
FXES1111090FEDR-267-FF09E21000]

RIN 1018-BI66

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Jamaican Kite Swallowtail

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the Jamaican kite swallowtail (*Eurytides marcellinus*), a butterfly species from Jamaica, as an endangered species under the Endangered Species Act of 1973, as amended (Act). After a review of the best scientific and commercial data available, we find that listing the species is warranted. If we finalize this rule as proposed, it would add this species to the List of Endangered and Threatened Wildlife and extend the Act's protections to the species.

DATES: We will accept comments received or postmarked on or before June 16, 2026. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date. We must receive requests for a public hearing, in writing, by June 1, 2026 either at <http://www.regulations.gov> at

FWS-HQ-ES-2026-0397, which is the docket number for this rulemaking, or at the address shown in **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: Comment submission: All submissions must include the docket number (FWS-HQ-ES-2026-0397) for this document. You must submit comments using one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS-HQ-ES-2026-0397, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on "Comment."

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-HQ-ES-2026-0397, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered. We will not accept comments via email, fax, or hand delivery. We are not required to consider comments that are submitted after the comment period ends or that are submitted via a method outside of these instructions. Comments containing profanity, vulgarity, threats, or other inappropriate content will not be considered.

We will post all comments at <https://www.regulations.gov>. You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so (see Information Requested, below, for more information).

Availability of supporting materials: Supporting materials, such as the species status assessment report, are available at <https://www.regulations.gov> under Docket No. FWS-HQ-ES-2026-0397.

FOR FURTHER INFORMATION CONTACT: Rachel London, Manager, Branch of Delisting and Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service; 703-358-2171; rachel_london@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered

within their country to make international calls to the point-of-contact in the United States. Please see Docket No. FWS-HQ-ES-2026-0397 on <https://www.regulations.gov> for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies (including foreign governments within the range of the species), Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) The species' biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns and the locations of any additional populations of this species;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Threats and conservation actions affecting the species, including:

(a) Factors that may be affecting the continued existence of the species, which may include habitat destruction, modification, or curtailment, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors;

(b) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species; and

(c) Existing regulations or conservation actions that may be addressing threats to this species.

(3) Additional information concerning the historical and current status of this species.

(4) If we conclude the species is threatened instead of endangered, information to assist us with applying or issuing protective regulations under section 4(d) of the Act (a "4(d) rule") that would be necessary and advisable to provide for the conservation of the species. In particular, we seek

information concerning the following for such a 4(d) rule:

(a) The extent to which we should include any of the Act's section 9(a)(1) prohibitions (including import, export, take, activities with unlawfully taken specimens, and activities in interstate or foreign commerce); and

(b) Whether we should consider any modifications or additional exceptions from the prohibitions.

Please include any supplemental information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made solely on the basis of the best scientific and commercial data available.

You must submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via <https://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <https://www.regulations.gov>.

Our final determination may differ from this proposal because we will consider all comments we receive during the comment period as well as any information that may become available after this proposal. Based on the new information we receive (and, if relevant, any comments on that new information), we may conclude that the species is threatened instead of endangered, or we may conclude that the species does not warrant listing as either an endangered species or a threatened species. If we conclude that the species is threatened, we would also

comply with section 4(d) of the Act and issue the protective regulations that are necessary and advisable to provide for the conservation of the species, including applying any section 9(a) prohibitions. In our final rule, we will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from this proposal.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in DATES. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register**. We may hold the public hearing in person or virtually via webinar. We will announce any public hearing on our website, in addition to the **Federal Register**. The use of virtual public hearings is consistent with our regulations at 50 CFR 424.16(c)(3).

Previous Federal Actions

On January 10, 1994, we received a petition from Ms. Dee E. Warenaicia to list seven foreign swallowtail butterflies, including the Jamaican kite swallowtail (*Eurytides marcellinus*), as endangered or threatened species under the Act. On May 10, 1994, we published a 90-day finding in which we announced that the petition contained substantial information indicating that listing may be warranted for all seven species in the **Federal Register** (59 FR 24117). On December 7, 2004, we published our finding that listing the species was warranted but precluded by higher priority actions (69 FR 70580), and it was added to our list of candidate species with a listing priority number (LPN) of 5. A full description of the listing priority system was published on September 21, 1983 (69 FR 70580). Briefly, LPNs ranging from 1–12 are assigned to candidate species based on taxonomy, and the magnitude and immediacy of threats, with lower numbers indicating higher priority. In 2007, we published the Annual Description of Progress on Listing Actions, assigning the Jamaican kite swallowtail an LPN of 8, which it held in subsequent publications until 2009 (72 FR 20184, April 23, 2007; 73 FR 44062, July 29, 2008; 74 FR 40540, August 12, 2009). On May 3, 2011, we published our finding that the listing priority number was reevaluated, and the species was assigned an LPN of 2 to

reflect the imminent threats of high magnitude (76 FR 25150). Subsequent Annual Notice of Review (ANOR) and Candidate Notice of Review (CNOR) documents published from 2013 to 2025 continued to assign a LPN of 2 to the Jamaican kite swallowtail due to imminent threats of high magnitude (78 FR 24604, April 25, 2013; 81 FR 71457, October 17, 2016; 84 FR 54732, October 10, 2019; 86 FR 43470, August 9, 2021; 87 FR 26152, May 3, 2022; 88 FR 41560, June 27, 2023; 90 FR 48912, October 31, 2025). In this proposed rule, we use the valid taxonomic entity *Eurytides marcellinus* (see Taxonomy, below).

Peer Review

A species status assessment (SSA) team prepared an SSA report for the Jamaican kite swallowtail. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

In accordance with our joint policy with the National Marine Fisheries Services (NMFS) on peer review that published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing and recovery actions under the Act (<https://www.fws.gov/sites/default/files/documents/peer-review-policy-directors-memo-2016-08-22.pdf>), we solicited independent scientific review of the information contained in the Jamaican kite swallowtail SSA report. We solicited reviews from three independent peer reviewers and received two responses. The peer reviews can be found at <https://www.regulations.gov> at Docket No. FWS-HQ-ES-2026-0397. In preparing this proposed rule, we incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this proposed rule.

Summary of Peer Reviewer Comments

As discussed in Peer Review, above, we received comments from two peer reviewers on the draft SSA report. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the contents of the SSA report. The reviewers generally concurred with our methods and the conclusions of our assessment. The reviewers provided clarifying information about the condition of breeding sites, imminent

threats, observation records, distribution of the species, impact of host plant removal, and an additional reference. This information was incorporated into the SSA report (Service, 2025, entire) and did not result in substantive changes to the conclusions of the assessment of the species status.

Taxonomy

The Jamaican kite swallowtail (*Eurytides marcellinus*) is a butterfly in the Papilionidae (swallowtail) family. In 1845, it was named *Protesilaus marcellinus* (Brown and Heineman 1972, p. 340), which is still used along with other variations for the genus (*i.e.*, *Protographium*, *Eurytides*, and *Protesilaus*). *Protographium marcellinus* is used by the International Union for the Conservation of Nature (IUCN) and Catalogue of Life (Gimenez Dixon 1996, p. 1; Catalogue of Life, unpaginated). Recently, it has been reclassified into genus *Eurytides* and subgenus *Mimoides* after genetic analysis (Reboud et al. 2025, p. 392). Other common names for the species include the Jamaican blue kite swallowtail and blue swallowtail.

Proposed Listing Determination

Background

The Jamaican kite swallowtail is a butterfly species endemic to Jamaica. The species has been observed throughout the island; however, breeding habitat is restricted to four small areas where dense stands of the larval host plant, black lancewood (*Oxandra lanceolata*), are found (Turner and Turland 2017, pp. 143, 459). These breeding sites are limited to areas where 2 meters (m) (6.6 feet (ft)) tall black lancewood trees occur in dense 100 m x 100 m (328 ft x 328 ft) stands, with trunks averaging 3 m (9.8 ft) apart and lower limbs touching (Turner and Turland 2017, pp. 141, 459; 2022, unpaginated; Hayes-Sutton et al. 2023, p. 11). Breeding sites are located at Rozelle, Lancewood Valley, Rio Bueno, and Cockpit Country in St. Thomas, St. Catherine, St. Ann, and Trelawny parishes, respectively.

Females deposit pale blue-green eggs on the underside of black lancewood leaves, which turn brown before hatching (Turner and Turland 2017, p. 141). After 14–16 days, the larvae hatch and navigate toward new growth on the host plant to feed and develop through five distinct instar stages with black, orange, brown, and green patterns that differ slightly between each stage (Turner and Turland 2017, pp. 141–142). When larvae reach roughly 35 millimeters (mm) (1.4 inches (in)), they descend into the leaf litter at least 50

centimeters (cm) (19.7 in) in depth beneath the host plant where humidity can be up to 10 percent higher than ambient conditions (Hayes-Sutton et al. 2023, p. 11; Turner and Turland 2025, p. 34). The pupae form a 15 mm (0.6 in) chrysalis, which is protected in a shelter composed of overlapping leaves held together with silk (Turner and Turland 2017, p. 142). Most pupae enter diapause, usually in response to drought, for up to 191 days or until sufficient rainfall (75–125 mm (3–4.9 in) within 1–4 days) triggers emergence. These rainfall events also trigger growth of new leaf buds on the host plant which will provide food for the next generation of the butterfly larvae (Turner and Turland 2017, pp. 142, 459).

Adults are present for 14 days and primarily emerge in two annual broods observed in April–July and September–November, after synchronized emergence from the chrysalis (Turner and Turland 2017, p. 142). The average adult wingspan of the Jamaican kite swallowtail ranges from 59 mm–63 mm (2.3–2.5 in), and the wings are blue- and black-striped with a red spot near the thorax on the dorsal side, and a red stripe on the ventral side of the wings (Turner and Turland 2017, p. 141). The head, thorax, and abdomen are off-white with black markings, and the species is not sexually dimorphic (Turner and Turland 2017, p. 141). Adults have been observed feeding on a wide range of nectaring plants, most notably *Spathelia sorbifolia* (Turner and Turland 2025, p. 39). Females remain at the breeding site while males disperse throughout the island; however, the fate of dispersing males has not been documented (Hayes-Sutton et al. 2023, p. 21). Historical observations of mass migrations consisting of an estimated 750,000 individuals in favorable years occurred up until 1966, prior to extensive habitat destruction at the Rozelle breeding site (Turner and Turland 2025, p. 45). Today, most migrations consist of less than one hundred individuals. Migrations of a few hundred individuals may be observed in favorable years, and some years yield no sightings of migrating adults (Turner and Turland 2025, p. 45).

A thorough review of the taxonomy, life history, and ecology of the Jamaican kite swallowtail is presented in the SSA report (version 1.2; Service 2025, pp. 6–15).

Regulatory and Analytical Framework Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in

title 50 of the Code of Federal Regulations set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered and threatened species.

The Act defines an “endangered species” as a species that is in danger of extinction throughout all or a significant portion of its range and a “threatened species” as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because 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.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species’ continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term “threat” to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term “threat” includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term “threat” may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an “endangered species” or a “threatened species.” In determining whether a species meets either definition, we must evaluate all identified threats by considering the species’ expected response and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species

level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an “endangered species” or a “threatened species” only after conducting this cumulative analysis and describing the expected effect on the species.

The Act does not define the term “foreseeable future,” which appears in the statutory definition of “threatened species.” Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis, which is further described in the 2009 Memorandum Opinion on the foreseeable future from the Department of the Interior, Office of the Solicitor (M–37021, January 16, 2009; “M–Opinion,” available online at <https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37021.pdf>). The foreseeable future extends as far into the future as the Service and National Marine Fisheries Service (hereafter, the Services) can make reasonably reliable predictions about the threats to the species and the species’ responses to those threats. We need not identify the foreseeable future in terms of a specific period of time. We will describe the foreseeable future on a case-by-case basis, using the best scientific and commercial data available and taking into account considerations such as the species’ life-history characteristics, threat projection timeframes, and environmental variability. In other words, the foreseeable future is the period of time over which we can make reasonably reliable predictions. “Reliable” does not mean “certain”; it means sufficient to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data available regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent our decision on whether the species should be proposed for listing as an endangered or threatened species under the Act. However, it does provide the scientific basis that informs our regulatory

decisions, which involve the further application of standards within the Act and its implementing regulations and policies.

To assess Jamaican kite swallowtail viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency is the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years), redundancy is the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation is the ability of the species to adapt to both near-term and long-term changes in its physical and biological environment (for example, climate conditions, pathogens). In general, species viability will increase with increases in (and decrease with decreases in) resiliency, redundancy, and representation (Smith et al. 2018, p. 306). Using these principles, we identified the species’ ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species’ viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated the individual species’ life-history needs. The next stage involved an assessment of the historical and current condition of the species’ demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species’ future condition, including responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best scientific and commercial data available to characterize viability as the ability of a species to sustain populations in the wild over time, which we then used to inform our regulatory decision.

The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket No. FWS–HQ–ES–2026–0397 on <https://www.regulations.gov>.

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species’ current and future condition, in order to assess the species’ overall viability and the risks to that viability.

Species Needs

The Jamaican kite swallowtail is restricted to Jamaican limestone forests. Breeding only occurs at four small sites where dense stands of its only known larval host plant, black lancewood, are found. Sufficient leaf litter (50 cm (19.7 in)) must be present to provide protection and suitable conditions for the pupae during diapause. Rainfall events totaling 75–125 mm (3–4.9 in) within 1–4 days are needed to break diapause and trigger emergence, which coincides with emergence of leaf buds on the host plant. Adults are known to feed on a variety of nectaring plants; however, larvae feed exclusively on the host plant.

Threats

Deforestation and Loss of Host Plant—Deforestation and loss of the black lancewood is the leading cause of decline in Jamaican kite swallowtail populations. Black lancewood trees are in high demand in Jamaica for use for making cabinets, fishing equipment, and agricultural uses (Turner and Turland 2017, p. 459). Once a heavily forested island, Jamaica has experienced fluctuating area of forest cover, which was estimated at 47.9 percent of the island as of 2023 (Forestry Department, Government of Jamaica 2024a, p. 5). Jamaican forests are threatened by mining, quarrying, brushfires (slash-and-burn agriculture), livestock grazing, illegal logging, encroachment of development, and natural disasters (Government of Jamaica 2016, entire). Charcoal-making and fires resulting from charcoal burning are also noted as drivers of deforestation and habitat loss in Jamaica and have been observed near Jamaican kite swallowtail breeding habitat (Ecosystems Quality Management Limited and Negril 2025, pp. 181–182; Turner and Turland 2025, p. 44). Reforestation efforts have aimed to convert unused agricultural lands into secondary forests, which is now the most common forest type in Jamaica accounting for 37 percent of all forest area (Forestry Department, Government of Jamaica 2024a, pp. 28, 42). As a result, the majority of Jamaica’s forests are degraded, disturbed, or reforested, with only 7.7 percent of the island described as primary broadleaf forest (Government of Jamaica 2016, p. 23).

Deforestation at the Rozelle breeding site has been documented over several decades. In 1967, the documented area of black lancewood trees at Rozelle totaled 5.2 kilometers (km)² (2.0 miles (mi)²); however, most of these plants were destroyed in 1971 for cattle grazing and charcoal making, then subsequently

converted to housing (Turner and Turland 2017, p. 459). Today, the total area of black lancewood trees at Rozelle totals approximately 1 km² (0.39 mi²), roughly an 80 percent reduction in breeding habitat since 1967 (Turner and Turland 2025, p. 41). A planned housing development would further impact this site, and an environmental impact assessment for the project has identified the need for mitigation to protect the Jamaican kite swallowtail (Ecosystems Quality Management Limited and Negril 2025, entire).

The Lancewood Valley site covers 0.25 km² (0.01 mi²) and is situated within the Hellshire Hills in the Portland Bright Protected Area (PBPA). Despite protections, extensive forest loss has occurred in the area surrounding this breeding site (Tole 2002, p. 586). Vegetation has been cleared to make way for trails and improve access to the forest, and lumber is commonly used by households in the area (Tole 2002, p. 587; Turner and Turland 2025, p. 42). Between 1987 and 1992, 36 percent of forest cover in the PBPA was lost, averaging 7 percent per year (Tole 2002, p. 586). Illegal harvesting of trees occurs in this area, primarily to be used as firewood or for making charcoal, which is noted to be a source of income in the surrounding community (Caribbean Coastal Area Management Foundation (C-CAMF) 2013, pp. 13–29). Lack of resources, inadequate enforcement, and poorly delineated boundaries are allowing for illegal harvesting and forest misuse to continue (C-CAMF 2013, pp. 35–37). A study conducted in this area found that dry forests in the Hellshire Hills are slow to recover, and it is estimated to take 45.4 years for above-ground biomass to return to its original state following clear cutting (Niño et al. 2014, p. 1093).

The Rio Bueno site is estimated to be roughly 1.05 km² (0.41 mi²) on the northern coast of Jamaica. Here, most of the smaller black lancewood trees in this area have been harvested, and the site is believed to support a very small population of Jamaican kite swallowtails (Turner and Turland 2025, p. 42). Many of the remaining Lancewood trees were removed for road construction to improve access to nearby mining operations and subsequent forest thinning has occurred. It has been estimated that 20 percent of this site remained as of 2017 (Turner and Turland 2025, p. 42).

The Cockpit Country breeding site is a remote area estimated to be less than 1 km² (0.39 mi²) that is known for distorted growth of black lancewood trees, making them unsuitable for common uses (Turner and Turland

2025, p. 42). Consequently, deforestation has not yet impacted this breeding site. Deforestation is occurring in the greater Cockpit Country, which is a popular area for illegal logging, and nearby forests are subject to increasing exploitation with the development of new roads (Newman et al. 2011, unpaginated). Development projects near the borders of the protected area are increasing access to the forest, challenging legal boundaries, and encroaching into the protected area at a rate of 0.6 km² (0.23 mi²) per year along access roads (Turner and Turland 2025, pp. 44–45; Altink 2023, entire).

Extreme Weather Events—Extreme weather events including drought, tropical storms, hurricanes, and wildfires are frequent in Jamaica (Rhiney 2015, pp. 103–107). Warming trends in the Caribbean are expected to drive changes in precipitation patterns and increase the intensity of extreme weather events (Forestry Department, Government of Jamaica 2024a, p. 9; IPCC 2023, unpaginated). Islands in the Caribbean are expected to experience a decrease in frequency of tropical storms but an increase in storm intensity, which may lead to more destructive weather events (Mycoo et al. 2022, p. 2045; IPCC 2023, unpaginated). Intense storms, such as hurricanes, can damage Caribbean forest ecosystems, causing defoliation, flooding, landslides, erosion, and direct mortality of organisms (Tanner et al. 1991, entire). For example, on October 28, 2025, Hurricane Melissa made landfall in Jamaica as a category 5 hurricane, causing extensive damage and defoliation in the Cockpit Country, as observed via satellite imaging. We are not aware of any information regarding the extent of the impact to the Jamaican kite swallowtail or its breeding sites at this time, and we request any available information be submitted as public comment as described above in Information Requested.

Jamaica's precipitation patterns are characterized by a dry season from December to April and a bimodal wet season, with a midsummer drought during July and August (Centella-Artola et al. 2015, pp. 1909–1910). Drying is expected throughout the island, with rainfall decreasing by 4.34 to 43.28 percent in coastal areas and 9.70 to 37.03 percent in interior areas by the end of the century (Forestry Department, Government of Jamaica 2017, p. 25). Models predict a 2 to 3 percent decrease in annual precipitation with 2.0 °C (3.6 °F) and 2.5 °C (4.5 °F) warming, respectively, and drying mostly affecting the summer months (Curtis et al. 2014, p. 3; Taylor et al.

2018, pp. 216–219). As a result, droughts, particularly in the summer, are expected to increase in frequency and intensity (Taylor et al. 2018, pp. 2921–2924; International Panel on Climate Change (IPCC) 2023, unpaginated). The Jamaican kite swallowtail is capable of undergoing diapause to survive normal midsummer droughts; however, extended drought periods would likely impact the success of adult emergence if rainfall is insufficient to break diapause. In years without sufficient rainfall to trigger an emergence of adults to coincide with new growth of shoots and leaf buds of the host plant, mortality of eggs and larvae is high (Turner and Turland 2017, p. 464). Black lancewood may have some degree of drought tolerance. However, new growth is dependent on precipitation and terminal leaf buds remain dormant in the drier months (Turner and Turland 2025, p. 38). New growth is essential for Jamaican kite swallowtail larvae survival as a food source and to replace harvested trees to maintain adequate host plant densities (Turner and Turland 2025, p. 39).

Prolonged drought increases the risk of wildfires, with fire frequency peaking in the driest months. However, this is not part of the natural ecology in dry limestone forests of Jamaica (Charlton et al. 2021, p. 9; Hayes-Sutton et al. 2023, p. 20). Fire frequency is influenced by precipitation and temperature patterns with drying during the wet season correlated with higher fire frequency (Charlton et al. 2021, pp. 16–18). Anthropogenic activity such as charcoal-making and slash-and-burn agriculture further increase the risk of uncontrolled wildfires (Turner and Turland 2017, p. 457). Increasing wildfire frequency threatens remaining Jamaican kite swallowtail colonies by engulfing stands and burning pupae in the leaf litter beneath the host plants (Turner and Turland 2017, p. 457).

Collection—Illegal collection and trade of the species may have occurred within the last 30 years (Melisch and Schütz, 2000, p. 93). Specimens were available to purchase online for \$150 USD in 2006 (Turner and Turland 2025, p. 44). Today, opportunities to collect adult Jamaican kite swallowtails are considered very limited due to their rarity and short time frame in which adults emerge; in some years adults may not be observed (Turner and Turland 2025, p. 44). Any level of trade would be considered a threat to the species because of the limited population. However, there is no evidence suggesting that trade is currently a threat to the species.

Conservation Efforts and Regulatory Mechanisms

The Jamaican kite swallowtail is not listed under the Convention on International Trade in Endangered Species of Fauna and Flora (CITES). However, the species is protected under Jamaica's Wild Life Protection Act of 1945, which prohibits the taking or possession of any animal (or part of an animal) listed under the Act, with maximum fines of 100,000 Jamaican dollars (approximately \$638.00 USD) and two years in jail (Law No. 143/2001, *entire*). The Forest Act of 1996 and the Forest Regulations Act of 2001 have increased the power of Jamaican authorities to protect the island's forests (Gartner et al. 2008, pp. 9–10). These Acts include mandates to determine the biodiversity in the forest as well as the ability to acquire private lands as forest reserves (Gartner et al. 2008, p. 9). Two subpopulations of the Jamaican kite swallowtail occur in protected areas, the Portland Bight Protected Area and the Cockpit Country Forest Reserve, where laws prohibit logging without proper licensing. However, habitat destruction within these areas continues despite these protections due to limited enforcement and efficacy of regulations (Chenoweth et al. 2001, p. 654). Conservation plans have been put forth to address forest crimes, such as illegal logging. However, it is unclear whether these policies have been effective because large-scale illegal logging operations continue to threaten biodiversity (Government of Jamaica 2016, pp. 47–48; Forestry Department, Government of Jamaica 2024b, p. 1).

The Jamaican government prioritizes restoration and reforestation and has developed conservation plans and initiatives. (Government of Jamaica, 2016, *entire*). Many of these initiatives such as the National Tree Planting Initiative, do not focus on black lancewood because it is not currently a species of concern (Forestry Department, Government of Jamaica 2025, unpaginated). The Jamaican kite swallowtail was included in Jamaica's National Strategy and Action Plan on Biological Diversity in 2003, which established specific plans for protected areas in Rozelle and the Cockpit Country (National Environment Planning Agency (NEPA) 2003, p. 54). Additionally, a conservation action plan was developed for the species at the Lancewood Valley breeding site (Hayes-Sutton et al. 2023, *entire*). However, these high priority projects have not been initiated due to funding and capacity constraints (NEPA 2013, pp. 38, 50; V. Turland pers. comm. 2025).

Cumulative Effects

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have analyzed the cumulative effects of identified threats and conservation actions on the species. To assess the current and future condition of the species, we evaluate the effects of all the relevant factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative-effects analysis.

Current Condition

The Jamaican kite swallowtail has been described as Jamaica's most endangered butterfly and has been considered extremely rare since 1985 (Collins and Morris 1985, p. 19; Turner and Turland 2017, p. 464). Recently, experts have proposed the species be reclassified as critically endangered on the IUCN Red List, due to habitat restriction and fluctuating populations estimated to total 50 to 250 mature individuals, based on observation of adult migrations (Turner and Turland 2025, p. 46). To our knowledge, this is the best available population estimate available for the species. Historically, the species was known to maintain low populations for multiple years before periodic mass migrations consisting of thousands of individuals (Collins and Morris 1985, p. 206). Observations of mass migrations consisting of an estimated 750,000 individuals in favorable years occurred up until 1966, prior to extensive habitat destruction at the Rozelle breeding site (Turner and Turland 2025, p. 45). The last recorded mass migration (over 1,000 individuals) from any breeding site occurred in 2006, originating from the Cockpit Country site (Turner and Turland 2017, p. 463). Today, most migrations consist of less than one hundred individuals, migrations of a few hundred individuals may be observed in favorable years, and some years yield no sightings of adults (Turner and Turland 2025, p. 45). The absence of large migrations consisting of over 100 individuals, which were historically frequent occurrences, indicates that populations have substantially decreased over time (reduced resiliency).

The leading causes of Jamaican kite swallowtail population declines are deforestation, reduced area of breeding

habitat, and loss of its host plant, black lancewood (Turner and Turland 2025, pp. 40–44) (reduced resiliency and redundancy). Habitat degradation and deforestation have been documented at three of the four breeding sites. The resiliency of each subpopulation may differ slightly due to unique characteristics, threats, and protections at each breeding site. Currently, breeding sites are estimated to cover a very limited area, each ranging from 0.25–1.05 km² (0.01–0.41 mi²), with a combined area of 2.5 km² (0.97 mi²; Turner and Turland 2025, p. 46). It is estimated that the total area of these four breeding sites in 1965 was 8.75 km² (3.38 mi²), and 70 percent overall loss of breeding habitat has occurred. Thus, the species resiliency and redundancy have decreased over time (Turner and Turland 2025, p. 45). Recovery potential at many of these sites is limited due to loss of the host plant, which is required in specific densities to support reproduction and larval recruitment (Turner and Turland 2017, pp. 141, 459; 2022, unpaginated). The Jamaican kite swallowtail's reliance on a single species of host plant for larval development, coupled with its low population density, indicates that the species is unable to adapt to the threat of deforestation and loss of the host plant (limited representation).

Redundancy of the species is inherently low as it is a narrow endemic only found within limestone forests where dense stands of at least 2-m (6-ft) tall black lancewood trees are present. While observations of adults have been noted throughout the island, the majority of the species' lifecycle is restricted to four confirmed breeding sites of limited area (Turner and Turland 2025, pp. 40–43). Small and increasingly isolated colonies of the Jamaican kite swallowtail are subject to both demographic isolations and stochastic events that can contribute to loss of genetic diversity (reduced representation) and local extirpations (reduced resiliency and redundancy) caused by habitat loss, predation, disease, and stochastic environmental events, such as storms (Davies et al. 2004, pp. 265–271). Imminent development projects threaten two of the four breeding sites, and impacted subpopulations will likely experience further declines and potential extirpation without effective mitigation that has generally not taken place previously due to limited enforcement and efficacy of regulations as well as funding and capacity constraints

Future Condition

As part of the SSA, we considered the future magnitude of threats of deforestation, loss of the larval host plant, and extreme weather events, and the projected responses of the Jamaican kite swallowtail. We assumed that current trends are likely to continue into the future and that the species' responses would remain similar to observed responses in current conditions. Because we determined that the current condition of the Jamaican kite swallowtail is consistent with an endangered species (see *Determination of Status*, below), we are not presenting the results of the assessment of magnitude and extent of future threats in this proposed rule. Please refer to the SSA report (Service 2025) for the full analysis of future magnitude of threats.

Determination of Status Background

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR part 424 set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act requires that we determine whether a species meets the definition of an endangered species or a threatened species because 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. We consider these five factors and the species' responses to these factors when making these determinations.

Section 3 of the Act defines “endangered species” and “threatened species.” An endangered species is any species which is in danger of extinction throughout all or a significant portion of its range, and a threatened species is any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Both definitions include not only the phrase “throughout all,” but also the phrase “or a significant portion of its range.” Thus, there are ultimately four bases for listing a species under the Act (in danger of extinction throughout all of its range, in danger of extinction throughout a significant portion of its range, likely to become an endangered species within the foreseeable future throughout all of its range, or likely to become an endangered species within the

foreseeable future throughout a significant portion of its range). These four bases are made up of two classifications (either endangered or threatened) and two components (either throughout all of its range or throughout a significant portion of its range).

Beginning in 2001, a number of judicial opinions addressed our interpretation of the phrase “or a significant portion of its range” (the SPR phrase) in the statutory definitions of “endangered species” and “threatened species.” In *Defenders of Wildlife v. Norton*, 258 F.3d 1136 (9th Cir. 2001) regarding the flat-tailed horned lizard, the court held that the interpretation of the SPR phrase that we had applied in analyzing the status of the flat-tailed horned lizard was unacceptable because it would allow for a species to warrant listing throughout a significant portion of a species' range only when the species “is in danger of extinction everywhere” (id. at 1141). The court held that the SPR phrase must be given independent meaning from the “throughout all” phrase to avoid making the SPR phrase in the statute superfluous.

In an attempt to address the judicial opinions calling into question our approach to evaluating whether a species was endangered or threatened throughout a significant portion of its range, the Service and NMFS (collectively, “the Services”) published a “Final Policy on Interpretation of the Phrase ‘Significant Portion of Its Range’ in the Endangered Species Act’s Definitions of ‘Endangered Species’ and ‘Threatened Species’” (hereafter “2014 SPR Policy”; 79 FR 37578, July 1, 2014). The notice of the draft 2014 SPR Policy provides more detail about litigation before 2014 regarding the phrase (76 FR 76987, Dec. 9, 2011). The 2014 SPR Policy included 4 elements:

- (1) Consequence—that the consequence of determining that a species warrants listing based on its status in a significant portion of its range is to list the species throughout all of its range;
- (2) Significance—a definition of the term “significant”;
- (3) Range—that the species' “range” is the current range of the species; and
- (4) DPS—that, if a [vertebrate] species is endangered or threatened in an SPR and the population in that SPR is a distinct population segment (DPS), the Service will list just the DPS.

Subsequently, two district courts vacated the definition of “significant” contained in the 2014 SPR Policy (*Ctr. for Biological Diversity v. Jewell*, 248 F. Supp. 3d 946, 959 (D. Ariz. 2017) (“*CBD v. Jewell*”) and *Desert Survivors v. U.S.*

Department of the Interior, 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018) (“*Desert Survivors*”). The courts found that the definition in the 2014 SPR Policy set too high a threshold and rendered the SPR language in the statute superfluous, failing to give it independent meaning from the “throughout all” phrase. In 2020, another court (*Ctr. for Biological Diversity v. Everson*, 435 F. Supp. 3d 69 (D.D.C. 2020) (“*Everson*”)) also vacated the specific aspect of the 2014 SPR Policy under which, “if the Services determine that a species is threatened throughout all of its range, the Services will not analyze whether the species is endangered in a significant portion of its range” (id. at 98). This was an extension of the definition of “significant,” which required a stepwise process in which we only considered whether a species may be endangered or threatened throughout a significant portion of its range when the species was not endangered or threatened throughout all of its range. In an extension of the earlier rulings from *CBD v. Jewell* and *Desert Survivors*, the court found that this aspect of the definition of the 2014 SPR Policy was not only inconsistent with the statute because it “rendered the ‘endangered in a significant portion of its range’ basis for listing superfluous,” but was also “inconsistent with [Endangered Species Act] principles” and “not a logical outgrowth from the draft policy.” Under this ruling, if we find a species is not in danger of extinction throughout all of its range, we must evaluate whether the species is in danger of extinction throughout a significant portion of its range, even in cases where we have determined that the species is likely to become in danger of extinction within the foreseeable future (threatened) throughout all of its range. The remaining three elements of the 2014 SPR Policy remain intact.

In short, the courts have directed that the definition of “significant” must afford the phrase “or a significant portion of its range” an independent meaning from the “throughout all of its range” phrase. Therefore, to determine whether any species warrants listing, we determine for each classification (endangered and threatened) the appropriate component to evaluate (throughout all of its range or throughout a significant portion of its range).

We make this determination based on whether the best scientific and commercial data available indicate that the species has a similar extinction risk in all areas across its range (at a scale that is biologically appropriate for that species). When a species has a similar

extinction risk in all areas across its range, we determine its regulatory status using the component “throughout all of its range.” For example, in some cases there is no way to divide a species’ range in a way that is biologically appropriate. This could be because the range is so small that there is only one population or because the species functions as a metapopulation such that effects to one population directly result in effects to another population. On the other hand, when the species’ extinction risk varies across its range, we determine its regulatory status using the component “throughout a significant portion of its range.”

For either classification (endangered or threatened), we consider the five factors and the species’ responses to those factors regardless of which component (throughout all of its range or throughout a significant portion of its range) we have determined is appropriate for that classification. When assessing whether a species is endangered or threatened throughout a significant portion of its range, we address two questions because we must determine whether there is any portion of the species’ range for which both (1) the portion is “significant” and (2) the species is in danger of extinction or likely to become in danger of extinction within the foreseeable future throughout that portion. We may address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species’ range.

Determination of Jamaican Kite Swallow’s Status

We propose listing the Jamaican kite swallowtail as an endangered species because it is in danger of extinction throughout all of its range. As stated above, when the species has similar extinction risk in all areas across its range (at a scale that is biologically appropriate for that species), we determine its classification based upon its regulatory status throughout all of its range. Here, there is no way to divide this species’ range at a scale that is biologically appropriate for a classification determination because the Jamaican kite swallowtail functions as a single population that occurs within four small areas of breeding habitat, and the threats affect the species such that it has similar extinction risk throughout its entire range due to the limited size of each breeding site and the susceptibility of the sites to habitat loss and extreme weather events. Thus, there is no possible portion to evaluate.

Therefore, we assessed the Jamaican kite swallowtail status based upon the “throughout all of its range” component.

In undertaking this analysis of whether the Jamaican kite swallowtail is in danger of extinction throughout all of its range, we reviewed the best scientific and commercial data available regarding threats to the species, its responses to those threats, and any associated conservation measures. We then assessed the cumulative effects of those threats and conservation measures under the Act’s section 4(a)(1) factors. We examined the following threats: deforestation, loss of the larval host plant, and extreme weather events, including cumulative effects. The species is a narrow endemic with a small area (2.5 km² (0.97 mi²)) of remaining breeding habitat across four small sites within Jamaica (Factor A). Each of the breeding sites, including those in protected areas, are threatened with destruction or degradation due to development, mining, logging, or stochastic events such as hurricane or extended drought (Factors A and D). The small size of breeding sites and narrow distribution increases the risk that the entire species habitat could be impacted by single catastrophic events simultaneously. The Jamaican kite swallowtail has specialized life history and specific habitat needs, and is unable to complete its lifecycle without stands of black lancewood of a specific size and density, a tree that is preferentially harvested. The species has experienced precipitous population declines, with current population estimates of 50 to 250 individuals. The threats of extreme weather events (e.g., storms, fires, droughts) are increasing in frequency and magnitude, increasing the risk of habitat destruction.

After evaluating threats to the species, its responses to those threats and any associated conservation measures, and assessing the cumulative effects of those threats and conservation measures under the Act’s section 4(a)(1) factors, we find that the Jamaican kite swallowtail has greatly declined in abundance due to an estimated 70–80 percent loss of breeding habitat and that within its small amount of remaining breeding habitat, it is at risk of additional breeding habitat losses and exposure to extreme weather events (Factor A). Due to the imminence and magnitude of threats, and limited adaptive capacity of the species, we have determined that the Jamaican kite swallowtail has low resiliency, redundancy and representation such that the species is in danger of extinction. We further find that declines

have not been curtailed under current regulatory mechanisms (Factor D), and that the species is at risk of extinction despite current regulations. A threatened species status is not appropriate because the threats to the species are ongoing and have already resulted in the species being in danger of extinction.

Determination of Status

Based on the best scientific and commercial data available, we determine that the Jamaican kite swallowtail meets the Act’s definition of an endangered species because it is in danger of extinction throughout all of its range. Therefore, we propose to list the Jamaican kite swallowtail as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act.

Available Conservation Measures

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act.

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition as a listed species, planning and implementation of recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation by Federal, State, Tribal, and local agencies, foreign governments, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies, including the Service, and the prohibitions against certain activities are discussed, in part, below.

Section 7 of the Act is titled, “Interagency Cooperation,” and it mandates all Federal action agencies to use their existing authorities to further the conservation purposes of the Act and to ensure that their actions are not likely to jeopardize the continued existence of listed species or destroy or adversely modify critical habitat. Regulations implementing section 7 are codified at 50 CFR part 402.

Section 7(a)(2) states that each Federal action agency shall, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification

of designated critical habitat. With respect to the Jamaican kite swallowtail, no known actions require consultation under section 7(a)(2) of the Act. Given the regulatory definition of “action” at 50 CFR 402.02, which clarifies that it applies to activities or programs carried out “in the United States or upon the high seas,” the Jamaican kite swallowtail is unlikely to be the subject of section 7 consultations, because the entire lifecycle of the species occurs in terrestrial areas outside of the United States and the species is unlikely to be affected by U.S. Federal actions. Additionally, no critical habitat will be designated for the species because, under 50 CFR 424.12(g), we will not designate critical habitat within foreign countries or in other areas outside of the jurisdiction of the United States. In contrast, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action which is likely to jeopardize the continued existence of any species.

Section 8(a) of the Act (16 U.S.C. 1537(a)) authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered or threatened species in foreign countries. Sections 8(b) and 8(c) of the Act (16 U.S.C. 1537(b) and (c)) authorize the Secretary to encourage conservation programs for foreign listed species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

The Act and its implementing regulations set forth a series of prohibitions and exceptions that apply to endangered wildlife. The prohibitions of section 9(a)(1) of the Act, and the Service’s implementing regulations codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed any of the following acts with regard to any endangered wildlife: (1) import into, or export from, the United States; (2) take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) within the United States, within the territorial sea of the United States, or on the high seas; (3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such wildlife that has been taken illegally; (4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity; or (5) sell or offer for sale in interstate or foreign

commerce. Certain exceptions to these prohibitions apply to employees or agents of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits for endangered wildlife are codified at 50 CFR 17.22, and general Service permitting regulations are codified at 50 CFR part 13. With regard to endangered wildlife, a permit may be issued: for scientific purposes, for enhancing the propagation or survival of the species, or for take incidental to otherwise lawful activities.

The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act. For example, the provisions in section 9(b)(1) of the Act (16 U.S.C. 1538(b)(1)) provide a limited exemption from certain otherwise prohibited activities regarding wildlife specimens held in captivity or in a controlled environment on the date they were first subject to the Act, provided that such holding and any subsequent holding or use of the wildlife was not in the course of a commercial activity (commonly referred to as “pre-Act” specimens). Therefore, if a Jamaican kite swallowtail is held in captivity prior to receiving protections under the Act (and the holding is not in the course of commercial activity), several activities are allowed without the need for a permit in accordance with section 9(b)(1) of the Act.

Section 9(b)(1) was amended in the 1982 amendments to the Act (96 Stat. 1426–27), to clarify that the scope of the 9(b)(1) exemption is limited to only certain section 9(a)(1) prohibitions, that the exemption does not apply to pre-Act wildlife held or used in the course of a commercial activity on or after the pre-Act date for the species, and that the pre-Act date for species first listed after the enactment of the Act is the date of publication in the **Federal Register** of the final regulation adding such species to the List of Endangered and Threatened Wildlife for the first time (H.R. Rep. No. 97–835, 97th Cong., 2nd Sess., at 35 (1982) (Conf. Rep.); S. Rep. No. 97–418, 97th Cong., 2nd Sess., at 24–25 (1982)). Specifically, section 9(b)(1) of the Act states that the prohibitions of sections 9(a)(1)(A) and 9(a)(1)(G) shall not apply to any fish or wildlife which was held in captivity or in a controlled environment on (A) December 28, 1973, or (B) the date of the publication in the **Federal Register** of a final regulation adding such fish or

wildlife to any list of species published pursuant to section 4(c) of the Act (as relevant to listed wildlife, the list of endangered and threatened wildlife (50 CFR 17.11(h)) that such holding and any subsequent holding or use of the fish or wildlife was not in the course of a commercial activity.

Therefore, for pre-Act wildlife, there is a limited exemption from the prohibitions associated with: (1) import into, or export from the United States of any endangered wildlife, or (2) violation of regulations pertaining to threatened or endangered wildlife. Other prohibitions of section 9—including those at section 9(a)(1)(B)–(F), regarding take of endangered wildlife, possession and other acts with unlawfully taken wildlife, interstate or foreign commerce in endangered wildlife, and sale or offer for sale of endangered wildlife—continue to apply to activities with qualifying endangered pre-Act wildlife specimens. For threatened species, prohibitions are promulgated by regulation under section 4(d) of the Act, and a specimen may qualify for the exemption in 9(a)(1)(G) with regard to regulatory violations. Specimens born after the listing date and specimens taken from the wild after the listing date do not qualify as pre-Act wildlife under the text of section 9(b)(1) of the Act. If a person engages in any commercial activity with a pre-Act specimen, the wildlife would immediately cease to qualify as pre-Act wildlife and become subject to the relevant prohibitions, because it has been held or used in the course of a commercial activity.

Additional requirements apply to activities with all Jamaican kite swallowtails, separate from their listing or proposed listing as an endangered species or threatened species. As “fish or wildlife” (16 U.S.C. 1532(8)), Jamaican kite swallowtail imports and exports must also meet applicable wildlife import/export requirements established under section 9, paragraphs (d), (e), and (f), of the Act (16 U.S.C. 1538(d), (e), and (f)); the Lacey Act Amendments of 1981 (16 U.S.C. 3371 *et seq.*); and 50 CFR part 14.

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;

- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

References Cited

A complete list of references cited in this rulemaking is available on the internet at <https://www.regulations.gov> and upon request from the Branch of

Delisting and Foreign Species (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Signing Authority

Brian Nesvik, Director of the U.S. Fish and Wildlife Service, approved this action on March 16, 2024, for publication. On April 14, 2026, Brian Nesvik authorized the undersigned to sign the document electronically and submit it to the Office of the Federal Register for publication as an official document of the U.S. Fish and Wildlife Service.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title

50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

- 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

- 2. In § 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by adding an entry for “Butterfly, Jamaican kite swallowtail” in alphabetical order under INSECTS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
INSECTS				
*	*	*	*	*
Butterfly, Jamaican kite swallowtail.	(<i>Eurytides marcellinus</i>) ...	Wherever found ..	E	[Federal Register citation when published as a final rule].
*	*	*	*	*

Madonna Baucum,

Regulations and Policy Chief, Division of Policy, Economics, Risk Management, and Analytics of the Joint Administrative Operations, U.S. Fish and Wildlife Service.

[FR Doc. 2026–07513 Filed 4–16–26; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 260413–0097]

RIN 0648–BN27

Atlantic Highly Migratory Species; Pelagic and Demersal Indicator Species Regulations

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing changes to regulations regarding pelagic and demersal indicator species in the Atlantic Highly Migratory Species (HMS) pelagic and bottom longline fisheries. Specifically, NMFS is proposing to remove the regulations regarding pelagic and demersal indicator species and the list of pelagic and demersal indicator species from the HMS regulations. These proposed changes would directly impact pelagic and bottom longline fishermen who hold Atlantic HMS fishing permits. The purpose of this action is to increase fishing flexibilities, remove regulatory inefficiencies, and optimize the ability of pelagic and bottom longline fisheries to harvest available quotas to the extent practicable while still achieving fishery management and conservation goals.

DATES: Written comments must be received by May 29, 2026. NMFS will hold a public hearing webinar on May 21, 2026, from 1 p.m. to 3 p.m. ET. For additional details on the public hearing, see the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2025-0669>. You may submit comments on this document, identified by NOAA–NMFS–2025–0669, by electronic submission. Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter “NOAA–NMFS–2025–0669” in the Search box (*note:* copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Written comments sent by any other method, to any other address or individual, or received after the close 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).

Additional information related to this proposed rule, including electronic copies of this proposed rule and supporting documents are available from the HMS Management Division website at <https://www.fisheries.noaa.gov/action/proposed-rule-pelagic-and-demersal-indicator-species-regulations-atlantic-highly-migratory> or by contacting Larry Redd, Jr., or Carrie Soltanoff (see **FOR FURTHER INFORMATION CONTACT** section).

FOR FURTHER INFORMATION CONTACT: Larry Redd, Jr., larry.redd@noaa.gov, or Carrie Soltanoff, carrie.soltanoff@noaa.gov, by email or phone at 301–427–8503.

SUPPLEMENTARY INFORMATION: Federal Atlantic HMS fisheries (sharks, tunas, billfish, and swordfish) are managed under the 2006 Consolidated HMS Fishery Management Plan (HMS FMP) and its amendments, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). HMS are defined at section 3(21) of the Magnuson-Stevens Act (16 U.S.C. 1802(21)) and the provisions for their management are at section 304(g)(1) (16 U.S.C. 1854(g)(1)). ATCA is the implementing statute for binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). HMS implementing regulations are at 50 CFR part 635. The procedures established by the HMS FMP and implemented in the HMS regulations (see § 635.34(b)) allow NMFS to modify management measures, using a framework adjustment implemented by regulation. Section 635.21(c) and (d) provide regulations specific to the use of pelagic and bottom longline gear, respectively.

NMFS has prepared a document that contains a draft Environmental Assessment (EA), draft Regulatory Impact Review (RIR), and an Initial Regulatory Flexibility Analysis (IRFA). This document presents the alternatives considered for this proposed rule and analyzes their anticipated environmental, social, and economic impacts. A brief summary of background information and the alternatives considered is provided below. Additional information regarding this action and HMS management overall can be found in the draft EA/

RIR/IRFA, the HMS FMP and its amendments, the annual HMS Stock Assessment and Fishery Evaluation (SAFE) Reports, and online at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species>.

Statutory Authority

The Magnuson-Stevens Act, among other things, requires measures necessary for the conservation and management of the fishery to be consistent with the ten National Standards set forth in section 301(a) (16 U.S.C. 1851(a)). While all of the National Standards are relevant, specific to the objectives of this action, the National Standards state that measures must: prevent overfishing while achieving optimum yield from the fishery (National Standard 1); be based on the best scientific information available (National Standard 2); to the extent practicable, manage the stock throughout its range and manage interrelated stocks as a unit or in close coordination (National Standard 3); take into account and allow for variations among fisheries, fishery resources, and catches (National Standard 6); and minimize bycatch, and to the extent bycatch cannot be avoided, minimize the mortality of bycatch (National Standard 9). Furthermore, the Magnuson-Stevens Act allows for management actions to designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear (Magnuson-Stevens Act section 303(b)(2)(A) or 16 U.S.C. 1853(b)(2)(A)). The Magnuson-Stevens Act also allows for management actions to establish specified limitations which are necessary and appropriate on the catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors) (Magnuson-Stevens Act section 303(b)(3)(A) or 16 U.S.C. 1853(b)(3)(A)). Section 304(c) and (g) provides for the promulgation of regulations to implement an FMP that is prepared by NMFS, such as the HMS FMP (see 16 U.S.C. 1854(c), (g)).

Background

Prior to 2006, NMFS implemented a number of time/area closures (now referred to as spatial management areas), which include gear restricted areas in the Atlantic Ocean and Gulf of America, which applied specifically to either pelagic longline or bottom longline gear. These spatial management areas include the Charleston Bump, DeSoto Canyon, East Florida Coast, and Mid-Atlantic shark closed area (later renamed the

Mid-Atlantic Bottom Longline Gear Restricted Area).

Once these areas were established, NMFS realized that having quantifiable criteria to differentiate between pelagic longline and bottom longline fishing gear in gear restricted areas would assist with effective monitoring of, and compliance with, HMS gear restricted areas. Moreover, such criteria could assist in removing any ambiguities by clarifying that pelagic longline gear would logically be expected to capture pelagic species and vice-versa. As a result, in 2006, NMFS published the HMS FMP and its final rule which, among other things, established a 5-percent limit (by weight) on the allowable amount of pelagic indicator species that bottom longline vessels may possess or land from pelagic longline gear restricted areas, and established a 5-percent limit (by weight) on the allowable amount of demersal indicator species that pelagic longline vessels may possess or land from bottom longline gear restricted areas (measured relative to the total weight of all pelagic and demersal indicator species) (71 FR 58058, October 2, 2006). The indicator species were chosen because they constituted the primary target species in pelagic and bottom longline fisheries in 2000 through 2004. Based on public comment regarding the draft pelagic and demersal indicator species lists, NMFS modified the list of demersal indicator species by removing certain sharks (silky and hammerhead sharks) and by adding several species of tilefish (tilefish, blueline tilefish, and sand tilefish). These modifications were made because the aforementioned shark species can be caught on both pelagic and bottom longlines, and because the tilefish species were indicative of demersal fishing activity. These species are listed in tables 2 and 3 to appendix A to part 635.

The 5-percent limit was based on data from 2000 through 2004 analyzed in the HMS FMP that indicated that the 5-percent threshold was slightly above the average weight of pelagic species that were reported in the Coastal Fisheries logbook (4.45 percent), and slightly above the average weight of demersal species that were reported in the Atlantic HMS logbook (4.52 percent). Within the HMS FMP and final rule, NMFS further stated that, if necessary, the 5-percent limit (by weight) and the list of indicator species could be modified in the future based upon a review of historic and current landings and the effectiveness of the regulation.

Since 2006, NMFS has implemented additional time/area closures and gear restricted areas, and backstopped

regulations related to areas designated by fishery management councils, including marine protected areas in the South Atlantic, time/area closures in the Caribbean, and habitat areas of particular concern in the Gulf of America. Additionally, NMFS has established or improved the effectiveness of a variety of mechanisms that are used to monitor and aid in compliance (e.g., vessel monitoring systems (VMS)) of pelagic and bottom longline vessels fishing within gear restricted areas. Currently, all vessels with pelagic longline gear on board are required to install and use a VMS unit, and bottom longline vessels are required to install and use a VMS unit when bottom longline gear is on board off South Carolina, North Carolina, and Virginia between 33°00' N lat. and 36°30' N lat. from January 1 through July 31. In addition to ensuring the VMS unit is always on, operating, and reporting position data, prior to leaving port for any trip, all longline vessels must declare any HMS the vessel will target on that trip and the specific type(s) of fishing gear that will be on board the vessel ("hail-out"). If the vessel is participating in multiple fisheries or switches to a different gear type or target species group, the vessel must submit another declaration.

Furthermore, since 2006, there have been changes to the management of HMS on the pelagic and demersal indicator species lists. Sandbar sharks cannot be retained in commercial fisheries unless participants are part of the shark research fishery (73 FR 40658, July 15, 2008). The retention and sale of oceanic whitetip sharks were prohibited when caught in association with ICCAT fisheries (76 FR 53652, August 29, 2011). Porbeagle sharks can be retained on pelagic longline gear only when they are dead at haulback (81 FR 57803, August 24, 2016). The commercial retention limit for shortfin mako sharks has been set at zero since 2022 (87 FR 39373, July 1, 2022). Oceanic whitetip shark was removed from the pelagic species list and placed on the prohibited sharks list, following the Endangered Species Act (ESA) listing as threatened and subsequent consultations on HMS fisheries (89 FR 278, January 3, 2024).

In recent years, NMFS has received numerous requests from both pelagic and bottom longline fishermen, including HMS Advisory Panel members, to remove both the pelagic and demersal indicator species regulations and corresponding pelagic and demersal indicator species lists as a way to provide increased flexibility to operate more efficiently. For example, pelagic and bottom longline fishermen

have found that these regulations hinder their ability to lawfully retain non-HMS while fishing with appropriate gear in gear restricted areas. These fishermen have pointed out inequities in the various fishing regulations, (i.e., that fishermen who do not hold HMS permits on their vessels are not required to follow the Federal HMS regulations when fishing for non-HMS in the same areas with the same fishing gears). Furthermore, some species on pelagic and demersal indicator species lists may no longer be retained under Federal regulations for Fishery Management Council managed species, and at a minimum, the species lists may need to be updated.

NMFS presented on this topic at the fall 2021 HMS Advisory Panel (AP) Meeting and solicited recommendations for maintaining, updating, or removing the indicator species lists and/or associated gear regulations. The HMS AP was generally supportive of removing these species lists and regulations.

Proposed Measures

As stated above, the purpose of this action is to increase fishing flexibilities, remove regulatory inefficiencies, and optimize the ability of pelagic and bottom longline fisheries to harvest available quotas to the extent practicable while still achieving fishery management and conservation goals in the HMS pelagic and bottom longline fisheries. To achieve these goals, NMFS considered three alternatives regarding the pelagic and demersal indicator species regulations and indicator species lists. These alternatives included both no action and the preferred alternative.

Specific to the preferred alternative, Alternative 3, NMFS is proposing to remove the current regulations at 50 CFR 635.21(c)(1)(i) and (d)(2) implementing a 5-percent limit (by weight) on the allowable amount of indicator species that pelagic longline and bottom longline vessels may possess or land when fishing in pelagic and bottom longline gear restricted areas. NMFS would also remove the pelagic and demersal indicator species lists (tables 2 and 3 of appendix A to 50 CFR part 635).

This alternative would likely provide HMS permitted longline fishermen with more fishing flexibility. HMS pelagic and bottom longline fishermen who hold permits for HMS and Council-managed species at the same time would be able to land the allowable amount of pelagic and demersal species under those permits without the restrictive five-percent weight limit.

Increased flexibility would allow HMS pelagic and bottom longline fishermen the opportunity to use fishing gears (i.e., bandit gear) authorized under regulations for Council-managed species in the same way as fishermen that hold permits for only Council-managed species, noting that HMS fishermen cannot retain bluefin tuna with a gear type onboard the vessel that is not authorized for bluefin tuna retention under an Atlantic Tunas Longline category permit. This alternative may allow for additional opportunities to harvest available quotas for both HMS and non-HMS (e.g., grouper, snapper, tilefish) and thus generate some additional revenue on HMS trips.

Other Alternatives Analyzed

NMFS also analyzed a no action alternative (Alternative 1) that would maintain the status quo. NMFS does not prefer the no action alternative as it would continue to maintain pelagic and demersal indicator species regulations that may be outdated, difficult to enforce, and no longer necessary to determine the gear types being used by either pelagic or bottom longline fishing vessels in HMS gear restricted areas. Alternative 1 could contribute to inequitable fishing opportunities for HMS pelagic and bottom longline fishermen who hold permits for both HMS and Council-managed fisheries.

NMFS also considered another alternative that would update the lists of pelagic and demersal indicator species (tables 2 and 3 of appendix A to 50 CFR part 635) and maintain the current regulations at 50 CFR 635.21(c)(1)(i) and (d)(2) implementing a five-percent weight limit on possessing or landing indicator species (Alternative 2). NMFS does not prefer Alternative 2 because, although this alternative would update the pelagic and demersal indicator species lists, the current 5-percent limit would continue to be in effect thus limiting the flexibility of pelagic and bottom longline fishermen.

Request for Comments

NMFS is requesting comments on this proposed rule, which may be submitted via www.regulations.gov or at the public hearing (see below). NMFS solicits comments on this action by May 29, 2026 (see **DATES** and **ADDRESSES**).

During the comment period, NMFS will hold a public hearing via webinar for this proposed action on May 21, 2026, from 1 p.m. to 3 p.m. ET. Further information on how to attend the webinar can be found at <https://www.fisheries.noaa.gov/action/proposed-rule-pelagic-and-demersal-indicator-species-regulations-atlantic->

highly-migratory. Requests for sign language interpretation or other auxiliary aids should be directed to Larry Redd, Jr., larry.redd@noaa.gov, or Carrie Soltanoff at carrie.soltanoff@noaa.gov, by email or by phone at 301–427–8503, at least 7 days prior to the meeting. In addition, any requests for in-person public hearings during the comment period should be directed to Larry Redd, Jr., or Carrie Soltanoff.

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the hearing room, attendees will be called to give their comments in the order in which they registered to speak, each attendee will have an equal amount of time to speak, and attendees should not interrupt one another). At the beginning of each webinar, the moderator will explain how the webinar will be conducted and how and when participants can provide comments. The NMFS representative(s) will attempt to structure the webinar so that all attending members of the public will be able to comment, if they so choose, though time limits or restrictions on back-and-forth discussion may be necessary to ensure everyone in the queue has an opportunity to speak. Attendees are expected to respect the ground rules, and if they do not, they may not be allowed to speak during the webinar.

Classification

Rulemaking Authority

NMFS is issuing this rule pursuant to section 304(c) and (g) of the Magnuson-Stevens Act. The NMFS Assistant Administrator has determined that this proposed rule is consistent with the HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law, subject to further consideration after public comment.

Executive Order 12866

This proposed rule has been determined to be significant for purposes of Executive Order 12866.

Executive Order 14192

This proposed rule is expected to be an Executive Order 14192 deregulatory action.

Executive Order 13175

NMFS has determined that this action would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal

Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes; therefore, consultation with Tribal officials under Executive Order 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of Executive Order 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2)(B) of Executive Order 13175 is not required and has not been prepared.

Initial Regulatory Flexibility Analysis

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows, and a copy of the entire analysis is available from NMFS (see **ADDRESSES**).

Section 603(b)(1) of the RFA requires agencies to describe the reasons why the action is being considered. The purpose of this action is to increase fishing flexibility, remove regulatory inefficiencies, and optimize the ability of pelagic and bottom longline fisheries to harvest available quotas to the extent practicable while still achieving fishery management and conservation goals in the HMS pelagic and bottom longline fisheries.

Section 603(b)(2) of the RFA requires agencies to state the objectives of, and legal basis for, the proposed action. The objective of this proposed rulemaking is to modify or remove inefficient and outdated regulations to allow for additional fishing opportunities in HMS pelagic and bottom longline fisheries. The legal basis for the proposed rule is the Magnuson-Stevens Act and ATCA.

Section 603(b)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesters. SBA's regulations authorize other agencies to develop their own industry-specific size standards after consultation with the SBA Office of Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). NMFS may establish size standards that differ from those established by the SBA Office of Size Standards, but only for use by NMFS and only for the purpose of conducting

an analysis of economic effects in fulfillment of the agency's obligations under the RFA. To utilize this provision, NMFS must publish such size standards in the **Federal Register**, which NMFS did on December 29, 2015 (80 FR 81194). In that final rule, effective on July 1, 2016, NMFS established a small business size standard of \$11 million in annual gross receipts for all businesses in the commercial fishing industry (North American Industry Classification System (NAICS) code 11411) for RFA compliance purposes. NMFS completed a review of the small business size standard on November 24, 2025 (90 FR 52917) that resulted in maintaining the existing size standard.

The proposed rule would apply to the permit holders of 164 Swordfish Directed, 63 Swordfish Incidental, 188 Shark Directed, 221 Shark Incidental, and 223 Atlantic Tunas Longline category limited access permits. NMFS considers all commercial HMS permit holders to be small entities because they have average annual receipts of less than their sector's standard of \$11 million. NMFS has determined that the proposed rule would not likely affect any small governmental jurisdictions. More information regarding the description of the fisheries affected, and the categories and number of permit holders can be found in the HMS SAFE Report.

Section 603(b)(4) of the RFA requires agencies to describe any new reporting, record-keeping, and other compliance requirements. This proposed rule does not contain any new collection of information, reporting, or record-keeping requirements.

Under section 603(b)(5) of the RFA, agencies must identify, to the extent practicable, relevant Federal rules which duplicate, overlap, or conflict with the proposed action. Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other fishery management measures. These include, but are not limited to, the Magnuson-Stevens Act, ATCA, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. This proposed action has been determined not to duplicate, overlap, or conflict with any Federal rules.

Under section 603(c) of the RFA, agencies must describe any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize

any significant economic impact of the proposed rule on small entities. The analysis shall discuss significant alternatives such as: (1) establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule, or any part thereof, for small entities. These categories of alternatives are described at 5 U.S.C. 603(c)(1)–(4). NMFS examined each of these categories of alternatives. Regarding the first, second, and fourth categories, NMFS cannot establish differing compliance or reporting requirements for small entities or exempt small entities from coverage of the rule or parts of it because all of the businesses impacted by this rule are considered small entities and thus the requirements are already designed for small entities. NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act. As described below, NMFS analyzed several different alternatives in this proposed rulemaking, and provided rationales for identifying the preferred alternatives to achieve the desired objectives. The alternatives considered and analyzed are described below. The IRFA assumes that each vessel will have similar catch and gross revenues to show the relative impact of the proposed action on vessels.

Alternative 1

Under Alternative 1, the no action alternative, NMFS would maintain the current regulations at 50 CFR 635.21(c)(1)(i) and 635.21(d)(2). As part of this alternative, NMFS would also keep the lists of pelagic and demersal indicator species (tables 2 and 3 to appendix A to 50 CFR part 635). Under this alternative, NMFS would continue to differentiate between vessels using pelagic and bottom longline gear based upon the percentages of pelagic and demersal indicator species catch onboard or landed. Maintaining the status quo would continue to restrict the ability of pelagic and bottom longline fishermen to switch gears in gear restricted areas to possibly fish for non-HMS, thus resulting in a missed opportunity to earn revenue from their non-HMS catch. Furthermore, this alternative would likely not change fishing rates and efforts by pelagic and

bottom longline fishermen from current levels. Thus, Alternative 1 would likely result in neutral to minor adverse economic impacts on small entities participating in HMS pelagic and bottom longline fisheries.

Alternative 2

Under Alternative 2, NMFS would update the lists of pelagic and demersal indicator species (tables 2 and 3 of appendix A to 50 CFR part 635). As part of this alternative, NMFS would also maintain the current regulations at 50 CFR 635.21(c)(1)(i) and (d)(2) implementing a 5-percent weight limit on possessing or landing pelagic and demersal indicator species. Under this alternative, NMFS would update the pelagic and demersal indicator species lists based on several factors including, but not limited to, determination of the primary species landed in pelagic and bottom longline fisheries, consideration of HMS that are prohibited or have no retention or limited retention, or consideration of species that are prohibited or have no retention in areas under the relevant fishery management councils. This alternative would continue to restrict the ability of pelagic and bottom longline fishermen to switch gears in gear restricted areas to possibly fish for non-HMS, thus resulting in a missed opportunity to earn revenue from their non-HMS catch. Furthermore, this alternative would likely not change fishing rates and efforts by pelagic and bottom longline fishermen from current levels. Thus, Alternative 2 would likely result in neutral to minor adverse economic impacts on small entities participating in HMS pelagic and bottom longline fisheries.

Alternative 3

Under preferred Alternative 3, NMFS would remove the current regulations at 50 CFR 635.21(c)(1)(i) and (d)(2) implementing a 5-percent weight limit on the allowable amount of indicator species that pelagic longline and bottom longline vessels may possess or land when fishing in pelagic and bottom longline gear restricted areas. NMFS would also remove the pelagic and demersal indicator species lists (tables 2 and 3 of appendix A to 50 CFR part 635). The goal of this action is to increase fishing flexibility, remove regulatory inefficiencies, and optimize the ability of pelagic and bottom longline fisheries to harvest available quotas to the extent practicable while still achieving fishery management and conservation goals in the HMS pelagic and bottom longline fisheries. Under this alternative, HMS pelagic and bottom longline fishermen would have

more fishing flexibility that may allow for additional HMS and non-HMS landings. HMS pelagic and bottom longline fishermen who hold permits for HMS and Council-managed species at the same time will be able to land the allowable amount of pelagic and demersal species under those permits without the restrictive 5-percent weight limit. Increased flexibility would allow HMS pelagic and bottom longline fishermen the opportunity to use fishing gears (*i.e.*, bandit gear) authorized under regulations for Council-managed species in the same way as fishermen that hold permits for only Council-managed species, noting that HMS fishermen cannot retain bluefin tuna with a gear type onboard the vessel that is not authorized for bluefin tuna retention under an Atlantic Tunas Longline category permit. This alternative may allow for additional opportunities to harvest available quotas for both HMS and non-HMS (*e.g.*, grouper, snapper, tilefish) thus generating some additional revenue on HMS trips. Thus, NMFS believes Alternative 3 would likely result in neutral or minor beneficial economic impacts on small entities participating in HMS pelagic and bottom longline fisheries.

Paperwork Reduction Act

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

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: April 13, 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 635 as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

- 1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

- 2. In § 635.21, remove and reserve paragraphs (c)(1)(i) and (d)(2).
- 3. Remove and Reserve Table 2 of Appendix A to Part 635.
- 4. Remove and Reserve Table 3 of Appendix A to Part 635.

[FR Doc. 2026–07532 Filed 4–16–26; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 260414–0100]

RIN 0648–BO02

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 36; Limited Entry Fixed Gear Follow-On Actions

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues these proposed regulations to implement amendment 36 to the Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP).

The proposed regulations include management measures that would apply to vessels registered to limited entry fixed gear (LEFG) endorsed permits and LEFG permit owners in the Pacific Coast groundfish fishery. Specifically, NMFS proposes to add flexibility to the LEFG permits' gear endorsements, remove the base permit designation of LEFG permits, remove the start and end times (*i.e.*, hours of the day) for the open dates of the primary sablefish season, and develop a cost recovery program for the LEFG primary sablefish fishery. The purpose of this action is to provide increased flexibility to LEFG participants while reducing administrative burdens and to develop a cost recovery program to meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments on this proposed rule must be received on or before May 18, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2025-0372>. You may submit comments on this document, identified by NOAA–NMFS–2025–0372, by the following method:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and type NOAA–NMFS–2025–0372 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

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).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted 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.

Electronic copies of amendment 36 and the analysis that addresses the National Environmental Policy Act (NEPA), Presidential Executive Order 12866, the Regulatory Flexibility Act (RFA), and the statutory requirements of the Magnuson-Stevens Act (the Analysis), may be obtained from <https://www.regulations.gov/docket/NOAA-NMFS-2025-0372> and the NMFS West Coast Region website at <https://www.fisheries.noaa.gov/region/west-coast>.

FOR FURTHER INFORMATION CONTACT:

Megan Mackey, 206–526–6140, megan.mackey@noaa.gov.

SUPPLEMENTARY INFORMATION: The Pacific Coast groundfish fishery in the U.S. exclusive economic zone (EEZ) seaward of Washington, Oregon, and California is managed under the Groundfish FMP. The Pacific Fishery Management Council (Council) developed the Groundfish FMP pursuant to the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* The Secretary of Commerce approved the Groundfish FMP and implemented the provisions of the plan at 50 CFR part 660, subparts C through G. Species managed under the Groundfish FMP include species of groundfish, flatfish, rockfish, sharks, and skates.

This proposed rule (also referred to as “this proposed action”) outlines implementing regulations for amendment 36 to the Groundfish FMP. Consistent with Magnuson-Stevens Act section 303(c)(1), the Council deemed the proposed regulations consistent

with and necessary to implement amendment 36 in a December 8, 2025 letter. The Notice of Availability for amendment 36 that published on December 16, 2025, (90 FR 58183) describes the Groundfish FMP changes that would be implemented through this proposed action. NMFS approved amendment 36 to the Groundfish FMP on March 11, 2026. NMFS is seeking comment on the measures recommended by the Council and approved by NMFS in amendment 36 that would be implemented via this proposed rule.

Background

The history of the LEFG program (or LEFG fishery) in the Pacific Coast groundfish fishery dates back to the 1980s and is detailed in Section 1.2 of the Analysis. In June 2022, the Council completed its second review of the LEFG fishery with the adoption of a final report (2022 LEFG Program Review) that includes research and data needs and recommendations for program changes.

In June 2023, the Council considered a series of potential new management measures for the LEFG fishery and provided guidance on the development of a range of alternatives (ROA) for these measures. The Council also recommended that these items be split into two rulemaking packages: (1) fixed gear marking and entanglement risk reduction and (2) LEFG follow-on actions. The Council took final action on the fixed gear marking and entanglement risk reduction measures in June 2024, and a proposed rule including the associated regulations was published on February 6, 2026 (91 FR 5408).

In September 2023, the Council adopted a purpose and need and ROA for this proposed action for the LEFG follow-on actions. At its March 2025 meeting, the Council adopted a preliminary preferred alternative (PPA), and in June 2025 it adopted a final preferred alternative (FPA).

Amendment 36

On March 11, 2026, NMFS approved amendment 36 to the Groundfish FMP in alignment with the Council's recommendation in June 2025, and the Notice of Availability (NOA) published on December 16, 2025 (90 FR 58183). The regulatory changes included in this proposed rule implement amendment 36.

Proposed Rule

Four action items are included in this proposed rule as part of the LEFG follow-on actions. Overall, the four

action items included in this proposed rule would provide increased flexibility in the LEFG fishery while reducing administrative burdens. These proposed measures would also ensure the LEFG program meets the Magnuson-Stevens Act requirements for limited access privilege programs (LAPP).

The action items are:

1. Adding flexibility to the LEFG permit gear endorsements,
2. Removing the base permit designation of LEFG permits,
3. Removing the start and end times (*i.e.*, hours of the day) for the open dates of the primary tier season, and
4. Developing a cost recovery program for the LEFG primary sablefish fishery.

With regard to the first action item on flexibility for gear endorsements, the most recent LEFG fishery review illustrated changing and unpredictable ocean and market conditions and an aging fleet, indicating a need to increase flexibility for LEFG participants to use their quota in the most efficient way possible and to encourage new participation in the fishery. The Council determined that this need could be met by allowing LEFG permitted vessels to use different legal non-trawl gear in addition to the gear currently endorsed on their permit to harvest their LEFG quotas and that allowing such gear flexibility could increase efficiency as well as opportunities for LEFG vessels and participants to more fully utilize annual groundfish allocations.

The Council considered a range of three action alternatives with increasing levels of flexibility for the proposed gear endorsement flexibility action item (see Section 2.1 of the Analysis). The first alternative would have allowed vessels registered to bottom longline-endorsed permits to also use slinky pots to harvest their quota. The second alternative would have broadened the flexibility by allowing an LEFG permit holder to use bottom longline or pot gear, including traditional and slinky pots. The third alternative, which is included in the FPA, would allow the most flexibility with respect to gear use by creating a single LE non-trawl permit that would permit vessels to use any legal non-trawl groundfish gear, except for set nets or other entangling nets, to harvest their LEFG sablefish tier limits and groundfish trip limits. This flexibility is currently allowed for vessels fishing in the directed open access (OA) sector and for vessels fishing individual fishing quota (IFQ) under the gear switching provisions of the shorebased IFQ Program. Under this proposed rule, all LEFG vessels would be allowed to use pot and bottom longline gears and vertical hook-and-

line or other legal non-trawl gear configurations to harvest groundfish. This proposed action would also remove crossover provisions currently applicable to the limited entry (LE) and OA sectors (*e.g.*, those listed 50 CFR 660.230(b)(2)) in order to reduce regulatory and enforcement complexity.

The FPA for the gear endorsement flexibility action item includes a provision (referred to in supporting documentation as a suboption) that would exclude entangling nets from the gears permitted. The suboption was included to address concerns about the potential for the expanded use of set nets within the LEFG fishery under this action. Set nets are included in the broader category of entangling nets, which also includes gillnets and trammel nets. Set nets are currently allowed in the OA groundfish fishery south of 38° North latitude (N lat.) but prohibited north of 38° N lat. (50 CFR 660.330(b)(2)(ii)). Without the suboption, LEFG vessels would have been able to use set nets. The proposed rule would prohibit the use of all entangling nets, including set nets, for the LE sector. There has been no record of directed groundfish vessels using set nets or other entangling nets to harvest groundfish off the U.S. West Coast (see Section 4.5.1 of the Analysis).

To add flexibility to gear endorsements, this proposed rule would replace references to “fixed gear” as well as language specific to longline and pot gear endorsements with “non-trawl” throughout § 660. The notice of departure rule in § 660.216(b) would also be updated to require vessels carrying an observer to give NMFS a 48-hour notification of intended departure time, along with identifying the gear type they intend to use. This would replace the current 24-hour notification requirement.

The second action item included in this proposed rule concerns the base permit designation of LEFG permits. The base permit designation was used to determine that at least one permit in a sablefish permit stack had a length endorsement that was long enough for the vessel. It was highlighted during the 2022 LEFG program review, however, that the requirement to designate a base permit is duplicative and unnecessary because the vessel length requirement is already covered by a separate regulation within § 660.25(b)(3)(iii), subpart C. Therefore, the 2022 program review concluded that the base permit designation is not necessary to enforce the vessel length requirement, and the Council and NMFS found that the designation of a base permit for LEFG vessels creates an unnecessary

administrative burden on fishery participants and NMFS staff (see Section 2.2 of the Analysis). This proposed action would therefore remove this requirement from the regulations.

To remove the base permit designation of LEFG permits, the definition of “base permit” would be removed from § 660.11 and language regarding the base permit designation would be removed from § 660.25(b)(3)(iii)(C).

The third proposed action concerns the season start times (*i.e.*, hours of the day) for the open dates for the sablefish primary season. Historically, the specification of the time of day for the opening and closing of the primary season was necessary for monitoring and enforcement purposes, particularly when seasons were very short. This specification is no longer necessary, however, and the references to noon local time would be removed from the regulations as part of this proposed action (see Section 2.4 of the Analysis).

To remove the time-specific language for the open dates of the primary tier season, “noon local time” would be removed while maintaining the start and end days of the year (April 1 and December 31, respectively) in § 660.231(b)(1).

Cost Recovery

The fourth proposed action would establish a cost recovery program for the LEFG primary sablefish fishery (also known as the tier program), which is a LAPP. The Magnuson-Stevens Act specifies that NMFS must collect fees to recover the actual costs of management, data collection and analysis, and enforcement associated with a LAPP (16 U.S.C. 1853a(e) and 1854(d)(2)) (see Section 2.5 of the Analysis). This proposed rule would require the owner(s) or authorized representative of a vessel that makes landings of sablefish in the tier program to be responsible for paying the fee.

A summary of the proposed cost recovery program is provided below.

Structure

The sablefish primary fishery would be treated as a single sector of the overall Pacific Coast groundfish fishery for the purposes of cost recovery, whereby costs and the fee percentage would be calculated for the sector.

Who Pays

The owner(s) or authorized representative of the vessel that makes landings of sablefish in the tier program would be responsible for paying the fee.

Calculation of Fishery Value

Fishery value would be calculated using the ex-vessel value of sablefish landed in the most recent complete primary season based on PacFIN electronic fish ticket information. If additional payments are made after landing, the fishery value will reflect those post-landing value adjustments as reflected in revised fish tickets.

Calculation of Direct Program Costs

The direct program costs would be calculated by compiling the actual incremental costs for the previous fiscal year directly related to the management, data collection and analysis, and enforcement of the tier program. Actual incremental costs are those costs that would not have been incurred but for the implementation of the tier program. Incremental costs may be accrued by the NMFS West Coast Region, the Northwest Fisheries Science Center, Southwest Fisheries Science Center, and/or the Office of Law Enforcement. Recoverable costs include staff time (both full time employees and contractors), travel, supplies, and equipment related to incremental tasks. An initial evaluation of potential incremental tasks was provided in Agenda Item E.4.a., NMFS Report, March 2022.

How Fee Percentage Is Calculated

The fee percentage would be calculated by taking the direct program costs from the most recent complete fiscal year and dividing that by the fishery value from the most recent complete fishery season; the MSA requires that the fee percentage not exceed 3 percent of the ex-vessel value of fish landed under the tier program.

When the Fee Percentage Is Announced

NMFS would calculate an annual fee percentage and notify the public in the first quarter of the calendar year, prior to the start of the primary season on April 1.

How the Fee Amount Is Determined

The fee amount would be calculated by multiplying the ex-vessel value of applicable landings (including post-landing adjustments) by the annual fee percentage. The vessel owner or authorized representative would be required to collect the fee amount at the time of each landing. When payment of the fees is due, NMFS would generate an annual bill and provide it electronically following the end of each primary season to each vessel owner that has applicable landings. Payment of the fees would be due 30 calendar days after the bill date. Payments would be

able to be made throughout the year, if desired, but any remaining balance would be required to be received no later than 30 calendar days after receipt of the annual bill. NMFS intends to work with Pacific States Marine Fisheries Commission (PSMFC) to explore adding the fee percentage and calculated fee amount for each sablefish tier landing to electronic fish tickets to facilitate within-year payments by vessel owners, if desired.

How Cost Recovery Fees Are Paid

The vessel owner or authorized representative would remit fees electronically through pay.gov. Payment methods would include credit card and automated clearing house (ACH) payments.

Penalties

Under the proposed rule, failure to pay on time could result in penalties for the vessel owner. Before penalties would be issued, NMFS would deliver an Initial Administrative Determination (IAD), to which the vessel owner or authorized representative must respond within 30 days by either paying the amount due or appealing in writing. The proposed rule provides that if an account is unpaid for 30 days after the due date, penalties (e.g., fines, interest, sanctions) may begin to accrue, and if the account is not paid within 30 calendar days following a final decision on the IAD or appeal, such penalties may include the vessel not being able to fish in the sablefish tier fishery until the fee liability is satisfied.

Reporting

NMFS would generate a publicly available annual report. This annual report would include information on the fee percentage calculation, program costs, ex-vessel value for the fishery, and total fees collected by NMFS from the previous year.

Language detailing the new cost recovery program for the sablefish primary fishery would be added in § 660.231(c), and additional sections of the regulations that address the requirements for recordkeeping and reporting, as well as permits, would be updated, accordingly.

NMFS has evaluated tasks that would be considered cost recoverable, which include an electronic fish ticket requirement and future program reviews, and determined the cost of these administrative tasks would not be significant, as discussed further in the Classification section of this proposed rule. Pending unforeseen changes to the cost structure of the LEFG tier fishery, the fees associated with this proposed

cost recovery program would be considered minimal.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Groundfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

Regulatory Impact Review (RIR)

An RIR was prepared to assess all costs and benefits of available regulatory alternatives. A copy of this Analysis is available from NMFS (see **ADDRESSES** section). NMFS is proposing to implement amendment 36 and the regulatory revisions in this proposed rule based on its assessment of the net benefits to the Nation of these measures.

Regulatory Flexibility Act (RFA)

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Although this action would apply to all LEFG permit owners and the majority of those permit owners are considered small entities, as explained below, this proposed rule would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

For purposes of the RFA (5 U.S.C. 601 *et seq.*) 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 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 receipts not in excess of \$11 million for all its affiliated operations worldwide. This standard applies to all businesses classified under North American Industry

Classification System (NAICS) code 11411 for commercial fishing, including all businesses classified as commercial finfish fishing (NAICS 114111), commercial shellfish fishing (NAICS 114112), and other commercial marine fishing (NAICS 114119) businesses (50 CFR 200.2; 13 CFR 121.201).

All LEFG groundfish participants (permit owners or vessels registered to permits) operating in the EEZ off Washington, Oregon, and California managed under the Groundfish FMP may be affected by this action. However, some action items may only impact those owning or fishing with LEFG permits with a sablefish endorsement (*i.e.*, tier fishery; cost recovery, base

permit designation, start/end times) while others (LEFG permit gear endorsement flexibility) may impact all LEFG participants (permit owners and vessels utilizing LEFG permits).

A description of the vessels participating in the LEFG sector can be found in Section 1.5.2 of the Analysis. Using the NMFS permit owner database, table 1 below shows the number of permit owners in 2024 by LEFG permit endorsement (gear and sablefish endorsement). Overall, there are an estimated 141 unique permit owners in 2024 (some permit owners may own different types of permits and therefore may be counted in multiple rows). As part of the permit application process,

NMFS asks permit applicants if they considered themselves a small business based on a review of the Small Business Administration size criteria and asks each permit applicant to provide detailed ownership information. Of the 223 LEFG permits, 24 were owned by 16 permit owners that self-reported as large entities (table 2). For sablefish-endorsed LEFG permits, 18 of the 164 were owned by 12 permit owners that self-reported as large entities (table 2). Note that owner counts in each column of table 2 may not sum to the total for that column because an owner could own permits with another gear endorsement.

TABLE 1—NUMBER OF ESTIMATED OWNERS BY LEFG PERMIT (ALL AND SABLEFISH ENDORSED ONLY) BY GEAR ENDORSEMENT, 2024

Gear endorsement	All LEFG permit	Sablefish endorsed
Bottom Longline	131	91
Pot	22	22
Pot and Bottom Longline	4	4

TABLE 2—NUMBER OF PERMIT OWNERS (AND ASSOCIATED PERMITS IN PARENTHESES) BY GEAR ENDORSEMENT AND SMALL BUSINESS DESIGNATION, 2024

Gear endorsement	All LEFG permit		Sablefish endorsed	
	Small	Large	Small	Large
Bottom Longline	116 (170)	15 (21)	80 (117)	11 (15)
Pot	19 (25)	3 (3)	19 (25)	3 (3)
Pot and Bottom Longline	4 (4)	0 (0)	4 (4)	0 (0)
Total	125 (199)	16 (24)	89 (146)	12 (18)

Note that there is not a strict one-to-one correlation between vessels and entities, nor between permits and entities; therefore, some persons or firms likely have ownership interests in more than one vessel or permit. Therefore, the actual number of entities regulated by this proposed action may be lower than the estimates presented here.

Given that small entities make up the majority of LEFG permit owners, it is anticipated that this proposed rule would affect a substantial number of small entities. However, none of the proposed measures are expected to have significant impacts. Two of the action items in this proposed rule (removal of the base permit designation and of the season start times on open dates) are strictly administrative and would not impact entities.

The proposed gear flexibility action item would not disproportionately disadvantage small entities as compared to large entities. The proposed gear flexibility measures are expected to

increase profitability due to the ability to use any legal non-trawl gear type (except entangling nets) to harvest quotas/limits. Participants have the option to invest in new gear to take advantage of the new flexibility, which could somewhat decrease any beneficial impacts to small entities. There could be a slight reduction in profit for pot endorsed permit owners if the lease fees they can charge for pot permits decline due to all permits having the same gear allowances. Of the pot permits that are leased, it is likely that the majority are small entities given that 29 of the 32 pot or dual-endorsed permits are owned by small entities. However, it is difficult to ascertain what the impact would be given the limited information available on permit pricing and lease fees.

With regard to the cost recovery action item, depending on the cost recovery fee collected (maximum of 3 percent of the ex-vessel value of fish harvested), entities with a smaller profit margin may be impacted by the cost recovery fee. However, the limited

information on profitability for LEFG participants suggests that small entities do not uniformly have smaller profit margins, and in any event the impact would be limited to 3 percent of the ex-vessel value of fish harvested.

In sum, although this action would apply to all LEFG permit owners and the majority of those permit owners are considered small entities, none of the measures included in this proposed rule would have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required for this action and none has been prepared. The agency requests comments on the decision to certify this rule based on the analysis above.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This rule would revise and

extend the existing requirements for the collection of information under OMB Control Number 0648–0663, “Northwest Region, Pacific Coast Groundfish Fishery: Trawl Rationalization Cost Recovery Program,” by adding a cost recovery collection for the sablefish primary fishery and by changing the title from “Northwest Region, Pacific Coast Groundfish Fishery: Trawl Rationalization Cost Recovery Program” to “West Coast Region, Pacific Coast Groundfish Fishery: Cost Recovery” to better align the title with the fisheries subject to the information collection. One additional form would be added to the existing information collection to allow vessels in this sablefish primary fishery to make cost recovery payments. The anticipated increase in the number of respondents is at most 164, which represents the universe of sablefish primary fishery tier permit holders, but likely on average closer to 100 new respondents due to permit stacking. The public reporting burden hours per response is expected to continue to be 1 hour and the responses are annual. The public reporting burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Therefore, this revision would add 100 hours to the annual burden estimate for this collection.

Public comment is sought regarding whether this 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 burden estimate; 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, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at <http://www.reginfo.gov/public/do/PRAMain>.

Notwithstanding any other provisions of the law, no person is required to respond or, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 14, 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 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

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

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

- 2. Amend § 660.11 by:
 - a. Removing the definition of “Base permit”;
 - b. Revising the definition of “Conservation area(s)” by revising paragraph (1)(vi)(B);
 - c. Revising the definition of “Joint registration”;
 - d. Revising the definition of “Limited entry gear”;
 - e. Revising the definition of “Limited entry permit” by revising paragraph (1);
 - f. Revising the definition of “Non-trawl fishery”;
 - g. Revising the definition of “Open access gear”; and
 - h. Revising the definition of “Overage.”

The revisions read as follows:

§ 660.11 General definitions.

* * * * *

Conservation area(s) * * *

(1) * * *

(vi) * * *

(B) *Non-Trawl (Limited Entry Non-Trawl and Open Access Non-Trawl Gears) RCAs.*

* * * * *

Joint registration or jointly registered means simultaneously registering both trawl-endorsement and non-trawl-endorsement limited entry permits for use with a single vessel in one of the configurations described in § 660.25(b)(4)(iv).

* * * * *

Limited entry gear means non-trawl gear, except entangling nets (defined at § 660.11 “Fishing gear” (4)) or groundfish trawl gear used under the authority of a valid limited entry permit affixed with an endorsement for that gear.

Limited entry permit means: * * *

(1) The Federal permit required to fish in the limited entry fishery, and includes any gear, size, or species endorsements affixed to the permit, or

* * * * *

Non-trawl fishery means:

(1) For the purpose of allocations at § 660.55, subpart C, non-trawl fishery

means the limited entry non-trawl fishery, the open access fishery, and the recreational fishery.

(2) For the purposes of all other management measures in subparts C through G of this part, non-trawl fishery means fishing with any legal limited entry non-trawl gear or open access non-trawl groundfish gear other than trawl gear (groundfish trawl gear and non-groundfish trawl gear), but does not include the recreational fishery.

* * * * *

Open access gear means all types of fishing gear except groundfish trawl.

* * * * *

Overage means the amount of fish harvested by a vessel in excess of:

(1) The applicable trip limit for any fishery to which a trip limit applies;

(2) The amount authorized by the applicable permit for trawl fisheries at subpart D of this part;

(3) The amount authorized by the applicable sablefish-endorsement permits for non-trawl sablefish fisheries at subpart E of this part.

* * * * *

■ 3. Amend § 660.12 by revising paragraph (a)(6) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(a) * * *

(6) Take and retain, possess, or land more than a single cumulative limit of a particular species, per vessel, per applicable cumulative limit period, except for sablefish taken in the primary limited entry non-trawl sablefish season from a vessel authorized to fish in that season, as described at § 660.231, subpart E.

* * * * *

■ 4. Amend § 660.13 by revising paragraphs (a)(2)(ii), (d)(4)(iv)(A)(1), (30) and (31) to read as follows:

§ 660.13 Recordkeeping and reporting.

(a) * * *

(2) * * *

(ii) The limited entry non-trawl trip limit fisheries subject to the trip limits in tables 2b (North) and 2b (South) to subpart E of this part, and primary sablefish fisheries, as defined at § 660.211; and

* * * * *

(d) * * *

(4) * * *

(iv) * * *

(A) * * *

(1) Limited entry non-trawl, not including shorebased IFQ (declaration code 10);

* * * * *

(30) Limited entry non-trawl non-bottom contact stationary vertical jig

gear (allowed inside or outside the Non-Trawl RCA) (declaration code 12);

(31) Limited entry non-trawl non-bottom contact groundfish troll gear (allowed inside or outside the Non-Trawl RCA) (declaration code 13);

* * * * *

■ 5. Amend § 660.14 by revising paragraph (b)(1) to read as follows:

§ 660.14 Vessel Monitoring System (VMS) requirements.

* * * * *

(b) * * *

(1) Any vessel registered for use with a limited entry permit (*i.e.*, not an MS permit) that fishes in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0–200 nm offshore).

* * * * *

■ 6. Amend § 660.16 by removing the words “Fixed Gear” from the table in paragraph (c) and adding, in their place, the word “Non-trawl”.

§§ 660.18 and 660.21 [Amended]

■ 7. Amend §§ 660.18 and 660.21 by removing the words “fixed gear” wherever they appear and adding, in their place, the word “non-trawl”.

■ 8. Amend § 660.20 by revising paragraph (b) to read as follows:

§ 660.20 Vessel and gear identification.

* * * * *

(b) *Gear identification.* Gear identification requirements specific to fisheries using non-trawl gear (limited entry and open access) are described at § 660.219, subpart E and § 660.319, subpart F.

■ 9. Amend § 660.25 by:

■ a. Revising paragraph (b)(1)(i);

■ b. Removing and reserving paragraph (b)(3)(i);

■ c. Revising paragraphs (b)(3)(ii), (b)(3)(iii)(C), (b)(3)(iv)(A) introductory text, (b)(3)(iv)(C)(1), and (b)(3)(vii);

■ d. Adding paragraph (b)(4)(i)(H);

■ e. Revising introductory paragraph (b)(4)(ii), and paragraphs (b)(4)(ii)(A), (b)(4)(iv)(A) and (B), and (b)(4)(vii)(B).

The revisions and additions read as follows:

§ 660.25 Permits.

* * * * *

(b) * * *

(1) * * *

(i) *General.* In order for a vessel to fish in the limited entry fishery, the vessel owner must hold a limited entry permit and, through SFD, must register that vessel for use with a limited entry permit. When participating in the limited entry fishery, a vessel is authorized to fish with the gear type

endorsed on the limited entry permit registered for use with that vessel, except that the MS permit does not have a gear endorsement. There are two types of gear endorsements: trawl and non-trawl. All limited entry permits, except the MS permit, have size endorsements; a vessel registered for use with a limited entry permit must comply with the vessel size requirements of this subpart. A sablefish endorsement is also required for a vessel to be used to fish in the primary season for the limited entry non-trawl sablefish fishery, north of 36° N lat. Certain limited entry permits will also have endorsements required for participation in a specific fishery, such as the MS/CV endorsement and the C/P endorsement.

* * * * *

(3) * * *

(ii) *Gear endorsement.* There are two types of gear endorsements: trawl and non-trawl. Gear endorsement(s) assigned to the permit at the time of issuance will be permanent and shall not be modified. Vessels registered to a permit with a single limited entry non-trawl endorsement may use any legal non-trawl groundfish gear to harvest their quota, except entangling nets (defined at § 660.11 “Fishing gear” (4)). An MS permit does not have a gear endorsement.

(iii) * * *

(C) *Size endorsement requirements for sablefish-endorsed permits.*

Notwithstanding paragraphs (b)(3)(iii)(A) and (B) of this section, when multiple permits are “stacked” on a vessel, as described in paragraph (b)(4)(iii) of this section, at least one of the permits must meet the size requirements of those sections. Any additional permits that are stacked for use with a vessel participating in the limited entry non-trawl primary sablefish fishery may be registered for use with a vessel even if the vessel even if the vessel does not meet the size endorsed on the “stacked” permit.

(iv) * * *

(A) *General.* Participation in the limited entry non-trawl sablefish fishery during the primary season north of 36° N lat., described in § 660.231, Subpart E, requires that an owner of a vessel hold (by ownership or lease) a limited entry permit, registered for use with that vessel, with a non-trawl endorsement and a sablefish endorsement. Up to three permits with sablefish endorsements may be registered for use with a single vessel. Limited entry permits with sablefish endorsements are assigned to one of three different

cumulative trip limit tiers, based on the qualifying catch history of the permit.

* * * * *

(C) * * *

(1) *Qualifying criteria.* The three qualifying criteria for an ownership limitation exemption are: The vessel owner currently has no more than 20 percent ownership interest in a vessel registered to the sablefish endorsed permit, the vessel owner currently has ownership interest in Alaska sablefish individual fishing quota, and the vessel has fished in the past 12-month period in both the West Coast groundfish limited entry non-trawl fishery and the Sablefish IFQ Program in Alaska. The best evidence of a vessel owner having met these qualifying criteria will be state fish tickets or landing receipts from the West Coast states and Alaska. The qualifying vessel owner may seek an ownership limitation exemption for sablefish endorsed permits registered to no more than two vessels.

* * * * *

(vii) *Endorsement and exemption restrictions.* Gear endorsements, sablefish endorsements and sablefish tier assignments, and C/P endorsements may not be registered to another permit owner (*i.e.*, change in permit ownership or ownership interest) or to another vessel (*i.e.*, change in vessel registration) separately from the limited entry permit. At-sea processing exemptions, specified at paragraph (b)(6) of this section, are associated with the vessel and not with the limited entry permit and may not be registered to another permit owner or to another vessel without losing the exemption.

(4) * * *

(i) * * *

(H) A vessel may not be registered to any limited entry non-trawl permits with a sablefish endorsement until payment of all cost recovery program fees required pursuant to § 660.231(c) has been made. The IAD, appeals, and final decision process for the cost recovery program is specified in § 660.231(c)(5)(i).

(ii) *Combining limited entry permits.* Two or more limited entry permits with gear endorsements for the same type of limited entry gear may be combined and reissued as a single permit with a larger size endorsement as described in paragraph (b)(3)(iii) of this section.

(A) *Sablefish-endorsed permit.* With respect to limited entry permits endorsed for non-trawl gear, a sablefish endorsement will be issued for the new permit only if all of the permits being combined have sablefish endorsements. If two or more permits with sablefish endorsements are combined, the new

permit will receive the same tier assignment as the tier with the largest cumulative landings limit of the permits being combined.

* * * * *

(iv) * * *

(A) *General*. “Joint registration” of limited entry permits, as defined at § 660.11, is the practice of simultaneously registering both trawl-endered and non-trawl-endered limited entry permits for use with a single vessel.

(B) *Restrictions*. Subject to vessel size endorsements in paragraph (b)(3)(iii) of this section, any limited entry permit with a trawl endorsement and any limited entry permit with a non-trawl endorsement may be jointly registered for use with a single vessel but only in one of the following configurations:

(1) A single trawl-endered limited entry permit and one, two or three sablefish endorsed non-trawl-endered limited entry permits; or

(2) A single trawl-endered limited entry permit and one non-trawl-endered limited entry permit for use with a single vessel.

* * * * *

(vii) * * *

(B) *Limited entry non-trawl and trawl-endered permits (without MS/CV or C/P endorsements)*. Limited entry non-trawl and trawl-endered permits (without MS/CV or C/P endorsements) may not be registered for use with a different vessel more than once per calendar year, except in cases of death of a vessel owner or if the vessel registered to the permit is totally lost as defined in § 660.11. The exception for death of a vessel owner applies for a vessel owned by a partnership or a corporation if the person or persons with at least 50 percent of the ownership interest in the entity dies.

* * * * *

■ 10. Amend § 660.55 by removing the words “fixed gear” in each instance where they occur and adding, in their place, the word “non-trawl.”

■ 11. Amend § 660.60 by revising paragraphs (h)(7)(ii)(A)(2), (h)(7)(ii)(B)(2) and (3) to read as follows:

§ 660.60 Specifications and management measures.

* * * * *

(h) * * *

(7) * * *

(ii) * * *

(A) * * *

(2) Vessels with a valid limited entry non-trawl permit fishing inside the Non-Trawl RCA with stationary vertical jig gear or groundfish troll gear as defined at § 660.320(b)(6). Vessels fishing with

one of these two approved hook-and-line gear configurations may fish up to the limited entry non-trawl gear trip limits in table 2b (North) and table 2b (South) of subpart E, either inside or outside the Non-Trawl RCA. This provision only applies on fishing trips where the vessel made the appropriate declaration (specified at § 660.13(d)(4)(iv)(A)).

(B) * * *

(2) *Vessel registered to a limited entry non-trawl permit*. Vessels registered to a limited entry non-trawl permit cannot cross over in the open access fishery.

(3) *Vessel jointly registered to more than one limited entry permit*. Vessels jointly registered (under the provisions at § 660.25(b)(4)(iv)(B)) may fish with open access gear (defined at § 660.11), excluding entangling nets (defined at § 600.11 “Fishing gear” (4)), if they meet the requirements of paragraph (h)(7)(ii)(B)(1) of this section.

* * * * *

■ 12. Amend Note 1 to table 1a (North) and table 1a (South), Subpart D, by removing the words “limited entry fixed gear” where they appear.

■ 13. Amend § 660.112 by revising paragraph (b)(1)(xvii) to read as follows:

§ 660.112 Trawl fishery—prohibitions.

* * * * *

(b) * * *

(1) * * *

(xvii) When declared into the limited entry groundfish non-trawl Shorebased IFQ fishery, retain fish caught with non-trawl gear in more than one IFQ management area, specified at § 660.140(c)(1), on the same trip.

* * * * *

■ 14. Amend § 660.140 by revising paragraphs (c)(2), (e)(1)(i), (k)(1) introductory text, and (k)(1)(iv) to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(c) * * *

(2) *Moving pot or trap gear between multiple IFQ management areas*. A vessel using non-trawl gear declared into the limited entry groundfish non-trawl Shorebased IFQ fishery may deploy pot or trap gear in multiple IFQ management areas on a trip provided the vessel does not retrieve gear from more than one IFQ management area during a trip.

* * * * *

(e) * * *

(1) * * *

(i) *Gear exception*. Vessels registered to a limited entry trawl permit using the following gears would not be required to cover groundfish catch with QP or

Pacific halibut catch with IBQ pounds: Non-groundfish trawl, gear types defined in the coastal pelagic species FMP, gear types defined in the highly migratory species FMP, salmon troll, crab pot, and limited entry non-trawl gear when the vessel also has a limited entry permit endorsed for non-trawl gear and has declared that it is fishing in the limited entry non-trawl fishery. Vessels using gears falling under this exception are subject to the open access fishery restrictions and limits when declared in to an open access fishery.

* * * * *

(k) * * *

(1) Participants in the Shorebased IFQ Program may take IFQ species using any legal groundfish non-trawl gear (*i.e.*, gear switching) and are exempt from the gear endorsements at § 660.25(b)(3) for limited entry non-trawl permits, provided the following requirements are met:

* * * * *

(iv) The vessel must comply with prohibitions applicable to the limited entry non-trawl fishery as specified at § 660.212, gear restrictions applicable to limited entry non-trawl gear as specified in §§ 660.219 and 660.230(b), and management measures specified in § 660.230(d), including restrictions on the non-trawl gear allowed onboard, its usage, and applicable non-trawl groundfish conservation area restrictions, except that the vessel will not be subject to limited entry non-trawl trip limits when fishing in the Shorebased IFQ Program. Vessels using bottom longline and snap gears as defined at § 660.11 are subject to the requirements of the Seabird Avoidance Program described in § 660.21.

* * * * *

■ 15. Amend the title of Part 660, Subpart E by removing the words “Fixed Gear” and adding, in their place, the word “Non-Trawl” so that the title reads as follows:

Subpart E West Coast Groundfish—Limited Entry Non-Trawl Fisheries

* * * * *

§§ 660.210, 660.211, 660.212, 660.213, 660.220, 660.231, and 660.232 [Amended]

■ 16. Amend §§ 660.210, 660.211, 660.212, 660.213, 660.220, 660.231, and 660.232 by removing the words “fixed gear” wherever they appear and adding, in their place, the word “non-trawl”.

■ 17. Amend § 660.211 by:

■ a. Revising the section heading;

■ b. Adding a new definition for “Ex-vessel value”;

■ c. Revising “Limited entry fixed gear fishery” to read “Limited entry non-

trawl fishery” and revising its definition;

■ d. Revising the definitions of “Sablefish primary fishery”, “Sablefish primary season” and “Tier limit”.

The revisions and addition read as follows:

§ 660.211 Non-trawl fishery—definitions.

* * * * *

Ex-vessel value means, for the purposes of the limited entry non-trawl sablefish primary fishery cost recovery program specified at § 660.231(c), all compensation received for sablefish landed to a sablefish endorsed permit and includes the value of all in-kind compensation and all other goods or services exchanged in lieu of cash.

Limited entry non-trawl fishery means the fishery composed of vessels registered to limited entry permits with a non-trawl endorsement.

Sablefish primary fishery means, for the limited entry non-trawl sablefish fishery north of 36° N lat., the fishery where vessels registered to at least one limited entry permit with both an endorsement for non-trawl gear and a sablefish endorsement fish up to a specified tier limit and when they are not eligible to fish in the DTL fishery.

Sablefish primary season means, for the limited entry non-trawl sablefish fishery north of 36° N lat., the period when vessels registered to at least one limited entry permit with both an endorsement for non-trawl gear and a sablefish endorsement are allowed to fish in the sablefish primary fishery described at § 660.231 of this subpart.

Tier limit means a specified amount of sablefish that may be harvested by a vessel registered to a limited entry non-trawl permit(s) with a Tier 1, Tier 2, and/or Tier 3 designation; a gear endorsement for non-trawl gear; and a sablefish endorsement.

■ 18. Amend § 660.212 by revising the section heading and paragraph (c)(1) and adding paragraph (e) to read as follows:

§ 660.212 Non-trawl fishery—prohibitions.

* * * * *

(c) * * *

(1) Operate a vessel registered to a limited entry permit with a non-trawl or trawl endorsement and non-trawl gear onboard in an applicable GCA (as defined at § 660.230(d)), except for purposes of continuous transiting, with all groundfish non-trawl gear stowed in accordance with § 660.212(a) or except as authorized in the groundfish management measures at § 660.230.

* * * * *

(e) *Cost Recovery*.

(1) Fail to fully pay or collect any fee due under the cost recovery program specified at § 660.231 and/or otherwise avoid, decrease, interfere with, hinder, or delay any such payment or collection.

(2) Fail to maintain records as required by § 660.213 and/or fail to make reports to NMFS as required under § 660.213.

(3) Refuse to allow NMFS employees, agents, or contractors to review and audit all records and other information required to be maintained as set forth in § 660.213.

(4) Make any false statement to NMFS, including any NMFS employee, agent or contractor, concerning a matter related to the cost recovery program described in this subpart.

(5) Obstruct, prevent, or delay, or attempt to obstruct, prevent, or delay, any audit or investigation NMFS employees, agents, or contractors conduct, or attempt to conduct, in connection with any of the matters in the cost recovery program described in this subpart.

■ 19. Amend § 660.213 by revising the section heading and adding paragraph (f) to read as follows:

§ 660.213 Non-trawl fishery—recordkeeping and reporting.

* * * * *

(f) *Cost recovery program*. The vessel owner, as defined at § 660.11, is required to comply with the following recordkeeping and reporting requirements:

(1) *Reporting*. The vessel owner, or authorized representative, must submit a cost recovery form at the time cost recovery fees are paid to NMFS as specified at § 660.231(c). The cost recovery form requires providing information that may include, but is not limited to, vessel owner's name, address, phone number, permit number, month and year of landings, weight of landings, ex-vessel value, fish ticket numbers for landings, and fee due.

(2) *Recordkeeping*. The vessel owner or authorized representative must maintain the following records for all landings of sablefish in the primary fishery for at least three years:

- (i) The date of landing,
- (ii) The weight of sablefish landed,
- (iii) Information sufficient to specifically identify the fishing vessel which landed the sablefish,
- (iv) The ex-vessel value of sablefish,
- (v) The identity of the payee to whom the ex-vessel value is paid, if different than the vessel owner,
- (vi) The date the ex-vessel value was paid,
- (vii) The total fee amount collected as a result of all sablefish.

■ 20. Amend the section headings of §§ 660.216, 220, and 230 by removing the words “Fixed gear” and adding, in their place, the word “Non-trawl.”

■ 21. Amend § 660.216 by revising introductory paragraph (b) to read as follows:

§ 660.216 Non-trawl fishery—observer requirements.

* * * * *

(b) *Notice of departure basic rule*. At least 48 hours before departing on a fishing trip, a harvesting vessel that has been notified by NMFS that it is required to carry an observer must notify NMFS (or its designated agent) of the vessel's intended time of departure, place or port of departure, and the gear type to be used.

* * * * *

■ 22. Amend § 660.219 by revising the section heading to read as follows:

§ 660.219 Non-trawl fishery—gear identification and marking.

* * * * *

■ 23. Amend § 660.230 by:

- a. Revising paragraphs (a) and (b)(1);
- b. Removing paragraph (b)(2);
- c. Redesignating paragraphs (b)(3) through (b)(6) as (b)(2) through (b)(5);
- d. Revising newly redesignated paragraphs (b)(2) and introductory paragraph (b)(5), introductory paragraph (c)(2), introductory paragraph (d), (d)(2), (d)(5) through (14), and paragraph (g).

The revisions read as follows:

§ 660.230 Non-trawl fishery—management measures.

(a) *General*. Most species taken in limited entry non-trawl fisheries will be managed with cumulative trip limits (see trip limits in tables 2b (North) and 2b (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see trip limits in tables 2b (North) and 2b (South) of this subpart and sablefish primary season details in § 660.231), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§ 660.70 through 660.79). Cowcod, yelloweye, and California quillback rockfish retention is prohibited in all fisheries, and groundfish vessels operating south of Point Conception must adhere to GEA restrictions (see paragraph (d)(16) of this section and § 660.70). Regulations governing tier limits for the limited entry non-trawl sablefish primary season north of 36° N lat. are found in § 660.231. Vessels not participating in the sablefish primary season are subject to weekly sablefish limits in addition to cumulative limits for each cumulative limit period. The trip limit for black rockfish caught with

hook-and-line gear also applies, see paragraph (e) of this section. The trip limits in tables 2b (North) and 2b (South) of this subpart apply to vessels participating in the limited entry groundfish non-trawl fishery and may not be exceeded.

(b) * * *

(1) Non-trawl gear (defined at § 660.11 “Fishing gear” (8)) except entangling nets (defined at § 660.11 “Fishing gear” (4)) is authorized in the limited entry non-trawl fishery, providing the gear is in compliance with the restrictions set forth in this section, and gear marking requirements described in § 660.219 of this subpart.

(2) All fixed gear (longline, trap or pot, and stationary hook-and-line gear, including commercial vertical hook-and-line gear) gear used in the limited entry non-trawl fishery must be attended at least once every 7 days.

* * * * *

(5) Inside the Non-Trawl RCA, only legal non-bottom contact hook-and-line gear configurations may be used for target fishing for groundfish by vessels that participate in the limited entry non-trawl sector as defined at § 660.11. On a fishing trip where any fishing will occur inside the Non-Trawl RCA, only one type of legal non-bottom contact gear may be carried on board, and no other fishing gear of any type may be carried on board or stowed during that trip. The vessel may fish inside and outside the Non-Trawl RCA on the same fishing trip, provided a valid declaration report as required at § 660.13(d) has been filed with NMFS OLE. Legal non-bottom contact hook-and-line gear means stationary vertical jig gear not anchored to the bottom and groundfish troll gear, subject to the specifications in paragraphs (b)(5)(i) and (ii) of this section.

* * * * *

(c) * * *

(2) For limited entry non-trawl vessels, the following species must be sorted:

* * * * *

(d) *Groundfish conservation areas.* GCAs are defined by coordinates expressed in degrees of latitude and longitude. The latitude and longitude coordinates of the GCA boundaries are specified at §§ 660.70 through 660.74. A vessel that is authorized by this paragraph to fish within a GCA (e.g., fishing for “other flatfish” with hook and line gear only), may not simultaneously have other gear on board the vessel that is unlawful to use for fishing within the GCA. The following GCAs apply to vessels using bottom contact gear, defined at § 660.11, and

include limited entry non-trawl (e.g., longline and pot/trap,) among other gear types.

* * * * *

(2) *North coast commercial yelloweye rockfish conservation area.* The latitude and longitude coordinates of the North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the North Coast Commercial YRCA. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the North Coast Commercial YRCA. Limited entry non-trawl vessels may transit through the North Coast Commercial YRCA with or without groundfish on board.

* * * * *

(5) *Tillamook YRCA.* The latitude and longitude coordinates that define the Tillamook YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Tillamook YRCA on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Tillamook YRCA on dates when the closure is in effect. The closure is not in effect at this time. This closure may be implemented through inseason adjustment. Limited entry non-trawl vessels may transit through the Tillamook YRCA at any time, with or without groundfish on board.

(6) *Newport YRCA.* The latitude and longitude coordinates that define the Newport YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Newport YRCA on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Newport YRCA on dates when the closure is in effect. The closure is not in effect at this time. This closure may be implemented through inseason adjustment. Limited entry non-trawl vessels may transit through the Newport YRCA at any time, with or without groundfish on board.

(7) *Florence YRCA.* The latitude and longitude coordinates that define the Florence YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Florence YRCA on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Florence YRCA on dates when the

closure is in effect. The closure is not in effect at this time. This closure may be implemented through inseason adjustment. Limited entry non-trawl vessels may transit through the Florence YRCA at any time, with or without groundfish on board.

(8) *Heceta Bank YRCA.* The latitude and longitude coordinates that define the Heceta Bank YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Heceta Bank YRCA on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Heceta Bank YRCA on dates when the closure is in effect. The closure is currently in effect. This closure may be modified through inseason adjustment. Limited entry non-trawl vessels may transit through the Heceta Bank YRCA at any time, with or without groundfish on board.

(9) *Point St. George YRCA.* The latitude and longitude coordinates of the Point St. George YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Point St. George YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Point St. George YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry non-trawl vessels may transit through the Point St. George YRCA, at any time, with or without groundfish on board.

(10) *South Reef YRCA.* The latitude and longitude coordinates of the South Reef YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the South Reef YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the South Reef YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry non-trawl vessels may transit through the South Reef YRCA, at any time, with or without groundfish on board.

(11) *Reading Rock YRCA.* The latitude and longitude coordinates of the Reading Rock YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Reading Rock YRCA, on dates when the closure is in effect. It is unlawful to take and retain,

possess, or land groundfish taken with limited entry non-trawl gear within the Reading Rock YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry non-trawl vessels may transit through the Reading Rock YRCA, at any time, with or without groundfish on board.

(12) *Point Delgada (North) YRCA*. The latitude and longitude coordinates of the Point Delgada (North) YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Point Delgada (North) YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Point Delgada (North) YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry non-trawl vessels may transit through the Point Delgada (North) YRCA, at any time, with or without groundfish on board.

(13) *Point Delgada (South) YRCA*. The latitude and longitude coordinates of the Point Delgada (South) YRCA boundaries are specified at § 660.70, subpart C. Fishing with limited entry non-trawl gear is prohibited within the Point Delgada (South) YRCA, on dates when the closure is in effect. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Point Delgada (South) YRCA, on dates when the closure is in effect. The closure is not in effect at this time. This closure may be imposed through inseason adjustment. Limited entry non-trawl vessels may transit through the Point Delgada (South) YRCA, at any time, with or without groundfish on board.

(14) *Non-trawl Rockfish Conservation Area (RCA)*. The Non-Trawl RCA is defined at § 660.11 and with latitude and longitude coordinates, at §§ 660.71 through 660.74 or the EEZ, where fishing for groundfish with non-trawl gear is prohibited. Boundaries for the Non-Trawl RCA throughout the year are provided in the header to Table 2 (North) and Table 2 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.60(c).

(i) It is unlawful to operate a vessel with limited entry non-trawl gear in the Non-Trawl RCA, except for the purpose of continuous transit, or when the use of limited entry non-trawl gear is authorized in this section. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the Non-Trawl

RCA, unless otherwise authorized in this section.

(ii) Limited entry non-trawl vessels may transit through the Non-Trawl RCA, with or without groundfish on board, provided all groundfish non-trawl gear is stowed either: Below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all lines, so that it is rendered unusable for fishing.

(iii) The Non-Trawl RCA restrictions in this section apply to vessels registered to limited entry non-trawl permits fishing for species other than groundfish with non-trawl gear on trips where groundfish species are retained. Unless otherwise authorized in this section, a vessel may not retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the Non-Trawl RCA. If a vessel fishes in a non-groundfish fishery in the Non-Trawl RCA, it may not participate in any fishing for groundfish on that trip that is prohibited within the Non-Trawl RCA. [For example, if a vessel fishes in the salmon troll fishery within the RCA, the vessel cannot on the same trip fish in the sablefish fishery outside of the RCA.]

(iv) It is lawful to fish within the Non-Trawl RCA with limited entry non-trawl gear using hook and line gear only when trip limits authorize such fishing, and provided a valid declaration report as required at § 660.13(d), subpart C, has been filed with NMFS OLE.

(v) It is lawful to fish within the Non-Trawl RCA under the limited entry non-trawl trip limits specified in Table 2 (North) and Table 2 (South) of this subpart only when using the non-bottom contact hook-and-line gear types described in paragraph (b)(5) of this section, and provided a valid declaration report as required at § 660.13(d), subpart C, has been filed with NMFS OLE.

* * * * *

(g) *Essential Fish Habitat Conservation Areas (EFHCA)*. EFHCAs, defined at § 660.11 and with latitude and longitude coordinates at §§ 660.75 through 660.79, apply to vessels using bottom contact gear, defined at § 660.11, and includes limited entry non-trawl (e.g., longline and pot/trap,) among other gear types. EFHCAs closed to bottom contact gear are listed at § 660.12(a).

■ 24. Amend § 660.231 by:

- a. Revising the section heading, paragraph (a), introductory text to paragraph (b), paragraph (b)(1);
- b. Removing and reserving paragraph (b)(2); and
- c. Adding paragraph (c).

The revisions and addition read as follows:

§ 660.231 Limited entry non-trawl sablefish primary fishery.

* * * * *

(a) *Sablefish endorsement*. In addition to requirements pertaining to fishing in the limited entry non-trawl fishery (described in subparts C and E), a vessel may not fish in the sablefish primary season for the limited entry non-trawl fishery, unless at least one limited entry permit with both a gear endorsement for non-trawl gear and a sablefish endorsement is registered for use with that vessel. Permits with sablefish endorsements are assigned to one of three tiers, as described at § 660.25(b)(3)(iv), subpart C.

(b) *Sablefish primary season for the limited entry non-trawl fishery*—

(1) *Season dates*. North of 36° N lat., the sablefish primary season for the limited entry non-trawl, sablefish-endorsement vessels begins on April 1 and closes on December 31, or closes for an individual vessel owner when the tier limit for the sablefish endorsement permit(s) registered to the vessel has been reached, whichever is earlier, unless otherwise announced by the Regional Administrator through the routine management measures process described at § 660.60(c).

* * * * *

(c) *Sablefish primary fishery—cost recovery program*.

(1) *General*. The cost recovery program collects mandatory fees of up to three percent of the ex-vessel value of sablefish landed in the sablefish primary fishery in accordance with the Magnuson-Stevens Act. NMFS collects the fees to recover the actual costs directly related to the management, data collection, analysis, and enforcement of the sablefish primary fishery.

(2) *Fee percentage*. The annual fee percentage is calculated as described in paragraph (c)(2)(i) of this section. NMFS will establish the fee percentage each year and will announce the fee percentage in accordance with paragraph (c)(2)(ii) of this section. The fee percentage must not exceed three percent of the ex-vessel value of fish harvested, by sector, under the sablefish primary fishery, pursuant to the Magnuson-Stevens Act at 16 U.S.C. 1854(d)(2)(B).

(i) In the first quarter of each calendar year, NMFS will calculate the fee percentage based on information from the previous fiscal and calendar years. The fee percentage will be rounded to the nearest 0.1 percent and must not exceed three percent. NMFS will use the following equation to annually

determine the fee percentage: Fee percentage = the lower of 3% or (DPC/V) × 100, where:

(A) “DPC,” or direct program costs, are the actual incremental costs for the previous fiscal year directly related to the management, data collection, and enforcement of the sablefish primary fishery. Actual incremental costs mean those costs that would not have been incurred but for the implementation and administration of the sablefish primary fishery. If the amount of fees collected by NMFS is greater or less than the actual incremental costs incurred, the DPC will be adjusted accordingly for calculation of the fee percentage in the following year.

(B) “V” is, for the sablefish primary fishery, the total ex-vessel value, as defined at § 660.211, from the previous calendar year attributable to the sablefish primary fishery.

(ii) During the first quarter of each calendar year, NMFS will announce:

(A) The fee percentage to be applied to sablefish primary fishery landings, that will be in effect for the calendar year, and

(B) Information on how to pay into the Fund subaccount as specified at paragraph (c)(4) of this section.

(3) *Fee amount.* The fee amount is the ex-vessel value of the sablefish primary fishery landing, as defined at § 660.211, multiplied by the fee percentage as announced in accordance with paragraph (c)(2)(ii) of this section.

(4) *Fee applicability, collection, and payment—*

(i) Fee applicability, payment, and collection in the sablefish primary fishery: Fees at the fee percentage rate announced in paragraph (2)(ii) of this section begin applying on April 1 and continue without interruption through December 31 each year. The vessel owner or authorized representative must collect the fee upon each sablefish primary fishery landing made by their vessel. The payment of the collected fees is described below.

(A) The vessel owner or authorized representative may make payments for the fees throughout the primary season.

(B) NMFS will issue an annual bill in the first quarter of the year following the fishing year ending on December 31. The annual bill will deduct any earlier payments of fees from vessel owner or authorized representative.

(C) Each vessel owner or authorized representative must pay the fee identified in the annual bill upon issuance of the annual bill for the ex-vessel value, as defined at § 660.211. Payment of the fee must be received no

later than 30 days of the issuance of the annual bill.

(ii) Upon issuance of the annual bill, which will deduct any fee payments made by the vessel owner throughout the primary season, the vessel owner or authorized representative shall disburse the fee amount identified in the annual bill by electronic payment to the *Pay.gov* Fund subaccount. NMFS will announce information about how to make an electronic payment to the Fund subaccount in the notification on fee percentage specified in paragraph (c)(2)(ii) of this section as well as on the bill. Each disbursement must be accompanied by a cost recovery form provided by NMFS. Recordkeeping and reporting requirements are specified in § 660.213(f). The cost recovery form will be available on the *pay.gov* website.

(5) *Failure to pay or collect—*

(i) If NMFS determines the vessel owner or other responsible party has not submitted a complete cost recovery form and corresponding payment by the due date specified in paragraph (c)(4)(i)(A) of this section, NMFS will notify the vessel owner or other responsible party in writing via an initial administrative determination (IAD) letter.

(A) In the IAD, NMFS will state the discrepancy in payment and provide the person 30 calendar days to either pay the specified amount due or appeal the IAD in writing.

(B) If the vessel owner or authorized representative appeals an IAD, the appeal must be emailed to NMFS at *cost.recovery.wcr@noaa.gov* no later than 30 calendar days after the date on the IAD. If the last day of the time period is a Saturday, Sunday, or Federal holiday, the time period will extend to the close of business on the next business day. The appeal must be in writing, must allege credible facts or circumstances, and must include any relevant information or documentation to support the appeal.

(C) NMFS will make a final decision according to the steps below.

(1) For the appeal of an IAD, the Regional Administrator shall appoint an appeals officer. After determining there is sufficient information and that all procedural requirements have been met, the appeals officer will review the record and issue a recommendation on the appeal to the Regional Administrator, which shall be advisory only. The recommendation must be based solely on the record. Upon receiving the findings and recommendation, the Regional Administrator, acting on behalf of the Secretary of Commerce, will issue a written decision on the appeal which is

the final decision of the Secretary of Commerce.

(2) If the vessel owner or authorized representative does not appeal the IAD within 30 calendar days, NMFS will notify the vessel owner or other responsible party in writing via a final decision letter. The final decision will be from the Regional Administrator acting on behalf of the Secretary of Commerce.

(3) If the final decision determines that the vessel owner is out of compliance, the final decision will require payment within 30 calendar days. If such payment is not received within 30 calendar days of issuance of the final decision, NMFS will refer the matter to the appropriate authorities for purposes of collection. NMFS will not register the vessel to any limited entry non-trawl permit with a sablefish primary fishery permit until the fees are paid.

(6) *Recordkeeping, reporting, and audits—*

(i) Each vessel owner or authorized representative shall retain records in accordance with § 660.213(f).

(ii) Each vessel owner or authorized representative shall submit reports in accordance with § 660.213(f).

(iii) NMFS or its agents may audit, in whatever manner NMFS determines reasonably necessary for the duly diligent administration of the cost recovery program, the financial records of vessel owners, in order to ensure proper fee payment, collection, deposit, disbursement, accounting, recordkeeping, and reporting. Vessel owners or authorized representatives must respond to any inquiry by NMFS or a NMFS agent within 20 calendar days of the date of issuance of the inquiry, unless an extension is granted by NMFS. Vessel owners or authorized representatives shall make all relevant records available to NMFS or NMFS's agents at reasonable times and places and promptly provide all requested information reasonably related to these records. NMFS may employ a third-party agent to conduct the audits. The NMFS auditor may review and request copies of additional data provided by the submitter, including, but not limited to, previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data submitted.

■ 25. Amend table 2b (North) to part 660, subpart E by revising the table headings to read as follows:

Table 2b (North) to Part 660, Subpart E—Trip Limits for Limited Entry Non-Trawl North of 40°10' N Lat.

TABLE 2b (NORTH) TO PART 660, SUBPART E—TRIP LIMITS FOR LIMITED ENTRY NON-TRAWL NORTH OF 40°10' N LAT.

* * * * *

■ 26. Amend table 2b (South) to part 660, subpart E by revising the table headings to read as follows:

Table 2b (South) to Part 660, Subpart E—Trip Limits for Limited Entry Non-Trawl South of 40°10' N Lat.

TABLE 2b (SOUTH) TO PART 660, SUBPART E—TRIP LIMITS FOR LIMITED ENTRY NON-TRAWL SOUTH OF 40°10' N LAT.

* * * * *

■ 27. Amend § 660.330 by revising paragraph (g) to read as follows:

§ 660.330 Open access fishery—management measures.

* * * * *

(g) *Essential fish habitat conservation areas (EFHCA)*. EFHCAs, defined at § 660.11 and with latitude and longitude coordinates at §§ 660.75 through 660.79, apply to vessels using bottom trawl gear or bottom contact gear, defined at § 660.11, and includes non-groundfish trawl gear and limited entry non-trawl gear (*e.g.*, longline and pot/trap,) among other gear types. EFHCAs closed to bottom contact gear are listed at § 660.12(a). EFHCAs closed to bottom trawl gear are listed at § 660.312(d).

[FR Doc. 2026-07537 Filed 4-16-26; 8:45 am]

BILLING CODE 3510-22-P

Notices

Federal Register

Vol. 91, No. 74

Friday, April 17, 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

Forest Service

Flathead National Forest; Montana; Mid-Swan Landscape Restoration & Wildland Urban Interface Fuels Project; Withdrawal

AGENCY: Forest Service, Agriculture.

ACTION: Notice; withdrawal.

SUMMARY: The Flathead National Forest is withdrawing its notice of intent to prepare an Environmental Impact Statement (EIS), along with the resulting draft EIS, final EIS and draft Record of Decision (ROD) for the Mid-Swan Landscape Restoration and Wildland Urban Interface Fuels Project.

DATES: As of April 17, 2026, the notice of intent to prepare an EIS that was published in the Federal Register on October 23, 2018 (83 FR 53443), is withdrawn.

FOR FURTHER INFORMATION CONTACT: Questions concerning this notice should be directed to District Ranger, Sarah Canepa via mail at 200 Ranger Station Road, Bigfork, MT 59911; or by

telephone at (406) 837-7500; or via email at sarah.canepa@usda.gov.

Individuals who use telecommunication devices for the hearing-impaired may call 711 to reach the Telecommunications Relay Service, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: A notice of intent was published in the Federal Register on October 23, 2018, 83 FR 53443-53444; a notice of availability (NOA) for the draft EIS on August 28, 2020, 85 FR 53366. The final EIS was published in the Federal Register on September 10, 2021, 86 FR 50713-50714. The Flathead National Forest's decision to withdraw the EIS and draft ROD in its entirety is based on the results of recent field work concerning resource conditions.

John W. Crockett,
Deputy Chief State, Private, and Tribal
Forestry, National Forest System.

[FR Doc. 2026-07546 Filed 4-16-26; 8:45 am]

BILLING CODE 3411-15-P

CIVIL RIGHTS COLD CASE RECORDS REVIEW BOARD

[Agency Docket Number: CRCCRRB-2026-0010-N]

Notice of Formal Determination on Records Release

AGENCY: Civil Rights Cold Case Records Review Board.

ACTION: Notice.

SUMMARY: The Civil Rights Cold Case Records Review Board received 4,808 pages of records from the National Archives and Records Administration (NARA) related to three civil rights cold case incidents to which the Review Board assigned the unique identifiers 2024-003-019, 2024-003-057, and 2024-004-018. NARA proposed 44 postponements including postponements of sealed federal grand jury information in the records. On April 3 and 10, 2026, the Review Board approved 10 postponements and a portion of 1 additional postponement, and determined that 4,802 pages in full and 6 pages in part should be publicly disclosed in the Civil Rights Cold Case Records Collection. The Review Board will not request that the Attorney General petition the relevant court to unseal the federal grand jury information in these records at this time though it may choose to do so in the future. By issuing this notice, the Review Board complies with the Civil Rights Cold Case Records Collection Act of 2018 that requires the Review Board to publish in the Federal Register its determinations on the disclosure or postponement of records in the Collection no more than 14 days after the date of its decision.

FOR FURTHER INFORMATION CONTACT: Stephannie Oriabure, Chief of Staff, Civil Rights Cold Case Records Review Board, 1800 F Street NW, Washington, DC 20405, (771) 221-0014, info@coldcaserecords.gov.

SUPPLEMENTARY INFORMATION:

Incident identifier	Postponement identifier	Review board decision
2024-003-019	2024-NARA-03-1206 and 2024-NARA-03-1207	Approve.
2024-003-019	2024-NARA-03-1208 through 2024-NARA-03-1210	Reject.
2024-003-019	2024-NARA-03-1211 and 2024-NARA-03-1212	Approve.
2024-003-019	2024-NARA-03-1213 through 2024-NARA-03-1215	Reject.
2024-003-019	2024-NARA-03-1216	Approve.
2024-003-057	2025-NARA-03-0349 through 2025-NARA-03-0351	Reject.
2024-004-018	2025-NARA-04-0031 through 2025-NARA-04-0047	Reject.
2024-004-018	2025-NARA-04-0048	Approve with changes.
2024-004-018	2025-NARA-04-0049 through 2025-NARA-04-0051	Reject.
2024-004-018	2025-NARA-04-0052 through 2025-NARA-04-0056	Approve.
2024-004-018	2025-NARA-04-0057 through 2025-NARA-04-0060	Reject.

Authority: Pub. L. 115–426, 132 Stat. 5489 (44 U.S.C. 2107).

Dated: April 15, 2026.

Stephannie Oriabure,

Chief of Staff.

[FR Doc. 2026–07541 Filed 4–16–26; 8:45 am]

BILLING CODE 6820–SY–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–40–2026]

Foreign-Trade Zone (FTZ) 80, Notification of Proposed Production Activity; StandardAero, San Antonio; (Refurbished Engines); San Antonio, Texas

StandardAero, San Antonio submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in San Antonio, Texas within FTZ 80. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on March 26, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via www.trade.gov/ftz.

The proposed finished products include: turbojets, aircraft turbines—small fan engines not exceeding 25kn of thrust; turbojets, aircraft turbines—large fan engines exceeding 25kn of thrust; turbopropellers, aircraft turbines—of a power not exceeding 1,100 kW; and, turbopropellers, aircraft turbines—of a power exceeding 1,100 kW (duty-free).

The proposed foreign-status materials/components include: accumulators; adaptors; gearbox adaptors; acoustic attenuators; turbine air baffles; gearshaft baffles; rubber baffles; bearing balls; cylindrical roller bearings; spherical bearings; bell cranks; turbo-fan blade fans; insulation blankets; compressor rotor blisks; block assemblies; block modules; base metal flat-mounting blocks; turbofan blocks; aluminum bolts; base metal bolts; accumulators; nickel bolts; steel bolts; steel threaded bolts; terminal box assemblies; junction boxes; aircraft base metal bracket mountings; base metal brackets; rubber brackets; steel brackets; turbofan braids; nickel braids; plastic

braids; breathers; turbofan bushes; alloy steel threaded bushes; gear box bushings; bearing bushings; steel non-threaded bushings; rubber oil seal bushings; plastic bushings; rubber bushings; steel bushings; cables; turbofan cable assemblies; stainless steel cables; plastic closure caps; turbofan fuel caps; plastic caps; steel caps; steel threaded caps; turbofan carriers; assembly valves cases; turbofan cases; turbofan casings; chain assemblies; electrical clamps; aluminum clamps; plastic fitting clamps; plastic clamps; steel clamps; turbofan clips; aluminum collars; steel collars; steel threaded collars; turbofan collars; assembly combustion cases; turbofan cones; turbofan connectors; aluminum connectors; electrical connectors; rubber connectors; steel connectors; contact sockets; electrical contacts; turbofan contacts; turbofan control units; turbofan coolers; turbofan cords; nickel couplings; gearbox couplings; non-alloy steel couplings; protective covers; plastic transportation cover; steel transportation cover; aluminum covers; turbofan covers; valve covers; steel cup-springs; turbofan dampers; turbofan deflectors; turbofan diffuser; rotor discs; turbofan distributors; gearbox distributors; turbofan dowels; turbofan ducts; turbofan elbow guides; turbofan fairings; turbofan fillers; two layers of metal gaskets; steel gears; gearboxes; gear shafts; generators; turbofan governors; plastic grommets; plastic switch guards; steel guides; base metal gutters; turbofan hoses; check valve housings; gearbox housings; pump housings; turbofan housings; valve housings; glass indicators; insert elastomers; steel non-threaded inserts; magnesium inserts; nickel inserts; steel threaded inserts; turbofan inserts; igniter box leads; turbofan leads; turbofan liners; rubber links; turbofan links; turbofan locks; loom assemblies; loom switch resistors; turbofan lugs; turbofan manifolds; steel nails; steel nipples; rubber nipples; pump nozzles; turbofan nozzles; steel nuts; nickel nuts; rubber o-rings; turbofan preformed packing; turbofan assembly pads; turbofan panels; insulation patches; steel cotter pins; nickel pins; steel pins; rubber pins; turbofan pipes; turbofan plate assemblies; base metal plates; pump plates; retaining plates; steel plates; fan platforms; electrical plugs; turbofan plugs; igniter plugs; steel plugs; plastic plugs; plastic closure plugs; pump plugs; steel plugs; threaded steel plugs; turbofan probes; centrifugal pumps; oil fuel pumps; turbofan ram air controls; stainless steel reducers; turbofan reducing unions; oil reservoirs;

fixed resistors; variable resistors; retainers; roller bearing retainers; turbofan retainers; plastic retaining rings; stainless steel retaining-floating nut; turbofan ring; gearbox ring; steel ring; turbofan rivet; nickel rivet; steel rivet; turbofan rod; bearing housing rod; bearing rollers; aircraft generator rotors; turbofan screens; plastic screws; steel threaded screws; shaft seals; turbofan seals; plastic seal rings; rubber seal rings; electrical seals; nickel seals; steel seals; turbofan seats; turbofan segments; electrical sensors; pressure sensors; fuel pump shafts; turbofan shafts; rotor shafts; turbofan sheaths; turbofan shields; turbofan shims; turbofan shrouds; base metal sign plates; gear sleeves; plastic sleeves; steel sleeves; turbofan sleeves; electrical sockets; gear spacers; steel non-threaded spacers; rubber spacers; steel spacers; steel threaded spacers; turbofan spacers; turbofan spinners; helical springs; nickel springs; steel springs; turbofan springs; valves starters; generator stators; steel strainers; turbofan strainers; steel straps; turbofan straps; glass strips; nickel strips; rubber strips; turbofan strips; steel studs; base metal supports; bearing supports; gear supports; turbofan supports; electrical switch assemblies; electrical switches; isolating switches; turbofan switches; nickel tags; rubberized non-knitted tapes; synthetic tapes; isolating terminals; electrical terminals; turbofan thermocouples; electrical transducers; temperature-oil transmitters; turbofan transmitters; base metal tubes; non-threaded stainless steel tubes; steel tubes; threaded stainless steel tubes; turbofan tubes; retaining tubes; turbofan turnbuckles; relief valves; steel valves; turbofan vanes; nickel washers; steel non-threaded washers; plastic washers; rubber washers; steel washers; titanium washers; balance weights; turbofan wires; and, wiring harnesses (duty rate ranges from duty-free to 15%).

The request indicates that certain materials/components are subject to duties under section 122 of the Trade Act of 1974 (Section 122) or section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 122 and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is May 27, 2026.

A copy of the notification will be available for public inspection in the

“Online FTZ Information System” section of the Board’s website.

For further information, contact Brian Warnes at brian.warnes@trade.gov.

Dated: April 15, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026–07534 Filed 4–16–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–895]

Low Melt Polyester Staple Fiber From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2023–2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Toray Advanced Materials Korea, Inc. (TAK) made sales of subject merchandise at less than normal value during the period of review (POR), August 1, 2023, through July 31, 2024.

DATES: Applicable April 17, 2026.

FOR FURTHER INFORMATION CONTACT: Nathan Araya, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3401.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2026, Commerce published the *Preliminary Results* and invited interested parties to comment.¹ On March 3, 2026, TAK submitted a timely-filed case brief.² No other interested party filed a case or rebuttal brief.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.³ 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.⁴ Accordingly, the deadline for these final results is now June 10, 2026.

For a complete description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.⁵ The Issues and Decision Memorandum is a public document and on file electronically via Enforcement and Compliance’s ACCESS System. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order⁶

The merchandise covered by the Order is synthetic staple fibers, not carded or combed, specifically bi-component polyester fibers having a polyester fiber component that melts at a lower temperature than the other polyester fiber component (low melt PSF). For a full description of the scope of the Order, see the Issues and Decision Memorandum.

Analysis of Comments Received

The issue raised in TAK’s case brief is addressed in the Issues and Decision Memorandum. A list of topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice.

Changes Since the Preliminary Results

Based on a review of the record and comment received from TAK regarding the *Preliminary Results*, we made no changes to the margin calculations for TAK.⁷

Final Results of the Administrative Review

As a result of this review, we determine that the following estimated weighted-average dumping margin exists for the period August 1, 2023, through July 31, 2024.

Producer/exporter	Weighted-average dumping margin (percent)
Toray Advanced Materials Korea, Inc	3.02

Disclosure

Normally, Commerce discloses to interested parties the calculations of the final results of an administrative review within five days of a public announcement or, if there is no public announcement, within five days of the date of publication of the notice of the final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because we have made no changes to the *Preliminary Results*, there are no new calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.

Pursuant to 19 CFR 351.212(b)(1), where the respondent reported the entered value of its U.S. sales, we calculated importer-specific assessment rates based on the ratio of the total amount of dumping calculated for each importer’s examined sales and the total entered value of those same sales. Where the respondent did not report entered value, we calculated a per-unit assessment rate for each importer by dividing the total amount of dumping calculated for the examined sales made to that importer by the total quantity associated with those sales. To determine whether an importer-specific, per-unit assessment rate is *de minimis* (i.e., less than 0.5 percent), in accordance with 19 CFR 351.106(c)(2), we also calculated an importer-specific ad valorem rate based on estimated entered values. Where either the respondent’s weighted-average dumping margin is zero or *de minimis*, within the meaning of 19 CFR 351.106(c)(1), or an importer-specific rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

In accordance with Commerce’s “automatic assessment” practice, for entries of subject merchandise during the POR produced by TAK for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate established in the

¹ See *Low Melt Polyester Staple Fiber from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024*, 91 FR 5892 (February 10, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See TAK’s Letter, “Case Brief,” dated March 3, 2026.

³ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁴ See Memorandum, “Tolling of All Case Deadlines,” dated November 24, 2025.

⁵ See Memorandum, “Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review of Low Melt Polyester Staple Fiber from the Republic of Korea; 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁶ See *Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan: Antidumping Duty Orders*, 83 FR 40752 (August 16, 2018) (*Order*).

⁷ See Issues and Decision Memorandum.

less-than-fair-value (LTFV) investigation (*i.e.*, 16.27 percent)⁸ if there is no rate for the intermediate company(ies) involved in the transaction.⁹

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Instructions

Upon publication of this notice in the **Federal Register**, the following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company subject to this review will be equal to the company-specific weighted-average dumping margin established in the final results of the review; (2) for merchandise exported by producers or exporters 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, a prior review, or the original LTFV investigation, but the producer has been covered in a prior completed segment of this proceeding, then the cash deposit rate will be the rate established in 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 16.27 percent, the all-others rate established in the LTFV investigation for this proceeding.¹⁰ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries

during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order (APO)

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

Notification to Interested Parties

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

Dated: April 13, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the *Preliminary Results*
- V. Discussion of the Issue
 - Comment: Whether to Correct the Importer/Customer Name in the Liquidation Instructions
- VI. Recommendation

[FR Doc. 2026-07505 Filed 4-16-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-821-825]

Phosphate Fertilizers From the Russian Federation: Final Results of Countervailing Duty Administrative Review; 2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Joint Stock Company Apatit (JSC Apatit), a producer/exporter of

phosphate fertilizers from the Russian Federation (Russia), received countervailable subsidies during the period of review (POR) of January 1, 2023, through December 31, 2023.

DATES: Applicable April 17, 2026.

FOR FURTHER INFORMATION CONTACT: Shane Subler or Henry Wolfe, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6241 or (202) 482-0574, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 2025, Commerce published the *Preliminary Results* and invited interested parties to comment.¹ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.² 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.³ On January 22, 2026, Commerce extended the deadline for the final results by an additional 53 days.⁴ On April 2, 2026, Commerce extended the deadline for the final results by an additional seven days.⁵ Accordingly, the deadline for these final results is now April 13, 2026.⁶

For a detailed description of the events that occurred after the *Preliminary Results*, see the Issues and Decision Memorandum.⁷ The Issues and

¹ See *Phosphate Fertilizers from the Russian Federation: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*; 2023, 90 FR 38441 (August 8, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

³ See Memorandum, "Tolling of All Case Deadlines," dated November 24, 2025.

⁴ See Memorandum, "Extension of Deadline for Final Results of Countervailing Duty Administrative Review," dated January 22, 2026.

⁵ See Memorandum, "Second Extension of Deadline for Final Results of Countervailing Duty Administrative Review," dated April 2, 2026.

⁶ *Id.*

⁷ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Phosphate Fertilizers from the Russian Federation; 2023," dated concurrently with, and hereby

Continued

⁸ See *Order*, 83 FR at 40753.

⁹ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹⁰ See *Order*, 83 FR at 40753.

Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order⁸

The products covered by the *Order* are phosphate fertilizers. For a complete description of the scope of this *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised by interested parties in briefs are addressed in the Issues and Decision Memorandum. A list of the issues raised by parties in the Issues and Decision Memorandum is provided in the appendix to this notice.

Changes Since the Preliminary Results

Based on our analysis of comments from interested parties and the evidence on the record, we made certain revisions to the subsidy calculations for JSC Apatit found in the *Preliminary Results*. These changes are explained in the Issues and Decision Memorandum.

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, we find that there is a subsidy, *i.e.*, a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific. For a full description of the methodology underlying all of Commerce's conclusions, including our reliance, in part, on facts otherwise available, including adverse facts available, pursuant to sections 776(a) and (b) of the Act, see the Issues and Decision Memorandum.

Final Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual net countervailable subsidy rate for JSC Apatit. We determine the following net countervailable subsidy rate for the POR of January 1, 2023, through December 31, 2023:

adopted by, this notice (Issues and Decision Memorandum).

⁸ See *Phosphate Fertilizers from the Kingdom of Morocco and the Russian Federation: Countervailing Duty Orders*, 86 FR 18037 (April 7, 2021) (*Order*).

⁹ As discussed in the *Preliminary Results* PDM, Commerce finds the following companies to be

Company	Subsidy rate (percent <i>ad valorem</i>)
Joint Stock Company Apatit ⁹	12.71

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rate

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries of subject merchandise in accordance with the final results of this review, for the above-listed company at the applicable *ad valorem* assessment rate for the POR (*i.e.*, January 1, 2023, to December 31, 2023). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Rates

In accordance with section 751(a)(1) of the Act, Commerce intends, upon publication of the final results, to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown for JSC Apatit (and its crossed-owned affiliates) listed above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the all-others rate or the most recent

cross-owned with JSC Apatit: PhosAgro Public Joint Stock Company; Limited Liability Company PhosAgro-Region; Limited Liability Company PhosAgro-Belgorod; Limited Liability Company PhosAgro-Don; Limited Liability Company PhosAgro-Kuban; Limited Liability Company PhosAgro-Lipetsk; Limited Liability Company PhosAgro-Kursk; Limited Liability Company PhosAgro-Orel; Limited Liability Company PhosAgro-Stavropol; Limited Liability Company PhosAgro-Volga; Limited Liability Company PhosAgro-SeveroZapad; Limited Liability Company PhosAgro-Tambov; and Limited Liability Company PhosAgro-Sibir. See *Preliminary Results* PDM at 6–8.

company-specific rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order (APO)

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

Notification to Interested Parties

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: April 13, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Use of Facts Otherwise Available and Adverse Inferences
- V. Subsidies Valuation
- VI. Analysis of Programs
- VII. Discussion of the Issues

Provision of Mining Rights for Less Than Adequate Remuneration (LTAR)

Comment 1a: Whether to Countervail Mining Licenses Obtained Prior to the April 1, 2002, Cut-Off Date

Comment 1b: Whether Commerce Unlawfully Rejected Tier Two Data on the Record From Kazakhstan in Constructing Its Benchmark Price

Comment 1c: Whether to Include Export Data from Togo and Jordan in the Tier Three Benchmarks

Comment 1d: Whether to Account for Additional Expenses Incurred in the Production and Sale of Phosphate Rock When Calculating a Profit Ratio

Provision of Natural Gas for LTAR

Comment 2a: Whether the Provision of Natural Gas is Specific

Comment 2b: Whether to Use Turkmen Gas Exports as a Tier Two World Market Benchmark

Comment 2c: Whether to Use Global Organization for Economic Cooperation and Development (OECD) Data for a Tier Three Benchmark

Comment 2d: Whether to Correct the Conversion Rate Used in the Benchmark Calculation of the Petitioner's OECD Data

Comment 2e: Whether to Adjust the Natural Gas Benchmark Prices to Reflect Applicable Russian Value-Added Tax

Other Issues

Comment 3: Whether the Vologda Region and Leningrad Region Support of Industrial Development Programs Are *De Facto* Specific

Comment 4: Whether Commerce Erred in the Selection of a Benchmark for One of JSC Apatit's Loans Under the Corporate Competitiveness Improvement Program

Comment 5: Whether Commerce Incorrectly Used National Average Interest Rates from the International Monetary Fund's International Financial Statistics Publication as Benchmarks for Certain Loans Under the CCIP

Comment 6: Whether JSC Apatit Received a Benefit From the "Other Subsidies" Reported

VIII. Recommendation

[FR Doc. 2026-07503 Filed 4-16-26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-412-824]

Certain Cold-Rolled Steel Flat Products From the United Kingdom: Rescission of Antidumping Duty Administrative Review; 2024-2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on certain cold-rolled steel flat products (cold-rolled steel) from the United Kingdom, covering the period of review (POR) September 1, 2024, through August 31, 2025.

DATES: Applicable April 17, 2026.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5760.

SUPPLEMENTARY INFORMATION:

Background

On September 20, 2016, Commerce published in the **Federal Register** the AD order on cold-rolled steel from the

United Kingdom.¹ On September 2, 2025, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order* for the POR.² On September 30, 2025, Cleveland-Cliffs Inc., Steel Dynamics Inc., Nucor Corporation, and United States Steel Corporation (collectively, the petitioners) submitted a timely request that Commerce conduct an administrative review.³

On December 8, 2025, Commerce published in the **Federal Register** a notice of initiation of an administrative review with respect to imports of cold-rolled steel from the United Kingdom in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).⁴ On December 10, 2025, Commerce placed on the record U.S. Customs and Border Protection (CBP) entry data for the companies subject to the review, showing no reviewable POR entries, and invited interested parties to comment.⁵ No party filed comments with respect to the CBP data.

On December 18, 2025, Commerce issued a memorandum of intent to rescind the 2024-2025 administrative review and invited interested parties to comment.⁶ No party filed comments with respect to our intent to rescind.

Due to a lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁷ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an

additional 21 days.⁸ Accordingly the deadline for the preliminary results of this review is now August 10, 2026.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an AD order when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.⁹ Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD assessment rate for the review period.¹⁰ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the calculated AD assessment rate for the review period.¹¹

As noted above, there were no entries of subject merchandise for the companies subject to this review during the POR. Accordingly, in the absence of suspended entries of subject merchandise during the POR, we are hereby rescinding this administrative review, in its entirety, in accordance with 19 CFR 351.213(d)(3).

Cash Deposit Requirements

As Commerce has proceeded to a final rescission of this administrative review, no cash deposit rates will change. Accordingly, the current cash deposit requirements shall remain in effect until further notice.

Assessment Rates

Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in the United States, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

Administrative Protective Order (APO)

This notice serves as a final reminder to parties subject to an APO of their

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

⁹ See, e.g., *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020-2021*, 88 FR 4154 (January 24, 2023), and *Carbon and Alloy Steel Wire Rod from Ukraine: Rescission of Antidumping Duty Administrative Review; 2023-2024*, 89 FR 99833 (December 11, 2024).

¹⁰ See 19 CFR 351.212(b)(1).

¹¹ See 19 CFR 351.213(d)(3).

¹ See *Certain Cold-Rolled Steel Flat Products from Brazil, India, the Republic of Korea, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Brazil and the United Kingdom and Antidumping Duty Orders*, 81 FR 64432 (September 20, 2016) (*Order*).

² See *Antidumping and Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 90 FR 42389 (September 2, 2025).

³ See Petitioners' Letter, "Request for Administrative Review," dated September 2, 2025.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 56725, 56731 (December 8, 2025).

⁵ See Memorandum, "U.S. Customs and Border Protection Data Release," dated December 10, 2025.

⁶ See Memorandum, "Intent to Rescind Review," December 18, 2025 (Memorandum of Intent to Rescind).

⁷ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of the APO materials, or conversion to judicial protective order is hereby requested. Failure to comply with regulations and terms of an APO is a violation, which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: April 14, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026-07502 Filed 4-16-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF684]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of virtual meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) will hold a Crab Plan Team Meeting on May 11–15, 2026.

DATES: The meeting will be held on Monday, May 11, through Friday, May 15, 2026, 8 a.m. to 5 p.m. Alaska Time.

ADDRESSES: The meetings will be a web conference. Join online through the link at <https://meetings.npfmc.org/Meeting/Details/5138>.

Council address: North Pacific Fishery Management Council, 1007 West 3rd Ave., Suite 400, Anchorage, AK 99501-2252; telephone: (907) 271-2809.

FOR FURTHER INFORMATION CONTACT: Anita Kroska, Council staff; phone: (907) 271-2805; email: akroska@npfmc.org. For technical support, please contact our admin Council staff, email: support@npfmc.org; telephone: (907) 271-2809.

SUPPLEMENTARY INFORMATION:

Agenda

Monday, May 11–Friday, May 15

The agenda will include (a) Council updates; (b) general Ecosystem and Socioeconomic Profile (ESP) updates (tentative); (c) risk table discussion; (d) Tanner crab proposed models; (e) Aleutian Islands golden king crab (AIGKC) final 2026 SAFE; (f) January modelling workshop updates; (g) emerging issues around hybrid abundance; (h) Norton Sound red king crab (NSRKC) proposed models; (i) crab research updates; (j) Eastern Bering Sea snow crab proposed models; (k) Bristol Bay red king crab (BBRKC) proposed models; (l) St. Matthew blue king crab (SMBKC) proposed models; (m) Pribilof Islands golden king crab (PIGKC) final 2026 SAFE; (n) SAFE guidelines; (o) skipper survey updates; and (p) other new business, including membership and Council meeting timing.

The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/5138> prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smartphone, or by phone only. Connection information will be posted online at: <https://meetings.npfmc.org/Meeting/Details/5138>.

Public Comment

Public comment letters will be accepted and should be submitted electronically to <https://meetings.npfmc.org/Meeting/Details/5138>.

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

Dated: April 15, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026-07531 Filed 4-16-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF639]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Scientific and Statistical Committee (SSC) of the Mid-Atlantic

Fishery Management Council (Council) will hold a meeting.

DATES: The meeting will be held on Tuesday, May 12, 2026, starting at 9:30 a.m. and continue through 12 p.m. on Wednesday, May 13, 2026. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES: This will be an in-person meeting with a virtual option. SSC members, other invited meeting participants, and members of the public will have the option to participate in person at the Marine Biology Lab, Meigs Room (7 MBL Street, Woods Hole, MA) or virtually via Webex webinar. Webinar connection instructions and briefing materials will be available at: <https://www.mafmc.org/ssc>.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331; website: <https://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526-5255.

SUPPLEMENTARY INFORMATION: During this meeting, the SSC will make multi-year acceptable biological catch (ABC) recommendations for Blueline Tilefish. The SSC will recommend new 2027–2029 ABC specifications for Blueline Tilefish based on updated catch and survey information. The SSC will also review the most recent survey and fishery data and the previously recommended 2027 ABC for Atlantic Golden Tilefish. The SSC will review and provide feedback on the Mid-Atlantic State of the Ecosystem report, the Council's Ecosystem Approach to Fisheries Management risk assessment, and the results of a recently completed project evaluating the effectiveness of the scup Gear Restricted Areas (GRAs). The SSC will also discuss the activities and draft recommendations of the Overfishing Limit (OFL) Coefficient of Variation (CV) sub-group regarding the use of data updates. The SSC may take up any other business as necessary. A detailed agenda and background documents will be made available on the Council's website (www.mafmc.org) prior to the meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526-5251, at least 5 days prior to the meeting date.

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

Dated: April 15, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026-07565 Filed 4-16-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD-2026-HA-0859]

Extension of the TRICARE Childbirth and Breastfeeding Support Demonstration; Correction

AGENCY: Department of Defense (DoD).

ACTION: Notice of demonstration extension; correction.

SUMMARY: On Friday, April 10, 2026, the DoD published a notice titled Extension of the TRICARE Childbirth and Breastfeeding Support Demonstration. Subsequent to publication in the **Federal Register**, the DoD realized that the docket identifier was not included. This notice corrects the error.

DATES: The correction takes effect April 17, 2026.

FOR FURTHER INFORMATION CONTACT:

Aaron T. Siegel, 571-372-0488, aaron.t.siegel.civ@mail.mil.

SUPPLEMENTARY INFORMATION: On Friday, April 10, 2026 (91 FR 18444), the DoD published a notice titled Extension of the TRICARE Childbirth and Breastfeeding Support Demonstration. Subsequent to publication in the **Federal Register**, the DoD realized that the docket identifier was not included. All other information in the notice at 91 FR 18444 remains the same.

In the **Federal Register** issue of Friday, April 10, 2026, on page 18444, in the first column, Doc. 2026-06913 is corrected by adding the docket identifier to read as set forth above.

Dated: April 14, 2026.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026-07481 Filed 4-16-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2026-SCC-1388]

Agency Information Collection Activities; Comment Request; Consolidation Loan Rebate Fee Report

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 an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before June 16, 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-1388. 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 20202-1200.

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: Consolidation Loan Rebate Fee Report.

OMB Control Number: 1845-0046.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 2,460.

Total Estimated Number of Annual Burden Hours: 2,665.

Abstract: The Department of Education is submitting for approval the Consolidation Loan Rebate Fee Report, ED Form 4-619. This request is for an extension of a currently approved collection. The information collected on the Consolidation Loan Rebate Fee Report will be used to document Federal Consolidation loans held by lenders who are responsible for sending interest payment rebate fees to the Secretary of Education.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026-07516 Filed 4-16-26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2026-SCC-1387]

Agency Information Collection Activities; Comment Request; William D. Ford Federal Direct Loan Program Repayment Plan Selection Form

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 16, 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-1387. 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 [regulations.gov](http://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 20202–1200.

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: William D. Ford Federal Direct Loan Program Repayment Plan Selection Form.

OMB Control Number: 1845–0014.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 660,000.

Total Estimated Number of Annual Burden Hours: 110,220.

Abstract: The Fixed Payment Repayment Plan Request form serves as the means by which Direct Loan borrowers notify the Department of their choice of an initial fixed payment repayment plan as described in 34 CFR 685.208 before their loans enter repayment. The form may also be used by borrowers to request a change to one of these plans after their loans have entered repayment. If a borrower does not select an initial repayment plan, the borrower is placed on the Standard Repayment Plan or the Tiered Standard Repayment Plan in accordance with 34 CFR 685.210(a)(2).

The One Big Beautiful Bill Act (OBBBA) signed into law on July 4, 2025, made statutory changes to the Higher Education Act of 1965 as amended (the HEA) regarding Direct Loans that impact regulatory requirements related to this information collection. This is a request for a revision of the current information collection to include the new regulatory requirements in order to comply with the OBBBA.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–07515 Filed 4–16–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice Announcing State Personnel Development Grants Program Competition

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (ED) announces the opportunity to apply for competitive grants for the Fiscal Year (FY) 2026 State Personnel Development Grants program, Assistance Listing Number 84.323A.

DATES: Complete proposals must be submitted electronically through the [Grants.gov](https://www.ed.gov/grants) “APPLY” function by 11:59:59 p.m. Eastern time, June 16, 2026.

FOR FURTHER INFORMATION CONTACT: Jennifer Coffey. Telephone: (202) 987–0150. Email: Jennifer.Coffey@ed.gov.

SUPPLEMENTARY INFORMATION: The purpose of the State Personnel Development Grants program is to assist State educational agencies (SEAs) in

reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services to improve results for children with disabilities. ED shall award grants, on a competitive basis, to SEAs to carry out the activities described in the State plan submitted under section 653 of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1453). The FY 2026 competition includes an absolute priority, selection criteria, and requirements. The absolute priority is: Expanding Career Pathways and Workforce Readiness.

Maximum Award: Pursuant to requirements in section 651(c)(5) of IDEA, ED will set the amount of each award after considering—

- (1) The amount of funds available for making the grants;
- (2) The relative population of the State or outlying area;
- (3) The types of activities proposed by the State or outlying area;
- (4) The alignment of proposed activities with section 612(a)(14) of IDEA, as amended by the Every Student Succeeds Act (ESSA);
- (5) The alignment of proposed activities with State plans and applications submitted under sections 1111 and 2101(d), respectively, of the Elementary and Secondary Education Act, as amended (ESEA); and
- (6) The use, as appropriate, of scientifically based research and activities.

Eligible Applicants: An SEA of one of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico or an outlying area (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).

Note: Public Law 95–134, which permits the consolidation of grants to the outlying areas, does not apply to funds received under this competition.

Program Authority: 20 U.S.C. 1451–1455.

To Apply: The complete funding opportunity announcement and all information needed to apply, including the priorities and program requirements, are available on ED's website at <https://www.ed.gov/grants-and-programs/grants-special-populations/grants-individuals-disabilities/state-personnel-development-84-323-a> and on [Grants.gov](https://grants.gov) at <https://grants.gov/search-results-detail/361904>. The application notice and instructions on [Grants.gov](https://grants.gov) is the official document governing the grant competition.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**,

individuals with disabilities can obtain this document in an accessible format.

Kimberly Richey,

Acting Assistant Secretary and Deputy Assistant Secretary, Delegated the authority to perform the functions and duties of Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2026-07564 Filed 4-16-26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

[Docket No. 26-34-LNG]

Sabine Pass Liquefaction, LLC; Application for Blanket Authorization To Export Previously Imported Liquefied Natural Gas to Non-Free Trade Agreement Countries on a Short-Term Basis

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 on March 25, 2026, by Sabine Pass Liquefaction, LLC (SPL). SPL requests blanket authorization to export liquefied natural gas (LNG) previously imported into the United States by vessel from foreign sources in a volume equivalent to 500 billion cubic feet (Bcf) of natural gas on a cumulative basis over a two-year period. SPL 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, May 18, 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: SPL requests a short-term blanket authorization to export LNG that has been previously imported into the United States from foreign sources for a two-year period commencing on June 7, 2026. SPL states that it will export the LNG from the existing Sabine Pass LNG terminal located in Cameron Parish, Louisiana, to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. This includes both countries with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries) and all other countries (non-FTA countries). This Notice applies only to the portion of the Application requesting authority to export the LNG to non-FTA countries pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a). SPL states that its existing blanket re-export authorization, set forth in DOE/FECM Order No. 5125 (Docket No. 24-28-LNG), is scheduled to expire on June 6, 2026, and therefore SPL requests the term of the new authorization to commence on June 7, 2026. SPL further states that it does not seek authorization to export domestically produced natural gas or LNG.

SPL requests this authorization on its own behalf and as agent for other parties that hold title to the LNG at the time of export. Additional details can be found in SPL's Application, posted on the DOE website at <https://www.energy.gov/sites/default/files/2026-03/SPL%20DOE%20Re-Export%20Authorization.pdf>.

DOE Evaluation

In reviewing SPL's 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 30 days from the date of publication of this Notice in the **Federal Register** in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention.¹ 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. 26-34-LNG" or "Sabine Pass Liquefaction, LLC Application" in the title line. Filings must be submitted in English to be considered.²

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

¹ 10 CFR 590.303.

² Executive Order 14224 of March 1, 2025, *Designating English as the Official Language of the United States*, 90 FR 11363 (Mar. 6, 2025).

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 14, 2026.

Amy Sweeney,

*Director, Office of Global Energy Security,
Office of Strategic Resources.*

[FR Doc. 2026-07521 Filed 4-16-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7404-011]

Glencoe Mill, LLC; Notice of Intent To Prepare an Environmental Assessment

On July 22, 2025, Glencoe Mill, LLC (exemptee) filed an application to surrender its exemption from licensing for the Glencoe Mill Project No. 7404. The project is located on the Haw River in Alamance County, North Carolina. The project does not occupy federal lands.

The project has not operated in three years and the exemptee determined that it was not financially feasible to repair the project and continue to operate. The project has been disconnected from the power grid, and the generator is no longer operable. The powerhouse has been secured. The exemptee no longer has a lease for the property and the dam and mill race are owned by Preservation North Carolina. The exemptee intends to assist Preservation North Carolina in maintaining the mill race. The other side of the mill race adjoins a public park operated by the Alamance County

Parks Department. A Notice of Application for Surrender of Exemption Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests was issued on August 5, 2025. No comments were filed pursuant to the notice. On December 5, 2025, the exemptee filed a letter stating that Preservation North Carolina is considering working with American Rivers to have the dam removed and donating the property as a park.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) under the National Environmental Policy Act (42 U.S.C. 4321 *et seq*) for the project.¹ Commission staff plans to issue an EA by September 14, 2026. Revisions to the schedule may be made as appropriate. The EA will be issued for a 30-day comment period. All comments filed on the EA will be reviewed by staff and considered in the Commission's final decision on the proceeding.

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.

Any questions regarding this notice may be directed to Rebecca Martin at 202-502-6012 or Rebecca.martin@ferc.gov.

(Authority: 18 CFR 2.1)

Dated: April 14, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026-07548 Filed 4-16-26; 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 electric corporate filings:

Docket Numbers: EC26-87-000.

Applicants: Brookfield White Pine Hydro LLC, White Pine Hydro, LLC, Wheelhouse Co-Invest GP (Bermuda) Limited, Wheelhouse Co-Invest LP.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Brookfield White Pine Hydro LLC, et al.

Filed Date: 4/13/26.

Accession Number: 20260413-5324.

Comment Date: 5 p.m. ET 5/4/26.

¹ The unique identification number for documents relating to this environmental review is EAXX-019-20-000-1775046641.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26-214-000.

Applicants: Yellow Cat Wind LLC.

Description: Yellow Cat Wind LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 4/14/26.

Accession Number: 20260414-5187.

Comment Date: 5 p.m. ET 5/5/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11-2029-011.

Applicants: Cedar Creek II, LLC.

Description: Response to 03/11/2026, Deficiency Letter of Cedar Creek II, LLC.

Filed Date: 4/10/26.

Accession Number: 20260410-5218.

Comment Date: 5 p.m. ET 5/1/26.

Docket Numbers: ER25-2768-000.

Applicants: Public Service Company of Oklahoma.

Description: Public Service Company of Oklahoma submits request for extension of time until 06/08/2026 to file the Common Facilities Agreement.

Filed Date: 4/1/26.

Accession Number: 20260401-5289.

Comment Date: 5 p.m. ET 4/22/26.

Docket Numbers: ER26-404-002.

Applicants: Public Service Company of Colorado.

Description: Compliance filing: 2026-04-13 CORE-NOA-802-0.1.0 to be effective 1/1/2026.

Filed Date: 4/13/26.

Accession Number: 20260413-5243.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26-2150-000.

Applicants: North Allegheny Wind, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413-5242.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26-2151-000.

Applicants: Deriva Energy Beckjord Storage LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413-5246.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26-2152-000.

Applicants: North Rosamond Solar, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413-5247.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2153–000.
Applicants: Deriva Energy Services, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5251.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2154–000.

Applicants: Pike Solar LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5254.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2155–000.

Applicants: Franklin Solar LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5258.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2156–000.

Applicants: Silver Sage Windpower, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5261.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2157–000.

Applicants: Jackpot Holdings, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5264.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2158–000.

Applicants: Kit Carson Windpower, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5266.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2159–000.

Applicants: Laurel Hill Wind Energy, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2024.

Filed Date: 4/13/26.

Accession Number: 20260413–5269.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2160–000.

Applicants: Ledyard Windpower, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5273.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2161–000.

Applicants: Frontier Windpower, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5275.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2162–000.

Applicants: Spanish Peaks Solar LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5277.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2163–000.

Applicants: Frontier Windpower II, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5280.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2164–000.

Applicants: Three Buttes Windpower, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5283.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2165–000.

Applicants: Happy Jack Windpower, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5286.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2166–000.

Applicants: Top of the World Wind Energy, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5292.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2167–000.

Applicants: Ironwood Windpower, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5295.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2168–000.

Applicants: Wildflower Solar LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/13/26.

Accession Number: 20260413–5299.

Comment Date: 5 p.m. ET 5/4/26.

Docket Numbers: ER26–2169–000.

Applicants: Virginia Electric and Power Company.

Description: § 205(d) Rate Filing: Dominion submits revisions to Att. H–16C to be effective 6/15/2026.

Filed Date: 4/14/26.

Accession Number: 20260414–5012.

Comment Date: 5 p.m. ET 5/5/26.

Docket Numbers: ER26–2170–000.

Applicants: Kentucky Utilities Company.

Description: Compliance filing: Order No. 898 Compliance Filing Bardstown-Nicholasville to be effective 5/1/2026.

Filed Date: 4/14/26.

Accession Number: 20260414–5038.

Comment Date: 5 p.m. ET 5/5/26.

Docket Numbers: ER26–2171–000.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 4400 Brock Solar GIA Cancellation to be effective 6/21/2026.

Filed Date: 4/14/26.

Accession Number: 20260414–5050.

Comment Date: 5 p.m. ET 5/5/26.

Docket Numbers: ER26–2172–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4803 Every Kansas Central Meter Agent Agreement to be effective 4/1/2026.

Filed Date: 4/14/26.

Accession Number: 20260414–5090.

Comment Date: 5 p.m. ET 5/5/26.

Docket Numbers: ER26–2174–000.

Applicants: Evolgen Trading and Marketing LP.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/14/26.

Accession Number: 20260414–5175.

Comment Date: 5 p.m. ET 5/5/26.

Docket Numbers: ER26–2175–000.

Applicants: Bear Swamp Power Company LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/14/26.

Accession Number: 20260414–5179.

Comment Date: 5 p.m. ET 5/5/26.

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 14, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-07549 Filed 4-16-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26-758-000.

Applicants: National Grid LNG, LLC.

Description: § 4(d) Rate Filing;

National Grid LNG Non-conforming agreement 4-14-26 to be effective 4/1/2026.

Filed Date: 4/14/26.

Accession Number: 20260414-5109.

Comment Date: 5 p.m. ET 4/27/26.

Docket Numbers: RP26-759-000.

Applicants: National Grid LNG, LLC.

Description: § 4(d) Rate Filing;

National Grid LNG Minimum Liquefaction Flow Service 4-14-26 to be effective 5/15/2026.

Filed Date: 4/14/26.

Accession Number: 20260414-5112.

Comment Date: 5 p.m. ET 4/27/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system ([https://](https://elibrary.ferc.gov/idmws/search/fercgensearch.asp)

elibrary.ferc.gov/idmws/search/fercgensearch.asp) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or OPP@ferc.gov.

Dated: April 14, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-07543 Filed 4-16-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6276-042]

Brooks Energy, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission or FERC) regulations, 18 CFR part 380, Commission staff reviewed Brooks Energy, LLC's application to surrender its exemption from licensing for the Lockville Dam Hydroelectric Project No. 6276 and have prepared an Environmental Assessment (EA) for the project.¹ The exemptee has determined that the project is no longer economical and is requesting to surrender its exemption from licensing. The generating equipment has not operated since 2020, and the dam was breached in 2023. No modifications to the existing dam, buildings, structures, or ground disturbing activities are proposed. After the surrender of the exemption, the dam is proposed to be removed by American Rivers and Resource Environmental Solutions as part of American Rivers' Watershed Restoration of the Upper Cape Fear and Lower Deep Rivers Project, with funding and collaborative support from the National Oceanic and Atmospheric Administration and the U.S. Fish and Wildlife Service. The project is located

on the Deep River at a point where it forms the border between Chatham and Lee counties, North Carolina.

The EA contains Commission staff's analysis of the potential environmental effects of the proposed surrender, alternatives to the proposed action, and concludes that the proposed surrender of the Lockville Dam's exemption from licensing would not constitute a major federal action that would significantly affect the quality of the human environment.

The EA may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number (P-6276) in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

All comments must be filed May 14, 2026, 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P-2082-074.

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.

For further information, contact Rebecca Martin at 202-502-6012 or rebecca.martin@ferc.gov.

(Authority: 18 CFR 2.1)

¹ The unique identification number for documents relating to this environmental review is EAXX-019-20-000-1762338428.

Dated: April 14, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-07544 Filed 4-16-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26-175-000]

Texas Eastern Transmission, LP; Notice of Application and Establishing Intervention Deadline

Take notice that on April 1, 2026, Texas Eastern Transmission, LP (Texas Eastern), 915 N Eldridge Parkway, Suite 1100, Houston, Texas 77079-2703, filed an application under sections 7(b) and 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations requesting authorization for its Athens Optimization Project (Project). Texas Eastern proposes to replace four 1950s-era natural gas turbine units totaling 32,000 horsepower (hp) with two natural gas turbine units totaling 36,200 hp (net increase of approximately 4,200 hp) at its Athens Compressor Station (Station) in Athens County, Ohio. The Project will enable Texas Eastern to replace the existing obsolete turban units at the Station with new, efficient units and to expand the designed horsepower at the Station in order to provide 50 million cubic feet per day of incremental firm natural gas transportation capacity to Kentucky Utilities' power generation facility in Danville, Kentucky. Texas Eastern estimates the cost of the project to be \$223,033,746, all as more fully set forth in the application which is on file with the Commission and open for 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 regarding the proposed project should be directed to Brian Kim, Director, Regulatory, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251-1642, by phone at (713)627-4059, or by email at Brian.Kim@enbridge.com.

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,¹ within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on May 5, 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.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections, to the project as a whole or specific aspects of the project. The more

specific your comments, the more useful they will be.

Protests

Pursuant to sections 157.10(a)(4)² and 385.211³ of the Commission's regulations under the NGA, any person⁴ may file a protest to the application. Protests must comply with the requirements specified in section 385.2001⁵ of the Commission's regulations. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before 5:00 p.m. Eastern Time on May 5, 2026.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP26-175-000 in your submission.

(1) 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;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Comment on a Filing"; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number (CP26-175-000).

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 courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1

² 18 CFR 157.10(a)(4).

³ 18 CFR 385.211.

⁴ Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

⁵ 18 CFR 385.2001.

¹ 18 CFR 157.9.

and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov.

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, 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. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,⁶ 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 Procedure⁷ and the regulations under the NGA⁸ by the intervention deadline for the project, which is 5:00 p.m. Eastern Time on May 5, 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 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>.

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP26–175–000 in your submission.

(1) You may file your motion to intervene 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 "Intervention." The eFiling feature includes a document-less intervention option; for more information, visit <https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf>; or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP26–175–000.

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 courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (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: Brian Kim, Director, Regulatory, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251–1642 or by email (with a link to the document) at Brian.Kim@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. Service can be via email with a link to the document.

All timely, unopposed⁹ motions to intervene are automatically granted by operation of Rule 214(c)(1).¹⁰ 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.¹¹ 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)

⁹ The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

¹⁰ 18 CFR 385.214(c)(1).

¹¹ 18 CFR 385.214(b)(3) and (d).

of all documents filed by the applicant and by all other parties.

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.

Intervention Deadline: 5:00 p.m. Eastern Time on May 5, 2026.

(Authority: 18 CFR 2.1)

Dated: April 14, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–07542 Filed 4–16–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER26–2176–000.

Applicants: BIF III Holtwood LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/14/26.

Accession Number: 20260414–5182.

Comment Date: 5 p.m. ET 5/5/26.

Docket Numbers: ER26–2177–000.

Applicants: Black Bear Hydro Partners, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/14/26.

Accession Number: 20260414–5185.

Comment Date: 5 p.m. ET 5/5/26.

Docket Numbers: ER26–2178–000.

Applicants: Powell River Energy Inc.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

⁶ 18 CFR 385.102(d).

⁷ 18 CFR 385.214.

⁸ 18 CFR 157.10.

Filed Date: 4/14/26.
Accession Number: 20260414–5186.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2179–000.
Applicants: Brookfield Renewable Energy Marketing US LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5188.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2180–000.
Applicants: Brookfield Renewable Trading and Marketing LP.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5190.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2181–000.
Applicants: Black Bear Development Holdings, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5191.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2182–000.
Applicants: Brookfield Smoky Mountain Hydropower LP.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5192.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2183–000.
Applicants: Black Bear SO, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5194.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2184–000.
Applicants: BREG Aggregator LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5196.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2185–000.
Applicants: Brookfield Energy Marketing Inc.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5199.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2186–000.
Applicants: Brookfield White Pine Hydro LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5202.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2187–000.
Applicants: Brookfield Energy Marketing LP.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5204.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2188–000.
Applicants: Catalyst Old River Hydroelectric Limited Partnership.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5206.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2189–000.
Applicants: Erie Boulevard Hydropower, L.P.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5207.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2190–000.
Applicants: Brookfield Energy Marketing US LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5208.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2191–000.
Applicants: Goose Prairie Solar LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5209.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2192–000.
Applicants: White Pine Hydro, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5212.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2193–000.
Applicants: AM Wind Repower LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5214.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2194–000.

Applicants: BR Pacific Hydro Power LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5225.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2195–000.
Applicants: Carr Street Generating Station, L.P.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5228.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2196–000.
Applicants: Great Lakes Hydro America, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5229.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2197–000.
Applicants: Hawks Nest Hydro LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5232.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2198–000.
Applicants: NorthWestern Energy Public Service Corporation.
Description: § 205(d) Rate Filing: RS 44—First Amendment to EPC Agmt w/ East River Elec Power to be effective 6/15/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5235.
Comment Date: 5 p.m. ET 5/5/26.
Docket Numbers: ER26–2199–000.
Applicants: Horseshoe Bend Wind, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.
Filed Date: 4/14/26.
Accession Number: 20260414–5239.
Comment Date: 5 p.m. ET 5/5/26.
Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES26–31–000.
Applicants: NextEra Energy Transmission MidAtlantic, Inc.
Description: Supplement to Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of NextEra Energy Transmission MidAtlantic, LLC.
Filed Date: 4/10/26.
Accession Number: 20260410–5220.
Comment Date: 5 p.m. ET 4/20/26.

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 14, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-07547 Filed 4-16-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2550-030]

Wiscons8, LLC; Notice of Intent To Prepare an Environmental Assessment

On November 29, 2024, Wiscons8, LLC filed an application to relicense the 210-kilowatt Weyauwega Hydroelectric Project No. 2550. The project is located on the Waupaca River in the City of Weyauwega in Waupaca County, Wisconsin.

In accordance with the Commission's regulations, on January 15, 2026, Commission staff issued a notice that the project was ready for environmental analysis (REA notice). Based on the information in the record, including comments filed on the REA notice, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an

environmental assessment (EA) on the application to relicense the project.¹

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502-6595 or OPP@ferc.gov.

The application will be processed according to the following schedule. The EA will be issued for a 30-day comment period. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues EA.	December 28, 2026.

Any questions regarding this notice may be directed to Arash Barsari by telephone at (202) 502-6207 or by email at Arash.JalaliBarsari@ferc.gov.

(Authority: 18 CFR 2.1.)

Dated: April 14, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-07545 Filed 4-16-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL11-66-001; EL11-66-004; EL11-66-005; EL13-33-000; EL13-33-002; EL14-86-000; EL16-64-000; EL16-64-002]

Notice Establishing Comment Period

Martha Coakley, Attorney General of the Commonwealth of Massachusetts, Connecticut Public Utilities Regulatory Authority, Massachusetts Department of Public Utilities, New Hampshire Public Utilities Commission, George Jepsen, Attorney General of the State of Connecticut, Connecticut Office of Consumer Counsel, Maine Office of the Public Advocate, New Hampshire Office of the Consumer Advocate, Rhode Island Division of Public Utilities and Carriers, Vermont Department of Public Service, Massachusetts Municipal Wholesale Electric Company, Associated Industries of Massachusetts, The Energy

¹ For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX-019-20-000-1770895453.

Consortium, Power Options, Inc., Industrial Energy Consumer Group v. Bangor Hydro-Electric Company, Central Maine Power Company, New England Power Company, New Hampshire Transmission LLC, Northeast Utilities Service Company, on behalf of its operating company affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, and Public Service Company of New Hampshire, NSTAR Electric & Gas Corporation, The United Illuminating Company, Unitil Energy Systems, Inc., Fitchburg Gas and Electric Light Company, Vermont Transco, LLC, ISO New England Inc.

ENE (Environment Northeast), Greater Boston Real Estate Board, National Consumer Law Center, NEPOOL Industrial Customer Coalition v. Bangor Hydro-Electric Company, Central Maine Power Company, New England Power Company, New Hampshire Transmission LLC, NSTAR Electric Company, Northeast Utilities Service Company, The United Illuminating Company, Unitil Energy Systems, Inc., Fitchburg Gas and Electric Light Company, Vermont Transco, LLC

Attorney General of the Commonwealth of Massachusetts, Connecticut Public Utilities Regulatory Authority, Massachusetts Municipal Wholesale Electric Company, New Hampshire Electric Cooperative, Inc., Massachusetts Department of Public Utilities, New Hampshire Public Utilities Commission, George Jepsen, Attorney General of the State of Connecticut, Connecticut Office of Consumer Counsel, Maine Office of the Public Advocate, New Hampshire Office of the Consumer Advocate, Rhode Island Division of Public Utilities and Carriers, Vermont Department of Public Service, Associated Industries of Massachusetts, The Energy Consortium, Power Options, Inc., Western Massachusetts Industrial Group, Environment Northeast, National Consumer Law Center, Greater Boston Real Estate Board, Industrial Energy Consumer Group v. Bangor Hydro-Electric Company, Central Maine Power Company, New England Power Company, New Hampshire Transmission LLC, Northeast Utilities Service Company, on behalf of its operating company affiliates: The Connecticut Light and Power Company, Western Massachusetts Electric Company, and Public Service Company of New Hampshire, NSTAR Electric Company, The United Illuminating

Company, Unil Energy Systems, Inc.,
Fitchburg Gas and Electric Light
Company, Vermont Transco, LLC

Belmont Municipal Light Department,
Braintree Electric Light Department,
Concord Municipal Light Plant,
Georgetown Municipal Light
Department, Groveland Electric Light
Department, Hingham Municipal
Lighting Plant, Littleton Electric Light
& Water Department, Middleborough
Gas & Electric Department, Middleton
Electric Light Department, Reading
Municipal Light Department, Rowley
Municipal Lighting Plant, Taunton
Municipal Lighting Plant, Wellesley
Municipal Light Plant v. Central
Maine Power Company, Emera Maine
(formerly known as Bangor Hydro-
Electric Company), Eversource Energy
Service Company and its operating
company affiliates: The Connecticut
Light and Power Company, Western
Massachusetts Electric Company,
Public Service Company of New
Hampshire, and NSTAR Electric
Company, New England Power
Company, New Hampshire
Transmission LLC, The United
Illuminating Company, Fitchburg Gas
and Electric Light Company, Vermont
Transco, LLC

On April 2, 2026, the New England
Transmission Owners (Indicated
NETOs)¹ filed a Motion for Stay
(Motion) of the refund obligations in
Opinion No. 594² associated with the
period from October 16, 2014, through
March 19, 2026. Included in the Motion
was a request that the Commission
shorten the period for comments in
response to the Motion to three business
days. The Connecticut Public Utilities
Regulatory Authority and the
Massachusetts Attorney General's Office
collectively, and the New England
States Committee on Electricity filed
answers opposing Indicated NETOs'
request for a shortened comment period.

Upon consideration, notice is hereby
given that comments in response to
Indicated NETOs' Motion are due by
5:00 p.m. Eastern Time on April 17,
2026.

(Authority: 18 CFR 2.1.)

¹ The "Indicated NETOs" are Central Maine
Power Company, Eversource Energy Service
Company (on behalf of its operating company
affiliates: The Connecticut Light and Power
Company; NSTAR Electric Company; and Public
Service Company of New Hampshire, each of which
is doing business as Eversource Energy), and The
United Illuminating Company.

² *Coakley v. Bangor Hydro-Elec. Co.*, Opinion No.
594, 194 FERC ¶ 61,208 (2026).

Dated: April 14, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-07550 Filed 4-16-26; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OPRM-FAD-218]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal
Activities, General Information 202-
993-3272 or <https://www.epa.gov/nepa>.
Weekly receipt of Environmental Impact
Statements (EIS)

Filed April 6, 2026 10 a.m. EST

Through April 13, 2026 10 a.m. EST
Pursuant to CEQ Guidance on 42 U.S.C.
4332.

Notice: Section 309(a) of the Clean Air
Act requires that EPA make public its
comments on EISs issued by other
Federal agencies. EPA's comment letters
on EISs are available at: [https://
cdxapps.epa.gov/cdx-enepa-II/public/
action/eis/search](https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search).

EIS No. 20260038, Draft, NNSA, NM,
Draft Plutonium Pit Production
Programmatic Environmental Impact
Statement, *Comment Period Ends:* 07/
16/2026, *Contact:* Kristen Dors 505-
606-8953.

EIS No. 20260039, Final Supplement,
USAF, AR, Expansion of the Foreign
Military Sales F-35 Pilot Training
Center at Ebbing Air National Guard
Base, Arkansas, *Contact:* Austin
Naranjo 210-652-4400.

EIS No. 20260040, Draft, MARAD, TX,
ST LNG Deepwater Port Development
Project, *Comment Period Ends:* 06/01/
2026, *Contact:* Brian Barton 202-295-
7155.

EIS No. 20260041, Final, USFS, UT,
High Uintas Wilderness Domestic
Sheep Analysis, *Contact:* Bethany
Nickison 801-999-2103.

EIS No. 20260042, Final, USFS, WY,
Dell Creek Forest Park Elk
Feedgrounds, *Review Period Ends:* 05/
18/2026, *Contact:* Rebecca Hotze 307-
739-5510.

EIS No. 20260043, Draft Supplement,
USFS, MT, Pilgrim Creek Timber Sale
Project, *Comment Period Ends:* 06/02/
2026, *Contact:* Lisa Osborn 406-295-
7426.

EIS No. 20260044, Final, USFS, CA,
Mokelumne Amador Calaveras Forest
Resilience Project, *Contact:* Benjamin
Cossel 209-732-8189.

EIS No. 20260045, Final Supplement,
FHWA, FTA, WA, Interstate Bridge
Replacement Program, *Contact:* Jeff
Horton 202-220-4463.

EIS No. 20260046, Draft, BLM, CA,
Castle Mountain Mine, *Comment
Period Ends:* 06/01/2026, *Contact:*
Rose Pettiette 760-326-7000.

Dated: April 14, 2026.

Nancy Abrams,

Deputy Director, Federal Activities Division.

[FR Doc. 2026-07533 Filed 4-16-26; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice
have applied to the Board for approval,
pursuant to the Bank Holding Company
Act of 1956 (12 U.S.C. 1841 *et seq.*)
(BHC Act), Regulation Y (12 CFR part
225), and all other applicable statutes
and regulations to become a bank
holding company and/or to acquire the
assets or the ownership of, control of, or
the power to vote shares of a bank or
bank holding company and all of the
banks and nonbanking companies
owned by the bank holding company,
including the companies listed below.

The public portions of the
applications listed below, as well as
other related filings required by the
Board, if any, are available for
immediate inspection at the Federal
Reserve Bank(s) indicated below and at
the offices of the Board of Governors.
This information may also be obtained
on an expedited basis, upon request, by
contacting the appropriate Federal
Reserve Bank and from the Board's
Freedom of Information Office at
[https://www.federalreserve.gov/foia/
request.htm](https://www.federalreserve.gov/foia/request.htm). Interested persons may
express their views in writing on the
standards enumerated in the BHC Act
(12 U.S.C. 1842(c)).

Comments received are subject to
public disclosure. In general, comments
received will be made available without
change and will not be modified to
remove personal or business
information including confidential,
contact, or other identifying
information. Comments should not
include any information such as
confidential information that would not
be appropriate for public disclosure.

Comments regarding each of these
applications must be received at the
Reserve Bank indicated or the offices of
the Board of Governors, Benjamin W.
McDonough, Secretary of the Board,
20th Street and Constitution Avenue
NW, Washington, DC 20551-0001, not
later than May 18, 2026.

A. Federal Reserve Bank of Chicago
(Colette A. Fried, Assistant Vice

President) 230 South LaSalle Street, Chicago, Illinois 60690-1414. Comments can also be sent electronically to

Comments.applications@chi.frb.org:

1. *University Bancorp, Inc.*, Ann Arbor, Michigan; to merge with Greater Pacific Bancshares, Whittier, California, and thereby indirectly acquire Bank of Whittier, National Association, Whittier, California.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026-07556 Filed 4-16-26; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Federal Trade Commission (FTC or Commission) is seeking public comment on its proposal to extend for an additional three years the Office of Management and Budget (OMB) clearance for information collection requirements in its Fair Credit Reporting Risk-Based Pricing Regulations (Risk-Based Pricing Rule or Rule), which applies to certain motor vehicle dealers, and its shared enforcement with the Consumer Financial Protection Bureau (CFPB) of the risk-based pricing provisions (Subpart H) of the CFPB's Regulation V regarding other entities. The current clearance expires on July 31, 2026.

DATES: Comments must be filed by June 16, 2026.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Risk-Based Pricing Rule, PRA Comment, P145403," 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, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H-144 (Annex E), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Jamie Hine, Attorney, Division of

Privacy and Identity Protection, Bureau of Consumer Protection, 600 Pennsylvania Ave. NW, Washington, DC 20580, jhine@ftc.gov, (202) 326-2188.

SUPPLEMENTARY INFORMATION:

Title of Collection: Fair Credit

Reporting Risk-Based Pricing

Regulations, 16 CFR part 640.

OMB Control Number: 3084-0145.

Type of Review: Extension without change of currently approved collection.

Affected Public: Private Sector: Businesses and other for-profit entities.

Estimated Annual Burden

Hours: 10,667,220.

Estimated Annual Labor Costs:

\$239,052,400.

Abstract: The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) was enacted on July 21, 2010.¹ The Dodd-Frank Act transferred to the CFPB most of the FTC's rulemaking authority for the risk-based pricing provisions of the Fair Credit Reporting Act (FCRA),² on July 21, 2011.³ After the enactment of the Dodd-Frank Act, the FTC retains rulemaking authority for its Risk-Based Pricing Rule (16 CFR part 640) solely for motor vehicle dealers described in section 1029(a) of the Dodd-Frank Act that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.⁴ The FTC shares enforcement authority with the CFPB for provisions of Regulation V Subpart H (12 CFR 1022.70-1022.75) that apply to entities other than motor vehicle dealers described above.

The Risk-Based Pricing Rule and the CFPB's Regulation V require that a creditor provide a risk-based pricing notice to a consumer when the creditor uses a consumer report to grant or extend credit to the consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that creditor.⁵ Additionally, these provisions require disclosure of credit scores and information relating to credit scores in risk-based pricing notices if a credit score of the consumer is used in setting the material terms of credit.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the

FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Risk-Based Pricing Rule.

Burden Statement

The Commission estimates that approximately 294,612 entities are covered by the FTC and CFPB Rules,⁶ including 60,963 motor vehicle dealers that are subject to exclusive FTC jurisdiction.⁷ The FTC assumes the full burden for the motor vehicle dealers subject to its exclusive jurisdiction and shares burden for the remaining entities subject to both CFPB and FTC enforcement authority. Accordingly, as an analytical framework, the FTC estimates burden pertaining to respondents over which both agencies have shared enforcement authority, divides the resulting total by one-half to reflect the FTC's shared burden, and adds to the resulting subtotal the estimated burden for motor vehicle dealers over which the FTC retains exclusive rulemaking and enforcement authority.

This yields a total of 177,787 respondents for whom the FTC accounts for burden (60,963 motor vehicle dealers plus one-half (*i.e.*, 116,824) of the remaining 233,649 entities subject to

⁶ See NAICS Association, LLC, NAICS Code Drill-Down Tool, (the categories of covered entities include "Furniture and Home Furnishings Retailers" (NAICS 4491) (<https://www.naics.com/six-digit-naics/?v=2022&code=44-45>), "Electronics and Appliance Retailers" (NAICS 449210) (<https://www.naics.com/six-digit-naics/?v=2022&code=44-45>), and "Consumer Lending" (NAICS 55291) (<https://www.naics.com/six-digit-naics/?v=2022&code=52>). See also U.S. Census Bureau, All Sectors: County Business Patterns, including ZIP Code Business Patterns, by Legal Form of Organization and Employment Size Class for the U.S., States, and Selected Geographies: 2023, <https://data.census.gov/tables?q=Business+and+Economy&codeset=naics-221> (for utilities). The estimate also includes state-chartered credit unions, which are subject to the Commission's jurisdiction. See 15 U.S.C. 1681s. Commission staff relied on estimates from the Credit Union National Association for the number of non-federal credit unions. See National Credit Union Administration, Quarterly Credit Union Data Summary 2025 Q4, <https://ncua.gov/files/publications/analysis/quarterly-data-summary-2025-Q4.pdf> (Dec. 2025). There are an estimated 118,491 furniture and home furnishing retailers, 76,522 electronics and appliance retailers, 16,656 consumer lending businesses, 20,379 utilities, and 1,601 state-chartered credit unions.

⁷ See U.S. Census Bureau, All Sectors: County Business Patterns, including ZIP Code Business Patterns, by Legal Form of Organization and Employment Size Class for the U.S., States, and Selected Geographies: 2023, <https://data.census.gov/tables/CBP2023.CB2300CBP?y=2023&codeset=naics-44111:44112:44121:44122:441228>. This total is based on an estimated 47,057 new and used car dealers, 2,972 recreational vehicle dealers, 4,246 boat dealers, and 6,688 motorcycle, ATV, and other motor vehicle dealers.

¹ Public Law 111-203, 124 Stat. 1376 (2010).

² 15 U.S.C. 1681 *et seq.*

³ Dodd-Frank Act, sec. 1061. This date was the "designated transfer date" established by the Treasury Department under the Dodd-Frank Act. See Dep't of the Treasury, *Bureau of Consumer Financial Protection; Designated Transfer Date*, 75 FR 57252, 57253 (Sept. 20, 2010); see also Dodd-Frank Act, sec. 1062.

⁴ See Dodd-Frank Act secs. 1029(a), (c).

⁵ 16 CFR 640.3-640.4; 12 CFR 1022.72-1022.73.

shared FTC–CFPB jurisdiction). The FTC estimates that covered entities spend approximately 60 hours per year to comply with the Rule’s requirements. As a result, the FTC estimates that the total burden hours attributable to FTC requirements are 10,667,220 hours (177,787 respondents × 60 hours).

Labor costs are derived by applying estimated hourly cost figures to the burden hours described above. The FTC assumes that respondents will use correspondence clerks, at a mean hourly wage of \$22.41,⁸ to modify and distribute notices to consumers, for a cumulative labor cost total of approximately \$239,052,400 (10,667,220 hours × \$22.41 per hour).

The FTC believes that the FTC and CFPB rules impose negligible capital or other non-labor costs, as the affected entities are likely to have the necessary supplies or equipment already (e.g., offices and computers) for the information collections discussed above.

Request for Comment

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (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.

For the FTC to consider a comment, we must receive it on or before June 16, 2026. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

If you file your comment on paper, write “Risk-Based Pricing Rule, PRA Comment, P145403,” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex E), Washington, DC 20580.

Because your comment will become publicly available at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In

particular, your comment should not include any 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 that your comment does not include any 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, in particular, 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: (1) be filed in paper form; (2) be clearly labeled “Confidential”; and (3) 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 publicly at www.regulations.gov, we cannot redact or remove your comment 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.

The FTC Act and other laws that 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 that it receives on or before June 16, 2026. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2026–07530 Filed 4–16–26; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (“PRA”), the Federal Trade Commission (“FTC” or “Commission”) is seeking public comment on its proposal to extend for an additional three years the Office of Management and Budget (“OMB”) clearance for information collection requirements in its Informal Dispute Settlement Procedures Rule (“the Dispute Settlement Rule” or “Rule”). That clearance expires on July 31, 2026.

DATES: Comments must be filed by June 16, 2026.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Dispute Settlement Rule; PRA Comment: FTC File No. P044403” 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, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex E), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Sung W. Kim, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326–2211; skim6@ftc.gov.

SUPPLEMENTARY INFORMATION:

Title: Informal Dispute Settlement Procedures Rule (the Dispute Settlement Rule or the Rule), 16 CFR part 703.

OMB Control Number: 3084–0113.

Likely Respondents: Warrantors that Use an IDS (Automobile Manufacturers) and Informal Dispute Settlement Mechanisms.

Estimated Annual Burden Hours: 11,738 (derived from 7,843 recordkeeping hours in addition to 2,614 reporting hours and 1,281 disclosure hours).

Estimated Annual Labor Costs: \$339,496.

Estimated Annual Capital or Other Non-Labor Costs: \$425,987.

⁸ See Bureau of Labor Statistics, Occupational Employment and Wages—May 2024, Table 1: National Employment and Wage Data from the Occupational Employment and Wage Statistics Survey by Occupation, May 2024, <https://www.bls.gov/news.release/ocwage.htm>.

Abstract: The Dispute Settlement Rule is one of three rules¹ that the FTC implemented pursuant to requirements of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 *et seq.* (“Warranty Act” or “Act”).² The Dispute Settlement Rule, 16 CFR part 703, specifies the minimum standards that must be met by any informal dispute settlement mechanism (“IDSM”) incorporated into a written consumer product warranty and that the consumer is required to use before pursuing legal remedies under the Act in court (known as the “prior resort requirement”).³

The Dispute Settlement Rule standards for IDSMs include requirements concerning the mechanism’s structure (*e.g.*, funding, staffing, and neutrality), the qualifications of staff or decision makers, the mechanism’s procedures for resolving disputes (*e.g.*, notification, investigation, time limits for decisions, and follow-up), recordkeeping, and annual audits. The Rule requires that IDSMs establish written operating procedures and provide copies of those procedures upon request.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements associated with the Dispute Settlement Rule.

Burden Statement

The primary burden from the Dispute Settlement Rule comes from the recordkeeping requirements that apply to IDSMs that are incorporated into a consumer product warranty through a prior resort clause. Currently, there are two IDSMs operating under the Rule: (1) the BBB AUTO LINE, and (2) the National Center for Dispute Settlement (“NCDS”). Although the Rule’s information collection requirements have not changed since 2023, staff has adjusted its previous estimates slightly upward for its 2026 calculations because the two IDSMs indicate that, on average, more disputes have been handled since the previous submission

to OMB (12,420 disputes/year projected in 2023; 15,685 disputes/year projected in 2026). The calculations underlying staff’s new estimates follow.

Recordkeeping: The Rule requires IDSMs to maintain records of each consumer warranty dispute. Both the BBB AUTO LINE and NCDS report the number of disputes closed each year. Staff is using those numbers to project what will happen over the next three years of OMB clearance for the Rule. The BBB AUTO LINE handles an average of 11,061 disputes each year.⁴ NCDS handles an average of 4,624 disputes each year.⁵ Based on these figures, staff estimates that the average number of IDSM disputes covered by the Rule is approximately 15,685. Case files must include information such as the consumer’s contact information, the make and model of the product at issue, all letters or other correspondence submitted by the consumer or warrantor, and all evidence collected to resolve the dispute. Because maintaining individual case records is a necessary function for any IDSM, much of the burden would be incurred in the ordinary course of business. Nonetheless, staff estimates that maintaining individual case files imposes an additional burden of 30 minutes per case.

Accordingly, the total annual recordkeeping burden is approximately 7,843 hours ((15,685 disputes × 30 minutes of burden/dispute)/60 minutes/hour).

Reporting: The Rule requires IDSMs to update indexes, complete semiannual statistical summaries, and submit an annual audit report to the FTC. Staff estimates that covered entities spend approximately 10 minutes per case for these activities, resulting in a total annual burden of approximately 2,614 hours ((15,685 disputes × 10 minutes of burden/dispute)/60 minutes/hour).

Disclosure

(a) Warrantors’ Disclosure Burden

Similar to 2023, staff has determined that it would be appropriate to account for the disclosure burden as it relates to warrantors based on two types of additional information that warrantors are required to disclose under the Rule:

(1) information concerning the IDSM and its procedures; and (2) information that makes consumers aware of the existence of the IDSM.⁶

A review of the annual audits of the BBB AUTO LINE and the NCDS indicates that there are approximately thirty-four automobile manufacturers covered by the Rule. Staff assumes that each manufacturer spends an average of thirty hours a year creating, revising, and distributing the informational materials necessary to comply with the Rule, resulting in an annual disclosure burden of 1,020 hours (34 manufacturers × 30 hours).

(b) IDSMs’ Disclosure Burden

Under the Rule, the IDSMs are required to provide to interested consumers, upon request, copies of the various types of information the IDSM possesses, including its annual audits. In addition, consumers who have filed disputes with the IDSM also have a right to copies of their records. IDSMs are permitted to charge for providing both types of information.

Based on discussions with representatives of the two IDSMs, staff estimates that the burden imposed by these disclosure requirements is approximately 261 hours per year. This estimate draws from the average number of disputes closed each year with the IDSMs (15,685) and the assumption that twenty percent of consumers request copies of the records pertaining to their disputes (approximately 3,137 disputes).⁷ Staff estimates that copying such records would require approximately 5 minutes per dispute.⁸ Staff estimates a total disclosure burden of approximately 261 hours ((3,137 disputes × 5 minutes of burden/dispute)/60 minutes/hour) for the IDSMs.

Accordingly, the total PRA-related annual hours burden attributed to the Rule is approximately 11,738 (7,843 hours for recordkeeping plus 2,614 hours for reporting plus 1,020 hours for warrantors’ disclosures and 261 hours for IDSM disclosures).

Total Annual Labor Cost: \$339,496.

Recordkeeping: Staff assumes that IDSMs use clerical staff to comply with the recordkeeping requirements contained in the Rule at an hourly rate of approximately \$22.⁹ Thus, the labor

¹ The other two rules relate to the information that must appear in any written warranty offered on a consumer product costing more than \$15 (Consumer Product Warranty Rule, 16 CFR part 701) and the pre-sale availability of warranty terms (Pre-Sale Availability Rule, 16 CFR part 702).

² 40 FR 60168 (Dec. 31, 1975).

³ The Dispute Settlement Rule applies only to those firms that choose to require consumers to use an IDSM. Neither the Rule nor the Act requires warrantors to set up IDSMs. A warrantor is free to set up an IDSM that does not comply with the Rule as long as the warranty does not contain a prior resort requirement.

⁴ According to its annual audits, the BBB AUTO LINE closed 7,766 disputes in 2022, 12,512 in 2023, and 12,906 in 2024. This includes disputes for at least two manufacturers that do not include a prior resort requirement. Therefore, this number likely overstates the number of disputes covered by the Rule.

⁵ According to NCDS’s annual audits, the number of disputes both within its jurisdiction and closed each year were 2,777 in 2022, 4,410 in 2023, and 6,685 in 2024.

⁶ 16 CFR 703.2(b).

⁷ This assumes each dispute is associated with one consumer.

⁸ In addition, some case files are provided to consumers electronically, which further reduces the paperwork burden borne by the IDSMs.

⁹ The wage rate is derived from occupational data found in the Bureau of Labor Statistics, Occupational Employment and Wages (Apr. 2025),

cost associated with the 7,843 annual burden hours for recordkeeping is approximately \$172,546 (7,843 burden hours $\times$ \$22 per hour).

Reporting: Staff assumes that IDSMS also use clerical support staff at an hourly rate of \$22 to comply with the reporting requirements. Thus, the labor cost associated with the 2,614 annual burden hours for reporting is approximately \$57,508 (2,614 burden hours $\times$ \$22 per hour).

Disclosure: Staff assumes that the work required to comply with the warrantors' disclosure requirements entails an equal mix of legal, clerical, and graphic design work. Staff assumes that one third of the total disclosure hours for warrantors (340 hours) require legal work at a rate of \$250 per hour, one third require graphic design at a rate of \$33 per hour,¹⁰ and one third require clerical work at a rate of \$22 per hour. This results in a disclosure labor burden of \$103,700 for warrantors ((340 $\times$ \$250) + (340 $\times$ \$33) + (340 $\times$ \$22)).

In addition, staff assumes that IDSMS use clerical support at an hourly rate of \$22 to reproduce records and, therefore, the labor cost associated with the 261 annual hours of disclosure burden for IDSMS is approximately \$5,742 (261 burden hours $\times$ \$22 per hour).

Accordingly, the combined total annual labor cost for PRA-related burden under the Rule is approximately \$339,496 (\$172,546 for recordkeeping + \$57,508 for reporting + \$109,442 for disclosures).

Total Annual Capital or Other Non-Labor Costs: \$425,987.

Total Capital and Start-Up Costs: The Rule imposes no appreciable current capital or start-up costs. The vast majority of warrantors have already developed systems to retain the records and provide the disclosures required by the Rule. Rule compliance does not require the use of any capital goods, other than ordinary office equipment, to which providers already have access.

The Rule imposes one additional cost on IDSMS operating under the Rule, which is the annual audit requirement. According to representatives of the IDSMS, the vast majority of costs associated with this requirement consist of the fees paid to the auditors and their staffs. Representatives of the IDSMS

previously estimated a combined cost of \$315,000 associated with the audits. In light of cost increases over the past three years, staff has increased that estimate by an additional twenty percent, estimating that the annual audit requirement now costs \$378,000 (or \$315,000 plus 20% increase).

Other Non-Labor Costs: As discussed above, staff assumes that approximately twenty percent of dispute files (approximately 3,137 files) are requested by consumers. Staff also estimates that only five percent of consumers will request a copy of the IDSM's audit report (approximately 784 audit reports).¹¹ Staff bases this assumption on the number of consumer requests received by the IDSMS in the past and the fact that the IDSMS' annual audits are available online. Staff estimates that the average dispute-related file contains 35 pages and a typical annual audit file contains approximately 200 pages. Staff estimates copying costs of 18 cents per page.

Thus, the total annual copying cost for dispute-related files is approximately \$19,763 (35 pages per file $\times$ \$0.18 per page $\times$ 3,137 disputes), and the total annual copying cost for annual audit reports is approximately \$28,224 (200 pages per audit report $\times$ \$0.18 per page $\times$ 784 audit reports). Accordingly, the total cost attributed to copying under the Rule is approximately \$47,987.

Thus, the total non-labor cost under the Rule is approximately \$425,987 (\$378,000 for auditor fees + \$47,987 for copying costs).

Request for Comment

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (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.

For the FTC to consider a comment, we must receive it on or before June 16, 2026. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

If you file your comment on paper, write "Dispute Settlement Rule; PRA Comment: FTC File No. P044403" on

your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H-144 (Annex E), Washington, DC 20580.

Because your comment will become publicly available at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any 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 that your comment does not include any 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, in particular, 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 (1) be filed in paper form, (2) be clearly labeled "Confidential," and (3) 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 publicly at www.regulations.gov, we cannot redact or remove your comment 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.

The FTC Act and other laws that 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 that it receives on or

available at <https://www.bls.gov/news.release/ocwage.htm>. The clerical wage rate estimate is based on the mean hourly wage data for the category of "Office Clerks, general" (\$21.86), rounded up to the nearest whole dollar amount (\$22).

¹⁰ *Id.* The wage rate estimate for graphic design work is based on the mean hourly wage data for the category of "Graphic designers" (\$32.98), rounded up to the nearest whole dollar amount (\$33).

¹¹ This estimate assumes each dispute is associated with one consumer.

before June 16, 2026. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2026-07538 Filed 4-16-26; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Office of Management and Budget #: 0970-0497]

Proposed Information Collection Activity; Personal Responsibility Education Program (PREP) Performance Measures

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Planning, Research, and Evaluation (OPRE) and the Family and Youth Services Bureau (FYSB) in the Administration for Children and Families (ACF) request approval for a revision to a currently approved information collection activity as part of the Personal Responsibility Education Program (PREP) Performance Measures project (Office of Management and Budget (OMB) #: 0970-0497; expiration date July 31, 2026). The goal of the project is to collect, analyze, and report on performance measures data for the PREP-funded programs. The purpose of the request is to continue the ongoing data collection and submission of the performance measures by PREP grant recipients, with revisions to the current performance measures. We are proposing revisions to the current participant surveys and reporting forms to address feedback from grant recipients to simplify and clarify information collections, and to ensure the measures meet FYSB data needs while reducing burden.

DATES: Comments due June 16, 2026.

ADDRESSES: In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above. You can obtain copies of the proposed collection of information and submit comments by emailing opreinfo@collection@acf.hhs.gov. Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The purpose of PREP is to provide grants to states, tribes and tribal communities, and community organizations to support evidence-based programs to reduce teen pregnancy and sexually transmitted infections. The programs are required to provide education on both abstinence and contraceptive use. The programs also offer information on adulthood preparation subjects such as healthy relationships, adolescent development, financial literacy, parent-child communication, education and employment skills, and healthy life skills.

The PREP project collects performance measures data from PREP grant recipients, program providers, and participants. The data include information on program structure, cost, and support for implementation; program attendance, reach, and dosage; the characteristics of youth involved in programming; youth sexual risk behaviors and behaviors related to adulthood preparation prior to program participation; and youth behavior intentions at program exit. The performance measures help the ACF program office and grant recipients to monitor and report on progress in implementing PREP programs and inform technical assistance. In addition, ACF will use the information to continue fulfilling its reporting requirements to Congress and OMB concerning the PREP initiative.

Some of the performance measures data come from youth participants through surveys PREP grant recipients administer at program entry and exit. There are separate versions of the entry and exit surveys for middle school youth, which exclude some of the more sensitive items that are included in the versions for high school and older

youth. There is also a shorter version of the entry survey for participants in the Personal Responsibility Education Innovative Strategies (PREIS) and Tribal PREP (TPREP) programs, to reduce the burden on participants in those programs (who are likely responding to other surveys); youth in these programs complete the same version of the exit survey as other youth.

We are proposing revisions to the current performance measures to address feedback from grant recipients and to ensure the measures meet FYSB data needs. Grant recipients have requested various changes to simplify and clarify the measures, including noting particular questions in the participant surveys that youth have difficulty understanding and responding to. In addition, contractor staff have noted which measures most frequently result in help desk contacts or are prone to data quality issues. Finally, FYSB staff identified measures that are no longer needed or could be obtained from other sources. Types of revisions include re-wording to use simpler language, reducing the number of sub-items or response categories, avoiding patterns in which survey respondents need to skip one or more questions based on their response to an earlier question, and removing some measures entirely. The proposed revisions to the participant surveys were cognitively tested with program participants for clarity and to check burden estimates.

Respondents: State PREP (SPREP), TPREP, Competitive PREP (CPREP), and PREIS grant recipients, their subrecipients, and program participants.

Annual Burden Estimates: The changes described above reduced the overall length of the surveys and are expected to reduce the burden for completing the participant entry survey from 8 minutes to 5 minutes per response and the participant exit survey from 7 minutes to 5 minutes per response. Additionally, the estimated number of respondents has been adjusted to reflect the estimated number over the next 3 years, which is reduced compared to previous estimates. Overall, we expect a 40 percent reduction in the annual burden hours under this request compared to the previously approved annual burden.

Instrument	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Avg. burden per response (in hours)	Total burden (in hours)	Annual burden (in hours)
Instrument 1					
Participant entry survey (all versions)	235,353	1	0.0833	19,605	6,535
Instrument 2					
Participant exit survey (all versions)	195,528	1	0.0833	16,287	5,429
Instrument 3: Performance Reporting System Data Entry Form					
State grant recipients	49	6	18	5,292	1,764
TPREP grant recipients	7	6	18	756	252
CPREP grant recipients	27	6	14	2,268	756
PREIS grant recipients	12	6	14	1,008	336
Instrument 4: Subrecipient Data Collection and Reporting Form					
State subrecipients	269	6	14	22,596	7,532
TPREP subrecipients	25	6	14	2,100	700
CPREP subrecipients	36	6	12	2,592	864
PREIS subrecipients	16	6	12	1,152	384
Estimated Total and Annual Burden Hours .....	.....	.....	.....	73,656	24,552

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: 42 U.S.C. 1310.

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2026-07499 Filed 4-16-26; 8:45 am]

BILLING CODE 4184-37-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-N-3099]

Agency Information Collection Activities; Proposed Collection; Comment Request; Radioactive Drug Research Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements contained in regulations governing the use of radioactive drugs for basic informational research.

DATES: Either electronic or written comments on the collection of information must be submitted by June 16, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 16, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

• **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for

information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2026–N–3099 for “Radioactive Drug Research Committees.” 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: Ila S. Mizrahi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD

20852, (301) 796–1244, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Radioactive Drug Research Committees—21 CFR 361.1

OMB Control Number 0910–0053—Extension

This information collection request supports regulations and associated Agency forms. Sections 201, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 355, and 371) establish provisions under which FDA issues regulations governing the use of radioactive drugs for basic scientific research. Specifically, § 361.1 (21 CFR 361.1) sets forth specific regulations about establishing and composing radioactive drug research committees (RDRCs) and their role in approving and monitoring basic research studies using radiopharmaceuticals. No basic research study involving any administration of a

radioactive drug to research subjects is permitted without the authorization of an FDA-approved RDRC (§ 361.1(d)(7)). The type of research that may be undertaken with a radiopharmaceutical drug must be intended to obtain basic information and must not carry out a clinical trial for safety or efficacy. The types of basic research permitted are specified in the regulations and include studies of metabolism, human physiology, pathophysiology, or biochemistry.

Section 361.1(c)(2) requires that each RDRC will select a chairman, who will sign all applications, minutes, and reports of the committee. Each committee will meet at least once each quarter in which research activity has been authorized or conducted. Minutes will be kept and will include the numerical results of votes on protocols involving use in human subjects. Under § 361.1(c)(3), each RDRC will submit an annual report to FDA. The annual report will include the names and qualifications of the members of, and of any consultants used by, the RDRC, using Form FDA 2914 (Report on Research Use of Radioactive Drugs—Membership Summary). The annual report will also include a summary of each study conducted during the preceding year, using Form FDA 2915 (Report on Research Use of Radioactive Drugs—Study Summary).

We developed a guidance for industry and researchers entitled “Radioactive Drug Research Committee: Human Research Without An Investigational New Drug Application” (August 2010) available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/radioactive-drug-research-committee-human-research-without-investigational-new-drug-application>. The guidance provides information to help determine whether research studies may be conducted under an FDA-approved RDRC, or whether research studies must be conducted under an investigational new drug application (IND). The guidance also offers answers to frequently asked questions on conducting research with radioactive drugs, and provides information on the membership, functions, and reporting requirements of an FDA-approved RDRC. All Agency guidance documents are issued consistent with our good guidance practice regulations at 21 CFR 10.115.

Under § 361.1(d)(5), each investigator will obtain the proper consent required under the regulations. Each female research subject of childbearing potential must state in writing that she is not pregnant or, based on a pregnancy test, be confirmed as not pregnant.

Under § 361.1(d)(8), the investigator will immediately report to the RDRC all adverse effects associated with use of the drug, and the committee will then report to FDA all adverse reactions probably attributed to the use of the radioactive drug.

Section 361.1(f) sets forth labeling requirements for radioactive drugs. These requirements are not in the reporting burden estimate because they are information supplied by the Federal Government to the recipient for the purposes of disclosure to the public (5 CFR 1320.3(c)(2)).

Types of research studies not permitted under the regulations are also

specified in § 361.1(a) and include those intended for immediate therapeutic, diagnostic, or similar purposes or to determine the safety or effectiveness of the drug in humans for such purposes (*i.e.*, to carry out a clinical trial for safety or efficacy). These studies require filing of an IND under 21 CFR part 312, and the associated information collections, are covered in OMB control number 0910–0014.

The primary purpose of this collection of information is to determine whether the research studies are being conducted in accordance with applicable statutes and regulations specified under 21 CFR 361.1 and that

human subject safety is assured. If these studies were not reviewed, human subjects could be subjected to inappropriate radiation or pharmacologic risks. Respondents to this information collection are the chairperson or chairpersons of each individual RDRC, investigators, and participants in the studies. The burden estimates are based on our experience with these reporting and recordkeeping requirements and the number of submissions we received under the regulations over the past 3 years.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN¹

21 CFR section and applicable form	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
§ 361.1(c)(3) reports and (c)(4) approval (Form FDA 2914: Membership Summary) ² .	55	1	55	1	55
§ 361.1(c)(3) reports (Form FDA 2915: Study Summary) ³ .	35	9	324	3.5	1,134
§ 361.1(d)(8) adverse events	10	1	10	.5 (30 minutes)	5
Total .....	.....	.....	389	.....	1,194

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² <https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM094979.pdf>.

³ <https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM074720.pdf>.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN¹

21 CFR section	Number of recordkeepers	Number of records per recordkeepers	Total annual records	Average burden per recordkeeping	Total hours
§ 361.1(c)(2) RDRC	55	4	220	10	2,200
§ 361.1(d)(5) human research subjects	35	9	324	.75 (45 minutes) ...	243
Total .....	.....	.....	544	.....	2,443

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall decrease of 52 hours and a corresponding decrease of 97 responses. This is attributed to the Agency receiving fewer submissions over the last few years due to decreased subject enrollment during the pandemic.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–07507 Filed 4–16–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–37999]

Authorization of Emergency Use for Four Animal Drugs for the Treatment of New World Screwworm; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the issuance of four Emergency Use Authorizations (EUA) (Authorization) under the Federal Food, Drug, and Cosmetic Act (FD&C Act) for new animal products. FDA has issued three EUAs for animal products as requested by Boehringer Ingelheim

Animal Health USA, Inc. (Boehringer) for the prevention of infestations caused by New World screwworm (*Cochliomyia hominivorax*) (NWS) larvae (myiasis) in certain cattle, and for the treatment of such infestations in dogs, and cats. FDA has issued one EUA for an animal product as requested by Health and Hygiene (Pty) Ltd. for the prevention and treatment of infestations caused by NWS larvae (myiasis) in cattle, horses, minor species of hoof stock (*e.g.*, sheep, goats, deer), raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals. The Authorizations contain, among other things, conditions on the emergency use of the authorized products. The Authorizations follow the August 18, 2025, determination by the Secretary of Health and Human Services (HHS) that there is a significant potential for a public health emergency that has a

significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves NWS. On the basis of such determination, the Secretary of HHS declared on August 18, 2025, that circumstances exist justifying the authorization of emergency use of animal drugs to treat or prevent NWS myiasis in animals. The Authorizations, which include an explanation of the reasons for issuance, are reprinted in this document.

DATES: The Authorizations are effective on their dates of issuance: February 5, 2026, February 18, 2026, and March 10, 2026, respectively.

ADDRESSES: Submit written requests for single copies of the EUAs to the Policy and Regulations Staff, Center for Veterinary Medicine, Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the Authorizations.

FOR FURTHER INFORMATION CONTACT: Crystal Groesbeck, Center for Veterinary Medicine, Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, 240-402-0819, Crystal.Groesbeck@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb-3) allows FDA to strengthen public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUA authority, FDA can help ensure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by biological, chemical, nuclear, or radiological agents when there are no adequate, approved, and available alternatives (among other criteria).

II. Criteria for EUA Authorization

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (A) a determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency,

involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents ("CBRN"); (B) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to U.S. military forces, including personnel operating under the authority of title 10 or title 50, U.S. Code, of attack with (i) a CBRN; or (ii) an agent or agents that may cause, or are otherwise associated with, an imminently life-threatening and specific risk to U.S. military forces;¹ (C) a determination by the Secretary of HHS that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a CBRN agent or agents, or a disease or condition that may be attributable to such agent or agents; or (D) the identification of a material threat by the Secretary of Homeland Security pursuant to section 319F-2 of the Public Health Service (PHS) Act (42 U.S.C. 247d-6b) sufficient to affect national security or the health and security of U.S. citizens living abroad.

Once the Secretary of HHS has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may authorize the emergency use of a drug, device, or biological product if the Agency concludes that the statutory criteria are satisfied. Under section 564(h)(1) of the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. Under section 564(h)(1) of the FD&C Act, revisions to an authorization shall be made available on FDA's website. Section 564 of the FD&C Act permits FDA to authorize the introduction into interstate commerce of a drug, device, or biological product intended for use in an actual or potential emergency when the Secretary of HHS has declared that circumstances exist justifying the authorization of emergency use. Products appropriate for emergency use may include products and uses that are not approved, cleared, or licensed under sections 505, 510(k), 512, or 515 of the FD&C Act (21 U.S.C. 355, 360(k), 360b, and 360e) or section

¹ In the case of a determination by the Secretary of Defense, the Secretary of HHS shall determine, within 45 calendar days of such determination, whether to make a declaration under section 564(b)(1) of the FD&C Act, and, if appropriate, shall promptly make such a declaration (see section 564(b)(6) of the FD&C Act).

351 of the PHS Act (42 U.S.C. 262), or conditionally approved under section 571 of the FD&C Act (21 U.S.C. 360ccc).

Under section 564(c) of the FD&C Act, FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the applicable circumstances), FDA² concludes: (1) that an agent referred to in a declaration of emergency or threat can cause a serious or life-threatening disease or condition; (2) that, based on the totality of scientific evidence available to FDA, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that: (A) the product may be effective in diagnosing, treating, or preventing (i) such disease or condition; or (ii) a serious or life-threatening disease or condition caused by a product authorized under section 564, approved or cleared under the FD&C Act, or licensed under section 351 of the PHS Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and (B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product, taking into consideration the material threat posed by the agent or agents identified in a declaration under section 564(b)(1)(D) of the FD&C Act, if applicable; (3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; (4) in the case of a determination described in section 564(b)(1)(B)(ii) of the FD&C Act, that the request for emergency use is made by the Secretary of Defense; and (5) that such other criteria as may be prescribed by regulation are satisfied. No other criteria for issuance have been prescribed by regulation under section 564(c)(4) of the FD&C Act.

III. The Authorizations

The Authorizations follow the August 18, 2025, determination by the Secretary of HHS that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves NWS. On the basis of such determination, the Secretary of HHS declared, on August 18, 2025, that

² The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

circumstances exist justifying the authorization of emergency use of animal drugs to treat or prevent NWS myiasis in animals. Notice of the Secretary's determination and declaration was provided in the **Federal Register** on August 20, 2025 (90 FR 40609). Having concluded that the criteria for the issuance of the Authorizations under section 564(c) of the FD&C Act are met, FDA has issued four authorizations for the emergency use of animal products. On February 5, 2026, FDA issued an EUA to Boehringer for the animal product Ivomec (ivermectin), subject to the terms of its Authorization. On February 18, 2026, FDA issued two EUAs to Boehringer for

the animal products NexGard (afoxolaner) and NexGard COMBO (esafoxolaner, eprinomectin, and praziquantel topical solution), subject to the terms of their Authorizations. On March 10, 2026, FDA issued an EUA to Health and Hygiene (Pty) Ltd for the animal product F10 Antiseptic Wound Spray with Insecticide (benzalkonium chloride, polyhexanide and cypermethrin topical solution), subject to the terms of its Authorization.

The initial Authorizations, included below in their entirety after section IV of this document (not including the authorized versions of the fact sheets and other written materials), provide explanations of the reasons for issuance,

as required by section 564(h)(1) of the FD&C Act. Any subsequent reissuance of the Authorizations can be found on FDA's web page at: <https://www.fda.gov/animal-veterinary/safety-health/new-world-screwworm-information-veterinarians>.

IV. Electronic Access

An electronic version of this document and the full text of the Authorization is available on the internet at: <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>.

BILLING CODE 4164-01-P



U.S. FOOD & DRUG
ADMINISTRATION

February 5, 2026

Boehringer Ingelheim Animal Health USA, Inc.
Attention: Tracy Robertson
Regulatory Affairs, Operations
3239 Satellite Blvd.
Duluth, GA 30096

Re: Emergency Use Authorization 006689

Dear Ms. Robertson:

This letter is in response to the request by Boehringer Ingelheim Animal Health USA, Inc. (Boehringer) that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for the emergency use of Ivomec (ivermectin) injection for prevention of infestations caused by New World screwworm (*Cochliomyia hominivorax*) larvae (myiasis) when administered within 24 hours of birth, at the time of castration, or at the appearance of a wound in cattle, except for female dairy cattle producing milk for human consumption and calves that will be processed for veal¹, pursuant to Section 564 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. § 360bbb-3).

On August 18, 2025, pursuant to Section 564(b)(1)(C) of the FD&C Act, the Secretary of the Department of Health and Human Services (HHS) determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves New World screwworm (*Cochliomyia hominivorax*) (hereinafter "NWS"). On the basis of such determination, the Secretary of HHS on August 18, 2025, declared that circumstances exist justifying the authorization of emergency use of animal drugs to treat or prevent NWS myiasis in animals, pursuant to section 564(b)(1) of the FD&C Act, subject to terms of any authorization issued under that section.²

Ivomec (ivermectin) injection is an antiparasitic drug that is indicated under NADA 128-409 for the treatment and control of a variety of internal and external parasites in cattle. Ivomec (ivermectin) injection is not approved or conditionally approved for prevention of NWS myiasis.

Based on the scientific evidence available to the FDA, including summaries of dose confirmation studies and published scientific literature, it is reasonable to believe that Ivomec (ivermectin) injection may be effective for prevention of infestations caused by NWS larvae (myiasis) when administered within 24 hours of birth, at the time of castration, or at the appearance of a wound in certain cattle, as described in this authorization, and when used under the conditions described in this authorization, the known and potential benefits of Ivomec (ivermectin) injection

¹ Hereinafter, "cattle, except for female dairy cattle producing milk for human consumption and calves that will be processed for veal," will be referred to as "certain cattle."

² See U.S. Department of Health and Human Services, Declaration of Emergency Pursuant to the Federal Food, Drug, and Cosmetic Act for New World Screwworm, August 20, 2025: <https://www.federalregister.gov/documents/2025/08/20/2025-15918/declaration-of-emergency-pursuant-to-the-federal-food-drug-and-cosmetic-act-for-new-world-screwworm>

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outweigh the known and potential risks of such product.

Having concluded that the criteria for issuance of this authorization under Section 564(c) of the FD&C Act are met, I am authorizing the emergency use of Ivomec (ivermectin) injection for prevention of infestations caused by NWS larvae (myiasis) when administered within 24 hours of birth, at the time of castration, or at the appearance of a wound in certain cattle, as described in this authorization and subject to the terms of this authorization.

I. Criteria for Issuance of Authorization

I have concluded that the emergency use of Ivomec (ivermectin) injection for prevention of infestations caused by NWS larvae (myiasis) when administered within 24 hours of birth, at the time of castration, or at the appearance of a wound in certain cattle, when administered as described in this authorization, meets the criteria for issuance of an authorization under Section 564(c) of the FD&C Act, because:

1. NWS can cause a serious or life-threatening disease or condition to animals and humans;
2. Based on the scientific evidence available to FDA, it is reasonable to believe that Ivomec (ivermectin) injection may be effective in preventing NWS, and that, when used under the conditions and within the scope described in this authorization, the known and potential benefits of Ivomec (ivermectin) injection when used to prevent NWS outweigh the known and potential risks of such product; and
3. There is no adequate, approved, and available alternative³ to the emergency use of Ivomec (ivermectin) injection for prevention of infestations caused by NWS larvae (myiasis) in certain cattle for the authorized indications.⁴

II. Scope of Authorization

I have concluded, pursuant to Section 564(d)(1) of the FD&C Act, that the scope of this authorization is limited as follows:

- Ivomec (ivermectin) injection, as covered by this authorization, will be used only for prevention of infestations caused by NWS larvae (myiasis) when administered within 24 hours of birth, at the time of castration, or at the appearance of a wound in certain cattle; and

³ Other therapeutics are conditionally approved for prevention of infestations caused by NWS larvae (myiasis) in cattle. However, these products are not available alternatives because there are insufficient quantities to meet the demands of a widescale incursion of NWS into the United States. In addition, one conditionally approved product is not an adequate alternative because it requires a prescription, potentially delaying administration. There is a significant benefit to expedient administration of a preventative product, particularly if animals nearby are infested. Thus, FDA concluded that this additional OTC injectable macrocyclic lactone product indicated for prevention of NWS in cattle is needed to meet the demands of a widescale incursion of NWS into the United States.

⁴ No other criteria of issuance have been prescribed by regulation under Section 564(c)(4) of the FD&C Act.

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- The use of Ivomec (ivermectin) injection covered by this authorization must be in accordance with the authorized Fact Sheet.

Product Description

Ivomec (ivermectin) injection is derived from the avermectins, a family of broad-spectrum antiparasitic agents. The authorized Ivomec (ivermectin) injection carton label is clearly marked for the approved indications and for NWS under Emergency Use Authorization, with a website address and QR code that links to the authorized Fact Sheet.

Store at or below 25°C (77°F) with excursions permitted up to 30°C (86°F). Protect product from light.

Ivomec (ivermectin) injection is authorized to be accompanied by the following product-specific information pertaining to emergency use, which is required to be made available to all users:

- Fact Sheet: Emergency Use Authorization of Ivomec (ivermectin) Injection for New World Screwworm (NWS)

I have concluded, pursuant to Section 564(d)(2) of the FD&C Act, that it is reasonable to believe that the known and potential benefits of Ivomec (ivermectin) injection, when used for prevention of infestations caused by NWS larvae (myiasis) when administered within 24 hours of birth, at the time of castration, or at the appearance of a wound in certain cattle and used in accordance with this authorization, outweigh its known and potential risks.

I have concluded, pursuant to Section 564(d)(3) of the FD&C Act, based on the scientific evidence available to FDA, that it is reasonable to believe that Ivomec (ivermectin) injection may be effective for prevention of infestations caused by NWS larvae (myiasis) when administered within 24 hours of birth, at the time of castration, or at the appearance of a wound in certain cattle when used in accordance with this authorization, pursuant to Section 564(c)(2)(A) of the FD&C Act.

Having reviewed the scientific information available to FDA, including the information supporting the conclusions described in Section I above, I have concluded that Ivomec (ivermectin) injection, as described in this authorization, meets the criteria set forth in Section 564(c) of the FD&C Act concerning safety and potential effectiveness.

The emergency use of this product under an EUA must be consistent with, and may not exceed, the terms of this authorization, including the Scope of Authorization (Section II) and the Conditions of Authorization (Section III). Subject to the terms of this EUA and under the circumstances set forth in the Secretary of HHS's determination under Section 564(b)(1)(C) of the FD&C Act described above and the Secretary of HHS's corresponding declaration under Section 564(b)(1) of the FD&C Act, Ivomec (ivermectin) injection is authorized for prevention of infestations caused by NWS larvae (myiasis) when administered within 24 hours of birth, at the time of castration, or at the appearance of a wound in certain cattle as described in this

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authorization, despite the fact that it does not meet certain requirements otherwise required by applicable federal law.

III. Conditions of Authorization

Pursuant to Section 564 of the FD&C Act, I am establishing the following conditions on this authorization:

- A. Boehringer will ensure that the authorized Ivomec (ivermectin) injection, accompanied with the authorized Fact Sheet, is distributed to authorized distributor(s)⁵ consistent with the terms and conditions of this EUA, and that authorized distributor(s) will limit distribution to other authorized distributors and end users.
- B. Boehringer will ensure that if a sticker is used on the labeling, that the sticker contains a website address and QR code that link to the authorized Fact Sheet and that the sticker is placed in a blank space or does not obscure any important use or safety information.
- C. Boehringer and authorized distributor(s) will ensure that appropriate storage conditions are maintained until the product is delivered to the end user.
- D. Boehringer and authorized distributor(s) will provide to each authorized distributor immediately downstream in the supply chain a copy of this Letter of Authorization and promptly communicate any subsequent amendments that might be made to this Letter of Authorization and its authorized accompanying materials (e.g., its authorized Fact Sheet).
- E. Boehringer may request changes to this authorization, including to the authorized Fact Sheet for Ivomec (ivermectin) injection. Requests for changes must be submitted to the Office of New Animal Product Evaluation. Such changes require appropriate authorization prior to implementation.⁶
- F. Reporting Adverse Drug Experiences and Product/Manufacturing Defects:

Boehringer will fully comply with the reporting requirements under 21 CFR 514.80. When collecting adverse event information, Boehringer will attempt to determine whether the use of Ivomec (ivermectin) injection was related to the EUA and will put this categorization, as well as the reason for use, in the narrative description of the adverse event. Boehringer will submit the reports electronically using either of the options that are described on FDA's Veterinary Adverse Event Reporting for Manufacturers webpage (www.fda.gov/IndustryReportAnimalAE).

⁵ The term "distributors" includes all parties in the supply chain between the recipient of this authorization letter and the end user. "Authorized distributors" are all distributors who otherwise lawfully obtain and distribute the product, unless Boehringer places limits on distribution in writing (e.g., via contract or written notice accompanying the product).

⁶ Revisions that do not necessitate revision to this letter (e.g., changes to the Fact Sheet, specified cGMPs, expiration dating extensions) may be authorized through separate notification without reissuance of this letter.

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Submitted reports must state in the "Narrative of Adverse Event" field: "Ivomec use for NWS under an EUA". Contact the Pharmacovigilance Liaison in CVM's Division of Pharmacovigilance and Surveillance at CVMAESupport@fda.hhs.gov for any questions related to electronic reporting or for assistance with setting up a Safety Reporting Portal account.

- G. Through a process of inventory control, Boehringer and authorized distributor(s) will maintain records regarding distribution of the authorized Ivomec (ivermectin) injection (i.e., lot numbers, quantity, receiving site, receipt date).
- H. Boehringer and authorized distributor(s) will maintain records in connection with this EUA for at least two years following the termination of the declaration or revocation of the authorization, or until notified by HHS or FDA, whichever is sooner, and will make such records available to FDA for inspection upon request.
- I. Boehringer will comply with all other FD&C Act requirements applicable to the approved product, Ivomec (ivermectin) injection, including, but not limited to, requirements related to registration and listing, drug quality, and manufacturing process, facilities, and equipment in accordance with the approved application⁷ unless such requirement is specifically waived or modified for the authorized product in this authorization. Boehringer shall update their drug listing to reflect the EUA, including submission of updated labeling, before commercial distribution of the EUA product begins.

Conditions of Authorization Related to Advertisements and other Promotional Descriptive Printed Matter

- J. All advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter, relating to the authorized use of Ivomec (ivermectin) injection, shall be consistent with the authorized Fact Sheet⁸, and the terms set forth in this EUA, as well as comply with FD&C Act section 502(a) and 502(n), and 21 CFR Part 202. Additionally, the sponsor and authorized distributor(s) shall comply with any other applicable requirements in the FD&C Act and its implementing regulations regarding advertising and/or promotion.
- K. Boehringer and authorized distributor(s) may not imply that Ivomec (ivermectin) injection is FDA approved or conditionally approved for the authorized use by making statements such as "Ivomec (ivermectin) injection is safe and effective for prevention of infestations caused by NWS (*Cochliomyia hominivorax*) larvae (myiasis) when administered within 24 hours of birth, at the time of castration, or at the appearance of a wound in certain cattle". Boehringer and authorized distributor(s) may disseminate advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter relating to the emergency use of Ivomec (ivermectin) injection that provide accurate descriptions of safety and

⁷ Changes shall be submitted and approved in accordance with 21 CFR 514.8, unless otherwise approved under Paragraph E of this letter.

⁸ If the authorized Fact Sheet references sections of a drug's FDA-approved labeling, the entirety of each section is considered part of the Fact Sheet, except as otherwise specified. Advertising and promotional materials may not use general references to approved labeling in lieu of summarizing or restating its contents when a summary or restatement is otherwise needed to comply with applicable requirements.

Boehringer Ingelheim Animal Health USA, Inc.
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effectiveness information summarized in the authorized Fact Sheet. Such materials must include any limitations of information submitted to support this authorization.

- L. All advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter relating to the authorized use of Ivomec (ivermectin) injection shall be accompanied by the authorized Fact Sheet and the applicable approved labeling (e.g., package insert), and shall clearly and conspicuously state that:
- Ivomec (ivermectin) injection has not been approved for prevention of infestations caused by NVVS (*Cochliomyia hominivorax*) larvae (myiasis) when administered within 24 hours of birth, at the time of castration, or at the appearance of a wound in certain cattle;
 - Ivomec (ivermectin) injection has been authorized by FDA under an EUA for prevention of infestations caused by NVVS (*Cochliomyia hominivorax*) larvae (myiasis) when administered within 24 hours of birth, at the time of castration, or at the appearance of a wound in certain cattle; and
 - Ivomec (ivermectin) injection is authorized as described herein only for the duration of the declaration that circumstances exist justifying the authorization of the emergency use of Ivomec (ivermectin) injection under Section 564(b)(1) of the FD&C Act, 21 U.S.C. § 360bbb-3(b)(1), unless the declaration is terminated or authorization revised or revoked sooner.
- M. All advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter must be submitted to the CVM OSC DER eSubmitter Program at the time of initial dissemination (publication or broadcast). Each submission of promotional labeling or advertisements must be accompanied by a completed Form FDA 2301.

If FDA notifies Boehringer that any descriptive materials, advertising, or promotional materials do not meet the terms set forth in this EUA, Boehringer must discontinue and/or cease distribution of such advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter in accordance with FDA's notification. Furthermore, as part of its notification, FDA may also require Boehringer to issue corrective communication(s).

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IV. Duration of Authorization

This EUA will be effective as described herein until the declaration that circumstances exist justifying the authorization of the emergency use of animal drugs during the NWS public health emergency is terminated under Section 564(b)(2) of the FD&C Act or the EUA is revised or revoked under Section 564(g) of the FD&C Act.

Sincerely,

(see appended electronic signature page)

Timothy Schell, Ph.D.
Director
Center for Veterinary Medicine
U.S. Food and Drug Administration

Enclosures:
Freedom of Information Summary
Fact Sheet

U.S. Food & Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20903
www.fda.gov



FDA U.S. FOOD & DRUG
ADMINISTRATION

February 18, 2026

Boehringer Ingelheim Animal Health USA, Inc.
Attention: Tracy L. Robertson
Regulatory Affairs, Operations
3239 Satellite Blvd.
Duluth, GA 30096

Re: Emergency Use Authorization 006685

Dear Ms. Robertson:

This letter is in response to the request by Boehringer Ingelheim Animal Health USA, Inc. (Boehringer) that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for the emergency use of NexGard (afoxolaner) chewables for the treatment of infestations caused by New World screwworm (*Cochliomyia hominivorax*) larvae (myiasis) in dogs and puppies, pursuant to Section 564 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. § 360bbb-3).

On August 18, 2025, pursuant to Section 564(b)(1)(C) of the FD&C Act, the Secretary of the Department of Health and Human Services (HHS) determined that there is significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves New World screwworm (*Cochliomyia hominivorax*) (hereinafter "NWS"). On the basis of such determination, the Secretary of HHS on August 18, 2025 declared that circumstances exist justifying the authorization of emergency use of animal drugs to treat or prevent NWS myiasis in animals, pursuant to section 564(b)(1) of the FD&C Act, subject to terms of any authorization issued under that section.¹

NexGard is an antiparasitic. NexGard kills fleas and is indicated under NADA 141-406 for the treatment and prevention of flea infestations (*Ctenocephalides felis*), and the treatment and control of *Ixodes scapularis* (black-legged tick), *Dermacentor variabilis* (American dog tick), *Amblyomma americanum* (lone star tick), *Rhipicephalus sanguineus* (brown dog tick), and *Haemaphysalis longicornis* (longhorned tick) infestations in dogs and puppies 8 weeks of age and older, weighing 4 pounds of body weight or greater, for one month. NexGard is also indicated under NADA 141-406 for the prevention of *Borrelia burgdorferi* infections as a direct result of killing *Ixodes scapularis* vector ticks. NexGard is not approved for the treatment of NWS myiasis.

Based on the totality of scientific evidence available to the FDA, including data from published scientific literature, it is reasonable to believe that NexGard may be effective for the treatment of infestations caused by NWS larvae (myiasis) in dogs and puppies, as described in this authorization, and when used under the conditions described in this authorization, the known

¹ See U.S. Department of Health and Human Services, Declaration of Emergency Pursuant to the Federal Food, Drug, and Cosmetic Act for New World Screwworm, August 20, 2025: <https://www.federalregister.gov/documents/2025/08/20/2025-15918/declaration-of-emergency-pursuant-to-the-federal-food-drug-and-cosmetic-act-for-new-world-screwworm>

Boehringer Ingelheim Animal Health USA, Inc.
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and potential benefits of NexGard outweigh the known and potential risks of such product for dogs of all ages and weights because NWS is potentially fatal in dogs if left untreated, therefore justifying including dogs less than 8 weeks of age or less than 4 pounds in this authorization.

Having concluded that the criteria for issuance of this authorization under Section 564(c) of the FD&C Act are met, I am authorizing the emergency use of NexGard for the treatment of infestations caused by NWS larvae (myiasis) in dogs and puppies, as described in this authorization and subject to the terms of this authorization.

I. Criteria for Issuance of Authorization

I have concluded that the emergency use of NexGard for the treatment of infestations caused by NWS larvae (myiasis) in dogs and puppies, when administered as described in this authorization, meets the criteria for issuance of an authorization under Section 564(c) of the FD&C Act, because:

1. NWS can cause a serious or life-threatening disease or condition to animals and humans;
2. Based on the totality of scientific evidence available to FDA, it is reasonable to believe that NexGard may be effective in treating NWS and that, when used under the conditions and within the scope described in this authorization, the known and potential benefits of NexGard when used to treat NWS outweigh the known and potential risks of such product; and
3. There is no adequate, approved, and available alternative² to the emergency use of NexGard for the treatment of infestations caused by NWS larvae (myiasis) in dogs and puppies.³

II. Scope of Authorization

I have concluded, pursuant to Section 564(d)(1) of the FD&C Act, that the scope of this authorization is limited as follows:

- NexGard, as covered by this authorization, will be used only for the treatment of infestations caused by NWS larvae (myiasis) in dogs and puppies by a veterinarian by prescription; and
- The use of NexGard covered by this authorization must be in accordance with the authorized Fact Sheet.

² There are no approved alternatives for dogs and puppies under 8 weeks of age or weighing less than 3.3 pounds because the conditionally approved product is approved to treat NWS in dogs and puppies at least 8 weeks of age and weighing at least 3.3 pounds. Additionally, there are no adequate approved alternative products containing a single active ingredient. The conditionally approved product contains multiple active ingredients, use of which may increase the likelihood of adverse events in dogs recently treated with a heartworm preventative or other antiparasitic drug in the same class as one of the ingredients in the conditionally approved product. Therefore, NexGard containing only a single active ingredient may minimize the potential for adverse events in these dogs.

³ No other criteria of issuance have been prescribed by regulation under Section 564(c)(4) of the FD&C Act.

Boehringer Ingelheim Animal Health USA, Inc.
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EUA 006685

Product Description

NexGard is an antiparasitic. The authorized NexGard carton labeling is clearly marked for the approved indications and for NWS under Emergency Use Authorization, with a website address and QR code that links to the authorized Fact Sheet.

Store at or below 30°C (86°F), excursions permitted up to 40°C (104°F).

NexGard is authorized to be accompanied by the following product-specific information pertaining to emergency use, which is required to be made available to veterinarians and others who may administer the product:

- Fact Sheet for Veterinarians: Emergency Use Authorization of NexGard (afoxolaner) Chewables for New World Screwworm (NWS)

I have concluded, pursuant to Section 564(d)(2) of the FD&C Act, that it is reasonable to believe that the known and potential benefits of NexGard, when used for the treatment of infestations caused by NWS larvae (myiasis) in dogs and puppies and used in accordance with this authorization, outweigh its known and potential risks.

I have concluded, pursuant to Section 564(d)(3) of the FD&C Act, based on the totality of scientific evidence available to FDA, that it is reasonable to believe that NexGard may be effective for the treatment of infestations caused by NWS larvae (myiasis) in dogs and puppies when used in accordance with this authorization, pursuant to Section 564(c)(2)(A) of the FD&C Act.

Having reviewed the scientific information available to FDA, including the information supporting the conclusions described in Section I above, I have concluded that NexGard, as described in this authorization, meets the criteria set forth in Section 564(c) of the FD&C Act concerning safety and potential effectiveness.

The emergency use of this product under an EUA must be consistent with, and may not exceed, the terms of this authorization, including the Scope of Authorization (Section II) and the Conditions of Authorization (Section III). Subject to the terms of this EUA and under the circumstances set forth in the Secretary of HHS's determination under Section 564(b)(1)(C) of the FD&C Act described above and the Secretary of HHS's corresponding declaration under Section 564(b)(1) of the FD&C Act, NexGard is authorized for the treatment of infestations caused by NWS larvae (myiasis) in dogs and puppies as described in the this authorization, despite the fact that it does not meet certain requirements otherwise required by applicable federal law.

III. Conditions of Authorization

Pursuant to Section 564 of the FD&C Act, I am establishing the following conditions on this authorization:

U.S. Food & Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20903
www.fda.gov

Boehringer Ingelheim Animal Health USA, Inc.

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- A. Boehringer will ensure that the authorized NexGard, accompanied with the authorized Fact Sheet, is distributed to veterinary facilities⁴ and veterinarians, or authorized distributor(s)⁵, consistent with the terms and conditions of this EUA, and that authorized distributor(s) will limit distribution to other authorized distributors and end users.
- B. Boehringer will ensure that if a sticker is used on the labeling, that the sticker contains a website address and QR code that link to the authorized Fact Sheet and that the sticker is placed in a blank space or does not obscure any important use or safety information.
- C. Boehringer and authorized distributor(s) will ensure that appropriate storage is maintained until the product is delivered to veterinary facilities and veterinarians.
- D. Boehringer and authorized distributor(s) will ensure that the terms and conditions of this EUA are made available to all relevant stakeholders (e.g., U.S. government agencies, state and local government authorities, authorized distributors, veterinary facilities, and veterinarians) involved in distributing or receiving authorized NexGard. Boehringer will provide to all relevant stakeholders a copy of this Letter of Authorization and communicate any subsequent amendments that might be made to this Letter of Authorization and its authorized accompanying materials (e.g., its authorized Fact Sheet).
- E. Boehringer may request changes to this authorization, including to the authorized Fact Sheet for NexGard. Requests for changes should be submitted to the Office of New Animal Product Evaluation. Such changes require appropriate authorization prior to implementation.⁶
- F. Reporting Adverse Drug Experiences and Product/Manufacturing Defects:

Boehringer will fully comply with the reporting requirements under 21 CFR 514.80. When collecting adverse event information, Boehringer will attempt to determine whether the use of NexGard was related to the EUA and will put this categorization, as well as the reason for use, in the narrative description of the adverse event. Boehringer will submit the reports electronically using either of the options that are described on FDA's Veterinary Adverse Event Reporting for Manufacturers webpage (www.fda.gov/IndustryReportAnimalAE).

Submitted reports should state in the "Narrative of Adverse Event" field: "NexGard use for NWS under an EUA". Contact the Pharmacovigilance Liaison in CVM's Division of Pharmacovigilance and Surveillance at CVMAESupport@fda.hhs.gov for any questions related to electronic reporting or for assistance with setting up a Safety Reporting Portal account.

⁴ Veterinary facilities include veterinary hospitals, veterinary clinics and other establishments providing veterinary care. If a veterinarian is not associated with a veterinary facility, the veterinarian then assumes the obligations of the veterinary facility.

⁵ The term "distributors" includes all parties in the supply chain between the recipient of this authorization letter and the end user. "Authorized distributors" are all distributors who otherwise lawfully obtain and distribute the product, unless Boehringer places limits on distribution in writing (e.g., via contract or written notice accompanying the product).

⁶ Revisions that do not necessitate revision to this letter (e.g., changes to the Fact Sheet, specified cGMPs, expiration dating extensions) may be authorized through separate notification without reissuance of this letter.

Boehringer Ingelheim Animal Health USA, Inc.
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- G. Through a process of inventory control, Boehringer and authorized distributor(s) will maintain records regarding distribution of the authorized NexGard (i.e., lot numbers, quantity, receiving site, receipt date).
- H. Boehringer and authorized distributor(s) will maintain records in connection with this EUA for at least two years following the termination of the declaration or the revocation of the authorization, or until notified by HHS or FDA, whichever is sooner, and will make such records available to FDA for inspection upon request.
- I. Boehringer will comply with all other FD&C Act requirements applicable to the approved product, NexGard, including, but not limited to, requirements related to registration and listing, drug quality, and manufacturing process, facilities, and equipment in accordance with the approved application⁷, unless such requirement is specifically waived or modified for the authorized product in this authorization. Boehringer shall update their drug listing to reflect the EUA, including submission of updated labeling, before commercial distribution of the EUA product begins.

Conditions of Authorization for Veterinary Facilities and Veterinarians

- J. Veterinary facilities and veterinarians will ensure that they are aware of and adhere to the terms of this Letter of Authorization. Authorized Fact Sheets will be made available to veterinarians, and veterinary facilities and veterinarians will ensure that the client is aware that the drug is authorized for emergency use, but not approved, for the treatment of NVWS myiasis and advise the client of the risks, benefits, and any alternatives.
- K. Veterinary facilities and veterinarians receiving NexGard will track serious adverse events potentially related to NexGard use under this EUA and must report these to FDA in accordance with the Fact Sheet for Veterinarians. Report by (1) contacting Boehringer at 1-888-637-4251, (2) downloading and submitting Form FDA 1932a available at <https://www.fda.gov/reportanimalae>, or (3) contacting FDA at 1-888-FDA-VETS to request this form. Include the statement "NexGard use for NVWS under an EUA" under the "Describe Adverse Event/Product Problem/Product Use Error" heading, followed by a detailed account of the adverse event.
- L. Veterinary facilities will maintain health records that include the following information: client name, patient name, patient age, disease manifestation, number of doses prescribed or administered per patient, lot number prescribed or administered, and other drugs coadministered. The records shall be maintained in a manner that allows veterinary facilities to identify in a reasonable time which patients received drugs subject to this EUA.
- M. Veterinary facilities will maintain any records associated with this EUA for at least two years following the termination of the declaration or the revocation of the authorization, or until notified by HHS or FDA, whichever is sooner. Such records will be made available to Boehringer, HHS, and FDA for inspection upon request.

⁷ Changes shall be submitted and approved in accordance with 21 CFR 514.8, unless otherwise approved under Paragraph E of this letter.

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Conditions of Authorization Related to Advertisements and other Promotional Descriptive Printed Matter

- N. All advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter, relating to the authorized use of NexGard shall be consistent with the authorized Fact Sheet⁹, and the terms set forth in this EUA, as well as comply with FD&C Act sections 502(a) and 502(n), and 21 CFR Part 202. Additionally, the sponsor and authorized distributor(s) shall comply with any other applicable requirements in the FD&C Act and its implementing regulations regarding advertising and/or promotion.
- O. Boehringer and authorized distributor(s) may not imply that NexGard is FDA approved or conditionally approved for the authorized use by making statements such as "NexGard is safe and effective for the treatment of infestations caused by NWS larvae (myiasis) in dogs and puppies". Boehringer and authorized distributor(s) may disseminate advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter relating to the emergency use of NexGard that provide accurate descriptions of safety and effectiveness information summarized in the authorized Fact Sheet. Such materials must include any limitations of information submitted to support this authorization.
- P. All advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter relating to the authorized use of NexGard shall be accompanied by the authorized Fact Sheet and the applicable approved labeling (e.g., package insert), and shall clearly and conspicuously state that:
- NexGard has not been approved for the treatment of infestations caused by NWS larvae (myiasis) in dogs and puppies;
 - NexGard has been authorized by FDA under an EUA for the treatment of infestations caused by NWS larvae (myiasis) in dogs and puppies; and
 - NexGard is authorized as described herein only for the duration of the declaration that circumstances exist justifying the authorization of the emergency use of NexGard under Section 564(b)(1) of the FD&C Act, 21 U.S.C. § 360bbb-3(b)(1), unless the declaration is terminated or the authorization is revised or revoked sooner.
- Q. All advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter must be submitted to the CVM OSC DER eSubmitter Program at the time of initial dissemination (publication or broadcast). Each submission of promotional labeling or advertisements must be accompanied by a completed Form FDA 2301.

If FDA notifies Boehringer or authorized distributor(s) that any descriptive materials, advertising, or promotional materials do not meet the terms set forth in this EUA, Boehringer

⁹ If the authorized Fact Sheet references sections of a drug's FDA-approved labeling, the entirety of each section is considered part of the authorized Fact Sheet, except as otherwise specified. Advertising and promotional materials may not use general references to approved labeling in lieu of summarizing or restating its contents when a summary or restatement is otherwise needed to comply with applicable requirements.

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or authorized distributor(s) must discontinue and/or cease distribution of such advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter in accordance with FDA's notification. Furthermore, as part of its notification, FDA may also require Boehringer or authorized distributor(s) to issue corrective communication(s).

IV. Duration of Authorization

This EUA will be effective as described herein until the declaration that circumstances exist justifying the authorization of the emergency use of animal drugs during the NWS public health emergency is terminated under Section 564(b)(2) of the FD&C Act or the EUA is revised or revoked under Section 564(g) of the FD&C Act.

Sincerely,

(see appended electronic signature page)

Timothy Schell, Ph.D.
Director
Center for Veterinary Medicine
U.S. Food and Drug Administration

Enclosures:
Freedom of Information Summary
Fact Sheet



February 18, 2026

Boehringer Ingelheim Animal Health USA, Inc.
Attention: Tracy L. Robertson
Regulatory Affairs, Operations
3239 Satellite Blvd.
Duluth, GA 30096

Re: Emergency Use Authorization 006686

Dear Ms. Robertson:

This letter is in response to the request by Boehringer Ingelheim Animal Health USA, Inc. (Boehringer) that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for the emergency use of NexGard COMBO (esafoxolaner, eprinomectin, and praziquantel topical solution) for the treatment of infestations caused by New World screwworm (*Cochliomyia hominivorax*) larvae (myiasis) in cats and kittens, pursuant to Section 564 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. § 360bbb-3).

On August 18, 2025, pursuant to Section 564(b)(1)(C) of the FD&C Act, the Secretary of the Department of Health and Human Services (HHS) determined that there is significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves New World screwworm (*Cochliomyia hominivorax*) (hereinafter "NWS"). On the basis of such determination, the Secretary of HHS on August 18, 2025 declared that circumstances exist justifying the authorization of emergency use of animal drugs to treat or prevent NWS myiasis in animals, pursuant to section 564(b)(1) of the FD&C Act, subject to terms of any authorization issued under that section.¹

NexGard COMBO is a topical antiparasitic that is indicated under NADA 141-570 for the prevention of heartworm disease caused by *Dirofilaria immitis* and for the treatment and control of roundworm (fourth stage larval and adult *Toxocara cati*), hookworm (fourth stage larval and adult *Ancylostoma tubaeforme*; adult *Ancylostoma braziliense*), and tapeworm (*Dipylidium caninum*) infections. NexGard COMBO kills adult fleas (*Ctenocephalides felis*) and is also indicated under NADA 141-570 for the treatment and prevention of flea infestations and the treatment and control of *Ixodes scapularis* (black-legged tick) and *Amblyomma americanum* (lone star tick) infestations for one month in cats and kittens 8 weeks of age and older, and weighing 1.8 lbs or greater. NexGard COMBO is not approved for the treatment of NWS larvae (myiasis).

Based on the totality of scientific evidence available to the FDA, including data from a laboratory effectiveness study, it is reasonable to believe that NexGard COMBO may be effective for the treatment of infestations caused NWS larvae (myiasis) in cats and kittens, as described in this

¹ See U.S. Department of Health and Human Services, Declaration of Emergency Pursuant to the Federal Food, Drug, and Cosmetic Act for New World Screwworm, August 20, 2025: <https://www.federalregister.gov/documents/2025/08/20/2025-15918/declaration-of-emergency-pursuant-to-the-federal-food-drug-and-cosmetic-act-for-new-world-screwworm>

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authorization, and when used under the conditions described in this authorization, the known and potential benefits of NexGard COMBO outweigh the known and potential risks of such product for cats of all ages and weights because NWS is potentially fatal in cats if left untreated, therefore justifying including cats less than 8 weeks of age and less than 1.8 lbs in this authorization.

Having concluded that the criteria for issuance of this authorization under Section 564(c) of the FD&C Act are met, I am authorizing the emergency use of NexGard COMBO for the treatment of infestations caused by NWS larvae (myiasis) in cats and kittens, as described in this authorization and subject to the terms of this authorization.

I. Criteria for Issuance of Authorization

I have concluded that the emergency use of NexGard COMBO for the treatment of infestations caused by NWS larvae (myiasis) in cats and kittens, when administered as described in this authorization, meets the criteria for issuance of an authorization under Section 564(c) of the FD&C Act, because:

1. NWS can cause a serious or life-threatening disease or condition to animals and humans;
2. Based on the totality of scientific evidence available to FDA, it is reasonable to believe that NexGard COMBO may be effective in treating NWS and that, when used under the conditions and within the scope described in this authorization, the known and potential benefits of NexGard COMBO when used to treat NWS outweigh the known and potential risks of such product; and
3. There is no adequate, approved, and available alternative² to the emergency use of NexGard COMBO for the treatment of infestations caused by NWS larvae (myiasis) in cats and kittens.³

II. Scope of Authorization

I have concluded, pursuant to Section 564(d)(1) of the FD&C Act, that the scope of this authorization is limited as follows:

- NexGard COMBO, as covered by this authorization, will be used only for the treatment of infestations caused by NWS larvae (myiasis) in cats and kittens by a veterinarian by prescription; and
- The use of NexGard COMBO covered by this authorization must be in accordance with the authorized Fact Sheet.

² There are no approved products for the treatment of New World screwworm (myiasis) in cats and kittens.

³ No other criteria of issuance have been prescribed by regulation under Section 564(c)(4) of the FD&C Act.

Product Description

NexGard COMBO is a topical antiparasitic. The authorized NexGard COMBO carton labeling is clearly marked for the approved indications and for NWS under Emergency Use Authorization, with a website address and QR code that links to the authorized Fact Sheet.

NexGard COMBO should be stored at 59° – 86°F (15° – 30°C). Brief periods up to 104°F (40°C) are permitted. Protect from light.

NexGard COMBO is authorized to be accompanied by the following product-specific information pertaining to emergency use, which is required to be made available to veterinarians and others who may administer the product:

- Fact Sheet for Veterinarians: Emergency Use Authorization of NexGard COMBO (esafoxolaner, eprinomectin, and praziquantel topical solution) for New World Screwworm (NWS).

I have concluded, pursuant to Section 564(d)(2) of the FD&C Act, that it is reasonable to believe that the known and potential benefits of NexGard COMBO, when used for the treatment of infestations caused by NWS larvae (myiasis) in cats and kittens and used in accordance with this authorization, outweigh its known and potential risks.

I have concluded, pursuant to Section 564(d)(3) of the FD&C Act, based on the totality of scientific evidence available to FDA, that it is reasonable to believe that NexGard COMBO may be effective for the treatment of infestations caused by NWS larvae (myiasis) in cats and kittens when used in accordance with this authorization, pursuant to Section 564(c)(2)(A) of the FD&C Act.

Having reviewed the scientific information available to FDA, including the information supporting the conclusions described in Section I above, I have concluded that NexGard COMBO, as described in this authorization, meets the criteria set forth in Section 564(c) of the FD&C Act concerning safety and potential effectiveness.

The emergency use of this product under an EUA must be consistent with, and may not exceed, the terms of this authorization, including the Scope of Authorization (Section II) and the Conditions of Authorization (Section III). Subject to the terms of this EUA and under the circumstances set forth in the Secretary of HHS's determination under Section 564(b)(1)(C) of the FD&C Act described above and the Secretary of HHS's corresponding declaration under Section 564(b)(1) of the FD&C Act, NexGard COMBO is authorized for the treatment of infestations caused by NWS larvae (myiasis) in cats and kittens as described in this authorization, despite the fact that it does not meet certain requirements otherwise required by applicable federal law.

III. Conditions of Authorization

Pursuant to Section 564 of the FD&C Act, I am establishing the following conditions on this authorization:

Boehringer Ingelheim Animal Health USA, Inc.
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- A. Boehringer will ensure that the authorized NexGard COMBO, accompanied with the authorized Fact Sheet, is distributed to veterinary facilities⁴ and veterinarians, or authorized distributor(s)⁵, consistent with the terms and conditions of this EUA, and that authorized distributor(s) will limit distribution to other authorized distributors and end users.
- B. Boehringer will ensure that if a sticker is used on the labeling, that the sticker contains a website address and QR code that link to the authorized Fact Sheet and that the sticker is placed in a blank space or does not obscure any important use or safety information.
- C. Boehringer and authorized distributor(s) will ensure that appropriate storage is maintained until the product is delivered to veterinary facilities and veterinarians.
- D. Boehringer and authorized distributor(s) will ensure that the terms and conditions of this EUA are made available to all relevant stakeholders (e.g., U.S. government agencies, state and local government authorities, authorized distributors, veterinary facilities, and veterinarians) involved in distributing or receiving authorized NexGard COMBO. Boehringer will provide to all relevant stakeholders a copy of this Letter of Authorization and communicate any subsequent amendments that might be made to this Letter of Authorization and its authorized accompanying materials (e.g., its authorized Fact Sheet).
- E. Boehringer may request changes to this authorization, including to the authorized Fact Sheet for NexGard COMBO. Requests for changes should be submitted to the Office of New Animal Product Evaluation. Such changes require appropriate authorization prior to implementation.⁶
- F. Reporting Adverse Drug Experiences and Product/Manufacturing Defects:

Boehringer will fully comply with the reporting requirements under 21 CFR 514.80. When collecting adverse event information, Boehringer will attempt to determine whether the use of NexGard COMBO was related to the EUA and will put this categorization, as well as the reason for use, in the narrative description of the adverse event. Boehringer will submit the reports electronically using either of the options that are described on FDA's Veterinary Adverse Event Reporting for Manufacturers webpage (www.fda.gov/IndustryReportAnimalAE).

Submitted reports should state in the "Narrative of Adverse Event" field: "NexGard COMBO use for NWS under an EUA". Contact the Pharmacovigilance Liaison in CVM's Division of Pharmacovigilance and Surveillance at CVMAESupport@fda.hhs.gov for any questions

⁴ Veterinary facilities include veterinary hospitals, veterinary clinics and other establishments providing veterinary care. If a veterinarian is not associated with a veterinary facility, the veterinarian then assumes the obligations of the veterinary facility.

⁵ The term "distributors" includes all parties in the supply chain between the recipient of this authorization letter and the end user. "Authorized distributors" are all distributors who otherwise lawfully obtain and distribute the product, unless Boehringer places limits on distribution in writing (e.g., via contract or written notice accompanying the product).

⁶ Revisions that do not necessitate revision to this letter (e.g., changes to the Fact Sheet, specified cGMPs, expiration dating extensions) may be authorized through separate notification without reissuance of this letter.

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related to electronic reporting or for assistance with setting up a Safety Reporting Portal account.

- G. Through a process of inventory control, Boehringer and authorized distributor(s) will maintain records regarding distribution of the authorized NexGard COMBO (i.e., lot numbers, quantity, receiving site, receipt date).
- H. Boehringer and authorized distributor(s) will maintain records in connection with this EUA for at least two years following the termination of the declaration or the revocation of the authorization, or until notified by HHS or FDA, whichever is sooner, and will make such records available to FDA for inspection upon request.
- I. Boehringer will comply with all other FD&C Act requirements applicable to the approved product, NexGard COMBO, including, but not limited to, requirements related to registration and listing, drug quality, and manufacturing process, facilities, and equipment in accordance with the approved application⁷, unless such requirement is specifically waived or modified for the authorized product in this authorization. Boehringer shall update their drug listing to reflect the EUA, including submission of updated labeling, before commercial distribution of the EUA product begins.

Conditions of Authorization for Veterinary Facilities and Veterinarians

- J. Veterinary facilities and veterinarians will ensure that they are aware of and adhere to the terms of this Letter of Authorization. Authorized Fact Sheets will be made available to veterinarians, and veterinary facilities and veterinarians will ensure that the client is aware that the drug is authorized for emergency use, but not approved, for the treatment of NWS myiasis and advise the client of the risks, benefits, and any alternatives.
- K. Veterinary facilities and veterinarians receiving NexGard COMBO will track serious adverse events potentially related to NexGard COMBO use under this EUA and must report these to FDA in accordance with the Fact Sheet for Veterinarians. Report by (1) contacting Boehringer at 1-888-637-4251, (2) downloading and submitting Form FDA 1932a available at <https://www.fda.gov/reportanimalae>, or (3) contacting FDA at 1-888-FDA-VETS to request this form. Include the statement "NexGard COMBO use for NWS under an EUA" under the "Describe Adverse Event/Product Problem/Product Use Error" heading, followed by a detailed account of the adverse event.
- L. Veterinary facilities will maintain health records that include the following information: client name, patient name, patient age, disease manifestation, number of doses prescribed or administered per patient, lot number prescribed or administered, and other drugs coadministered. The records shall be maintained in a manner that allows veterinary facilities to identify in a reasonable time which patients received drugs subject to this EUA.
- M. Veterinary facilities will maintain any records associated with this EUA for at least two years following the termination of the declaration or the revocation of the authorization, or until

⁷ Changes shall be submitted and approved in accordance with 21 CFR 514.8, unless otherwise approved under Paragraph E of this letter.

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notified by HHS or FDA, whichever is sooner. Such records will be made available to
Boehringer, HHS, and FDA for inspection upon request.

Conditions of Authorization Related to Advertisements and other Promotional Descriptive Printed
Matter

- N. All advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter, relating to the authorized use of NexGard COMBO shall be consistent with the authorized Fact Sheet⁸, and the terms set forth in this EUA, as well as comply with FD&C Act sections 502(a) and 502(n), and 21 CFR Part 202. Additionally, the sponsor and authorized distributor(s) shall comply with any other applicable requirements in the FD&C Act and its implementing regulations regarding advertising and/or promotion.
- O. Boehringer and authorized distributor(s) may not imply that NexGard COMBO is FDA approved or conditionally approved for the authorized use by making statements such as "NexGard COMBO is safe and effective for the treatment of infestations caused by New World screwworm (*Cochliomyia hominivorax*) larvae (myiasis) in cats and kittens". Boehringer and authorized distributor(s) may disseminate advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter relating to the emergency use of NexGard COMBO that provide accurate descriptions of safety and effectiveness information summarized in the authorized Fact Sheet. Such materials must include any limitations of information submitted to support this authorization.
- P. All advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter relating to the authorized use of NexGard COMBO shall be accompanied by the authorized Fact Sheet and the applicable approved labeling (e.g., package insert), and shall clearly and conspicuously state that:
- NexGard COMBO has not been approved for the treatment of infestations caused by NWS larvae (myiasis) in cats and kittens;
 - NexGard COMBO has been authorized by FDA under an EUA for the treatment of infestations caused by NWS larvae (myiasis) in cats and kittens; and
 - NexGard COMBO is authorized as described herein only for the duration of the declaration that circumstances exist justifying the authorization of the emergency use of NexGard COMBO under Section 564(b)(1) of the FD&C Act, 21 U.S.C. § 360bbb-3(b)(1), unless the declaration is terminated or the authorization is revised or revoked sooner.
- Q. All advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter must be submitted to the CVM OSC DER eSubmitter Program at the time of initial dissemination (publication or broadcast). Each submission of promotional labeling or advertisements must be accompanied by a completed Form FDA 2301.

⁸ If the authorized Fact Sheet references sections of a drug's FDA-approved labeling, the entirety of each section is considered part of the authorized Fact Sheet, except as otherwise specified. Advertising and promotional materials may not use general references to approved labeling in lieu of summarizing or restating its contents when a summary or restatement is otherwise needed to comply with applicable requirements.

Boehringer Ingelheim Animal Health USA, Inc.

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If FDA notifies Boehringer or authorized distributor(s) that any descriptive materials, advertising, or promotional materials do not meet the terms set forth in this EUA, Boehringer or authorized distributor(s) must discontinue and/or cease distribution of such advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter in accordance with FDA's notification. Furthermore, as part of its notification, FDA may also require Boehringer or authorized distributor(s) to issue corrective communication(s).

IV. Duration of Authorization

This EUA will be effective as described herein until the declaration that circumstances exist justifying the authorization of the emergency use of animal drugs during the NWS public health emergency is terminated under Section 564(b)(2) of the FD&C Act or the EUA is revised or revoked under Section 564(g) of the FD&C Act.

Sincerely,

(see appended electronic signature page)

Timothy Schell, Ph.D.

Director

Center for Veterinary Medicine

U.S. Food and Drug Administration

Enclosures:

Freedom of Information Summary

Fact Sheet



FDA U.S. FOOD & DRUG
ADMINISTRATION

March 10, 2026

Animal Clinical Investigation, LLC
Attention: Kristen Khanna, PhD, MBA
CEO
U.S. Agent for Health and Hygiene (Pty) Ltd
4445 Willard Ave
Sixth Floor
Chevy Chase, MD 20815

Re: Emergency Use Authorization 006672

Dear Dr. Khanna:

This letter is in response to the request you submitted on behalf of Health and Hygiene (Pty) Ltd (Health and Hygiene), that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for the emergency use of F10 Antiseptic Wound Spray with Insecticide (benzalkonium chloride, polyhexanide and cypermethrin topical solution), for the prevention and treatment of infestations caused by New World screwworm (*Cochliomyia hominivorax*) larvae (myiasis) in cattle, horses, minor species¹ of hoof stock, raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals, pursuant to Section 564 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. § 360bbb-3).

On August 18, 2025, pursuant to Section 564(b)(1)(C) of the FD&C Act, the Secretary of the Department of Health and Human Services (HHS) determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves New World screwworm (*Cochliomyia hominivorax*) (hereinafter "NWS"). On the basis of such determination, the Secretary of HHS on August 18, 2025, declared that circumstances exist justifying the authorization of emergency use of animal drugs to treat or prevent NWS myiasis in animals, pursuant to section 564(b)(1) of the FD&C Act, subject to terms of any authorization issued under that section.²

¹ Minor species are all animals, other than humans, that are not one of the major species. They include animals such as zoo animals, parrots, ferrets, and guinea pigs. Some animals of agricultural importance are also minor species. These include sheep, goats, and game birds, among others. The term 'major species' means cattle, horses, swine, chickens, turkeys, dogs, and cats.

² See U.S. Department of Health and Human Services, Declaration of Emergency Pursuant to the Federal Food, Drug, and Cosmetic Act for New World Screwworm, August 20, 2025:
<https://www.federalregister.gov/documents/2025/08/20/2025-15918/declaration-of-emergency-pursuant-to-the-federal-food-drug-and-cosmetic-act-for-new-world-screwworm>

Health and Hygiene (Pty) Ltd
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F10 Antiseptic Wound Spray with Insecticide is a topical ectoparasiticide and antiseptic drug that is indexed under Minor Species Index File (MIF) 900-010 for use as a topical antiseptic for surface wounds, to repel flies, and to treat infestations due to fly strike in raptors, pet birds, captive small mammals, captive reptiles, and captive exotic/zoo mammals.³ F10 Antiseptic Wound Spray with Insecticide is not approved or indexed for the prevention and treatment of NWS myiasis.

Based on the totality of scientific evidence available to the FDA, including information submitted in support of MIF 900-010 and this EUA, as well as publicly available information, it is reasonable to believe that F10 Antiseptic Wound Spray with Insecticide may be effective for the prevention and treatment of infestations caused by NWS larvae (myiasis) in cattle, horses, minor species of hoof stock, raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals, as described in this authorization, and when used under the conditions described in this authorization, the known and potential benefits of F10 Antiseptic Wound Spray with Insecticide outweigh the known and potential risks of such product.

Having concluded that the criteria for issuance of this authorization under Section 564(c) of the FD&C Act are met, I am authorizing the emergency use of F10 Antiseptic Wound Spray with Insecticide for the prevention and treatment of infestations caused by NWS larvae (myiasis) in cattle, horses, minor species of hoof stock, raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals, as described in this authorization and subject to the terms of this authorization.

I. Criteria for Issuance of Authorization

I have concluded that the emergency use of F10 Antiseptic Wound Spray with Insecticide for the prevention and treatment of infestations caused by NWS larvae (myiasis) in cattle, horses, minor species of hoof stock, raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals, when administered as described in this authorization, meets the criteria for issuance of an authorization under Section 564(c) of the FD&C Act, because:

1. NWS can cause a serious or life-threatening disease or condition to animals and humans;
2. Based on the totality of scientific evidence available to FDA, it is reasonable to believe that F10 Antiseptic Wound Spray with Insecticide may be effective in preventing and treating NWS, and that, when used under the conditions and within the scope described in this authorization, the known and potential benefits of F10 Antiseptic Wound Spray with Insecticide when used to prevent and treat NWS outweigh the known and potential risks of such product; and
3. There is no adequate, approved, and available alternative to the emergency use of F10 Antiseptic Wound Spray with Insecticide for the prevention and treatment of infestations caused by NWS larvae (myiasis) in cattle, horses, minor species of hoof stock, raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals.⁴

³ See FDA's webpage "The Index of Legally Marketed Unapproved New Animal Drugs for Minor Species" at <https://www.fda.gov/animal-veterinary/minor-use/minor-species/index-legally-marketed-unapproved-new-animal-drugs-minor-species>

⁴ No other criteria of issuance have been prescribed by regulation under Section 564(c)(4) of the FD&C Act.

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II. Scope of Authorization

I have concluded, pursuant to Section 564(d)(1) of the FD&C Act, that the scope of this authorization is limited as follows:

- F10 Antiseptic Wound Spray with Insecticide, as covered by this authorization, will be used only for the prevention and treatment of infestations caused by NWS larvae (myiasis) in cattle, horses, minor species of hoof stock, raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals; and
- The use of F10 Antiseptic Wound Spray with Insecticide covered by this authorization must be in accordance with the authorized Fact Sheet.

Product Description

F10 Antiseptic Wound Spray with Insecticide is a synthetic pyrethroid endoparasiticide with antiseptic. The authorized F10 Antiseptic Wound Spray with Insecticide bottle label is clearly marked for NWS under Emergency Use Authorization, with a website address and QR code that links to the authorized Fact Sheet.

Store between 15° to 30°C (59° to 86°F) in dry conditions.

F10 Antiseptic Wound Spray with Insecticide is authorized to be accompanied by the following product-specific information pertaining to emergency use, which is required to be made available to all users:

- Fact Sheet: Emergency Use Authorization of F10 Antiseptic Wound Spray with Insecticide (benzalkonium chloride, polyhexanide and cypermethrin topical solution) for New World Screwworm (NWS)

I have concluded, pursuant to Section 564(d)(2) of the FD&C Act, that it is reasonable to believe that the known and potential benefits of F10 Antiseptic Wound Spray with Insecticide, when used for the prevention and treatment of infestations caused by NWS larvae (myiasis) in cattle, horses, minor species of hoof stock, raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals and used in accordance with this authorization, outweigh its known and potential risks.

I have concluded, pursuant to Section 564(d)(3) of the FD&C Act, based on the totality of scientific evidence available to FDA, that it is reasonable to believe that F10 Antiseptic Wound Spray with Insecticide may be effective for the prevention and treatment of infestations caused by NWS larvae (myiasis) in cattle, horses, minor species of hoof stock, raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals when used in accordance with this authorization, pursuant to Section 564(c)(2)(A) of the FD&C Act.

Having reviewed the scientific information available to FDA, including the information supporting the conclusions described in Section I above, I have concluded that F10 Antiseptic Wound Spray with Insecticide, as described in this authorization, meets the criteria set forth in Section 564(c) of the FD&C Act concerning safety and potential effectiveness.

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The emergency use of this product under an EUA must be consistent with, and may not exceed, the terms of this authorization, including the Scope of Authorization (Section II) and the Conditions of Authorization (Section III). Subject to the terms of this EUA and under the circumstances set forth in the Secretary of HHS's determination under Section 564(b)(1)(C) of the FD&C Act described above and the Secretary of HHS's corresponding declaration under Section 564(b)(1) of the FD&C Act, F10 Antiseptic Wound Spray with Insecticide is authorized for the prevention and treatment of infestations caused by NWS larvae (myiasis) in cattle, horses, minor species of hoof stock, raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals as described in this authorization, despite the fact that it does not meet certain requirements otherwise required by applicable federal law.

III. Conditions of Authorization

Pursuant to Section 564 of the FD&C Act, I am establishing the following conditions on this authorization:

- A. Health and Hygiene will ensure that the authorized F10 Antiseptic Wound Spray with Insecticide, accompanied with the authorized Fact Sheet, is distributed to authorized distributor(s)⁵ consistent with the terms and conditions of this EUA, and that authorized distributor(s) will limit distribution to other authorized distributors and end users.
- B. Health and Hygiene will ensure that if a sticker is used on the bottle, the sticker contains a website address and QR code that link to the authorized Fact Sheet and that the sticker is placed in a blank space or does not obscure any important use or safety information.
- C. Health and Hygiene and authorized distributor(s) will ensure that appropriate storage conditions are maintained until the product is delivered to the end user.
- D. Health and Hygiene and authorized distributor(s) will provide to each authorized distributor immediately downstream in the supply chain a copy of this Letter of Authorization and promptly communicate any subsequent amendments that might be made to this Letter of Authorization and its authorized accompanying materials (e.g., its authorized Fact Sheet).
- E. Health and Hygiene may request changes to this authorization, including to the authorized Fact Sheet for F10 Antiseptic Wound Spray with Insecticide. Requests for changes must be submitted to the Office of New Animal Product Evaluation. Such changes require appropriate authorization prior to implementation.⁶
- F. Reporting Adverse Drug Experiences and Product/Manufacturing Defects:

⁵ The term "distributors" includes all parties in the supply chain between the recipient of this authorization letter and the end user, excluding veterinary facilities and veterinarians who only provide product to veterinarians and end users at their facility. "Authorized distributors" are all distributors who otherwise lawfully obtain and distribute the product, unless Health and Hygiene places limits on distribution in writing (e.g., via contract or written notice accompanying the product).

⁶ Changes that do not necessitate revision to this letter (e.g., changes to the Fact Sheet, changes related to current good manufacturing practice requirements, expiration dating extensions) may be authorized through separate notification without reissuance of this letter.

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Health and Hygiene will report to FDA all product/manufacturing defects⁷ within 3 days, all serious adverse events⁸ and medication errors⁹ associated with the use of the authorized F10 Antiseptic Wound Spray with Insecticide that are reported to Health and Hygiene within 15 days, and all non-serious adverse drug events within 90 days. Submit the reports electronically using either of the following options which are described on FDA's Veterinary Adverse Event Reporting for Manufacturers webpage (www.fda.gov/IndustryReportAnimalAE).

Option 1: Submit reports through the Safety Reporting Portal (SRP).

Option 2: Submit reports directly through the Electronic Submissions Gateway (ESG).

Submitted reports must state in the "Narrative of Adverse Event" field: "F10 Antiseptic Wound Spray with Insecticide use for NWS under an EUA". Contact the Pharmacovigilance Liaison in CVM's Division of Pharmacovigilance and Surveillance at CVMAESupport@fda.hhs.gov for any questions related to electronic reporting or for assistance with setting up a Safety Reporting Portal account.

- G. Through a process of inventory control, Health and Hygiene and authorized distributor(s) will maintain records regarding distribution of the authorized F10 Antiseptic Wound Spray with Insecticide (i.e., lot numbers, quantity, receiving site, receipt date).
- H. Health and Hygiene and authorized distributor(s) will maintain records in connection with this EUA for at least two years following the termination of the declaration or the revocation of the authorization, or until notified by HHS or FDA, whichever is sooner, and will make such records available to FDA for inspection upon request.
- I. Health and Hygiene will comply with all other FD&C Act requirements applicable to the indexed product, F10 Antiseptic Wound Spray with Insecticide, including, but not limited to, requirements related to registration and listing, drug quality, and manufacturing process, facilities, and equipment in accordance with the index file¹⁰, unless such requirement is specifically waived or modified for the authorized product in this authorization. Health and

⁷ Product defect/manufacturing defect is the deviation of a distributed product from the standards specified in the indexed file, or any significant chemical, physical, or other change, or deterioration in the distributed drug product, including any microbial or chemical contamination. A manufacturing defect is a product defect caused or aggravated by a manufacturing or related process. A manufacturing defect may occur from a single event or from deficiencies inherent to the manufacturing process. These defects are generally associated with product contamination, product deterioration, manufacturing error, defective packaging, damage from disaster, or labeling error. For example, a labeling error may include any incident that causes a distributed product to be mistaken for, or its labeling applied to, another product.

⁸ Serious adverse event is an adverse event that is fatal, or life-threatening, or requires professional intervention, or causes an abortion, or stillbirth, or infertility, or congenital anomaly, or prolonged or permanent disability, or disfigurement.

⁹ Medication error is any preventable event that may cause or lead to inappropriate medication use or patient harm while the medication is in the control of the health care professional, patient, or consumer. Such events may be related to professional practice, health care products, procedures, and systems, including prescribing; order communication; product labeling, packaging, and nomenclature; compounding; dispensing; distribution; administration; education; monitoring; and use.

¹⁰ Changes shall be submitted and approved in accordance with 21 CFR 516.161 ("Modifications to indexed drugs"), unless otherwise approved under Condition E of this letter.

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Hygiene shall update their drug listing to reflect the EUA, including submission of updated labeling, before commercial distribution of the EUA product begins.

Conditions of Authorization Related to Advertisements and other Promotional Descriptive Printed Matter

- J. All advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter relating to the authorized use of F10 Antiseptic Wound Spray with Insecticide shall be consistent with the authorized Fact Sheet¹¹ and the terms set forth in this EUA, as well as comply with FD&C Act section 502(a). Additionally, the sponsor and authorized distributor(s) shall comply with any other applicable requirements in the FD&C Act and its implementing regulations regarding advertising and/or promotion.
- K. Health and Hygiene and authorized distributor(s) may not imply that F10 Antiseptic Wound Spray with Insecticide is FDA approved, conditionally approved, or indexed for the authorized use by making statements such as "F10 Antiseptic Wound Spray with Insecticide is safe and effective for the prevention and treatment of infestations caused by New World screwworm (*Cochliomyia hominivorax*) larvae (myiasis) in cattle, horses, minor species of hoof stock, raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals". Health and Hygiene and authorized distributor(s) may disseminate advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter relating to the emergency use of F10 Antiseptic Wound Spray with Insecticide that provide accurate descriptions of safety and effectiveness information summarized in the authorized Fact Sheet. Such materials must include any limitations of information submitted to support this authorization.
- L. All advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter relating to the authorized use of F10 Antiseptic Wound Spray with Insecticide shall be accompanied by the authorized Fact Sheet, and shall clearly and conspicuously state that:
- F10 Antiseptic Wound Spray with Insecticide has not been approved or indexed for the prevention and treatment of infestations caused by NWS myiasis in cattle, horses, minor species of hoof stock, raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals;
 - F10 Antiseptic Wound Spray with Insecticide has been authorized by FDA under an EUA for the prevention and treatment of infestations caused by NWS myiasis in cattle, horses, minor species of hoof stock, raptors and other wild birds, pet birds, and captive wild, exotic, and zoo mammals; and
 - F10 Antiseptic Wound Spray with Insecticide is authorized as described herein only for the duration of the declaration that circumstances exist justifying the authorization of the emergency use of F10 Antiseptic Wound Spray with Insecticide under Section 564(b)(1)

¹¹ If the authorized Fact Sheet references sections of the drug's labeling (as contained in its index listing), the entirety of each section is considered part of the Fact Sheet, except as otherwise specified. Advertising and promotional materials may not use general references to the labeling in lieu of summarizing or restating its contents when a summary or restatement is otherwise needed to comply with applicable requirements.

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of the FD&C Act, 21 U.S.C. § 360bbb-3(b)(1), unless the declaration is terminated or the authorization is revised or revoked sooner.

- M. All advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter must be submitted to your Type VII Veterinary Master File as a G submission at the time of initial dissemination (publication or broadcast). When submitting, identify the submission as promotion and advertising material.

If FDA notifies Health and Hygiene or authorized distributor(s) that any descriptive materials, advertising, or promotional materials do not meet the terms set forth in this EUA, Health and Hygiene or authorized distributor(s) must discontinue and/or cease distribution of such advertisements (including printed and nonprinted communications) and other promotional descriptive printed matter in accordance with FDA's notification. Furthermore, as part of its notification, FDA may also require Health and Hygiene or authorized distributor(s) to issue corrective communication(s).

IV. Duration of Authorization

This EUA will be effective as described herein until the declaration that circumstances exist justifying the authorization of the emergency use of animal drugs during the NWS public health emergency is terminated under Section 564(b)(2) of the FD&C Act or the EUA is revised or revoked under Section 564(g) of the FD&C Act.

Sincerely,

(see appended electronic signature page)

Timothy Schell, Ph.D.
Director
Center for Veterinary Medicine
U.S. Food and Drug Administration

Enclosures:
Freedom of Information Summary
Fact Sheet

U.S. Food & Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20903
www.fda.gov

Grace R. Graham,
Deputy Commissioner for Policy, Legislation,
and International Affairs.

[FR Doc. 2026-07509 Filed 4-16-26; 8:45 am]

BILLING CODE 4164-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2011-N-0655]

Animal Generic Drug User Fee Act; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration,
HHS.

ACTION: Notice of public meeting;
request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following virtual public meeting entitled "Animal Generic Drug User Fee Act." The purpose of the public meeting is to invite public comment on the Animal Generic Drug User Fee Act (AGDUFA)

program and suggestions regarding the features FDA should consider for the next reauthorization of the AGDUFA program. The meeting will be open to the public.

DATES: The public meeting will be held virtually on May 27, 2026, from 11 a.m. to 1 p.m. Eastern Time. See the **SUPPLEMENTARY INFORMATION** section for registration dates and information. To permit the widest possible opportunity to obtain comments on all aspects of the public meeting, the docket will remain open for comment throughout the reauthorization process of AGDUFA, until December 1, 2027. In addition to being publicly viewable at <http://www.regulations.gov>, comments received by July 1, 2026, suggesting changes to the program, will also be published on <https://www.fda.gov/industry/animal-generic-drug-user-fee-act-agdufa/agdufa-meetings>.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 1, 2027. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 1, 2027. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is 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. 2011-N-0655 for "Animal Generic Drug User Fee Act." Received comments, those filed in a timely manner, will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as 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

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. A transcript of the public meeting will be made available in the docket, as well as on the FDA website at: <https://www.fda.gov/industry/animal-generic-drug-user-fee-act-agdufa/agdufa-meetings>.

FOR FURTHER INFORMATION CONTACT:

Madeline Faunce, on detail to Office of Operations, Office of Finance, Budget, and Acquisitions, Food and Drug Administration, 301-796-3464, AGDUFAreauth@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The authority for AGDUFA expires September 30, 2028. Without new legislation, FDA will no longer have the authority to collect user fees to help fund the new animal generic drug review process for future fiscal years. Prior to beginning negotiations with the regulated industry on AGDUFA reauthorization, section 742(d)(2) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 379j-22(d)(2)) requires FDA to: (1) Publish a notice in the **Federal Register** requesting public input on the reauthorization; (2) hold a public meeting at which the public may present its views on the reauthorization, including specific suggestions for changes to the goals referred in section 742(a) of FD&C Act; (3) provide a period of 30 days after the public meeting to obtain written comments from the public suggesting changes; and (4) publish the comments on FDA's website. This notice, the public meeting, the comment period after the meeting, and the posting of the comments on the FDA website will satisfy these requirements. FDA is holding a public meeting to gather information on what FDA should consider including in the reauthorization of AGDUFA. FDA is interested in responses from the public on the following two general questions and welcomes other pertinent information that stakeholders would like to share:

1. What is your assessment of the overall performance of the AGDUFA program thus far?
2. What aspects of AGDUFA should be retained, changed, or discontinued to further strengthen and improve the program?

II. Background

FDA considers the timely review of generic new animal drug submissions to be central to the Agency's mission to protect and promote human and animal health. The AGDUFA program began in FY 2009 and is currently in the fourth authorization (AGDUFA IV). FDA has published a number of reports that provide useful background on AGDUFA I, AGDUFA II, AGDUFA III, and AGDUFA IV. AGDUFA-related **Federal Register** notices, guidances, legislation, performance reports, and financial reports can be found at: <https://www.fda.gov/industry/fda-user-fee-programs/animal-generic-drug-user-fee-act-agdufa>.

III. Participating in the Public Meeting.

Registration: Persons interested in attending this public meeting must register no later than midnight Eastern time on May 22, 2026, by emailing complete contact information for each attendee, including name, title, affiliation, address, email, telephone number, and if you need reasonable accommodations due to a disability (e.g., Closed Captioning) to AGDUFAReauth@fda.hhs.gov. Registration is free and early registration is recommended. Registrants will receive confirmation when their registration has been received and will be provided the webcast link.

Requests for Oral Presentations: During online registration you may indicate if you wish to make an oral presentation during the public meeting. To facilitate agenda development, registrants requesting to present will be asked to provide information regarding which topics they intend to address and the title of their presentation. We will do our best to accommodate requests to make an oral presentation. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate. All requests to make oral presentations must be received by May 1, 2026.

We will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and we will notify participants by May 8, 2026. Presenters planning to use an electronic slide deck must email an electronic copy of their presentation to Madeline Faunce at AGDUFAReauth@fda.hhs.gov (see **FOR FURTHER INFORMATION CONTACT**) with the subject line "AGDUFA Public Meeting Presentation" on or before May 15, 2026. If presenters choose not to use a

slide deck, they are requested to email a single slide with their name, affiliation, title of their presentation, and contact information. No commercial or promotional material will be permitted to be presented at the public meeting.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-07497 Filed 4-16-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-N-2917]

Agency Information Collection Activities; Proposed Collection; Comment Request; Generic Clearance for Qualitative Data To Support Social and Behavioral Research for Food, Dietary Supplements, Cosmetics, and Animal Food and Feed

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information which allows the submission of individual generic requests for obtaining qualitative data to support social and behavioral research for food, dietary supplements, cosmetics, and animal food and feed.

DATES: Either electronic or written comments on the collection of information must be submitted by June 16, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 16, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered

timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2026-N-2917 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Generic Clearance for Qualitative Data to Support Social and Behavioral Research for Food, Dietary Supplements, Cosmetics, and Animal Food and Feed." 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: Christopher Colburn, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8758, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal

Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Generic Clearance for Qualitative Data To Support Social and Behavioral Research for Food, Dietary Supplements, Cosmetics, and Animal Food and Feed

OMB Control Number 0910-0891—Extension

OMB’s Office of Information and Regulatory Affairs (OIRA) has issued memoranda that provides an overview of administrative flexibilities available to assist agencies in complying with their statutory obligations under the PRA. Among these flexibilities is use of a generic clearance for certain information collection activities. A generic clearance may be appropriate when (1) the need for the data collection can be evaluated in advance, as part of the review of the proposed plan, but (2) the Agency cannot determine the details of the specific individual collections until a later time. Generic clearances cover collections that are voluntary, low-burden, and uncontroversial.

This generic clearance for certain information collection activities supports research conducted by FDA, as authorized under section 1003(d)(2) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 393(d)(2)(D)), and is intended to help FDA’s Human Foods Program (HFP) understand stakeholders’ perceptions, attitudes, motivations, and behaviors. Understanding these perceptions, attitudes, motivations, and behaviors

plays an important role in improving FDA’s communications which impact various stakeholders and assists in the development of quantitative study proposals to complement other important research efforts in the Agency. To ensure that regulatory actions and communications activities have the highest potential to be received, understood, and accepted by those for whom they are intended, HFP and related FDA offices conduct research and studies relating to the control and prevention of disease as authorized by section 301 of the Public Health Service Act (42 U.S.C. 241(a)).

To ensure that communications activities have the highest effect, we conduct research and studies relating to the control and prevention of disease and the safety and health of the public. FDA is requesting OMB approval for the use of this generic collection of information that allows FDA to use qualitative social/behavioral science data collection techniques (*i.e.*, individual in-depth interviews (IDIs), small group discussions, focus groups, and observations) to better understand stakeholders’ perceptions, attitudes, motivations, and behaviors regarding various issues associated with food, dietary supplements, cosmetics, and animal food and feed. Understanding these consumers’, manufacturers’, and producers’ perceptions, attitudes, motivations, and behaviors plays an important role in improving FDA’s communications that impact these various stakeholders and in assisting in the development of quantitative study proposals, complementing other important research efforts in the Agency.

To obtain approval for an individual generic submission collection that meets the conditions of this generic clearance, an abbreviated supporting statement will be submitted to OMB along with supporting documentation (*e.g.*, a copy of the interview or moderator guide, screening questionnaire).

Selection for potential respondents is done via a screening process to match the best possible respondent to each individual generic submission. Respondents to individual requests made under the generic clearance, once approved by OMB, may include a wide range of consumers and other FDA stakeholders, such as producers and manufacturers who are regulated under FDA-regulated food, dietary supplements, cosmetics, and animal food and feed. Participation is voluntary.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Individual In-Depth Interview Screening	2,400	1	2,400	.08 (5 minutes)	192
Individual In-Depth Interviews	200	1	200	1	200
Focus Group/Small Group Participant Screening	5,400	1	5,400	.08 (5 minutes)	432
Focus Groups/Small Group Discussion	1,800	1	1,800	1.5	2,700
Observation Screening	720	1	720	.08 (5 minutes)	58
Observations	144	1	144	2	288
Total			10,664		3,870

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

These estimates are based on both historical numbers of participants from past projects as well as estimates for projects to be conducted in the next 3 years. Based on a review of the information collection since our last request for OMB approval, we have adjusted our burden estimate based on actual usage of this collection of information and have decreased the number of responses and hours by half for these items, as listed in the first four rows in table 1. We have reduced our estimate for the number of responses from 19,600 to 9,800 responses (a decrease of 9,800 responses) and reduced the number of hours from 7,048 to 3,524 hours (a decrease of 3,524 hours) based on our experience conducting these collections of information. The total reduction in burden, therefore, is estimated as 9,800 responses and 3,524 hours. The new burden is estimated at 10,664 responses and 3,870 hours.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–07501 Filed 4–16–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0656]

Animal Drug User Fee Act; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following virtual public meeting entitled “Animal Drug User Fee Act.” The purpose of the public meeting is to invite public comment on the Animal Drug User Fee Act (ADUFA) program and suggestions

regarding the features FDA should consider for the next reauthorization of the ADUFA program. The meeting will be open to the public.

DATES: The public meeting will be held virtually on May 27, 2026, from 2 p.m. to 4 p.m. Eastern Time. See the **SUPPLEMENTARY INFORMATION** section for registration dates and information. To permit the widest possible opportunity to obtain comments on all aspects of the public meeting, the docket will remain open for comment throughout the reauthorization process of ADUFA, until December 1, 2027. In addition to being publicly viewable at <http://www.regulations.gov>, comments received by July 1, 2026, suggesting changes to the program, will also be published on <https://www.fda.gov/industry/animal-drug-user-fee-act-adufa/adufa-meetings>.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 1, 2027. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 1, 2027. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is 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–2011–N–0656 for “Animal Drug User Fee Act.” Received comments, those filed in a timely manner, will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as 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. A transcript of the public meeting will be made available in the docket, as well as on the FDA website at: <https://www.fda.gov/industry/animal-drug-user-fee-act-adufa/adufa-meetings>.

FOR FURTHER INFORMATION CONTACT: Madeline Faunce, on detail to Office of Operations, Office of Finance, Budget, and Acquisitions, Food and Drug Administration, 301–796–3464, ADUFAReauth@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The authority for ADUFA expires September 30, 2028. Without new legislation, FDA will no longer have the authority to collect user fees to help fund the new animal drug review process for future fiscal years. Prior to beginning negotiations with the regulated industry on ADUFA reauthorization, section 740A(d)(2) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 379j-13(d)(2)) requires FDA to: (1) Publish a notice in the **Federal Register** requesting public input on the reauthorization; (2) hold a public meeting at which the public may present its views on the reauthorization, including specific suggestions for changes to the goals referred to in

section 740A(a) of the FD&C Act; (3) provide a period of 30 days after the public meeting to obtain written comments from the public suggesting changes; and (4) publish the comments on FDA’s website. This notice, the public meeting, the comment period after the meeting, and the posting of the comments on the FDA website will satisfy these requirements. FDA is holding a public meeting to gather information on what FDA should consider including in the reauthorization of ADUFA. FDA is interested in responses from the public on the following two general questions and welcomes other pertinent information that stakeholders would like to share:

1. What is your assessment of the overall performance of the ADUFA program thus far?
2. What aspects of ADUFA should be retained, changed, or discontinued to further strengthen and improve the program?

II. Background

FDA considers the timely review of new animal drug submissions to be central to the Agency’s mission to protect and promote human and animal health. The ADUFA program began in FY 2004 and is currently in the fifth authorization (ADUFA V). FDA has published a number of reports that provide useful background on ADUFA I, ADUFA II, ADUFA III, ADUFA IV and ADUFA V. ADUFA-related **Federal Register** notices, guidances, legislation, performance reports, and financial reports can be found at: <https://www.fda.gov/industry/fda-user-fee-programs/animal-drug-user-fee-act-adufa>.

III. Participating in the Public Meeting

Registration: Persons interested in attending this public meeting must register no later than midnight Eastern time on May 22, 2026, by emailing complete contact information for each attendee, including name, title, affiliation, address, email, telephone number, and if you need reasonable accommodations due to a disability (e.g., Closed Captioning) to ADUFAReauth@fda.hhs.gov. Registration is free and early registration is recommended. Registrants will receive confirmation when their registration has been received and will be provided the webcast link.

Requests for Oral Presentations: During online registration you may indicate if you wish to make an oral presentation during the public meeting. To facilitate agenda development, registrants requesting to present will be

asked to provide information regarding which topics they intend to address and the title of their presentation. We will do our best to accommodate requests to make an oral presentation. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate. All requests to make oral presentations must be received by May 1, 2026.

We will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and we will notify participants by May 8, 2026. Presenters planning to use an electronic slide deck must email an electronic copy of their presentation to Madeline Faunce at ADUFAReauth@fda.hhs.gov (see **FOR FURTHER INFORMATION CONTACT**) with the subject line “ADUFA Public Meeting Presentation” on or before May 15, 2026. If presenters choose not to use a slide deck, they are requested to email a single slide with their name, affiliation, title of their presentation, and contact information. No commercial or promotional material will be permitted to be presented at the public meeting.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–07498 Filed 4–16–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA), Department of Health and Human Services.

ACTION: Notice.

Proposed Project: Evaluation of the Projects for Assistance in Transition From Homelessness (PATH) Program—Reinstatement

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, (SAMHSA will publish periodic summaries of proposed projects. To request more information on the

proposed projects or to obtain a copy of the information collection plans, email the SAMHSA Reports Clearance Officer at: samhsapra@samhsa.hhs.gov.

Comments are invited on: (a) whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

SAMHSA is conducting the federally mandated Evaluation of the PATH program. The PATH grant program, created as part of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, is administered by SAMHSA's Center for Mental Health Services' Division of State and Community Systems Development. The PATH program is authorized under Section 521 *et seq.* of the Public Health Service (PHS) Act, as amended. The PATH program funds each fiscal year the 50 states, the District of Columbia, Puerto Rico, and four U.S. Territories (the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). The PATH grantees make grants to local, public and non-profit organizations to provide PATH-allowable services.

The SAMHSA Assistant Secretary is required under Section 528 of the PHS Act to evaluate the expenditures of PATH grantees at least once every 3 years to ensure they are consistent with

legislative requirements and to recommend changes to the program design or operations.

The primary task of the PATH evaluation is to meet the mandates of Section 528 of the PHS Act. The second task of the PATH evaluation is to conduct additional data collection and analysis to further investigate the sources of variation in key program output and outcome measures that are important for program management and policy development. The PATH evaluation builds on the previous evaluation which was finalized in 2016 and was conducted as part of the National Evaluation of SAMHSA Homeless Programs. Previously, the data collections activities also included PATH Intermediary Web Survey, a PATH Provider Web Survey, and a PATH Telephone Interview Guide. The current PATH evaluation will be limited to the State PATH Contact (SPC) Web Survey and PATH Site Visit Discussion Guides to facilitate the collection of information regarding the structures and processes in place at the grantee and provider level. The SPC Web Survey was shortened from 82 to 49 questions. Data regarding the outputs and outcomes of the PATH program will be obtained from grantee applications, providers' intended use plans and PATH annual report data, which is also required by Section 528 of the PHS Act and is approved under OMB No. 0930-0205.

Web Surveys will be conducted with all SPCs. The Web Surveys will capture detailed and structured information in the following topics: selection, monitoring, and oversight of PATH providers; populations served; the PATH allowable or eligible services provided; sources for match funds; provision of training and technical

assistance; implementation of Evidence Based Practices and innovative practices including the Supplemental Security Income/Social Security Disability Insurance Outreach, Access, and Recovery program; data reporting, use of data and the Homeless Management Information System; and collaboration, coordination and involvement with Continuums of Care and other organizations. The SPCs for all grantees (56) will be contacted to complete the web surveys. The Web Surveys will be administered once per triennial evaluation cycle.

Site Visits will be conducted with a purposive sample of PATH grantees and providers to collect more nuanced information than will be possible with the web survey. Semi-structured discussions will take place with the SPCs, grantee staff, PATH provider staff, outreach workers, case managers and other clinical treatment staff, and consumers. Five grantees will be selected for Site Visits and visited within each grantee will be one to two PATH providers. The Site Visits will be utilized to collect information on provider and state characteristics; practices and priorities; context within which the grantees and providers operate; and services available within the areas the providers operate. The successes, barriers, and strategies faced by PATH grantees and providers will also be discussed. Focus groups will be held with current or former consumers of the PATH program to obtain consumer perspectives regarding the impact of the programs. The Site Visits will be conducted once per triennial evaluation cycle.

The estimated burden for the reporting requirements for the PATH evaluation is summarized in the table below.

ANNUAL BURDEN TABLE

Instrument/activity	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden	Hourly wage rate	Total hour cost (\$)
Web Surveys							
SPC Web Survey	56	1	56	1	56	\$37.61	\$2,106.16
Site Visit Interviews							
Opening Session with SPC Staff	25	1	25	2	50	37.61	1,880.50
SPC Session	5	1	5	2	10	37.61	376.10
State Stakeholder Session	25	1	25	1.5	37.5	37.61	1,410.38
Provider Stakeholder Session	50	1	50	1.5	75	37.61	2,820.75
Provider Leadership Staff	50	1	50	2	100	37.61	3,761.00
PATH Provider Direct Care Staff Session ...	50	1	50	2	100	24.54	2,454.00

ANNUAL BURDEN TABLE—Continued

Instrument/activity	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden	Hourly wage rate	Total hour cost (\$)
Consumer Focus Groups	100	1	100	1.5	150	7.25	1,087.50
Total	361	.....	361	.....	578.5	.....	15,896.39

¹ 1 respondent * 56 SPCs = 56 respondents.

² 5 respondents * 5 site visits = 25 respondents.

³ 1 respondent * 5 site visits = 5 respondents.

⁴ 5 respondents * 5 site visits = 25 respondents.

⁵ 5 respondents * 10 site visits (2 providers per state) = 50 respondents.

⁶ 5 respondents * 10 site visits (2 providers per state) = 50 respondents.

⁷ 1 respondent * 10 site visits (2 providers per state) = 10 respondents.

⁸ 5 respondents * 10 site visits (2 providers per state) = 50 respondents.

⁹ 10 respondents * 10 site visits (10 Consumers per provider (2 providers per state) = 100 respondents.

Please send comments to the SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E45, Rockville, Maryland 20857, *OR* email a copy to: samhsapra@samhsa.hhs.gov. Written comments should be received by June 15, 2026.

Tanya Geiger,

Social Science Analyst.

[FR Doc. 2026-07476 Filed 4-16-26; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOMELAND SECURITY

Rescission of the Suspension of All Direct Commercial Passenger and Cargo Flights Between the United States and Venezuela

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice informs the public that the Department of Homeland Security (DHS) has determined that conditions in Venezuela no longer threaten the safety and security of passengers, aircraft, and crew and that it is not in the public interest to continue the suspension of all commercial passenger and cargo flights between the United States and Venezuela. The U.S. Department of Transportation (DOT) has rescinded the May 15, 2019, Order suspending all direct commercial passenger and cargo flights between the United States and Venezuela. DHS is in the process of re-establishing commercial air transportation for passenger and cargo operations between the United States and Venezuela and, as discussed further below, conducting individual airport assessments to ensure the safety and security of passengers, aircraft, and crew traveling between the United States and Venezuela for which the Transportation

Security Administration (TSA) has received notification from air carriers desiring to commence service.

DATES: Applicable April 15, 2026.

FOR FURTHER INFORMATION CONTACT: Eric Yatar, Executive Director, Policy, Plans, and Engagement—International Policy & Programs TSA-4, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598-6004; telephone: (571) 227-2699; email: Eric.yatar@tsa.dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 44907(e) of title 49, United States Code, if “(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from [a foreign] airport; and (2) the public interest requires an immediate suspension of transportation between the United States and that airport,” the Secretary of Homeland Security, in coordination with the Secretary of Transportation and with the approval of the Secretary of State, shall suspend flights to and from that foreign airport.

On June 4, 2019, DHS published a notice in the **Federal Register** stating that the Acting Secretary of Homeland Security had determined that conditions in Venezuela threatened the safety and security of passengers, aircraft, and crew, and that the public interest required an immediate suspension of air transportation. The June 4, 2019 determination was based on several factors, including: (1) reports of civil unrest and violence in and around the airports; (2) the inability of TSA to gain access to Venezuelan airports to conduct required security assessments to determine whether adequate security measures are in place; (3) the economic and political crisis in Venezuela; (4) cancellation of flights to Venezuela by American Airlines, the largest air carrier

providing service, and two other carriers; (5) the U.S. Department of State’s publication of Do Not Travel advisories, suspension of Embassy operations, and recommendation that TSA inspectors not enter the country owing to safety concerns; (6) the Federal Aviation Administration’s issuance of a Notice to Airmen (NOTAM) on May 1, 2019, which prohibited all flight operations by U.S. air carriers and commercial operators in Venezuela airspace below FL 260; and (7) the risk of Maduro regime actions against U.S. citizens and U.S. interests located in Venezuela. Following Secretary of State approval, the Department of Transportation concurred with this determination and suspended foreign air transportation of passengers or cargo to or from any airport in Venezuela, effective May 15, 2019. *See* DOT-OST-2019-0072.

Consistent with statutory requirements, DHS required that the Secretary of Homeland Security’s determination regarding conditions in Venezuela be displayed prominently in all U.S. airports with regularly scheduled air carrier operations. The Secretary of Homeland Security also instructed TSA to require that each foreign and domestic air carrier providing air transportation originating in the United States to any person with a flight itinerary that originates in, transfers or transits through, or has a final destination to any airport in Venezuela, provide written notice to such person advising that conditions in Venezuela currently present a threat to the traveling public.

Rescission

On January 3, 2026, President Donald J. Trump announced that the U.S. military had launched strikes across Venezuela that culminated in the capture and arrest of President Nicolás Maduro and his wife Cilia Flores.

Maduro and Flores were transferred to New York to face narco-terrorism, drug trafficking, and weapons charges. Venezuela's new interim government has since re-established diplomatic and economic relationships with the United States.

On January 29, 2026, the President of the United States directed the DOT and other concerned U.S. government agencies to take the steps necessary to re-establish air service to Venezuela. Accordingly, the Secretary of Transportation issued Order 2026–1–24 that same day, rescinding the 2019 Order. On March 14, 2026, the U.S. Embassy in Caracas raised the American flag, symbolizing a shift in the bilateral relationship between the two governments.

TSA has re-established direct communications with the National Institute of Civil Aviation of Venezuela (INAC) and conducted an assessment at Maiquetía “Simón Bolívar” International Airport (CCS) in Caracas between February 22 and 24, 2026. TSA made several recommendations to INAC and concluded that sufficient security measures have been implemented at CCS to commence commercial flight operations from the United States to CCS. TSA is collaborating with INAC to address these recommendations and coordinating additional assessments at other airports in Venezuela. TSA is currently working with several U.S. aircraft operators and foreign air carriers to re-establish direct service between the United States and Venezuela.

On March 19, 2026, the U.S. Department of State updated its travel alert from “Level 4: Do Not Travel” to “Level 3: Reconsider Travel.” The conditions that led to this change by the Department of State were also considered in the threat assessment conducted by TSA, as well as the overall improvement in the relationship between Venezuela and the United States.

Consistent with the President's direction and the changed conditions in Venezuela, DHS is rescinding its previous determination and related requirements suspending all direct commercial passenger and cargo flights between the United States and Venezuela. As noted above, TSA will continue assessing security at Venezuelan airports on an individual basis concerning the possible future commencement of commercial flight operations to and from each airport.

Dated: April 15, 2026.

Markwayne Mullin,

Secretary of Homeland Security.

[FR Doc. 2026–07572 Filed 4–16–26; 8:45 am]

BILLING CODE 9111–14–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1426]

Certain Crafting Machines and Components Thereof; Notice of a Commission Determination To Review in Part a Final Initial Determination Finding a Violation of Section 337; Request for Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the presiding administrative law judge's (“ALJ”) final initial determination (“ID”) finding a violation of section 337 in the above-captioned investigation. The Commission requests written submissions from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding under the schedule set forth below.

FOR FURTHER INFORMATION CONTACT:

Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 11, 2024, based on a complaint filed on behalf of Cricut, Inc. (“Cricut”) of South Jordan, Utah. 89 FR 99,905–06 (Dec. 11, 2024). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United

States, the sale for importation, and the sale within the United States after importation of certain crafting machines and components thereof by reason of infringement of certain claims of U.S. Patent No. 11,208,758 (“the ‘758 patent”); U.S. Patent No. 11,905,646 (“the ‘646 patent”); U.S. Patent No. D893,563 (“the D563 patent”); U.S. Patent No. D910,724 (“the D724 patent”); U.S. Patent No. D926,237 (“the D237 patent”); and U.S. Patent No. D1,029,090 (“the D090 patent”). *Id.* The complaint further alleges that an industry in the United States exists or is in the process of being established as required by the applicable Federal statute. The Commission's notice of investigation names eight (8) respondents: Bozhou Wanxingyu Technology Co. Ltd. of Bozhou, China; Bozhou Zhongdaxiang Technology Co., Ltd. of Bozhou, China; and Shanghai Sishun E-Commerce Co., Ltd. of Shanghai, China (collectively, the “Vevor Respondents”); LiPing Zhan (“Kondune”) of Jingzhou, China; Hunan Sijiu Technology, Co. Ltd. of Changsha, China; Hunan Sijiu Electronic Technology Co., Ltd. (“HSET”) of Changsha, China; Guangdong Rongtu Technology Co., Ltd. of Foshan City, China; and SainStore Technology Co., Ltd. (“SainStore”) of Dongguan City, China. *Id.* at 99,905–06. The Office of Unfair Import Investigations (“OUII”) is also named as a party. *Id.* at 99,906.

On January 31, 2025, the Commission partially terminated the investigation as to SainStore based on a consent order stipulation and issued a consent order against SainStore. Order No. 5 (Jan. 8, 2025), *unreviewed by Comm'n Notice* (Jan. 31, 2025).

On April 3, 2025, Respondent HSET was terminated from this investigation, HK Sijiu International Share Co., Ltd. of Hong Kong, China, was added to this investigation as a new respondent, and U.S. Design Patent No. D877,214 (“the D214 patent”) was also added to this investigation. Order No. 10 (Mar. 6, 2025), *unreviewed by Comm'n Notice* (Apr. 3, 2025), 90 FR 15,161–62 (Apr. 8, 2025). The target date was extended to May 13, 2026.

On April 4, 2025, claims 19 and 20 of the 758 patent were terminated from the investigation based on withdrawal of the complaint. Order No. 11 (Mar. 17, 2025), *unreviewed by Comm'n Notice* (Apr. 4, 2025).

The Vevor Respondents and Kondune were found in default pursuant to 19 CFR 210.16. Order No. 17 (May 7, 2025), *unreviewed by Comm'n Notice* (May 28, 2025). The only participating respondents

remaining in the investigation are Respondents HK Sijiu International Share Co., Ltd., Hunan Sijiu Technology Co. Ltd., and Guangdong Rongtu Technology Co., Ltd. (collectively, “HTVRONT”).

On May 27, 2025, the Commission partially terminated the investigation as to the D090 patent based on a consent order stipulation and issued a consent order against HTVRONT as to that patent. Order No. 16 (Apr. 30, 2025), *unreviewed by Comm’n Notice* (May 27, 2025).

On August 5, 2025, the Commission determined not to review an ID (Order No. 21), extending the target date to August 13, 2026, at the request of the parties. Order No. 21 (July 8, 2025), *unreviewed by Comm’n Notice* (Aug. 5, 2025).

On August 27, 2025, the Chief ALJ shortened the target date to March 11, 2026, after the parties agreed that the remainder of the investigation could be adjudicated through motion practice. Order No. 22 (Aug. 27, 2025).

On September 4, 2025, Cricut filed a motion for summary determination that Konduone has violated section 337 as to the D563 patent and claims 8–12 of the ’646 patent, and the Vevor Respondents have violated section 337 as to the D090 patent, and for a recommended determination on remedy. That same day, HTVRONT moved for summary determination of non-infringement of its redesigned products and to partially terminate this investigation as to the products HTVRONT was discontinuing—the Square Heat Press, Reduced Square Heat Press, Mini Heat Press, Mini3 Heat Press, and Hat Heat Press (the “Old HTVRONT Products”)—based upon a consent order stipulation and proposed consent order. HTVRONT’s motion to partially terminate the investigation as to the Old HTVRONT Products was granted on January 20, 2026 and the Commission issued a second consent order against HTVRONT. Order No. 27 (Jan. 20, 2026), *unreviewed by Comm’n Notice* (February 17, 2026).

On December 4, 2025, the Commission determined not to review Order No. 24, extending the target date to May 21, 2026, due to a lapse in government appropriations from October 1, 2025 through November 12, 2025. Order No. 24 (Nov. 17, 2025), *unreviewed by Comm’n Notice* (Dec. 4, 2025).

On January 21, 2026, the Chief ALJ issued a combined final ID and recommended determination (“RD”), finding a violation of section 337 by Konduone as to the D563 patent and claims 8–12 of the ’646 patent and by

the Vevor Respondents as to the D090 patent. The final ID also found HTVRONT’s redesigned products were ripe for adjudication and the redesigned products are entitled to summary determination of non-infringement. The final ID further found no violation of section 337 as to the ’758 or D214 patents because Cricut did not present any evidence or argument as to those patents in its summary determination motion. Furthermore, the final ID determined Cricut’s contentions that the Old HTVRONT Products infringe the D724 and D237 patents were moot in view of the consent order stipulation. In the event the Commission agrees that a violation of section 337 has occurred, the RD recommended that the Commission issue a general exclusion order (“GEO”) with respect to the D563 patent, a limited exclusion order (“LEO”) against Konduone with respect to the ’646 patent, an LEO against the Vevor Respondents with respect to the D090 patent, and cease and desist orders (“CDO”) against Konduone and the Vevor Respondents. The RD also recommended that the Commission set the bond during the period of Presidential review at one-hundred percent (100%) of the entered value of the imported articles.

No petitions for review were filed, which means each party has abandoned all issues decided adversely to that party. *See* 19 CFR 210.43(b)(4).

Having reviewed the record of the investigation, including the final ID, the parties’ submissions to the ALJ, and the record evidence, the Commission has determined to review the final ID’s findings on the economic prong of the domestic industry requirement. The Commission has determined not to review the remaining findings, conclusions, and supporting analysis in the final ID.

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States; and/or (2) cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely

affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm’n Op. at 7–10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and cease and desist orders would have on: (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission’s determination. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

In its initial submission, Complainant is also requested to identify the remedy sought and Complainant and OUII are requested to submit proposed remedial orders for the Commission’s consideration. Complainant is further requested to state the date that the ’646 patent, the D563 patent, and the D090 patent expire, to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation. The initial written submissions and proposed remedial orders must be filed no later

than close of business on April 28, 2026. Reply submissions must be filed no later than the close of business on May 5, 2026. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above pursuant to 19 CFR 210.4(f). Submissions should refer to the investigation number (Inv. No. 337–TA–1426) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf). Persons with questions regarding filing should contact the Secretary, (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business days of any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on April 14, 2026.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: April 14, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–07511 Filed 4–16–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1440]

Certain Motorized Self-Balancing Vehicles; Notice of Request for Submissions on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on April 10, 2026, the presiding administrative law judge (“ALJ”) issued an Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public and interested government agencies only.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States unless, after considering the effect of

such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. (19 U.S.C. 1337(d)(1)). A similar provision applies to cease and desist orders. (19 U.S.C. 1337(f)(1)).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: a limited exclusion order directed to certain motorized self-balancing vehicles imported, sold for importation, and/or sold after importation by respondents Golabs Inc. d/b/a Gotrax (“Gotrax”) and Zhejiang TaoTao Vehicles Co., Ltd. that infringe U.S. Patent Nos. RE46,964 and RE49,608; and a cease and desist order directed to Gotrax. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public and interested government agencies are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bonding issued in this investigation on April 10, 2026. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) explain how the articles potentially subject to the recommended remedial orders are used in the United States;
- (ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

- (iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended

orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on Thursday, May 14, 2026.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above pursuant to 19 CFR 210.4(f). Submissions should refer to the investigation number ("Inv. No. 337-TA-1440") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All

information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: April 14, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-07506 Filed 4-16-26; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1702]

Bulk Manufacturer of Controlled Substances Application: Usona Institute, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Usona Institute, Inc. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before June 16, 2026. Such persons may also file a written request for a hearing on the application on or before June 16, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on March 2, 2026, Usona Institute, Inc., 2780 Woods Hollow Road, Room 2412-2413, Fitchburg, Wisconsin 53711, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
5-Methoxy-N-N-dimethyltryptamine	7431	I
Psilocybin	7437	I
Psilocyn	7438	I

The company plans to manufacture the listed controlled substances for use in chemical process development as well as pre-clinical and clinical research. No other activities for these drug codes are authorized for this registration.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026-07562 Filed 4-16-26; 8:45 am]

BILLING CODE:P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1701]

Importer of Controlled Substances Application: Quagen Pharmaceuticals LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Quagen Pharmaceuticals LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before May 18, 2026. Such persons may also file a written request for a

hearing on the application on or before May 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on March 4, 2026, Quagen Pharmaceuticals LLC, 37 Fairfield Place, West Caldwell, New Jersey 07006, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Diphenoxylate	9170	II

The company plans to import the listed controlled substance for distribution to its customer. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Thomas Prevoznik,
Deputy Assistant Administrator.

[FR Doc. 2026-07559 Filed 4-16-26; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1703]

Importer of Controlled Substances Application: LTS Therapy Systems, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: LTS Therapy Systems, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before May 18, 2026. Such persons may also file a written request for a hearing on the application on or before May 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on March 6, 2026, LTS Therapy Systems, LLC, 1685 Marthaler Lane, West Saint Paul, Minnesota 55118-3517, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Dimethyltryptamine	7435	I

The company plans to import the above controlled substance as bulk API for internal research, development, and analytical purposes only. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Thomas Prevoznik,
Deputy Assistant Administrator.
[FR Doc. 2026-07558 Filed 4-16-26; 8:45 am]
BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1704]

Importer of Controlled Substances Application: Royal Emerald Pharmaceuticals

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Royal Emerald Pharmaceuticals has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before May 18, 2026. Such persons may also file a written request for a hearing on the application on or before May 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be

aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on March 3, 2026, Royal Emerald Pharmaceuticals, 14011 Palm Drive, Building B, Desert Hot Springs, California 92240-6845, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to import immature plants to use as starting/raw materials to continue cultivation of Marihuana under their Bulk Manufacturing registration. All products and materials will be developed as botanical raw materials or Active Pharmaceutical Ingredients for Drug Enforcement Administration-approved legitimate medical, scientific, research, and/or industrial purposes. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026-07561 Filed 4-16-26; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

[OMB Number 1117-0063]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Drug Use Statement

AGENCY: Drug Enforcement Administration, Department of Justice.
ACTION: 60-Day notice.

SUMMARY: The Drug Enforcement Administration, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until June 16, 2026.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Benjamin Inks, Writer/Editor, Office of Compliance, Policy Administration Section 700 Army Navy Drive, Arlington, VA 22202, telephone: 571-672-4524, email: Benjamin.B.Inks@dea.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g.,

permitting electronic submission of responses.

Abstract: The Drug Enforcement Administration (DEA) is a federal law enforcement agency charged with enforcing the controlled substances laws and regulations of the United States. Its principal responsibilities include investigation and prosecution of major violators of controlled substances laws.

Because of the nature of DEA's mission, and its status as a law enforcement agency, past use of illegal drugs by potential employees presents special concerns, and therefore the agency evaluates a job applicant's illegal drug use and abuse during the application process. Executive Order 12564 is supported in the DEA Pre-Employment Drug Policy that a history of illegal drug use or abuse may be a disqualification for employment with DEA.

The content and questions of this previously approved form have been edited to eliminate confusion between job applicants and polygraphers before a pre-employment polygraph examination. The DEA Pre-Employment Drug Policy and DEA-200 form asks applicants to acknowledge their understanding of those requirements to move forward in the employment process.

Overview of This Information Collection

1. *Type of Information Collection:* Revision.
2. *The Title of the Form/Collection:* Drug Enforcement Administration Pre-Employment Drug Policy Notification and Acknowledgement.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number: DEA-200. The sponsoring component is the Drug Enforcement Administration.
4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* DEA job applicants are asked to complete the form. While not mandatory, an applicant can be disqualified in the hiring process for failing to provide the requested acknowledgement.
5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total or estimated number of respondents for the DEA-200 is 5,000. The time per response is 7 minutes.
6. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual burden hours for this collection is 583 hours.

7. An estimate of the total annual cost burden associated with the collection, if applicable: \$19,040.78.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency (per annually)	Total annual responses	Time per response (minutes)	Total annual burden (hours)	Wage rate	Annualized burden
DEA Form 200	5,000	1	5,000	7	583	\$32.66	\$19,040.78
Unduplicated Totals	5,000	1	5,000	7	583	32.66	19,040.78

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 15, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-07520 Filed 4-16-26; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

[OMB Number 1121-0346]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval has Expired: Census of State and Local Law Enforcement Agencies (CSLLEA)

AGENCY: Bureau of Justice Statistics, Department of Justice

ACTION: 60-Day notice.

SUMMARY: The Bureau of Justice Statistics, 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 June 16, 2026.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Elizabeth Davis (email: bjspra.comments@ojp.usdoj.gov; telephone: 202-307-0765), Bureau of

Justice Statistics, 999 North Capital Street NE, Washington, DC 20531.

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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: BJS has conducted the CSLLEA regularly since 1992. The 2026 CSLLEA will be the ninth administration. Historically, the CSLLEA generates an enumeration of all publicly funded state, county, and local law enforcement agencies operating in the United States. The 2026 CSLLEA will also include campus law enforcement agencies serving private institutions. The CSLLEA will provide complete personnel counts and an overview of the functions performed for approximately 22,000 law enforcement agencies operating nationally. The survey asks about the level of government that operates the agency; oversight of any agency sub-components; total operating budget; full-time and part-time personnel counts

for sworn, limited sworn, and non-sworn employees; sex of full-time sworn, limited sworn, and non-sworn personnel; race and Hispanic origin of full-time sworn officers; and the functions the agency performs on a regular or primary basis. Upon completion, the 2026 CSLLEA will serve as the sampling frame for future law enforcement surveys administered by BJS.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement, with changes, of a previously approved collection for which approval has expired.

2. *Title of the Form/Collection:* 2026 Census of State and Local Law Enforcement Agencies (CSLLEA).

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* The form number is CJ-38. The applicable component within the Department of Justice is the Bureau of Justice Statistics (BJS), in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Respondents will include all state, county, local, and tribal law enforcement agencies in the United States that are (1) publicly funded general purpose law enforcement agencies employing at least the equivalent of one full-time sworn officer with general arrest powers or (2) publicly or privately funded campus law enforcement agencies employing at least the equivalent of one full-time sworn officer with general arrest powers. Both general purpose agencies (i.e., any public agency with sworn officers whose patrol and enforcement responsibilities are primarily delimited by the boundaries of a municipal, county, or state government) and special purpose agencies (e.g., campus law enforcement, transportation, natural resources, etc.) meeting the above description will be asked to respond.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Approximately 22,000 agencies will be invited to participate, spending an average of 32 minutes each to complete form CJ–38, including time

to research or find information not readily available. In addition, an estimated 11,000 respondents will be contacted for data quality follow-up at 10 minutes per respondent.

6. *An estimate of the total public burden (in hours) associated with the*

collection: The total burden hours for this collection is 13,566.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* \$521,000.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response	Total annual burden (hours)
Survey	22,000	1	22,000	32 min (0.53 hrs.)	11,733
Data Quality Follow-Up	11,000	1	11,000	10 min (0.17 hrs.)	1,833
Unduplicated Totals	22,000	.....	22,000	.....	13,566

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 15, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–07567 Filed 4–16–26; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

[OMB Control No. 1240–0038]

Proposed Extension Without Change of a Currently Approved Information Collection; Miner's Claim for Benefits Under the Black Lung Benefits Act and Employment History

AGENCY: Office of Workers' Compensation Programs.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, “Miner's Claim for Benefits Under the Black Lung Benefit's Act (CM–911) and Employment History (CM–911a)”. This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: All comments must be received on or before June 16, 2026.

ADDRESSES: You may submit comments as follows. Please note that late,

untimely filed comments will not be considered.

Electronic Submissions: Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for OWCP–2026–0232. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket, with no changes. Because your comment will be made public, you are 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 your or anyone else's Social Security number or confidential business information.

- If your comment includes confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- *Mail/Hand Delivery:* Mail or visit DOL–OWCP, Division of Coal Mine Workers' Compensation, 200 Constitution Avenue NW, Suite C3520–DCMWC, Washington, DC 20210.

- OWCP will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs, Office of Workers' Compensation Programs, at suggs.anjanette@dol.gov (email).

SUPPLEMENTARY INFORMATION:

I. Background

The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance

consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Black Lung Benefits Act (BLBA), (30 U.S.C. 901 *et seq.*) provides benefits to coal miners who are totally disabled due to pneumoconiosis (black lung disease) and to certain survivors of miners. Miners entitled to benefits also receive medical benefits for treatment related to their pneumoconiosis and resulting disability. A miner who applies for black lung benefits must complete the CM 911 (Miner's Claim for Benefits Under the Black Lung Benefit's Act). The completed form gives basic identifying information about the applicant and is the beginning of the development of the black lung claim. 20 CFR 725.304(a) authorizes this information collection. The CM–911a (Employment History), when completed, provides a complete history of the miner's employment and helps to establish whether the individual currently or formerly worked in the nation's coal mines and how long that employment lasted. 20 CFR 725.404(a) authorizes this information collection. This information collection is currently approved for use through October 31, 2026.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays

a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration, and be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention 1240–0038.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

II. Desired Focus of Comments

OWCP is soliciting comments concerning the proposed information collection related to the Miner's Claim for Benefits Under the Black Lung Benefit's Act and Employment History. OWCP is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of OWCP's estimate of the burden related to the information collection, including the validity of the methodology and assumptions used in the estimate;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the information collection 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.

Documents related to this information collection request are available at <https://regulations.gov> and at DOL–OWCP located at 200 Constitution Avenue NW, Room S3524, Washington, DC 20210. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This information collection request concerns Miner's Claim for Benefits Under the Black Lung Benefit's Act and Employment History. OWCP has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension without Change of a Currently Approved Collection.

Agency: Office of Workers' Compensation Programs.

OMB Number: 1240–0038.

Affected Public: Individuals or households.

Number of Respondents: 5,400.

Number of Responses: 10,800.

Annual Burden Hours: 9,450 hours.

Annual Respondent or Recordkeeper Cost: \$3,137.

OWCP Forms: Miner's Claim for Benefits under the Black Lung Benefits Act CM–911 and Employment History CM–911a.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at <https://www.reginfo.gov>.

Anjanette Suggs,

Agency Clearance Officer.

[FR Doc. 2026–07510 Filed 4–16–26; 8:45 am]

BILLING CODE 4510–CR–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Death Gratuity

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before May 18, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT:

Nicole Bouchet by telephone at 202–693–0213, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: The National Defense Authorization Act for Fiscal Year 2008, Public Law 110–181, was enacted on January 28, 2008. Section 1105 of Public Law 110–181 amended the Federal Employees' Compensation Act (FECA) creating a new section, 5 U.S.C. 8102a effective upon enactment. This section establishes a FECA death gratuity benefit of up to \$100,000 for eligible beneficiaries of federal employees and Non-Appropriated Fund Instrumentality employees who die from injuries incurred in connection with service with an Armed Force in a contingency operation which also permits agencies to authorize retroactive payment of the death gratuity for employees who died on or after October 7, 2001 in service with an Armed Force in the theater of operations of Operation Enduring Freedom and Operation Iraqi Freedom. It also allows federal employees to vary the order of precedence of beneficiaries or to name alternate beneficiaries and provides that the OWCP Forms CA–40, CA–41, and CA–42 are to be used to designate beneficiaries and initiate the payment process for death gratuity benefits. Form CA–40 is an optional form that requests the information necessary from the employee to accomplish this variance and to name alternate beneficiaries only if the employee wishes to do so. OWCP Form CA–41 provides the means for those named beneficiaries and possible recipients to file claims for those benefits and requests information from

such claimants so that OWCP may determine their eligibility for payment. Further, the statute and regulations require agencies to notify OWCP immediately upon the death of a covered employee. OWCP Form CA-42 provides the means to accomplish this notification and requests information necessary to administer any claim for benefits resulting from such a death.

Form CA-40 is an optional form that requests the information necessary from the employee to accomplish this variance and to name alternate beneficiaries only if the employee wishes to do so. Form CA-41 provides the means for those named beneficiaries and possible recipients to file claims for those benefits and requests information from such claimants so that OWCP may determine their eligibility for payment. Further, the statute and regulations require agencies to notify OWCP immediately upon the death of a covered employee. OWCP Form CA-42 provides the means to accomplish this notification and requests information necessary to administer any claim for benefits resulting from such a death. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 3, 2026 (91 FR 4967).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL-OWCP.

Title of Collection: Death Gratuity.

OMB Control Number: 1240-0017.

Affected Public: Individuals or Households, Federal Government.

Total Estimated Number of Respondents: 7.

Total Estimated Number of Responses: 7.

Total Estimated Annual Time Burden: 2 hours.

Total Estimated Annual Other Costs Burden: \$0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2026-07508 Filed 4-16-26; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Addendum to the Memorandum of Understanding With the Department of Energy (August 28, 1992); Transfers of Regulatory Authority at Certain Privatized Facilities and Operations at the Idaho National Laboratory Site, Hanford Site, Nevada National Security Site and Savannah River Site

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This is a notice of an addendum to the 1992 interagency Memorandum of Understanding (MOU) between the U.S. Department of Labor (DOL) and the U.S. Department of Energy (DOE) regarding the transfer of occupational safety and health authority for certain privatized facilities and operations from DOE to the Occupational Safety and Health Administration (OSHA), and state agencies operating under State Plans approved by OSHA.

DATES: The effective date of the Addendum to the 1992 Memorandum of Understanding is April 17, 2026.

FOR FURTHER INFORMATION CONTACT:

Press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications; telephone: (202) 693-1999; email: meilinger.francis2@dol.gov.

General information: Ms. Lana Morrison, Director, OSHA Office of Federal Agency Programs; telephone: (202) 693-2100; email: ofap@dol.gov.

Copies of this Federal Register document: Electronic copies of this **Federal Register** document are available at <http://www.regulations.gov>. This document, along with news releases and other relevant information, are also available on the OSHA web page at <http://www.osha.gov>.

SUPPLEMENTARY INFORMATION:

I. Background

DOE and DOL have entered into two MOUs to address occupational safety and health authority of both current and former DOE government-owned or leased, contractor-operated (GOCO) facilities. The first MOU, entered into on August 28, 1992 (1992 MOU), delineates DOE's regulatory authority

over the occupational safety and health of contractor employees at DOE GOCO facilities. Section 4(b)(1) of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 653(b)(1)) exempts from OSHA authority working conditions with respect to which other federal agencies have exercised statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health. DOE has statutory authority to regulate the occupational safety and health of private-sector employees at DOE facilities under section 161.i.(3) [42 U.S.C. 2201(i)(3)] of the Atomic Energy Act of 1954, as amended (Atomic Energy Act), among other statutory authorities, and DOE exercises that authority, with certain limited exceptions. The 1992 MOU acknowledges DOE's extensive program for the regulation of contractor health and safety, which includes requiring contractor compliance with certain OSHA standards along with additional DOE-prescribed requirements, and sets forth an agreement that the provisions of the OSH Act do not apply to GOCO sites for which DOE has exercised authority to regulate occupational safety and health.

OSHA and DOE entered into a second MOU on July 25, 2000 (2000 MOU), to establish interagency procedures addressing regulatory authority for occupational safety and health for specific facilities and operations (1) that were formerly controlled by DOE but have been leased to private business enterprises which are not conducting activities for or on behalf of DOE, and (2) where there is no likelihood that any employee exposure to radiation from DOE sources will be 25 millirems per year (mrem/yr) or more. The 2000 MOU also set forth a process in which OSHA would publish a **Federal Register** notice for privatized facilities or operations for which OSHA assumes regulatory jurisdiction, and that the **Federal Register** notice would serve as an addendum to the 1992 MOU.

II. Notice of Transfer

In a letter dated October 21, 2024, DOE notified OSHA that certain parcels of DOE-owned land across certain DOE sites may be utilized by private entities by way of lease or easement (collectively, the "Project Parcels"). DOE has entered into long-term realty agreements (*i.e.*, lease or easement agreements) to repurpose this land for private-sector energy projects that will be owned and operated by independent entities, not under contract with DOE. DOE will not assert or exercise statutory authority to prescribe or enforce

standards or regulations affecting occupational safety or health of private-sector employers and employees at the Project Parcels. Consequently, DOE requested that OSHA confirm that OSHA or the applicable OSHA-approved State Plan will regulate occupational safety and health at the Project Parcels. Specific information about the Project Parcels subject to this Notice is provided below:

- *Idaho National Laboratory Site in Idaho Falls, Idaho:* The parcels are represented in township and range format as follows: T6N, R33E Section 16; T7N, R31E Section 16; T7N, R31E Section 19; and T8N, R30E Section 36.

- *Hanford Site in Benton County, Washington:* The parcels are located along Route 4 in the southeastern portion of the site. They are represented in township and range format as follows: T12N, R27E Portions of Sections 35 and 36; T12N, R28E Portions of Sections 31 and 32; T11N, R27E Sections 1, 12, and Portions of Sections 2, 11, 13, 14, 23, 24, 25, 26, 27, 34, 35, and 36; T11N, R28E Sections 7 and Portions of Sections 6, 8, 17, 18, 19, 20, and 30; and T10N, R27E Portions of Sections 1 and 2.

- *Nevada National Security Site in Nye County, Nevada:* The parcels are represented in township and range format as follows: T15S, R53E Portions of Sections 23, 24, 25, 26, 33, 34, 35, 36; and T16S, R53E Portions of Sections 3, 4 and 5.

- *Savannah River Site in the sand-hills region of South Carolina (covering parts of Aiken, Barnwell, and Allendale counties):* The parcels are bounded by coordinates as follows:

- *Solar Site C:* 33°12'58.51690200" N, 081°43'16.88899080" W; 33°12'53.86759920" N, 081°42'56.38398120" W; 33°11'45.71913480" N, 081°43'12.41286240" W; 33°11'40.28659080" N, 081°43'19.38762840" W; 33°11'36.90900600" N, 081°43'36.48835920" W; 33°11'51.29566440" N, 081°43'48.70552440" W; 33°11'57.48951840" N, 081°43'49.59699600" W; 33°12'04.29265440" N, 081°43'40.09553760" W; 33°12'22.88837520" N, 081°43'45.39015480" W; 33°12'37.43054640" N, 081°43'54.42812400" W; 33°12'41.63149080" N, 081°43'51.37684320" W; 33°12'45.99395280" N, 081°43'55.31647080" W; 33°12'59.14741320" N, 081°43'57.54936000" W.

- *Solar Site G:* 33°11'55.41507690" N, 081°42'33.74421887" W; 33°12'24.86308367" N, 081°41'59.18421217" W; 33°11'14.30306947" N, 081°40'30.12018007" W; 33°10'34.99106128" N, 081°40'41.24418253" W; and 33°10'34.99106006" N, 081°41'21.70819307" W.

For each Project Parcel listed, DOE does not expect the residual radiological dose to workers to be 25 millirems per year (mrem/yr) or more above background. Further, radiological activities at each relevant DOE site and under the control of DOE pursuant to the Atomic Energy Act will continue to be conducted in accordance with the applicable public dose limits in DOE Order 458.1, *Radiation Protection of the Public and the Environment*.

OSHA shall regulate the occupational safety and health of private-sector employers and employees at the Project Parcels at the Idaho site. The other three identified Project Parcel sites (the sites in Washington, Nevada, and South Carolina) are located in states with OSHA-approved State Plans that regulate occupational safety and health for private-sector and state and local government employers and employees in those states. OSHA provided notification regarding the expected transfer of occupational safety and health coverage for these Project Parcels to the impacted State Plans (the Washington Division of Occupational Safety and Health (DOSH), the Nevada Occupational Safety and Health Administration (Nevada OSHA), and the South Carolina Occupational Safety and Health Administration (SC OSHA)). OSHA received written confirmation from the three affected State Plans that they are assuming coverage over occupational safety and health for private-sector and state and local government-sector employers and employees performing work at the Project Parcels within their states for the duration of the applicable DOE long-term realty agreement(s), consistent with their existing coverage over private-sector and state and local government-sector employers and employees. In an email dated May 29, 2025, OSHA provided this confirmation from the affected OSHA-approved State Plans to DOE and also provided confirmation that OSHA is assuming coverage over occupational safety and health for private-sector employers and employees performing work at the Project Parcels at the Idaho site for the duration of the applicable DOE long-term realty agreement(s).

Therefore, in accordance with the 2000 MOU, this **Federal Register** publication provides notice that OSHA has assumed and maintains occupational safety and health regulatory authority over private-sector employers and employees performing work at the Project Parcels at the Idaho National Laboratory site in Idaho Falls, Idaho for the duration of the applicable DOE long-term realty agreement(s). It also provides notice that the aforementioned affected State Plans have assumed and maintain occupational safety and health regulatory authority over private-sector and state and local government-sector employers and employees performing work at the other identified Project Parcels within their states for the duration of the applicable DOE long-term realty agreement(s), as follows:

- DOSH confirmed such authority over Project Parcels at the Hanford Site in Benton County, Washington;

- Nevada OSHA confirmed such authority over Project Parcels at the Nevada National Security Site in Nye County, Nevada; and

- SC OSHA confirmed such authority over Project Parcels at the Savannah River Site in the sand-hills region of South Carolina.

In addition, OSHA notes that its website for the Washington State Plan, DOSH, currently states that "certain contractors within the boundaries of the Hanford Reservation and the Hanford National Monument" are not covered by DOSH. That coverage exception arises from a **Federal Register** notice published on June 29, 2006 (71 FR 36988), which provided clarification as to the jurisdiction and enforcement responsibilities of OSHA and several State Plans at various DOE sites not subject to DOE jurisdiction under the Atomic Energy Act. With respect to the Washington State Plan specifically, that document provided notice that DOSH intended to exercise jurisdiction over private contractors performing work at the Bonneville Power Administration "except in controlled areas of the Hanford Reservation," *i.e.*, except in the areas of the Hanford Reservation subject to DOE's jurisdiction. Thus, to avoid any potential confusion about DOSH's coverage of employers operating within the boundaries of the Hanford Reservation, OSHA is making a minor clarification on its website for the Washington State Plan to specify that this coverage exclusion is limited to "contractors for which DOE has authority to regulate health and safety, and with respect to which DOE is exercising that authority".

Authority and Signature

David Keeling, Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. This **Federal Register** notice provides public notice and serves as an addendum to the 1992 MOU. Accordingly, the agency is issuing this notice pursuant to section 8(g)(2) and section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(g)(2) and 29 U.S.C. 667), 29 CFR parts 102, 1953, and 1955, and Secretary of Labor's Order No. 07-2025 (90 FR 27878).

Signed at Washington, DC, on April 14, 2026.

David Keeling,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026-07570 Filed 4-16-26; 8:45 am]

BILLING CODE 4510-26-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA-26-0166; NARA-2026-013]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on [regulations.gov](https://www.regulations.gov) for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: We must receive responses on the schedules listed in this notice by June 4, 2026.

ADDRESSES: To view a records schedule in this notice, or submit a comment on one, use the following address: <https://www.regulations.gov/docket/NARA-26-0166/document>.

This is a direct link to the schedules posted in the docket for this notice on [regulations.gov](https://www.regulations.gov). You may submit comments by the following method:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. On the website, enter either of the numbers cited at the top of this notice into the search field. This will bring you to the docket for this notice, in which we have

posted the records schedules open for comment. Each schedule has a 'comment' button so you can comment on that specific schedule. For more information on [regulations.gov](https://www.regulations.gov) and on submitting comments, see their FAQs at <https://www.regulations.gov/faq>.

If you are unable to comment via [regulations.gov](https://www.regulations.gov), you may email us at request.schedule@nara.gov for instructions on submitting your comment. You must cite the control number of the schedule you wish to comment on. You can find the control number for each schedule in parentheses at the end of each schedule's entry in the list at the end of this notice.

FOR FURTHER INFORMATION CONTACT:

Matthew Eidson, Records Management Operations, by email at matthew.eidson@nara.gov or at 301-837-3109. For information about records schedules, contact Records Management Operations by email at request.schedule@nara.gov or by phone at 301-837-3109.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule.

We have uploaded the records schedules and accompanying appraisal memoranda to the [regulations.gov](https://www.regulations.gov) docket for this notice as "other" documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the

[regulations.gov](https://www.regulations.gov) portal, you may contact request.schedule@nara.gov for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we may or may not make changes to the proposed records schedule. The schedule is then sent for final approval by the Archivist of the United States. After the schedule is approved, we will post on [regulations.gov](https://www.regulations.gov) a "Consolidated Reply" summarizing the comments, responding to them, and noting any changes we made to the proposed schedule. You may elect at [regulations.gov](https://www.regulations.gov) to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at <https://www.archives.gov/records-mgmt/rcs>, after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after

thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of Commerce, Video and Audio Surveillance Recordings (DAA-0040-2025-0001).
2. Department of Justice, United States Parole Commission Records (DAA-0438-2024-0002).
3. Bureau of Prisons, Inmate Scanning Devices Data (DAA-0129-2025-0009).
4. Federal Aviation Administration, National Simulator Program (DAA-0237-2025-0003).
5. National Aeronautics and Space Administration, Veterinary Care (DAA-0255-2025-0007).
6. National Institute of Standards and Technology, Personnel Records (DAA-0167-2025-0003).
7. Office of the Director of National Intelligence, Employee Relations Program Records (DAA-0576-2023-0031).
8. Office of the Director of National Intelligence, Intelligence Community Chief Information Officer Records (DAA-0576-2023-0014).
9. Veterans Health Administration, Office of Research and Development General Program Records (DAA-0015-2025-0039).

William P. Fischer,

Acting Chief Records Officer for the U.S. Government.

[FR Doc. 2026-07584 Filed 4-16-26; 8:45 am]

BILLING CODE 7515-01-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA-2026-014]

Freedom of Information Act (FOIA) Advisory Committee: Charter Renewal and Solicitation of Nominations

AGENCY: Office of Government Information Services (OGIS), National Archives and Records Administration (NARA).

ACTION: Notice; solicitation for Committee member nominations.

SUMMARY: NARA has determined that it is in the public interest to renew the charter for the Freedom of Information Act (FOIA) Advisory Committee (Committee) for a seventh term and seeks nominations for membership to serve on the Committee.

DATES: We must receive nominations for Committee members on or before Monday, June 1, 2026.

ADDRESSES: Email nominations to OGIS at foia-advisory-committee@nara.gov. If you are unable to submit by email, please contact Kirsten Mitchell at the contact information below.

FOR FURTHER INFORMATION CONTACT:

Kirsten Mitchell, Designated Federal Officer for this committee, by email at foia-advisory-committee@nara.gov, or by telephone at 202.741.5770.

SUPPLEMENTARY INFORMATION:

Background

The National Archives and Records Administration (NARA) established the Freedom of Information Act (FOIA) Advisory Committee (Committee) to foster dialogue between the Administration and the requester community, solicit public comments, and develop recommendations for improving the FOIA process. The Committee operates under the directive in FOIA, 5 U.S.C. 552(h)(2)(C), that the Office of Government Information Services (OGIS) within NARA "identify procedures and methods for improving compliance" with FOIA. The Committee is governed by the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. 1001-1014.

II. Charter and Membership Appointment Terms

NARA initially chartered the Committee on May 20, 2014. NARA has determined that renewing the Committee is in the public interest. See IV, Public Interest Determination, below. Member appointment terms run for two years, concurrent with the Committee charter.

III. Committee Membership

The 2026-2028 FOIA Advisory Committee will consist of no more than 20 individuals who will include a range of Government and non-Government representatives. Members are selected in accordance with the charter. Considerations when making appointments will include geographic breadth; various sizes of companies or organizations to be represented; and representation from a variety of fields of business and industry, academic institutions, non-profit and non-governmental organizations, and other stakeholders in accordance with the charter.

Government members will include, at a minimum: Three FOIA professionals from Cabinet-level Departments; three FOIA professionals from non-Cabinet agencies; the director of the Department

of Justice's Office of Information Policy (OIP) or the OIP Director's designee; and the Director of OGIS or the OGIS Director's designee.

Non-Governmental members will include, at a minimum: Two individuals representing the interests of non-Governmental organizations that advocate on FOIA matters; one individual representing the interests of FOIA requesters who qualify for the "all other" FOIA requester fee category; one individual representing the interests of requesters who qualify for the "news media" FOIA requester fee category; one individual representing the interests of requesters who qualify for the "commercial" FOIA requester fee category; one individual representing the interests of historians and history-related organizations; and one individual representing the interests of academia.

IV. Committee Members' Responsibilities

All Committee members are expected to attend a minimum of 12 public meetings during the two-year Committee term. Meetings will be held virtually to save costs with some in-person meetings possible. All Committee members are expected to volunteer for one or more working subcommittees that will meet at various times during the two-year term. The first meeting of the 2026-2028 Committee term is scheduled for Thursday, September 10, 2026. Meeting notices will be published in the **Federal Register**.

V. Nomination Information

All nominations for Committee membership must include the following information:

1. If you are self-nominating: Your name, title, relevant contact information (including telephone and email address), and the representative role for which you wish to be considered;

2. If you are nominating another individual: The nominee's name, title, and relevant contact information, and the Committee position for which you are submitting the nominee;

3. For both self-nominations and nominations by other individuals: (a) A short paragraph or biography about the nominee (fewer than 250 words), summarizing their resumé or otherwise highlighting the contributions the nominee would bring to the Committee; and (b) the nominee's resumé or curriculum vitae.

Nominations selected for appointment to the Committee will be notified in writing prior to the first Committee meeting of the seventh term.

VI. Public Interest Determination

Pursuant to 41 CFR 102–3.65, the National Archives and Records Administration provides this written notice determination that the FOIA Advisory Committee is in the public interest. The following factors below provide an overview of the Committee's operations and public interest intent.

Annual Budget—The overall operating costs for the Committee \$230,632. The expected costs are:

(i) Federal personnel (based on a full-time equivalent (FTE) of .97) is \$195,491.

(ii) Other Federal internal costs are \$4,233.

(iii) Proposed payments to members is \$0. The estimated compensation to non-NARA government members, borne by their employing agencies, is \$35,141.

(iv) Reimbursable costs are \$0.

The Committee does not recommend grants.

Criteria for Selecting Members—Committee members must have significant knowledge of and expertise with FOIA. Eight of the 10 government seats are designated for specific FOIA stakeholder representation. Three seats are designated for representatives of Cabinet-level departments while three seats are designated for non-Cabinet-level agencies.

Seven of the 10 non-government seats are designated for specific FOIA stakeholder representation with seats designated for representatives of non-government organizations that advocate on FOIA matters, and representatives from the three FOIA fee categories, among others. Selection criteria includes consideration of geography, organization size, and range of representatives across business, academia, non-profit and non-governmental sectors.

Existing Federal Advisory Committees—NARA has three Federal advisory committees in addition to the FOIA Advisory Committee:

(1) Records of Congress Advisory Committee

(2) National Industrial Security Program Policy Advisory Committee

(3) State, Local, Tribal, and Public Sector Policy Advisory Committee

Justification—The FOIA Advisory Committee is unique. No other Federal advisory committee—or alternative, less costly mechanism—provides a structured forum for FOIA requesters and FOIA professionals to jointly address systemic challenges in FOIA administration. The Committee directly supports the Office of Government Information Services' (OGIS) statutory responsibility under 5 U.S.C.

552(h)(2)(C) to identify procedures and methods for improving FOIA compliance. While OGIS draws insights from assisting requesters and agencies in more than 6,000 cases annually, it relies on the Committee's cross-sector expertise to fulfill this statutory mandate effectively.

Summary of Previous Committee Accomplishments—Since its establishment in 2014, the FOIA Advisory Committee has issued 67 recommendations, leading to measurable government-wide improvements in FOIA administration, including:

(1) Updated OMB FOIA Fee Guidelines

(2) Creation of the Technology Committee of the Chief FOIA Officers Council

(3) Department of Justice (DOJ) Office of Information Policy guidance on key issues

(4) Recommendations to modify the Federal Acquisition Regulation (FAR)

(5) Development of three e-Learning FOIA training modules for the Federal workforce: executives, FOIA professionals, and Federal employees whose primary responsibility is not FOIA

(6) Publication of a request for information (RFI) and scheduling of a FOIA tech showcase to identify technology for Federal agencies to assist in FOIA administration using artificial intelligence (AI)

Why the Committee is Essential—Renewing the Committee charter is particularly important during a period of significant government transition. The President's Management Agenda (December 2025) emphasizes transparency. FOIA is the most robust transparency mechanism and a cornerstone of public access to Federal records.

The Committee's work supports NARA's vision of embracing a shared commitment to transparency and the emphasis on transparency and access to information in the President's Management Agenda.

In conclusion, this public interest determination documents that renewing the Committee is in the public interest, essential to the conduct of agency business, and that the information to be obtained is not already available through another advisory committee or source within the Federal Government.

Merrily Harris,

Committee Management Officer.

[FR Doc. 2026–07479 Filed 4–16–26; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 999–02137; NRC–2026–1684]

In the Matter of Blue Energy, Inc.

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing this Order, immediately effective on March 26, 2026, to impose additional requirements necessary for the adequate protection of Safeguards Information in the possession of Blue Energy, Inc.

DATES: The Order was issued on March 26, 2026.

ADDRESSES: Please refer to Docket ID NRC–2026–1684 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–2026–1684. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. The Order is available in ADAMS under ADAMS Accession No. ML26015A065.

- *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:

Brian Yip, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3154; email: Brian.Yip@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

(Authority: 42 U.S.C. 2011 *et seq*)

Dated: April 15, 2026.

For the Nuclear Regulatory Commission.

Kevin Williams,

Acting Director, Office of Nuclear Security and Incident Response.

ATTACHED—Order

UNITED STATES

Nuclear Regulatory Commission

In the Matter of: BLUE ENERGY, INC.,
Docket No. 99902137, EAF–NSIR–2026–0007

Order Imposing Safeguards Information Protection Requirements for Access to Safeguards Information (Effective Immediately)

I

Blue Energy Global, Inc. (Blue Energy) submitted a letter of intent to the U.S. Nuclear Regulatory Commission (NRC) in 2025 for a future construction permit application.

On June 2009, the Commission published a rulemaking in the **Federal Register** (FR) (74 FR 28112) requiring applicants for a variety of licensing activities, including nuclear power plant designers to perform a design-specific assessment of the effects of the impact of a large commercial aircraft and to incorporate design features and functional capabilities into the nuclear power plant design to provide additional inherent protection with reduced use of operator actions. To assist designers in completing this assessment, the Commission has decided to provide the detailed aircraft impact characteristics that should be used as reasonable inputs for reactor vendors and architect/engineers who have the need to know and who meet the NRC's requirements for the disclosure of such information to use in the required aircraft impact assessments.

The NRC derived the characteristics from agency analyses performed on operating reactors to support, in part, the development of a broadly effective set of mitigation strategies to combat fires and explosions from a spectrum of hypothetical aircraft impacts. Although the detailed characteristics were not selected as a basis for designing new reactors, the staff is suggesting them as a starting point for aircraft impact assessments. The detailed aircraft characteristics that are the subject of this Order are hereby designated as Safeguards Information (SGI)¹ in accordance with Section 147 of the AEA.

On October 24, 2008, the NRC revised Title 10 of the *Code of Federal Regulations* (10 CFR) 73.21, "Protection of Safeguards Information: Performance Requirements," to include applicants in the list of entities required to protect SGI (73 FR 63546). The NRC is issuing this order to Blue Energy to

impose requirements for the protection of SGI in addition to the requirements set forth in 10 CFR 73.21. These additional requirements include nomination of a reviewing official, restrictions on storage of SGI, and access to SGI by certain individuals.

To implement this Order, Blue Energy must nominate an individual who will review the results of the Federal Bureau of Investigation (FBI) criminal history records check to make SGI access determinations. This individual, called the reviewing official, must be someone who seeks access to SGI. Based on the results of the FBI criminal history records check, the NRC staff will determine if this individual may have access to SGI. If the NRC determines that the individual may not be granted access to SGI, the enclosed order prohibits that individual from obtaining access to any SGI. Once the NRC approves a reviewing official, this reviewing official—and only this reviewing official—can make SGI access determinations for other individuals who Blue Energy identifies as having a need for SGI, who have been fingerprinted, and who have had criminal history records and background check in accordance with this Order. The reviewing official can only make SGI access determinations for other individuals but cannot approve other individuals to act as reviewing officials. Only the NRC can approve a reviewing official. Therefore, if Blue Energy wishes to have a new or additional reviewing official, the NRC must approve this individual before he or she can act in that capacity.

II

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of SGI. Section 147 of the AEA grants the Commission explicit authority to issue such orders, as necessary, to prohibit the unauthorized disclosure of SGI. To provide assurance that Blue Energy continues to implement appropriate measures to ensure a consistent level of protection to prohibit unauthorized disclosure of SGI, as well as to comply with the fingerprinting, criminal history records check, and background check requirements for access to SGI, Blue Energy shall implement the requirements for the protection of SGI as set forth in 10 CFR 73.21, 10 CFR 73.22, "Protection of Safeguards Information: Specific Requirements," and this Order.

By rule, certain categories of individuals are exempted from the fingerprinting requirements under 10 CFR 73.59, "Relief from Fingerprinting, Identification and Criminal History Records Checks and Other Elements of Background Checks for Designated Categories of Individuals." Those individuals include Federal, State, and local law enforcement personnel in the U.S.; Agreement State inspectors who conduct security inspections on behalf of the NRC; members of the U.S. Congress; certain employees of members of Congress or congressional committees who have undergone fingerprinting for a previous U.S. Government criminal history check; and representatives of the International Atomic Energy Agency or certain foreign government

organizations. In addition, individuals who have had a favorably decided U.S. Government criminal history check within the last 5 years, or individuals who have active U.S. Federal security clearances (provided in either case that they provide the appropriate documentation), have already been subjected to fingerprinting and criminal history checks and, thus, have satisfied the fingerprinting requirement.

In addition, under 10 CFR 2.202, "Orders," the NRC finds that, in light of the matters identified above which warrant the issuance of this Order, the public health, safety, and interest require that this Order be effective immediately.

III

Accordingly, under sections 147, 149, 161b, 161i, 161o, 182, and 186 of the AEA, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 73, "Physical Protection of Plants and Materials," *it is hereby ordered, effective immediately, that blue energy and all other persons who seek or obtain access to sgi as described herein shall comply with the requirements set forth in 10 CFR 73.21, 10 CFR 73.22, and this order.*

A.

(1) No person shall have access to any SGI if the NRC, when making an SGI access determination for a nominated reviewing official, has determined, based on fingerprinting and an FBI identification and criminal history records check, that the person nominated may not have access to SGI.

(2) Blue Energy shall store SGI designated by this Order only in the facility or facilities specifically approved in writing by the NRC for storage of SGI designated by this Order. Blue Energy may request, in writing, NRC approval of additional facilities for the storage of the SGI designated by this Order that the NRC will consider on a case-by-case basis.

(3) Blue Energy may provide SGI designated by this Order to individuals (such as foreign/non-U.S. nationals, U.S. citizens living in foreign countries, or individuals under the age of 18) for whom fingerprinting and an FBI criminal history records check are not reasonably expected to yield sufficient criminal history information to form the basis of an informed decision on granting access to SGI, provided that the individual satisfies the requirements of this Order, and that Blue Energy has implemented measures, in addition to those set forth in this Order, to ensure that the individual is suitable to have access to the SGI designated by this Order. Such additional measures must include, but are not limited to, equivalent criminal history records checks conducted by a U.S. local, U.S. State, or foreign governmental agency and enhanced background checks, including employment and credit history. The NRC must review these additional measures and approve them in writing.

B. No person may provide SGI to another person, except in accordance with section III.A. above. Before a person provides SGI to any person, a copy of this Order shall be provided to that person.

C. Blue Energy shall comply with the following requirements:

¹ SGI is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under Section 147 of the *Atomic Energy Act of 1954, as amended* (AEA).

(1) Blue Energy shall, within 20 days of the date of this Order, submit the fingerprints of one individual whom (a) it nominates as the reviewing official for determining access to SGI by other individuals, and (b) has an established need to know the information. The NRC will determine if this individual (or any subsequent reviewing official) may have access to SGI and, therefore, will be permitted to serve as Blue Energy's reviewing official.² Blue Energy may, at the same time or later, submit the fingerprints of other individuals to whom it seeks to grant access to SGI. Fingerprints shall be submitted and reviewed in accordance with the procedures described in the attachment to this Order.

(2) Blue Energy shall, in writing, within 20 days of the date of this Order, notify the Commission (1) if it is unable to comply with any of the requirements described in the Order, including the attachment, or (2) if compliance with any of the requirements is unnecessary in its specific circumstances.

The notification shall provide Blue Energy's justification for seeking relief from, or variation of, any specific requirement.

Blue Energy shall submit responses to C.(1) and C.(2) above to the Director, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555. In addition, Blue Energy shall mark its responses as "Security-Related Information-Withhold Under 10 CFR 2.390."

Except for the requirements for fingerprinting, the Director, Office of Nuclear Security and Incident Response, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by Blue Energy.

IV

In accordance with 10 CFR 2.202, Blue Energy must, and any other person adversely affected by this Order may, submit a written answer to this Order under oath or affirmation within 20 days of its publication in the **Federal Register**. Blue Energy's answer may consent to the Order and be submitted to the NRC in accordance with 10 CFR 50.4. In addition, Blue Energy and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for such an extension of time must be made in writing to the Director, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315, "Participation by a person not a party," paragraph (c) must be filed in accordance

with 10 CFR 2.302, "Filing of documents." The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the "Guidance for Electronic Submissions to the NRC" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13031A056), and on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the NRC Office of the Secretary by email at Hearing.Docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in portable document format (pdf). Guidance on submissions is available on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. eastern time (ET) on the due date. Upon receipt of a transmission, the E-Filing system timestamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free

call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair-Use application, participants should not include copyrighted materials in their submission.

If a person other than Blue Energy requests a hearing, that person shall set forth with particularity the manner in which their interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by Blue Energy or a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in section III shall be final 20 days from the date this Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in section III shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland, this day March 26, 2026.

² The NRC's determination of this individual's access to SGI in accordance with the process described in Enclosure 3 to the transmittal letter of this Order is an administrative determination that is outside the scope of this Order.

For the U.S. Nuclear Regulatory Commission,

Kevin Williams,

Acting Director, Office of Nuclear Security and Incident Response.

Guidance for Evaluation of Access to Safeguards Information With the Inclusion of Criminal History Records (Fingerprint) Checks

When a licensee or other person³ submits fingerprints to the U.S. Nuclear Regulatory Commission (NRC) under an NRC Order, they will receive a summary of criminal history information, provided in U.S. Federal records, covering the time period since the individual's 18th birthday. Individuals retain the right to correct and complete information and to initiate challenge procedures described in Enclosure 3. The licensee will receive the information from the criminal history records check for those individuals requiring access to Safeguards Information (SGI), and the reviewing official will evaluate that information using the guidance below. Furthermore, the requirements for all Orders, which apply to the information and material to which access is being granted, must be met.

The licensee's reviewing official is required to evaluate all pertinent and available information in making a determination regarding an individual's access to SGI, including the criminal history information about the individual as required by the NRC Order. The criminal history records check is used when determining if an individual has a record of criminal activity that indicates that the individual should not have access to SGI. Each determination of access to SGI, which includes a review of criminal history information, must be documented to include the basis for the decision that is made and must meet the following requirements:

(1) If negative information is discovered that the individual did not provide, or which is different in any material respect from the information that the individual provided, this information should be considered, and decisions made based on these findings must be documented.

(2) Any record containing a pattern of behaviors that indicates that the behaviors could recur or continue, or recent behaviors that cast doubt on whether an individual should have access to SGI should be carefully evaluated before any authorization of access to SGI.

If either of the following occurs, the licensee must resubmit fingerprints:

(1) The FBI determines that the fingerprints cannot be classified because of poor quality in the mechanics of taking the initial impressions.

(2) The initial submission is lost.

If the FBI determines that a set of fingerprints is unclassifiable because they are unreadable, they will provide a response similar to the following:

"The quality of the characteristics is too low to be used. Candidate(s) were found.

Please resubmit a new set of fingerprints for comparison."

If the licensee receives two such responses, indicating that the fingerprints for a given individual are unclassifiable, then the licensee may request an exemption—based on the results of a name-based criminal history records check—through the NRC's Criminal History Program Specialist or Access Authorization Program Security Specialist. (The Criminal History Program Specialist can be reached by email at CrimHist.Resource@nrc.gov.) The NRC will thereafter provide an electronic response back to the licensee communicating the approval or denial of the exemption. If approved, the licensee will then submit the required form for a name-based check.

Process To Challenge NRC Denials or Revocations of Access to Safeguards Information

1. Policy

This policy establishes a process for an individual, whom the U.S. Nuclear Regulatory Commission (NRC) licensee⁴ has nominated to serve as a reviewing official, to challenge and appeal NRC denials or revocations of access to Safeguards Information (SGI). Any individual nominated as a licensee reviewing official whom the NRC has determined may not have access to SGI shall, to the extent provided below, be afforded an opportunity to challenge and appeal the NRC's determination. This policy shall not be construed to require the disclosure of SGI to any person; neither shall it be construed to create a liberty or property interest of any kind in the access of any individual to SGI.

2. Applicability

This policy applies solely to those employees of licensees who are nominated to serve as reviewing officials, and who have thus been considered by the NRC for initial or continued access to SGI in that position.⁵

3. SGI Access Determination Criteria

The NRC will determine whether access to SGI will be granted to an individual nominated to be a reviewing official. Access to SGI shall be denied or revoked whenever it is determined that an individual does not meet the applicable standards. Any doubt about an individual's eligibility for initial or continued access to SGI shall be resolved in favor of national security interests, and access will be denied or revoked.

4. Procedure To Challenge the Contents of Records Obtained From the FBI

Before a determination, by the responsible NRC branch chief, that an individual's nomination to serve as a reviewing official is denied or that the individual's access to SGI is revoked, the individual shall—

(i) be given the contents of records obtained from the FBI for the purpose of assuring correct and complete information. If,

after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures, including either direct application by the individual challenging the record to the agency (*i.e.*, law enforcement agency) that contributed the questioned information or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, as set forth in Title 28 of the *Code of Federal Regulations* sections 16.30 through 16.34. In the latter case, the FBI will forward the challenge to the submitting agency and request that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any necessary changes in accordance with the information supplied by that agency.

(ii) be afforded 10 days to initiate an action challenging the results of an FBI criminal history records check (described in (i), above) after the record is made available to the individual for his or her review. If the individual initiates such a challenge, the responsible NRC branch chief will make a determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record.

5. Procedure To Provide Additional Information

Before a determination, by the responsible NRC branch chief, that an individual's nomination to serve as a reviewing official is denied or that the individual's access to SGI is revoked, the individual shall be afforded an opportunity to submit information relevant to the individual's trustworthiness and reliability. The NRC shall, in writing, notify the individual of this opportunity and any deadlines for submitting this information. The responsible NRC branch chief may make a determination of access to SGI only upon receipt of the additional information that the individual submits or, if no such information is submitted, when the deadline to submit such information has passed.

6. Procedure To Notify an Individual of the NRC's Determination To Deny or Revoke Access to SGI

Upon a determination, by the responsible NRC branch chief, that an individual nominated as a reviewing official is denied or has his or her access to SGI revoked, the individual shall be given a written explanation of the basis for this determination.

7. Procedure To Appeal an NRC Determination To Deny or Revoke Access to SGI

Upon a determination, by the responsible NRC branch chief, that an individual's nomination to serve as a reviewing official is denied or that the individual's access to SGI is revoked, the individual shall be given an opportunity to appeal this determination to the responsible division director. The

³ As used herein, ≥licensee≥ means any licensee or other person who is required to conduct fingerprinting.

⁴ As used herein, ≥licensee≥ means any licensee or other person who is required to conduct fingerprinting.

⁵ The licensee should have an approved SGI program or an SGI program under NRC review.

determination must be appealed within 20 days of receipt of the written notice of the determination by the branch chief, and the appeal may be submitted in writing or presented in person. Any appeal made in person shall take place at the NRC's headquarters and shall be at the individual's own expense. The determination by the responsible division director shall be rendered within 60 days after receipt of the appeal.

8. Procedure To Notify an Individual of the Determination by the Responsible Division Director, Upon an Appeal

A determination by the responsible division director shall be provided to the individual in writing and include an explanation of the basis for this determination. A decision by the responsible division director to affirm the responsible branch chief's determination to deny or revoke an individual's access to SGI is final and not subject to further administrative appeals.

General Requirements

Licensees and other persons who are required to conduct fingerprinting shall comply with the requirements of this enclosure.⁶

The licensee shall notify the U.S. Nuclear Regulatory Commission (NRC), in writing, of any desired change in reviewing officials, in compliance with C.1 of the subject Order. The NRC will determine if the individual nominated as the new reviewing official may have access to Safeguards Information (SGI) based on a previously obtained or new criminal history check and, therefore, will be permitted to serve as the licensee's NRC-approved reviewing official.

Procedures for Processing Fingerprint Checks (10 CFR 73.57(d))

For the purpose of complying with this Order, licensees shall, using an appropriate method listed in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, "Physical Protection of Plants and Materials," section 4, "Communications," submit one completed legible standard fingerprint card (Form FD-258, ORIMDNR0000Z);⁷ or, where practicable, other fingerprint records⁸ for each individual seeking access to SGI; to the NRC, marked for the attention of the Criminal History Program.

The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards due to illegible or incomplete cards. The NRC will review submitted fingerprint cards for completeness. Any Form FD-258 fingerprint record

containing omissions or evident errors will be returned to the licensee for corrections.

Under 10 CFR 73.57(d)(2), the fee for processing fingerprint checks includes one free resubmission if the initial submission is returned by the Federal Bureau of Investigation (FBI) because the fingerprint impressions cannot be classified. The one free resubmission must have the FBI Transaction Control Number reflected on the resubmission. If additional submissions are necessary, they will be treated as an initial submittal and require a second payment of the processing fee. The payment of a new processing fee entitles the submitter to an additional free resubmittal, if necessary. Previously rejected submissions may not be included with the third submission, because the submittal will be rejected automatically.

Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints, and payment must be made payable to the U.S. Nuclear Regulatory Commission. The payments are to be made in U.S. funds using the electronic payment methods accepted at www.pay.gov. Combined payment for multiple applications is acceptable.

The application fee is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee, and an administrative processing fee assessed by the NRC. The NRC processing fee covers administrative costs associated with NRC handling of licensee fingerprint submissions. The Commission publishes the amount of the fingerprint records check application fee on the NRC's public website. The Commission will directly notify licensees who are subject to this regulation of any fee changes.

Additional information regarding fees and payments for criminal history records checks can be found on the NRC's public website at <https://www.nrc.gov/security/chp>.

Right To Correct and Complete Information (10 CFR 73.57(e))

Before any final adverse determination, the licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the licensee for 1 year from the date of the notification. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update the alleged deficiency, or explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (*i.e.*, law enforcement agency) that contributed the questioned information or direct challenge to the accuracy or completeness of any entry on the criminal history record to the FBI as set forth in 28 CFR 16.30 through 16.34. In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged data. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI

Identification Division makes any changes necessary in accordance with the information that agency supplies. The licensee must give at least 10 days for an individual to initiate an action challenging the results of an FBI criminal history records check after the record is made available to that individual for his or her review. The licensee may make a final SGI access determination based on the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to SGI, the licensee shall give the individual its documented basis for denial. Access to SGI shall not be granted to an individual during the review process.

Protection of Information (10 CFR 73.57(f))

(1) Each licensee who obtains a criminal history record on an individual under this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.

(2) The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his or her representative, or to those who have a need to access the information in performing assigned duties in the process of determining access to SGI. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know claim.

(3) The personal information obtained on an individual from a criminal history record check may be transferred to another licensee if the licensee holding the criminal history record check receives the individual's written request to re-disseminate the information contained in his or her file, and the current licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

(4) The licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

(5) The licensee shall retain all fingerprint and criminal history records received from the FBI, or a copy if the individual's file has been transferred, for 3 years after termination of employment or determination of access to SGI (whether access was approved or denied). After the required 3 years, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

References

- 10 CFR 73.21; 73.22; 73.23; 73.57; 73.59. <https://www.ecfr.gov/current/title-10/chapter-I/part-73>.
 - Regulatory Guide 5.79, "Protection of Safeguards Information," Revision 0, dated April 2011. <https://www.nrc.gov/docs/ML1032/ML103270219.pdf>.
- 73 FR 63546, Oct. 24, 2008, "Protection of Safeguards Information," Final Rule.

[FR Doc. 2026-07528 Filed 4-16-26; 8:45 am]

BILLING CODE 7590-01-P

⁶ As used herein, ≥licensee means any licensee or other person who is required to conduct fingerprinting in accordance with these requirements.

⁷ Copies of these forms may be obtained by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling 301-415-5877, or by email to FORMS.Resource@nrc.gov.

⁸ Guidance on what alternative formats might be practicable is referenced in 10 CFR 73.4.

NUCLEAR REGULATORY COMMISSION

[NRC–2026–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of April 20, 27, and May 4, 11, 18, 25, 2026. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please contact the Reasonable Accommodations Resource by email at Reasonable_Accommodations.Resource@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at Betty.Thweatt@nrc.gov or Samantha.Miklaszewski@nrc.gov.

MATTERS TO BE CONSIDERED:**Week of April 20, 2026**

Tuesday, April 21, 2026

10:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting) (Contact: Ally Mara: 301–415–2509)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Thursday, April 23, 2026

10:00 a.m. Briefing on the Annual Threat Environment (Closed Ex. 1)

Week of April 27, 2026—Tentative

There are no meetings scheduled for the week of April 27, 2026.

Week of May 4, 2026—Tentative

Tuesday, May 5, 2026

10:00 a.m. Briefing on Human Capital and Equal Employment

Opportunity (Public Meeting)
(Contact: Erin Deeds: 301–415–2887)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Thursday, May 7, 2026

9:00 a.m. Strategic Programmatic Overview of the Fuel Facilities and Spent Fuel Storage and Transportation Business Lines (Public Meeting) (Contact: Annie Ramirez: 301–415–6780)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Week of May 11, 2026—Tentative

There are no meetings scheduled for the week of May 11, 2026.

Week of May 18, 2026—Tentative

There are no meetings scheduled for the week of May 18, 2026.

Week of May 25, 2026—Tentative

There are no meetings scheduled for the week of May 25, 2026.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at Wesley.Held@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

For the Nuclear Regulatory Commission.

Dated: April 15, 2026.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2026–07569 Filed 4–15–26; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–0760]

Draft Interim Staff Guidance: NRC Application Pathway for Reactor Designs Previously Authorized by U.S. Department of Energy or Department of War

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on its draft Interim Staff Guidance (ISG), DANU–ISG–2026–XX, “NRC Application Pathway for Reactor Designs Previously Authorized by U.S. Department of Energy or Department of War.” The purpose of this guidance is to provide a roadmap to NRC requirements, and associated implementing guidance, in select foundational areas to support streamlined NRC reviews of certain applications that propose to address the accomplishment of safety functions by leveraging pertinent information from prior U.S. Department of Energy (DOE) or Department of War (DOW) authorizations of demonstration reactors.

DATES: Submit comments by May 18, 2026.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–0760. 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.

- *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: Jim Kinsey, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0754; email: James.Kinsey@nrc.gov.

SUPPLEMENTARY INFORMATION:**I. Obtaining information and Submitting Comments****A. Obtaining Information**

Please refer to Docket ID NRC–2026–0760 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–2026–0760.

- *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 draft ISG, titled "NRC Application Pathway for Reactor Designs Previously Authorized by U.S. Department of Energy or Department of War," is available in ADAMS under Accession No. ML25363A192.

- *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–2026–0760 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On May 23, 2025, President Donald J. Trump 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 E.O. 14300. Section 5(d) of the E.O. requires the NRC to establish an expedited pathway to approve reactor designs that the U.S. DOE or DOW have tested and that have demonstrated the ability to function safely.¹ The NRC is addressing section 5(d) of this E.O. primarily through two activities, as summarized later in this document. This **Federal Register** notice includes one such activity. Specifically, the NRC is issuing and requesting comment on this draft ISG that would facilitate the development and review of applications for an NRC approval that seeks to leverage a prior DOE or DOW authorization.

The purpose of this draft ISG is to provide a roadmap to NRC requirements and associated guidance for areas in select, foundational areas of reactor facility safety and the protection of public health and safety. Due to the broad range of technology types and deployment options that may be authorized by DOE and DOW, this roadmap compiles NRC application requirements to aid developers while they are establishing their DOE or DOW authorization request and related NRC commercial licensing strategy. Importantly, this roadmap is not intended to be a comprehensive recitation of all applicable NRC requirements for a given requested approval. Nevertheless, upon finalization, this ISG is intended to assist prospective NRC applicants in determining how they can best maximize the overlap between what would be required to satisfy both sets of requirements (*i.e.*, NRC requirements and DOE or DOW requirements, as applicable). In so doing, the NRC may be able to leverage more information that has been previously reviewed and accepted by DOE or DOW when the NRC staff performs its subsequent review of a commercial application. In addition, this ISG is also intended to support a streamlined NRC review of applications in areas that include pertinent information regarding the

accomplishment of safety functions related to DOE or DOW authorized reactor facilities, in which the NRC staff would appropriately adjust the focus and depth of that review when implementing the whole-of-government "leveraging" concept introduced by E.O. 14300.

While not the subject of this **Federal Register** notice, the other primary activity is the initiation of a separate rulemaking that proposes to amend NRC requirements in part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), "Domestic Licensing of Production and Utilization Facilities," and part 53, "Risk-Informed, Technology-Inclusive Regulatory Framework for Commercial Nuclear Plants," to establish an explicit pathway for streamlined reviews for licensing commercial reactor designs that have previously received DOE or DOW authorization and that have been tested and demonstrated the ability to function safely. No change is needed for 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," as it references the requirement that is proposed to be modified in the rulemaking. The proposed rule for that activity, "NRC Reviews of Reactor Designs Previously Authorized by U.S. Department of Energy or Department of War," was published and noticed for comment in the **Federal Register** on April 2, 2026. (91 FR 16584). The information in this ISG supports NRC reviews of applications under 10 CFR part 50 or part 52 pursuing the explicit pathway established by the proposed rulemaking.

Other efforts that aid in the implementation of section 5(d) of E.O. 14300 include the NRC's issuance of an addendum to the previously existing Memorandum of Understanding (MOU) titled, "Coordinating DOE and NRC Technical Expertise and Knowledge on Advanced Nuclear Reactor and Advanced Reactor Fuel Technologies," between the NRC and DOE (ADAMS Accession No. ML25303A288). In particular, the addendum addresses coordination of DOE and NRC technical readiness and sharing of technical expertise and knowledge on advanced nuclear reactor and advanced reactor fuel technologies. The addendum also enables the documented safety analyses for DOE-authorized nuclear facilities that have been tested and that have demonstrated the ability to function safely to be leveraged to streamline and expedite future NRC licensing activities pursuant to E.O. 14300, section 5(d). Future planned activities may include the development of a crosswalk between the NRC regulations and guidance summarized in this ISG and associated

¹ Consistent with E.O. 14347, "Restoring the United States Department of War," this **Federal Register** notice refers to the "Department of War" and "Department of Defense" interchangeably.

DOE authorization process requirements, and consideration and development of other MOUs, as appropriate.

III. Backfitting, Forward Fitting, and Issue Finality

This draft ISG provides guidance for the development and NRC staff review of applications for licenses, permits, certifications, or approvals under 10 CFR parts 50 and 52 that include consideration of relevant information gathered from a design that has been previously authorized by DOE or DOW as a utilization facility and that has been tested and has demonstrated the ability to function safely. Issuance of this ISG as final 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”; would not constitute forward fitting as that term is defined and described in MD 8.4; and would not affect the issue finality of any approval issued under 10 CFR part 52. The guidance would be for voluntary use by future applicants and would not be imposed on any current licensees or applicants or existing or requested approvals under 10 CFR parts 50 or 52, and therefore its issuance would not constitute a backfit, forward fit, or a change affecting issue finality.

IV. Executive Order (E.O.) 12866

The Office of Information and Regulatory Affairs determined that the draft ISG, titled “NRC Application Pathway for Reactor Designs Previously Authorized by U.S. Department of Energy or Department of War,” is not a significant regulatory action under E.O. 12866.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: April 15, 2026.

For the Nuclear Regulatory Commission.

Jonathan Greives,

Director, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2026-07566 Filed 4-16-26; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105231; File No. SR-CMESC-2026-003]

Self-Regulatory Organizations; CME Securities Clearing Inc.; Notice of Filing of Proposed Rule Change To Establish the CME Securities Clearing Inc. Enterprise Risk Management Framework

April 14, 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 1, 2026, CME Securities Clearing Inc. (“CMESC”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change described in Items I, II, and III below, which Items have been substantially prepared by CMESC. CMESC filed the proposed rule change pursuant to Section 19(b)(2) of the Act. ³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. CMESC’s Statement of the Terms and Substance of the Proposed Rule Change

The proposed rule change consists of CMESC’s enterprise risk management framework (“Enterprise Risk Management Framework” or “ERMF”) that provides a framework and common methodology used by CMESC to identify and manage potential events that may affect CMESC, categorize and assess risk, define the risk governance structure and accountability, and detail how risk is managed and reported across its enterprise as a covered clearing agency. As described in more detail below, the Enterprise Risk Management Framework consists of five parts—the purpose and statement of framework, the applicability of ERMF, governance, risk universe and ERM lifecycle. The ERMF is annexed hereto as Exhibit 5.

II. CME’s Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, CMESC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CMESC has prepared

summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. CMESC’s Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

1. Purpose

Background

On December 1, 2025, the Securities and Exchange Commission (“Commission” or “SEC”) issued an order (“Order”) approving CMESC’s Form CA-1 (“Application”) for registration as a clearing agency to provide central counterparty services for transactions involving U.S. Treasury securities, finding the Application satisfies the requirements of the Act and rules and regulations thereunder. ⁴ Specifically, the Commission determined that “the CMESC Application establishes a comprehensive risk management framework consistent with Commission rules.” ⁵ The Commission’s determination was based, among others, on its review of CMESC’s risk management framework (“Risk Management Framework” or “RMF”), submitted as part of the Application. The RMF provides a comprehensive risk management framework for CMESC to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, consistent with Rule 17ad-22(e)(3). ⁶ The RMF is designed to work cohesively with the Enterprise Risk Management Framework, which identifies and assesses the sources of risks covered by the RMF and their potential impact on CMESC’s operations and services. As described more fully below, the Enterprise Risk Management Framework establishes an ERM program that assists CMESC to define and implement effective risk management capabilities described in the RMF by applying a holistic and systematic approach. This approach identifies potential events that may affect CMESC, monitors and manages the risks in accordance with the “Risk Appetite” established by the Board and consistent with the three lines of defense model described in the RMF, thereby providing reasonable assurance that the risks covered by the RMF are adequately managed.

⁴ Release No. 34-104281 (Dec. 1, 2025), 90 FR 55926 (Dec. 4, 2025), available at <https://www.federalregister.gov/documents/2025/12/04/2025-21908/cme-securities-clearing-inc-order-granting-an-application-for-registration-as-a-clearing-agency>.

⁵ *Id.* at 55937.

⁶ 17 CFR 240.17ad-22(e)(2).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(2).

The Enterprise Risk Management Framework was not included in the Application. Therefore, CMESC is filing this proposed rule change to establish the Enterprise Risk Management Framework.

Description of the Proposed Rule Change

The ERMF is organized under the following headings: (1) Purpose and Statement of Framework; (2) Applicability; (3) Governance; (4) Risk Universe; and (5) Enterprise Risk Management (“ERM”) Lifecycle, each as described in more details below.

1. Purpose and Statement of Framework

The Purpose and Statement of Framework section sets forth the purpose of the ERMF. It starts with a description of CMESC as a wholly-owned subsidiary of CME Group Inc. and its function as a SEC-registered covered clearing agency and then states the function and purpose of the ERMF as a framework designed to help CMESC define and implement an effective risk management program by applying a holistic and systematic common methodology to identify and manage potential threats to its operations and objectives, categorize and assess risk, define a risk governance structure, and manage risks commensurate with the “Risk Appetite” (defined below) established by the Board.

2. Applicability of the ERMF

Given the nature and purpose of the ERMF described above, the ERMF will apply to all CMESC personnel.

3. Governance

The Governance section describes the ERMF’s governance framework. First, CMESC proposes that the ERMF itself be maintained by its Compliance & ERM team, which supports the CMESC Chief Compliance Officer (“CCO”) in implementing the ERMF. On at least an annual basis, the CCO would recommend the ERMF for review to the Risk Management Committee of CMESC (“CSRMC”), which then recommends the ERMF to the Board for approval. Any substantive changes to the ERMF outside of the annual review would require the CSRMC’s review and approval. If the CSRMC determines that changes to the ERMF would have a significant impact on the risk profile of CMESC, such changes will be recommended by the CSRMC to the Board for approval.

CMESC’s Board oversees the overall risk management of CMESC, as supported by committees of the Board and individuals with delegated

authority by the Board, including the CSRMC and certain members of the senior management. The CSRMC provides oversight of the adequacy of CMESC’s enterprise risk management program established under the ERMF to assist the Board in its oversight of the effectiveness of CMESC’s policies and risk management processes, consistent with the CSRMC charter and the RMF. Additionally, the Governance section discusses the three lines of defense model used by CMESC as a risk management tool and control framework that defines and distinguishes staff roles and responsibilities into three lines of defense to manage and mitigate risks as described in the ERMF.

4. Risk Universe

The Risk Universe section describes how the ERMF would facilitate CMESC’s evaluation and monitoring of risks it may face. Specifically, CMESC would establish the “Risk Universe” by aligning identified risks with enterprise risk categories and sub-risk categories with assigned risk owners responsible for assessing and monitoring potential threats to CMESC and the risk impacts on CMESC’s business objectives.

Within the Risk Universe, the enterprise risk categories are the highest-level groups of risk aggregation, initially consisting of Financial Resources, Operations, Regulatory Compliance, and Service Provider risks. These categories represent the risk areas where the Board must maintain oversight to ensure CMESC pursues its objectives within a defined Risk Appetite (defined below) established by the Board.

Within each enterprise risk category in the Risk Universe, the sub-risk categories further classify risks into more detailed groups within the same enterprise risk category. The sub-risks identify the specific processes underlying each enterprise risk category. Each sub-risk category has its own risk definition established by the Compliance & ERM team in consultation with the relevant risk owners who are responsible for assessing and monitoring the relevant risks and their impact on CMESC’s business objectives.

5. ERM Lifecycle

The ERM Lifecycle section discusses how the proposed ERMF would manage the risk lifecycle components to support the accomplishments of CMESC’s strategy and objectives within the Risk Appetite (as defined below) established by the Board. The risk lifecycle components are: Risk Appetite, Risk Tolerance, risk assessment, risk

response, and risk monitoring and reporting.

5.1 Risk Appetite

As established by the Board, the “Risk Appetite” refers to the aggregate amount of residual risk, on a broad level, CMESC is willing to accept in a given category in pursuit of its strategic objectives before additional action is deemed necessary to reduce the risk. Under the proposed ERMF, CMESC would establish the Risk Appetite through the use of five-point “Risk Appetite Ratings” and supporting “Risk Appetite Statements” (as defined below). The proposed ERMF provides five Risk Appetite Ratings ranging from Rating 1 as Permissive Risk Taking to Rating 5 as Averse Risk Taking.

“Risk Appetite Statements” are statements aligned with CMESC’s strategic goals, industry standards and regulatory requirements to provide guidance or parameters on the level of risk exposure CMESC is willing to accept regarding specific enterprise risk categories and sub-risk categories within CMESC’s Risk Universe. In the proposed ERMF, each of the enterprise risk categories (*i.e.*, financial resources enterprise risk, operational enterprise risk, regulatory compliance enterprise risk, service providers enterprise risk) and their respective sub-risk categories are rated in accordance with the Risk Appetite Ratings described above and the corresponding Risk Appetite Statement is established accordingly to guide CMESC’s internal strategic planning and daily decisions in order to prevent excessive risk taking and at the same time encourage the development of risk mitigation practices or controls.

5.2 Risk Tolerance

“Risk Tolerance” refers to the acceptable boundary of risk that CMESC is willing to accept in pursuit of its business objectives and to ensure that those boundaries are not breached. Risk Tolerance is the quantitative and tactical counterpart to Risk Appetite. The ERMF describes how CMESC evaluates whether risks are within its Risk Tolerance levels by monitoring key risk indicators (“KRIs”), which are metrics used to provide an early signal of potential increasing risk exposure, allowing CMESC’s management to take corrective action to maintain risks within the tolerance levels. The KRIs are tied to a tiered escalation protocol for the action required, from the low level (ongoing routine monitoring) to the medium level (escalation to the CSRMC or the Board) and to the high level (actions that include reporting and escalation to the Board).

5.3 Risk Assessment

The ERMF describes CMESC's risk assessment mechanism, which would be used to identify, aggregate, and quantify risks and to determine the appropriate response to mitigate, monitor, and reduce risks. This section of the ERMF differentiates inherent risks (*i.e.*, the level of risk absent any controls) from residual risks (*i.e.*, the level of risk after accounting for compensating controls), and the different timing of risk assessments each warrants by risk owners and senior management, pursuant to certain defined variables. Specifically, inherent risk assessment is performed annually, whereas residual risk assessment is performed on a quarterly basis and is designed to ensure the internal control environment remains responsive to emerging threats and the residual risk profile aligns with CMESC's Risk Appetite. Residual risk assessment requires risk owners and senior management of CMESC to identify risks in their areas of responsibility and to implement appropriate qualitative and quantitative measures to evaluate, prioritize and manage risk.

CMESC uses three types of variables to assess both inherent risk and residual risk: impact (*i.e.*, the extent to which a risk event might positively or negatively affect CMESC, using an impact rating scale ranging from "negligible" to "crucial" to evaluate various impact categories applicable to CMESC), likelihood (*i.e.*, the estimated probability or frequency that a given risk event will occur within a defined timeframe, using a likelihood rating scale ranging from "remote" to "almost certain" based on historical data, trends, or expert judgment), velocity (*i.e.*, the time it takes for a risk event to manifest itself). CMESC assigns a value to a risk using the equation of Risk = Impact × Likelihood and uses velocity as a prioritization criterion among risks with otherwise similar risk impact and likelihood ratings.

CMESC also considers the "risk outlook" as part of its risk assessment, which represents the expected forward-looking trend for the risk over the upcoming 12-month period and is used to show increasing, elevated, stable or decreasing risk to CMESC. Once a risk outlook has been changed to "increasing", risk owners indicate that the risk outlook for CMESC remains elevated, continues to increase, or is decreasing. Conversely, once the risk outlook is no longer elevated, the risk owner returns the risk outlook to "stable" in their risk assessment.

The Risk Assessment section also describes control testing that would be conducted to assess the design and effectiveness of CMESC's internal controls and CMESC's monitoring of service providers to assess third-party risk. Control testing results are used to determine the effectiveness of a given control and inform the assessment of the overall level of residual risk. An annual control testing schedule is established using a risk-based approach, where the frequency of testing is determined by the sum of factors essential to a control's significance in reducing residual risk, such factors including, without limitation, the inherent risk rating of the risk category the control is mitigating, the extent that the control is manual or automated, nature, critically and complexity of the control, frequency at which the control is applied, and whether it directly fulfills a CMESC regulatory requirement.

5.4 Risk Response

Risk response is the process of evaluating options and identifying actions to enhance opportunities and reduce risks associated with the pursuit of business objectives. Once the risk is assessed through the risk assessment process, the risk response methodology would be used by risk owners to facilitate the determination of the appropriate strategy to be taken to maintain the risk within the acceptable Risk Appetite. The ERMF discusses various risk strategies to mitigate, transfer or accept risk, and establishes that once strategies are identified, a four-point methodology would be used to prioritize the specific response, ranging from no immediate response (referred to as "park"), to warranted appropriate response (referred to as "prepare"), to requiring planning and necessary changes (referred to as "adapt") and to immediate attention (referred to as "act"). If the quarterly residual risk assessment identifies that the risk level remains within Risk Appetite, the risk owner may indicate in the risk assessment that the risk is accepted. If the acceptance of a risk level results in an exceedance of Risk Appetite, the ERMF also describes the process required to report, approval, and remediate in circumstances where the Risk Appetite has been exceeded. Specifically, the risk owner must submit a proposal for the Head of CMESC, Head of Risk, and the CCO for review and approval to accept the elevated risk for a specified period. The proposal must include a remediation plan detailing the corrective action required to return the risk to within Risk Appetite by the agreed timeframe. If approved, the risk

acceptance proposal will be recommended by the CCO to the CSRMC, which would then recommend to the Board for approval.

5.5 Risk Monitoring and Reporting

Finally, the ERMF describes the risk monitoring and reporting process to monitor the ERM program's adequacy. Risk monitoring includes overall governance and ongoing validation efforts, such as control testing and audit assurance performed by the second and third lines of defense, to ensure risk taking is aligned with strategic objectives and the established CMESC Risk Appetite.

In addition, the Compliance & ERM team facilitates a regular risk assessment covering each of the risks in the Risk Universe and the results of these assessments are collated in a quarterly Enterprise Risk Profile Report ("ERPR") to provide the senior management of CMESC, the CSRMC and the Board a consolidated view of CMESC's current risk profile. The ERPR is a compilation of input from risk owners during the risk assessment process, as well as effective challenges provided by second line functions and actions taken by management to manage and mitigate the risks. It covers the most significant risks to CMESC, changes in exposures since the last risk assessment, proposed risk acceptances and exceptions, and planned activities underway to manage and mitigate risks. Where appropriate, the Compliance & ERM team may include commentaries that highlight certain risks to provide a better understanding of the impact to CMESC's risk profile.

2. Statutory Basis

For the reasons set forth below, CMESC believes the proposed ERMF is consistent with Section 17A of the Securities Exchange Act of 1934 ("Act"),⁷ Rule 17ad-22(e)(3)⁸ and Rule 17ad-22(e)(2).⁹

Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ 17 CFR 240.17ad-22(e)(3).

⁹ 17 CFR 240.17ad-22(e)(2).

the public interest.¹⁰ CMESC believes that the proposed ERMF is consistent with Section 17A(b)(3)(F) of the Act because it would enhance CMESC's risk management by working cohesively with the Risk Management Framework in furtherance of the goals of Section 17A(b)(3)(F). The primary purpose of the proposed ERMF is to serve as a framework to help CMESC define and implement a risk management program by applying a holistic and systematic common methodology to identify and manage potential threats to its operations and objectives, categorize and assess risk, define a risk governance structure, and manage risks commensurate with the Risk Appetite established by the Board. Without the ERMF and the associated enterprise risk management program, CMESC would lack a comprehensive, top-down risk management discipline to map out a Risk Universe, to view its risk profile holistically rather than in isolation, and to provide reasonable assurance that risks are managed in accordance with the Risk Appetite established by the Board. Therefore, CMESC believes that the proposed ERMF would support CMESC's Risk Management Framework and its overall risk management, which, in turn, promote the prompt and accurate clearance and settlement of securities transactions and the protection of investors and the public interest consistent with Section 17A(b)(3)(F).¹¹

Consistency With Rule 17ad-22(e)(3)

Rule 17ad-22(e)(3) requires, in part, that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which includes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the board of directors annually.¹² The existing RMF is specifically designed to comply with Rule 17ad-22(e)(3) and is intended to work cohesively with and be supported by the ERMF. As stated above, the ERMF provides a comprehensive, top-down risk management discipline and

methodology to identify, assess, and prepare for risks that may interfere with CMESC's operations or objectives. The ERMF also provides a critical governance framework that allows CMESC to view its risk profile holistically, notably through clear and detailed processes outlined in the proposed ERMF's Risk Universe and ERM Lifecycle mechanisms, and to provide reasonable assurance that risks are managed in accordance with the organization's Risk Appetite and business objectives. The Risk Universe framework provides procedures for CMESC to assess certain categories of risk, initially consisting of Financial Resources, Operations, Regulatory Compliance, and Service Provider risks, thereby allowing CMESC to identify, measure, monitor, and manage a range of risks. The ERM Lifecycle framework provides procedures for CMESC to manage defined risk lifecycle components (*i.e.*, Risk Appetite, Risk Tolerance, risk assessment, risk response, and risk monitoring and reporting), such as establishing the Risk Appetite through five-point Risk Appetite Ratings, using KRIs to measure Risk Tolerance, impact ratings for its risk assessments and a four-point risk response methodology, and compiling the ERPR for risk monitoring and reporting. As such, CMESC believes that the ERMF, in conjunction with the RMF, would provide a sound, comprehensive framework designed to identify, measure, monitor and manage the range of risks that arise in or are borne by CMESC, consistent with Rule 17ad-22(e)(3).

Consistency With Rule 17ad-22(e)(2)

In addition, the risk governance framework contained in the ERMF is also consistent with Section 17A of the Act and the rules and regulations thereunder, including Rule 17ad-22(e)(2), because the ERMF would provide a clear and transparent governance framework for CMESC's risk management practices and the maintenance of the ERMF itself. Rule 17ad-22(e)(2) requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent, clearly prioritize the safety and efficiency of the covered clearing agency, support the public interest requirements in Section 17A of the Act, and the objectives of owners and participants, and specify clear and direct lines of responsibility.¹³ The proposed ERMF would follow a

three lines of defense model established in the RMF and used by CMESC as a risk management tool and control framework to define and differentiate staff roles and responsibilities into three lines of defense to manage and mitigate risk: CMESC's Board would oversee the overall risk management of CMESC, as supported by committees of the Board and individuals with delegated authority by the Board, including the CSRMC and certain members of the senior management; the CSRMC would oversee the ERMF and CMESC's enterprise risk management program, consistent with the RMF and the CSRMC charter;¹⁴ the Compliance & ERM function would support the CMESC CCO in implementing the proposed ERMF and provide second-line independent oversight of the management of risks within the CMESC Risk Universe. CMESC believes that the governance framework outlined in the proposed ERMF would establish clear accountability for the management of enterprise risks and enable the Compliance & ERM function to provide the effective challenge necessary to ensure risk owners are managing risks commensurate with the Risk Appetite.

In addition, CMESC believes that the governance structure around the maintenance of the ERMF itself is also consistent with Rule 17ad-22(e)(2). On at least an annual basis, the CCO would recommend the ERMF to the CSRMC for review, which would then recommend the ERMF to the Board for approval. Any substantive changes to the ERMF outside of the annual review will also be subject to the CSRMC's review and approval. Where the CSRMC determines that changes to the ERMF would have a significant impact on the risk profile of CMESC, such changes must be recommended by the CSRMC to the Board for approval. CMESC believes that the ERMF establishes a clear and transparent governance framework for the maintenance of the ERMF, which will in turn strengthen CMESC's enterprise risk management and enhance the likelihood of a successful enterprise risk management program.

¹⁴ The CSRMC charter was reviewed and approved by the Commission as part of CMESC's Application. See Exhibit E-2C to Form CA-1, available at <https://www.sec.gov/files/cmesc-ca-1-exhibit-e-2c-risk-management-committee-charter-12-13-24.pdf>. On February 26, 2026, CMESC filed a proposed rule change SR-CMESC-2026-002 to amend the CSRMC charter to add the oversight of the ERMF, including annual review of the ERMF and review and approval of substantive changes to the ERMF, and the review of the quarterly ERPR to the responsibilities of the CSRMC. See Notice of Filing of the Proposed Rule Change by CME Securities Clearing Inc., available at <https://www.sec.gov/files/rules/sro/cmesc/2026/34-104955.pdf>.

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹¹ *Id.*

¹² 17 CFR 240.17ad-22(e)(3)(i).

¹³ 17 CFR 240.17ad-22(e)(2).

As such, CMESC believes that the governance arrangement in the proposed ERMF is reasonably designed to clearly prioritize the safety and efficiency of CMESC's function and objectives, which would support the public interest pursuant to Section 17A of the Act, and specify clear and direct lines of responsibility for enterprise risk management, consistent with Rule 17ad-22(e)(2).

B. CMESC's Statement on Burden on Competition

CMESC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to improve the Rules' accuracy and clarity for Members and Users, and to be consistent with the Act. These proposed changes would not affect CMESC's operations that are already provided in the existing Rules and Procedures or create additional rights and obligations of Members and Users. As such, CMESC does not believe the proposed rule change would have any impact on burden on competition that does not already exist under the existing Rules and Procedures or is not necessary or appropriate in furtherance of the purposes of the Act.

C. CMESC's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CMESC currently does not have any Members or Users and has not received nor solicited any written comments from others related to this proposal. CMESC has not received any unsolicited written comments from any interested parties. If any written comments are received, they will be publicly filed as Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at <https://www.sec.gov/regulatory-actions/how-to-submit-comments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the

Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 222-551-5777. CMESC reserves the right to not respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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.

I. 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-CMESC-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-CMESC-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-regulations/self-regulatory-organization-rulemaking>). Copies of the filing also will be available for inspection and copying at the principal office of CMESC and on CMESC's website (<https://www.cmegroup.com/market-regulation/rule-filings.html>). 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-CMESC-2026-003 and should be submitted on or before May 8, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07490 Filed 4-16-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA-6958]

Notice of Intention To Cancel Registrations of Certain Investment Advisers Pursuant to Section 203(H) of the Investment Advisers Act of 1940

April 14, 2026.

Notice is given that the Securities and Exchange Commission (the "*Commission*") intends to issue an order, pursuant to section 203(h) of the Investment Advisers Act of 1940 (the "*Act*"), cancelling the registrations of the investment advisers whose names appear in the attached Appendix, hereinafter referred to as the "*registrants*."

Section 203(h) of the Act provides, in pertinent part, that if the Commission finds that any person registered under section 203, or who has pending an application for registration filed under that section, is no longer in existence, is not engaged in business as an investment adviser, or is prohibited from registering as an investment adviser under section 203A, the Commission shall by order cancel the registration of such person.

Each registrant listed in the attached Appendix is registered with the Commission as an internet investment adviser pursuant to rule 203A-2(e) under the Act (the "internet adviser exemption") but appears to be ineligible for the internet adviser exemption. The Commission amended the internet adviser exemption with a compliance date of March 31, 2025. Accordingly, the Commission believes that reasonable grounds exist for a finding that these registrants are no longer in existence, are not engaged in business as investment advisers, or are prohibited from registering as investment advisers under section 203A, and that their

¹⁵ 17 CFR 200.30-3(a)(12).

registrations should be cancelled pursuant to section 203(h) of the Act.

Notice is also given that any interested person may, by May 11, 2026 at 5:30 p.m., Eastern time, submit to the Commission in writing a request for a hearing on the cancellation of the registration of any registrant listed in the attached Appendix, accompanied by a statement as to the nature of such person's interest, the reason for such person's request, and the issues, if any, of fact or law proposed to be controverted, and the writer may request to be notified if the Commission should order a hearing thereon. Any such communication should be emailed to the Commission's Secretary at *Secretarys-Office@sec.gov*. The email should include the SEC Number referenced in the attached Appendix.

At any time after May 11, 2026, the Commission may issue an order or orders cancelling the registrations of any or all of the registrants listed in the attached Appendix, upon the basis of the information stated above, unless an order or orders for a hearing on the cancellation shall be issued upon request or upon the Commission's own motion. Persons who requested a hearing, or who requested to be advised as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. Any registrant whose registration is cancelled under delegated authority may appeal that decision directly to the Commission in accordance with rules 430 and 431 of the Commission's rules of practice (17 CFR 201.430 and 431).

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*.

FOR FURTHER INFORMATION CONTACT: Priscilla Dao, Senior Counsel, at 202-551-6825; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549-8549.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.¹

Sherry R. Haywood,
Assistant Secretary.

Appendix

SEC No.	Full legal name
801-111664	FOCUSED TRADING AND INVESTMENTS, INC.
801-115259	HEMISTA INC.
801-117193	BRAINS INVESTMENTS, LLC.
801-117553	BAMBOO ROBO ADVISOR INC.
801-117568	FINEQUITIES LLC.
801-118119	EARLYBIRD CENTRAL INC.
801-118883	UNIFIMONEY RIA, INC.

¹ 17 CFR 200.30-5(e)(2).

SEC No.	Full legal name
801-120703	DINERAZO INC.
801-120693	FINANCE FRIENDS.
801-120554	FINSIE FINANCE, LLC.
801-122125	KOIN CAPITAL INC.
801-122088	DOUBLE I INVESTMENTS, LLC.
801-123457	CLEARUP LLC.
801-129453	QUANTITATIVE FINANCE LLC.
801-128611	FINTRON ADVISORS, LLC.
801-127643	GIBERTINI, ANTHONY.
801-127191	EARTHQUAKE, INC.
801-127232	OFF CAMBER CREATIVE LLC.
801-128224	SOUND ADVICE FINANCIAL INC.
801-130250	ALPHA VEE ADVISORS LLC.
801-130872	DECODE FINANCE LLC.
801-131061	ARCH OTC LLC.
801-131864	AJC MANAGEMENT TECH LLC.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105237; File No. SR-PEARL-2026-16]

Self-Regulatory Organizations; MIA X PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIA X Pearl Options Exchange Fee Schedule To Amend the Fees for All Liquidity Taker Event Reports

April 14, 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, MIA X PEARL, LLC ("MIA X Pearl" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIA X Pearl Options Exchange Fee Schedule to: (i) increase the annual fee for all Liquidity Taker Event Reports (described below); (ii) establish annual and monthly fees for the Purge Liquidity Taker Report; (iii) establish a discount program for market participants with multiple annual subscriptions to the various Liquidity Taker Event Reports; and (iv) establish a sunset period in which the Exchange will no longer offer monthly subscriptions to all Liquidity Taker Event Reports.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/pearl-options/rule-filings> and at MIA X Pearl's principal office.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to: (i) increase (or, as described below, establish) the annual fee for all Liquidity Taker Event Reports;³ (ii) establish annual and monthly fees for the Purge Report; (iii) establish a discount program for market participants with multiple annual subscriptions to two or more of the Reports; and (iv) establish a sunset period in which the Exchange will no longer offer monthly subscriptions to the Reports.

Background

Currently, the Exchange offers the Simple Order Report and Resting Simple Order Report as Member⁴-specific reports, which are available for purchase by Exchange Members on a voluntary basis. In general, the Simple Order Report and Resting Simple Order Report are each daily reports that provide a Member ("Recipient Member") with its liquidity response

³ See Exchange Rules 531(a)-(c), providing the rule text for the following: (a) Liquidity Taker Event Report—Simple Orders (the "Simple Order Report"); (b) Liquidity Taker Event Report—Resting Simple Orders (the "Resting Simple Order Report"); and (c) Purge Liquidity Taker Report (the "Purge Report"). The Simple Order Report, Resting Simple Order Report and Purge Report are collectively referred to herein as the "Reports." With this filing, the Exchange proposes to add parentheses in the first row in the table in Section 7 of the Fee Schedule to clarify that the "Liquidity Taker Event Report" is referred to as the "Simple Order Report". The purpose of this change is to provide consistency across the Exchange and its affiliated options exchange when referring to the Simple Order Report.

⁴ See Exchange Rule 100.

time details for executions against an order resting on the Book⁵ where that Recipient Member attempted to execute against such resting order within certain timeframes.⁶

For the Simple Order Report, the Exchange assesses a fee of \$4,000 per month for monthly subscribers or the discounted fee of \$24,000 per year for annual subscribers. For the Resting Simple Order Report, the Exchange assesses a fee of \$2,000 per month for monthly subscribers or the discounted fee of \$12,000 per year for annual subscribers. The Exchange also provides that new subscribers will be charged for the full calendar month for which they subscribe and will be provided Liquidity Taker Event Report (Simple and/or Resting Simple Order Report) data for each trading day of the calendar month prior to the day on which they subscribed.

On February 5, 2026, the Exchange filed a proposed rule change with the Securities and Exchange Commission (“Commission”) to establish the Purge Report.⁷ In that filing, the Exchange stated that it would issue an alert to market participants regarding the date that the Purge Report would be available to subscribers. On March 26, 2026, the Exchange issued an alert announcing that the Purge Report would become available for subscription beginning April 1, 2026, with fees to be announced in a future alert and rule filing with the Commission.⁸

Proposal To Increase the Annual Fee for the Simple Order Report and Resting Simple Order Report

The Exchange proposes to amend Section 7 of the Fee Schedule to increase the annual fee for the Simple Order Report from \$24,000 to \$30,000.⁹ The Exchange notes that the annual fee

for the Simple Order Report, as proposed to be amended by herein (including the multiple report discount described below), remains similar to the annualized fee charged by other exchanges for their similar reports.¹⁰ The proposed annual fee of \$30,000 for the Simple Order Report is also discounted when compared to the monthly fee for each report of \$4,000 (*i.e.*, \$4,000 per month multiplied by twelve months means that a subscriber that took the monthly subscription for an entire year would be charged \$48,000 rather than the \$30,000 proposed annual fee). The Exchange also proposes to increase the annual fee for the Resting Simple Order Report from \$12,000 to \$15,000. The Exchange does not propose to amend the monthly fee amounts.

Proposal To Establish Annual and Monthly Fees for the Purge Report

The Exchange proposes to amend Section 7 of the Fee Schedule to establish a new row in the table to provide for a monthly and annual fee for the Purge Report, which will be offered as a subscription for the first time beginning April 1, 2026. In general, the Purge Report, is a daily report that provides a Member (“Recipient Member”) with the liquidity response/taker time details for executions against quotes entered by the Recipient Member that are resting on the Simple Order Book that occur before and after the receipt of a purge¹¹ message sent by the Recipient Member, where that Recipient Member attempted to cancel such resting quote within the timeframes

specified under Exchange Rule 531(c)(2).¹²

The Exchange proposes to assess a fee of \$4,000 per month for monthly subscriptions to the Purge Report or \$30,000 per year for annual subscriptions to the Purge Report. Similar to the Simple Order Report and Resting Simple Order Report, new subscribers to the Purge Report will be charged for the full calendar month for which they subscribe and will be provided Purge Report data for each trading day of the calendar month prior to the day on which they subscribed.

Proposal To Establish a Sunset Period for Monthly Subscriptions

Next, the Exchange proposes to amend Section 7 of the Fee Schedule to establish a sunset period for all monthly subscriptions to the Reports. As described above, market participants may currently purchase monthly subscriptions to the Simple Order Report (\$4,000 per month) and the Resting Simple Order Report (\$2,000 per month). Also as described and proposed above, beginning April 1, 2026, market participants may purchase monthly subscriptions to the Purge Report for the corresponding fee of \$4,000 per month.

The Exchange now proposes to amend the Fee Schedule to provide that effective December 31, 2026, the Exchange will no longer offer monthly subscriptions to the Simple Order Report, Resting Simple Order Report, and Purge Report. Current monthly subscribers to each of the Reports may terminate their subscriptions or transition to an annual subscription at the prevailing rates for each of the Reports at any time. Further, the Exchange proposes to amend the Fee Schedule to provide that beginning January 1, 2027, the Exchange will only offer annual subscriptions to the Simple Order Report, Resting Simple Order Report and Purge Report, with new/renewal subscriptions taking effect on a semi-annual basis (*i.e.*, January 1st or July 1st of each year). For new subscribers between the semi-annual subscription dates of January 1st or July 1st, beginning April 1, 2026, the Exchange will pro-rate the annual fee based on the number of months remaining to the next semi-annual renewal date. The pro-rated fee will take into account the discount for subscribers with multiple reports, as described below. All current (prior to April 1, 2026) annual subscriptions will

⁵ The term “Book” means the electronic book of buy and sell orders and quotes maintained by the System. See Exchange Rule 100. The term “System” means the automated trading system used by the Exchange for the trading of securities. *Id.*

⁶ See Exchange Rules 531(a)–(b) (providing details regarding the information contained in each of the Simple Order Report and Resting Simple Order Report).

⁷ See Securities Exchange Act Release No. 104860 (February 18, 2026), 91 FR 8563 (February 23, 2026) (SR–PEARL–2026–09).

⁸ See Trading Alert, MIAx Exchange Group—Options Markets—Purge Liquidity Taker Report Launching April 1, 2026, available at <https://www.miaxglobal.com/alert/2026/03/26/miax-exchange-group-options-markets-purge-liquidity-taker-report-launching-2?nav=all>.

⁹ The Exchange also proposes to make non-substantive changes to amend all references in Section 7 of the Fee Schedule from “12 month subscription” to now be to “annual subscription.” The purpose of these changes is to provide consistency in the Fee Schedule regarding fees for the Reports, including changes proposed in this filing.

¹⁰ See, *e.g.*, Cboe BZX Exchange, Inc. (“BZX”) Options Fee Schedule, Cboe Timestamping Service (assessing members a fee of \$3,500 per month for a subscription to the Missed Liquidity Report) and Cboe EDGX Exchange, Inc. (“EDGX”) Options Fee Schedule, Cboe Timestamping Service (assessing members a fee of \$3,500 per month for a subscription to the Missed Liquidity Report). On an annualized basis, a BZX or EDGX member would pay a total of \$42,000 per year for the Missed Liquidity Report (\$3,500 per month multiplied by 12 months). See also BZX Rule 21.15(b)(7)(1) (“The Missed Liquidity Report . . . provides time details for executions of orders and quotes that rest on the book where the Member receiving the report attempted to execute against a resting order or quote within an Exchange-determined period of time . . .”) and EDGX Rule 21.15(b)(7)(1) (“The Missed Liquidity Report . . . provides time details for executions of orders and quotes that rest on the book where the Member receiving the report attempted to execute against a resting order or quote within an Exchange-determined period of time . . .”).

¹¹ Purge messages are sent over purge ports, which support only MEO mass cancel messages. See MIAx Pearl Options Exchange User Manual, Version 1.1.3, Section 5.01 (dated December 30, 2025), available at https://www.miaxglobal.com/miax_pearl_user_manual.pdf.

¹² See Exchange Rule 531(c) (providing details regarding the information contained in the Purge Report). See also Securities Exchange Act Release No. 104860 (February 18, 2026), 91 FR 8563 (February 23, 2026) (SR–PEARL–2026–09).

run through the expiration date of the current annual term at the current annual rates (*i.e.*, \$24,000 per year for the Simple Order Report; and \$12,000 per year for the Resting Simple Order Report). At the expiration of the current annual term, subscribers may renew their annual subscriptions at the prevailing rates, including the discount for multiple subscriptions as described below, or terminate their subscriptions.

The purpose of these changes is to reduce billing complexity and streamline the fee structure for the Reports. The Exchange notes that the majority of subscribers purchase annual subscriptions to the Reports and each monthly subscriber will have nine months (*i.e.*, April through December 2026) to determine whether they would like to transition to an annual subscription or terminate their subscriptions altogether.

Proposal To Establish a Discount Program for Multiple Annual Subscriptions

Finally, the Exchange proposes to amend Section 7 of the Fee Schedule to establish a discount for market participants that purchase multiple annual subscriptions. In particular, the Exchange proposes to provide in the Fee Schedule that effective beginning April 1, 2026, new annual subscribers to multiple Reports will be charged based on the number and type of Reports pursuant to the following schedule of fees:

- An annual subscription to one of the following will be \$30,000 annually (per the rates in the table in Section 7 of the Fee Schedule): the Simple Order Report or Purge Report.
- Annual subscriptions to both of the following will be \$50,000 annually: the Simple Order Report and Purge Report.
- For subscribers to one or more of the Simple Order Report or Purge Report, the cost to add an annual subscription to the Resting Simple Order Report will be \$10,000 instead of the fee described for the Resting Simple Order Report in the table in Section 7 of the Fee Schedule (*i.e.*, \$15,000, as proposed to be increased herein).

The following examples are intended to clarify how the Exchange intends to assess fees for the Reports during the transition to only annual subscriptions, including how the Exchange will assess fees pursuant to the proposed discount program (all subscriptions are assumed to be on an annual basis at the proposed higher rates as the discount will only apply to annual subscriptions):

Example 1

“Member A” subscribes annually to all three Reports beginning July 1, 2026. “Member A” would be assessed a total fee of \$60,000 pursuant to the proposed discount for multiple annual subscriptions (\$50,000 for the Simple Order Report and Purge Report + \$10,000 to add on the Resting Simple Order Report). “Member A’s” subscription to all three Reports would run through June 30, 2027, at which time “Member A” would be subject to the next semi-annual renewal period and could terminate any or all subscriptions.

Example 2

“Member B” subscribes annually to the Simple Order Report beginning April 20, 2026. “Member B” would be assessed \$2,500 each month for the months of April (and receive the full data set for the entire month of April), May and June 2026, for a total of \$7,500. This is calculated by dividing the proposed annual fee of \$30,000 for the Simple Order Report by twelve months (\$30,000/12 = \$2,500) and then multiplying by the number of months remaining until the July 1st semi-annual renewal date, including any partial month when the subscription began (*i.e.*, remainder of April, a and full months for May and June, which equals three total months). Beginning July 1, 2026, the semi-annual renewal date, “Member B” would be assessed the annual fee of \$30,000 for the Simple Order Report subscription, which would run through June 30, 2027.

Example 3

“Member C” has a monthly subscription to the Simple Order Report. “Member C” will continue to pay the \$4,000 monthly subscriber fee each month until the end of December 2026. At that time, “Member C” may terminate their subscription entirely (or at anytime before December) or transition to an annual subscription for the Simple Order Report, which would be \$30,000, effective for January 1, 2027. In this case, there would be no pro-rated fees because January 1st is the semi-annual renewal date.

Example 4

“Member D” begins annual subscriptions to both the Simple Order Report and Purge Report beginning April 1, 2026. “Member D” is assessed the \$50,000 discounted fee pursuant to the proposed discount for multiple annual subscriptions. Assume that in September 2026, “Member C” wants to add an annual subscription to the Resting Simple Order Report. In this

case, the Exchange will assess “Member D” the pro-rated discounted fee for multiple annual subscriptions until the next semi-annual renewal date (*i.e.*, January 1, 2027), at which time the newly proposed rates for subscribing to two or more annual reports will apply in full, as described above. For clarity, to add an annual subscription to the Resting Simple Order Report in September 2026, “Member D” will be assessed an additional \$833.33 each month (in addition to the \$50,000 already paid) for September, October, November, and December 2026.

This is calculated by dividing the proposed annual fee to add an annual subscription to the Resting Simple Order Report after Member D already has annual subscriptions to the Simple Order Report and Purge Report (\$10,000) by twelve months, which equals 833.33 per month until the next semi-annual renewal date. Beginning January 1, 2027, assuming “Member D” wants to continue annual subscriptions to the Simple Order Report, Resting Simple Order Report and Purge Report, the Exchange will assess “Member D” the full discounted amount for subscribing to all three Reports, which would be \$60,000, covering all of 2027.

The purpose of establishing the discount program for market participants that purchase annual subscriptions to two or more of the Reports is to provide an incentive via reduced fees for market participants to continue receiving the data provided in the Reports.

* * * * *

The Reports are being offered to Members on a completely voluntary basis in that the Exchange is not required by any rule or regulation to make this data available and potential subscribers may purchase any report only if they voluntarily choose to do so. It is a business decision of each Member whether to subscribe to each Report or not. Not all Members purchase the Reports. Members may cancel their subscription to any of the Reports at any time.

The proposed changes are effective beginning April 1, 2026.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹³ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁴ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

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, and is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for the reports is consistent with Section 6(b) of the Act¹⁵ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁶ in particular, in that it is an equitable allocation of dues, fees and other charges among its Members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“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 Reports further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The Reports also promote increased transparency through the dissemination of the data contained in each of the Reports. Particularly, the Reports will benefit investors by facilitating their prompt access to the value-added information that is included in each of the Reports. The Reports will allow Members to access information regarding their trading or purge activity that they may utilize to evaluate their own trading or purge behavior and order interactions.

Proposals To Increase the Annual Fee for the Simple Order Report and Resting Simple Order Report and Establish Fees for the Purge Report

The Exchange believes the proposed increased annual fee for the Simple Order Report is reasonable as the proposed increase is modest and is still comparable to the annualized fee charged by other exchanges for similar reports. In particular, BZX and EDGX each assess a monthly fee of \$3,500 for subscriptions to their Missed Liquidity Reports. On an annualized basis, a BZX or EDGX member would pay a total of \$42,000 per year for the Missed Liquidity Report (\$3,500 per month multiplied by 12 months). When compared to the Exchange’s proposed annual fee of \$30,000 for the Simple Order Report, the Exchange believes its proposed fee increase is reasonable.

Further, when looking at the Exchange’s proposed fee for the Simple Order Report on a per month basis, the Exchange believes the proposed fee is reasonable as it is effectively less than the monthly fee assessed by BZX and EDGX for their similar reports (*i.e.*, \$30,000 divided by twelve months = \$2,500 per month).¹⁷

The Exchange believes the proposed increased fee for an annual subscription to the Resting Simple Order Report is reasonable as the proposed fee is still both modest and lower than fees (as proposed to be increased herein) charged by the Exchange for similar data products, *i.e.*, the Simple Order Report. The proposed increased fee for the Resting Simple Order Report continues to be less expensive than the Exchange’s Simple Order Report because the Exchange believes that the information provided in the Resting Simple Order Report may not be as valuable to market participants as the other information contained in the Simple Order Report, which measures the data in the first 200 microseconds of the time the resting order was received by the Exchange. While the Exchange believes that the Resting Simple Order Report continues to be useful to market participants, it may not be as helpful as the other reports offered by the Exchange and, therefore, the Exchange proposes a lower annual fee for the Resting Simple Order Report.

The Exchange believes the proposed fees for the Purge Report are reasonable because they are identical to the fees (as proposed) that the Exchange assesses for its Simple Order Report. The Exchange also believes the proposed fees for the Purge Report are reasonable as they would support the introduction of a new market data product to Market Makers that are interested in gaining insight into latency in connection with purge messages that failed to cancel their quotes resting on the Simple Order Book. The Purge Report accomplishes this by providing those Market Makers data to analyze by how much time their purge message may have missed cancelling a quote before (or after) execution of that quote against a contra-side order. The Purge Report will provide greater visibility by showing how much time a purge message missed canceling a quote, particularly as market conditions change throughout the day and Market Makers attempt to cancel and replace quotes in certain symbols.

Indeed, if the Exchange proposed fees that market participants viewed as excessively high, then the proposed fees would simply serve to reduce demand

for the Reports, which as noted, are entirely optional. Other options exchanges are also free to introduce their own comparable data products with lower prices to better compete with the Exchange’s offerings. As such, the Exchange believes that the proposed fees for the Reports are reasonable and set at a level to compete with other options exchanges that may choose to offer similar reports or do offer similar reports today. Moreover, if a market participant views another exchange’s potential report as more attractive, then such market participant can merely choose not to purchase the Exchange’s Reports and instead purchase another exchange’s similar data product, which may offer similar data points, albeit based on that other market’s trading activity.

Selling market data, such as one of the Reports, is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in continuing to attract subscribers for the Reports, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, firms can decrease or discontinue their use of the data and/or avail themselves of similar products that may be offered by other exchanges.¹⁸ The Exchange, therefore, believes that the proposed fees for the Reports reflect the competitive environment and would be properly assessed to subscribers to each of the Reports. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all subscribers who choose to purchase such data. It is a business decision of each Member that chooses to purchase any of the Reports. The Exchange’s proposed fees would not differentiate between subscribers that purchase the Reports and are set at modest levels that would allow any interested Member to purchase such data based on their business needs.

The Exchange reiterates that the decision as to whether or not to purchase the Reports is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the Reports, and the Exchange is not required to make the Reports available to all investors. It is entirely a business decision of each Member to subscribe to the Reports. The Exchange offers the Reports as a convenience to Members to provide them with additional information regarding trading or purging activity on the Exchange on a delayed basis after the close of regular

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(4).

¹⁷ See *supra* note 10.

¹⁸ See *supra* note 10.

trading hours. A Member that chooses to subscribe to the Reports may discontinue receiving the Reports at any time if that Member determines that the information contained in the Reports is no longer useful.

Proposal To Establish a Sunset Period for Monthly Subscriptions

The Exchange believes its proposal to sunset monthly subscriptions at the end of 2026 is reasonable because it is intended to reduce billing complexity and streamline the fee structure for the Reports. The Exchange notes that the majority of subscribers purchase annual subscriptions to the Reports and each monthly subscriber will have nine months to determine whether they would like to transition to an annual subscription or terminate their subscriptions altogether. The Exchange believes this proposed change is equitable and not unfairly discriminatory because all subscribers will be subject to the same annual fees once the sunset period ends for monthly subscriptions, with the annual fee for each Report assessed at a discounted rate compared to the current monthly rates. The Exchange also believes that transitioning to only annual subscriptions will improve the efficiency by which the Exchange may deliver the Reports by doing so on a regular basis over a prolonged and set period of time.

Proposal To Establish a Discount Program for Multiple Annual Subscriptions

The Exchange also believes it is reasonable to provide discounts for market participants that subscribe to multiple Reports. The Exchange believes the discounted fees for subscribers to multiple Reports may incentivize more Members to subscribe and determine whether they realize value from the Reports. The Exchange believes the discounted fees for the Reports is equitable and not unfairly discriminatory because the discounted rates will apply equally to all market participants that subscribe to two or more of the Reports.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Inter-Market Competition

The Exchange developed the Reports in order to keep pace with changes in the industry and evolving customer

needs and demands, and believes the Reports will continue to contribute to robust competition among national securities exchanges, including with the proposed fee changes described herein. The Exchange believes the proposed fee changes in this filing permit fair competition among national securities exchanges, all of which may create similar data products for their markets, including at least two exchanges that already offer similar products.¹⁹

The Exchange does not believe the proposed fee changes would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own comparable reports with lower prices to better compete with the Exchange's offerings. The Exchange operates in a highly competitive environment, and its ability to price the Reports is constrained by competition among exchanges who choose to adopt similar products. The Exchange must consider this in its pricing discipline in order to compete for subscribers of the Exchange's market data via the Reports. For example, proposing fees that are excessively higher than fees for potentially similar data products would simply serve to reduce demand for the Exchange's Reports, which as discussed, market participants are under no obligation to utilize. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Intra-Market Competition

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fees apply uniformly to any purchaser in that the Exchange does not differentiate between subscribers that purchase the reports. The proposed fees are set at a modest level that would allow any interested Member to purchase such data based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,²⁰ and Rule 19b-4(f)(2)²¹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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-PEARL-2026-16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-PEARL-2026-16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-PEARL-2026-16 and should be submitted on or before May 8, 2026.

²⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

²¹ 17 CFR 240.19b-4(f)(2).

¹⁹ See *supra* note 10.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07495 Filed 4-16-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105238; File No. SR-MRX-2026-15]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Quarterly Review of Professional Orders

April 14, 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, Nasdaq MRX, LLC (“MRX” 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 quarterly review of Professional Orders.³

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/mrx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the quarterly review of Professional Orders. Today, orders for any Priority Customer⁴ that average more than 390 orders per day during any month of a calendar quarter must be represented as Professional orders for the next calendar quarter.⁵ In order to properly represent orders entered on the Exchange, Members⁶ are required currently to review their Priority Customers’ activity and, on at least a quarterly basis, designate orders as Priority Customer orders or Professional orders.⁷ Specifically, Members are required to conduct a quarterly review and make any appropriate changes to the way in which they are representing orders within five days after the end of each calendar quarter.⁸ While Members are required to designate accounts on a quarterly basis, if during a quarter the Exchange identifies a customer for which orders are being represented as Priority Customer Orders but that has averaged more than 390 orders per day during a month, the Exchange must notify the Member and the Member is required to change the manner in which it is representing the customer’s orders within five days.⁹

Proposal

At this time, the Exchange proposes to shorten the quarterly review and

⁴ The term “Priority Customer” means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Options 1, Section 1(a)(37).

⁵ The requirement to review Priority Customers’ activity on at least a quarterly basis to determine whether orders that are not for the account of a broker-dealer should be represented as Priority Customer Orders or Professional Orders is not in the current rule text, however it was described in the adopting proposal. See Securities Exchange Act Release No. 78791 (September 8, 2016), 81 FR 63249 (September 8, 2016) (SR-ISEMercury-2016-14) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add Specificity to the Definition of a Professional in the Exchange’s Rules) (“SR-ISEMercury-2016-14”). The instant proposal seeks to codify the timing for review of Priority Customers’ activity.

⁶ The term “Member” means an organization that has been approved to exercise trading rights associated with Exchange Rights. See General 1, Section 1(a)(14).

⁷ See 81 FR 63249 at 63249.

⁸ See *id.*

⁹ See *id.*

designation to a monthly review. The Exchange proposes to state at Options 1, Section 1(a)(39)(b) that orders for any customer that had an average of more than 390 orders per day during any calendar month must be represented as Professional orders for the next calendar month.

As noted, currently, each Member is required to monitor Priority Customer orders to determine if the Priority Customer has averaged more than 390 orders per day during a month. Determining whether a Priority Customer has executed more than 390 orders per day during a month requires computing a daily average. As such, Members should be performing the workflow necessary to designate orders on a daily basis. Therefore, the proposal does not amend the current workflow, rather, the proposal amends the timeframe to change the manner in which the customer’s order is being represented from five days after the end of each calendar quarter to five days after the end of each calendar month.

The Exchange does not believe that this amendment is a significant departure from the current rule, nor does it impose any burden on any Member because each broker-dealer is required currently to perform the necessary calculation daily to arrive at the requisite average. Further, in addition to the calculation, broker-dealers are subject to know-your-customer and suitability requirements under FINRA Rules 2090 (Know Your Customer) and 2111 (Suitability) and would need to consider whether a customer meets the Professional designation for purposes of determining best execution and making appropriate recommendations. The Exchange notes that the trading behavior of a Priority Customer can be distinguished from that of a Professional which is the purpose of the separate designations. Finally, some Members currently designate a Priority Customer that has averaged more than 390 orders per day during a month as a Professional on a more expedited basis, not waiting until five days after the quarter.

The Exchange believes that a calendar month is a sufficient time period to determine whether the activity of a customer meets the criteria for a Professional order. The Exchange believes that the shortened time period will ensure that the spirit of the designation of Professional order is met in that Members will make any appropriate changes to the way in which they are representing orders in a 30-day timeframe as opposed to a 90-day timeframe, thereby ensuring the

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term “Professional Order” means an order that is for the account of a person or entity that is not a Priority Customer. See Options 1, Section 1(a)(39). The manner in which a Professional Order is calculated is specified in Options 1, Section 1(a)(39)(a).

designation is applied in a more expeditious manner.

The Exchange continues to believe that identifying Professional orders based upon the average number of orders entered in qualified accounts is an appropriate and objective approach to reasonably distinguish such persons and entities from retail investors or market participants.

Technical Amendment

The Exchange proposes to reserve Options 4D. Another Nasdaq affiliated exchange proposes rules at Options 4D. Other Nasdaq affiliated exchanges have a rule or proposed rule in this corresponding section. The reserved section is intended to harmonize the structure of MRX's rules to those of other Nasdaq affiliated exchanges. The Exchange proposes that this amendment be operative 30 days from the date of filing.

Implementation

The Exchange proposes implementing this rule change on July 1, 2026, except for the technical amendments which should become operative 30 days after the date of the filing. The Exchange will issue an Options Trader Alert to provide notice to Members of the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹¹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange's proposal to shorten the quarterly look-back to a monthly look-back is consistent with the Act because it will ensure that the spirit of the designation of Professional order continues to be met, only on a more expedited basis—removing a potential delay of two months before affecting a change in the designation. The Exchange believes that this amendment will remove impediments to and perfect the mechanism of a free and open market and a national market system by promoting the consistent application of its rules and shortening the timeframe to change the designation for all Members while continuing to provide a sufficient time period to determine whether the

activity of a customer meets the criteria for a Professional order. Further, the Exchange believes that the shortened time period will continue to promote consistency in the treatment of orders as Professional orders while also preventing members with high volume from receiving benefits reserved for Priority Customer orders.

As noted, currently, each Member is required to monitor Priority Customer orders to determine if the Priority Customer has averaged more than 390 orders per day during a month. Determining whether a Priority Customer has executed more than 390 orders per day during a month requires computing a daily average. As such, Members should be performing the workflow necessary to designate orders on a daily basis. Therefore, the proposal does not amend the current workflow, rather, the proposal amends the timeframe to change the manner in which the customer's order is being represented from five days after the end of each calendar quarter to five days after the end of each calendar month.

The Exchange does not believe that this amendment is a significant departure from the current rule, nor does it impose any burden on any Member because each broker-dealer is required currently to perform the necessary calculation daily to arrive at the requisite average. Further, in addition to the calculation, broker-dealers are subject to know-your-customer and suitability requirements under FINRA Rules 2090 (Know Your Customer) and 2111 (Suitability) and would need to consider whether a customer meets the Professional designation for purposes of determining best execution and making appropriate recommendations. Finally, some Members currently designate a Priority Customer that has averaged more than 390 orders per day during a month as a Professional on a more expedited basis, not waiting until five days after the quarter.

The Exchange notes that the trading behavior of a Priority Customer can be distinguished from that of a Professional which is the purpose of the separate designations. The Exchange continues to believe that identifying Professional orders based upon the average number of orders entered in qualified accounts is an appropriately objective approach to reasonably distinguish such persons and entities from retail investors or market participants. Priority is one of the marketplace advantages provided to Priority Customer orders on the Exchange. Priority Customer orders are given execution priority over non-Customer orders and quotations of

market makers at the same price. Another marketplace advantage afforded to Priority Customer orders on the Exchange is that members are generally not assessed transaction fees or are assessed lower fees for the execution of Priority Customer orders. The purpose of these marketplace advantages is to attract retail order flow to the Exchange by leveling the playing field for retail investors over market Professionals. This proposal will continue to provide Priority Customer accounts with marketplace advantages and distinguish those accounts non-Professional retail investors from the Professionals accounts. The Exchange notes that some non-broker-dealer individuals and entities have access to information and technology that enables them to Professionally trade listed options in the same manner as a broker or dealer in securities

Technical Amendment

Reserving Options 4D is a non-substantive amendment.

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.

Specifically, the Exchange does not believe that the proposed rule change will impose any burden on intra-market competition because, today, each Member is required to monitor Priority Customer orders to determine if the Priority Customer has averaged more than 390 orders per day during a month. Determining whether a Priority Customer has executed more than 390 orders per day during a month requires computing a daily average. As such, Members should be performing the workflow necessary to designate orders on a daily basis. Therefore, the proposal does not amend the current workflow, rather, the proposal amends the timeframe to change the manner in which the customer's order is being represented from five days after the end of each calendar quarter to five days after the end of each calendar month.

The Exchange does not believe that this amendment is a significant departure from the current rule, nor does it impose any burden on any Member because each broker-dealer is required currently to perform the necessary calculation daily to arrive at the requisite average. Further, in addition to the calculation, broker-dealers are subject to know-your-customer and suitability requirements under FINRA Rules 2090 (Know Your

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

Customer) and 2111 (Suitability) and would need to consider whether a customer meets the Professional designation for purposes of determining best execution and making appropriate recommendations. Finally, some Members currently designate a Priority Customer that has averaged more than 390 orders per day during a month as a Professional on a more expedited basis, not waiting until five days after the quarter.

The Exchange notes that the trading behavior of a Priority Customer can be distinguished from that of a Professional which is the purpose of the separate designations.

Further, the designation of Professional orders would not result in any different treatment of such orders for purposes of compliance with the Exchange's Rules. Priority Customers have been granted certain priority over other non-broker-dealer individuals and entities that have access to information and technology that enables them to Professionally trade listed options in the same manner as a broker or dealer in securities. Further, the Priority Customer designation allows the Exchange to attract order flow or create more competitive markets.

Also, the Exchange does not believe that the proposed rule change will impose any burden on inter-market competition because other exchanges are expected to adopt similar rules.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹² and subparagraph (f)(6) of Rule 19b-4 thereunder.¹³

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 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.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MRX-2026-15 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-MRX-2026-15. 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-MRX-2026-15 and should be submitted on or before May 8, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07496 Filed 4-16-26; 8:45 am]

BILLING CODE 8011-01-P

¹⁴ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105226; File No. SR-FINRA-2025-017]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend FINRA Rule 4210 (Margin Requirements) To Replace the Day Trading Margin Provisions With Intraday Margin Standards

April 14, 2026.

I. Introduction

On December 29, 2025, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or the "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend FINRA Rule 4210 (Margin Requirements) to replace its current day trading margin provisions with a modern intraday margin standard.³

The proposed rule change was published for comment in the **Federal Register** on January 14, 2026.⁴ The public comment period closed on February 4, 2026. The Commission received comment letters in response to the Notice.⁵ On January 28, 2026, the Commission extended the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to April 14, 2026.⁶

On March 18, 2026, FINRA responded to the comment letters received in response to the Notice.⁷ On April 2, 2026, FINRA filed a partial amendment ("Amendment No. 1") to the proposed rule change, to amend language

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Act Release No. 104572 (Jan. 9, 2026), 91 FR 1580 (Jan. 14, 2026) (File No. SR-FINRA-2025-017) ("Notice").

⁴ See Notice.

⁵ The comment letters are available at: <https://www.sec.gov/rules-regulations/public-comments/sr-finra-2025-017> ("Comment File").

⁶ See Exchange Act Release No. 104732 (Jan. 28, 2026), 91 FR 4750 (Feb. 2, 2026) (File No. SR-FINRA-2025-017).

⁷ See letter from Adam Arkel, Associate General Counsel, Office of General Counsel, FINRA (Mar. 18, 2026) ("FINRA Letter"), available at: <https://www.sec.gov/comments/sr-finra-2025-017/srfinra2025017-729267-2273314.pdf>.

regarding the timing of the implementation of the proposed rule change.⁸ The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1

The proposed rule change would, among other things, eliminate provisions relating to “pattern day traders,” the computation and use of “day-trading buying power,” and the minimum equity requirement of \$25,000 for pattern day traders, and would implement instead new intraday margin standards. Additionally, the proposed rule change would update certain provisions in Rule 4210 in light of the proposed change implementing intraday margin requirements and delete obsolete references.

As such, the proposed rule change would eliminate paragraph (f)(8)(B) under Rule 4210 together with associated provisions relating to the day trading margin requirements under paragraphs (b), (f)(10) and (g)(13), would establish new paragraphs (a)(17) through (a)(19), new paragraph (d)(2) and new paragraphs (g)(1)(J) and (g)(1)(K), and would make minor conforming amendments.⁹

A. Current Day Trading Margin Requirements of Rule 4210

FINRA Rule 4210 (Margin Requirements) establishes special requirements for pattern day traders.¹⁰ The rule defines the term “day trading,” subject to specified exceptions, as the purchasing and selling or the selling and purchasing of the same security on the same day in a margin account.¹¹ A “pattern day trader” means any customer who executes four or more day trades within five business days.¹² A

customer who is deemed a pattern day trader becomes subject to the special requirements under paragraph (f)(8)(b)(iv) of Rule 4210 that apply to pattern day traders. Minimum equity of \$25,000 is required for the account of the customer deemed to be a pattern day trader, which must be deposited into the account before the customer may continue day trading, and which must be maintained in the account at all times.¹³

Further, the special requirements prohibit pattern day traders from trading in excess of their “day-trading buying power.”¹⁴ When pattern day traders exceed their day-trading buying power, that creates a special maintenance margin deficiency, and the rule requires the member to take several specified actions.¹⁵

If a pattern day trader fails to meet a special maintenance margin call within five business days from the date the margin deficiency occurs, they are permitted to execute transactions only on a cash available basis for 90 days or until the special maintenance margin call is met.¹⁶

Pattern day traders are restricted from using the guaranteed account provision pursuant to paragraph (f)(4) of Rule 4210 for meeting the requirements of paragraph (f)(8)(B).¹⁷ Further, funds deposited into a pattern day trader’s account to meet the minimum equity or maintenance margin requirements of paragraph (f)(8)(B) of the rule cannot be withdrawn for a minimum of two business days following the close of business on the day of deposit.¹⁸

¹³ See current FINRA Rule 4210(f)(8)(B)(iv)a.

¹⁴ See current FINRA Rule 4210(f)(8)(B)(iv)c. FINRA Rule 4210 defines day-trading buyer power as the equity in a customer’s account at the close of business of the previous day, less any maintenance margin requirement set forth in paragraph (c) of Rule 4210, multiplied by four for equity securities, or computed using applicable special maintenance margin requirements pursuant to other provisions of the rule for non-equity securities. See current FINRA Rule 4210(f)(8)(B)(iii).

¹⁵ Specifically: the account must be margined based on the cost of all the day trades made during the day; the customer’s day-trading buying power must be limited to the equity in the customer’s account at the close of business of the previous day, less the maintenance margin required in paragraph (c) of Rule 4210, multiplied by two for equity securities; and “time and tick” (that is, calculating margin using each trade in the sequence that it is executed, using the highest open position during the day) may not be used. See current FINRA Rule 4210(f)(8)(B)(iv)c.1. through c.3. See Notice, 91 FR 1581, n.9.

¹⁶ See current FINRA Rule 4210(8)(B)(iv)d.

¹⁷ See current FINRA Rule 4210(f)(8)(B)(iv)e. Broadly, paragraph (f)(4) of Rule 4210 permits an account guaranteed by another account to be consolidated with that other account, for purposes of margin, subject to specified conditions under the rule.

¹⁸ See current FINRA Rule 4210(f)(8)(B)(iv)f.

Finally, in the event a customer does not meet a special margin maintenance call by the fifth business day, then on the sixth business day only, members are required to deduct from net capital the amount of the unmet special margin maintenance call pursuant to the Commission’s net capital rule (Exchange Act Rule 15c3–1) and, if applicable, Rule 4110(a).¹⁹

B. Proposed Amendments

Based on engagement with customers and members,²⁰ FINRA proposed to eliminate the current day trading margin requirements, including the definition of “day trading” and “pattern day trader,” as well as the computation and use of day-trading buying power, and the \$25,000 minimum equity requirement²¹ and replace these provisions with new intraday margin requirements. FINRA stated that the new provisions for intraday margin would ensure customers maintain equity in their margin account commensurate with the amount of market exposure they have at any given point in time during the trading day, irrespective of whether they engage in day trading. FINRA believes that the proposed rule change will benefit customers and members alike by reducing risks of intraday trading exposures more broadly and giving customers more freedom to participate in the markets, while reducing

¹⁹ FINRA Rule 4110(a) is a component of FINRA’s capital compliance rules. See Notice, 91 FR at 1581.

²⁰ See Notice, 91 FR at 1581–82 (describing adoption of day trading requirements, developments in financial markets since the adoption of the day trading requirements, and input from retrospective review and industry outreach).

²¹ As such, FINRA stated that the proposed rule change would delete paragraph (f)(8)(B) of FINRA Rule 4210 in its entirety. In addition, the proposed rule change would delete, as rendered obsolete, provisions elsewhere in FINRA Rule 4210 that refer to or are premised upon the current day trading margin requirements, including: in paragraph (b) the references to the pattern day trader minimum equity requirement; paragraphs (f)(10)(G)(ii) and (f)(10)(G)(iii) in their entirety, given those provisions are premised on applying the current day trading margin requirements in the context of security futures; and paragraph (g)(13) in its entirety, given that provision is premised on specified conditions for applicability of the current day trading margin requirements in portfolio margin accounts. See Exhibit 5. All references to the proposed rule text can be found in Exhibit 5, available at: <https://www.sec.gov/files/rules/sro/finra/2026/34-104572-ex5.pdf>. If the proposed rule change is approved by the SEC, FINRA stated it would also delete associated interpretations relating to the day trading margin requirements that FINRA maintains on its website, FINRA.org. These associated interpretations include: Interpretations/023/025 and/034 under FINRA Rule 4210(b)(4); Interpretation/03 under Rule 4210(f)(5); Interpretations/01./02 and/03 under FINRA Rule 4210(f)(8)(B)(ii); and all interpretations under FINRA Rule 4210(f)(8)(B) and FINRA Rule 4210(g)(13). See Notice, 91 FR at 1582, n.24.

⁸ See Amendment No. 1, available at: <https://www.finra.org/sites/default/files/2026-04/FINRA-2025-017-Partial-A-1.pdf>.

⁹ See Notice, 91 FR at 1580.

¹⁰ See current FINRA Rule 4210(f)(8)(B).

Associated provisions are found in references to pattern day trader minimum equity requirements in paragraph (b) of the rule, as well as paragraph (g)(13), which addresses the conditions for applicability of the day trading margin requirements in portfolio margin accounts, and corresponding references to the day trading requirements under paragraph (f)(10), which addresses security futures. See Notice, 91 FR at 1580, n.3.

¹¹ See current FINRA Rule 4210(f)(8)(B)(i).

¹² See current FINRA Rule 4210(f)(8)(B)(ii). A customer will not be considered a pattern day trader if the number of day trades is 6% or less of their total trades for a five business-day period.

compliance costs for members. FINRA stated that one of the primary rationales for the current requirements—that commission costs would seriously undermine returns when investors over-traded in their accounts—is largely gone: customers today have the benefit of zero commission trading.²²

In addition, by removing the current day trading margin requirements, FINRA stated that more retail investors may choose to participate in the markets and pursue their preferred trading strategies. Further, FINRA believes customers should also find the intraday margin approach significantly easier to understand than the current day trading margin requirements. FINRA stated that members, relieved of the burdens associated with enforcing outdated pattern day trading requirements, should benefit from lower compliance costs, while reducing risks of overextended trading. Finally, FINRA stated that it anticipates that the new proposed requirements, by requiring appropriate margin for intraday risk created by day trades and other intraday activity, such as transactions in options on their expiration dates (“zero day to expiration” or “ODTE” options trading), will be effective in avoiding the build-up of unmargined positions that could hurt both customers and members during large shifts in market prices.²³

FINRA stated that the proposed rule change makes no change to the regular maintenance margin requirements as they exist today.²⁴ Rather, the proposed rule change supplements these existing maintenance margin requirements.

FINRA stated that the key features of the proposed intraday margin provisions include:

- Members would be empowered to use real-time monitoring to block trades that would create or increase customer intraday margin deficits;
- Alternatively, members could, at the end of the day, compute each customer’s intraday margin deficit, which, for customers that are not day trading or opening option positions on their expiration date, is comparable to their regular maintenance deficits;
- When an account has an intraday margin deficit, the member would require the intraday deficit to be satisfied as promptly as possible, by deposits to the account or liquidations of positions to increase the maintenance margin excess;
- If an intraday margin deficit is not satisfied within five business days, the

member would be required to deduct the deficit in its net capital computations (for up to ten business days). If the customer makes a practice of failing to satisfy intraday margin deficits promptly, the member would be required to “freeze” the customer from obtaining additional extensions of credit until the deficit is satisfied (or 90 days elapse).²⁵

The proposed changes are described in detail below.

1. Requirement To Determine Intraday Margin

FINRA proposed to establish a new paragraph (d)(2) (“Intraday Margin”) under Rule 4210.²⁶ The core, operative provision would be set forth in paragraph (d)(2)(A), which establishes the requirement on each member to determine the “intraday margin deficit”²⁷ for each margin account of a customer, as further specified in the rule. Paragraph (d)(2)(B) sets parameters for purposes of making the required determination. Paragraphs (d)(2)(C) and (d)(2)(D) govern the satisfaction of an intraday margin deficit and set forth the provisions for a specified 90 day freeze in the event of failure to satisfy a deficit. FINRA stated that the requirements of new paragraph (d)(2) are designed so that members could comply with the rule by implementing real-time monitoring of customer positions and blocking transactions that would otherwise create or increase intraday margin deficits.²⁸ As a result, these members’ customers should never incur intraday margin deficits.

FINRA stated, however, that real-time monitoring is not a requirement under the rule and that members would be permitted, alternatively, to continue to make a single margin calculation at the end of the day, rather than throughout the day, as they do under the current requirements.²⁹ FINRA expects that, for customers that do not day trade or do not open option positions on their expiration date, the end of day intraday margin computation should not be more burdensome than the regular maintenance margin computation because their intraday margin deficits should not exceed their regular maintenance deficits. FINRA stated that

it believes this approach would be effective because, whether the member implements real-time monitoring, or conducts end-of-day computations, the rule is designed to result in an effective, disciplined approach to margin.³⁰ FINRA described the elements of proposed paragraphs (d)(2)(A) and (d)(2)(B).³¹

Proposed paragraph (d)(2)(A) would establish the requirement that each FINRA member firm determine the “intraday margin deficit,” if any, for each margin account of a customer, other than a good faith account or a portfolio margin account, and for each day in which there is any “IML-reducing transaction.”³² In order to implement this core requirement, FINRA proposed to adopt several new key terms: “intraday margin level”; “IML-reducing transaction”; and “intraday margin deficit.”

First, the term “intraday margin level” (or “IML”) under new paragraph (a)(17) would mean, with respect to a customer’s margin account for a time or IML-reducing transaction in such margin account during a day, either: (A) the amount of cash that the customer could withdraw while still having the maintenance margin required by the provisions of FINRA Rule 4210 other than FINRA Rule 4210(d)(2); or (B) the amount of additional cash (expressed as a negative number) that the customer would need to deposit into such margin account for it to have the maintenance margin required by the provisions of Rule 4210 other than Rule 4210(d)(2), in each case (that, is (A) or (B)) determined as of such time or immediately after such IML-reducing transaction in accordance with Rule 4210(d)(2)(B).³³

Second, the term “IML-reducing transaction” under new paragraph (a)(18) would refer, broadly, to any transaction that reduces the amount available to a customer to withdraw while still meeting the maintenance margin requirement (for example, the purchase of a stock other than to cover a short position or the short sale of an option).³⁴

²² See Notice, 91 FR at 1583.

²³ See Notice, 91 FR at 1583–84.

²⁴ See proposed FINRA Rule 4210(d)(2)(A). See also Notice, 91 FR at 1583.

²⁵ See proposed FINRA Rule 4210(a)(17). See also Notice, 91 FR at 1583.

²⁶ See proposed FINRA Rule 4210(a)(18).

Paragraph (a)(18) would define “IML-reducing transaction” to mean “with respect to a margin account, any purchase or sale effected in such account (including as the result of the exercise or assignment of an option) that has the effect of reducing the account’s IML, the expiration of any option long in the account that has the effect of reducing the account’s IML, and any withdrawal of

Continued

²² See Notice, 91 FR at 1582.

²³ See Notice, 91 FR at 1582.

²⁴ The maintenance margin requirements are set forth under current paragraph (c) of FINRA Rule 4210.

²⁵ See Notice, 91 FR at 1582.

²⁶ The provisions under current paragraph (d) would be redesignated, without material change, as paragraph (d)(1), under a new header (“House Margin and Limits”), which FINRA stated it believes is appropriate to the subject matter and function of that paragraph. See Notice, 91 FR at 1582, n.26.

²⁷ See further discussion below for the proposed definition of “intraday margin deficit.”

²⁸ See Notice, 91 FR at 1582–83.

²⁹ See Notice, 91 FR at 1583.

Lastly, FINRA stated that the term “intraday margin deficit” would be defined under new paragraph (a)(19) to refer, broadly, to the highest deficiency following an “IML-reducing transaction” between the margin to be maintained and the equity in the account.³⁵

2. Parameters for Determining IML or Intraday Margin Deficit

In addition to the core requirement and proposed defined terms, FINRA also proposed paragraph (d)(2)(B) to establish certain parameters for member firms to take into account when determining an IML or intraday margin deficit.³⁶

Pursuant to the proposed amendments:

(a) *Sweep Programs*. Members would be permitted to follow a written policy or procedure to treat a customer’s deposits at FDIC-insured banks under a Sweep Program,³⁷ operated by the member, as a credit balance in the customer’s account for this purpose;³⁸

(b) *Market Value*. Members would be permitted to follow a written policy or procedure to use values more recent than the execution price or the previous business day’s closing price to determine the current market value of a position, provided that such procedure is reasonably designed;³⁹ and

(c) *“As of” actions*. Members would be permitted to follow a written policy or procedure to allocate “as of” actions either to the approximate time and day during which they are processed or to the earlier time or day recorded for their occurrence, provided that such procedure is reasonably designed;⁴⁰

cash or securities from such account.” See also Notice, 91 FR at 1583.

³⁵ See proposed FINRA Rule 4210(a)(19). Specifically, “intraday margin deficit” would be defined to mean “with respect to a margin account for a day in which there is any IML-reducing transaction in such account, an amount determined in accordance with FINRA Rule 4210(d)(2)(B) by the member maintaining such account that is not less than the absolute value of the largest negative IML (if any) with respect to any IML-reducing transaction in such margin account during such day.” See also Notice, 91 FR at 1583.

³⁶ See also Notice, 91 FR at 1583.

³⁷ See the provisions under Exchange Act Rule 15c3-3(j) governing “Sweep Programs” as defined under Exchange Act Rule 15c3-3(a)(17).

³⁸ See proposed FINRA Rule 4210(d)(2)(B)(i). FINRA noted members would be able to apply such treatment regardless of whether the customer does any day trading. See Notice, 91 FR at 1583.

³⁹ See proposed FINRA Rule 4210(d)(2)(B)(ii). FINRA noted, for example, a member that makes a single end of day calculation of its customers’ intraday margin deficits could utilize the same end of day prices for that calculation as it uses for determining whether the customer has a maintenance margin deficiency as the end of the day. See also Notice, 91 FR at 1583.

⁴⁰ See proposed FINRA Rule 4210(d)(2)(B)(iii). See also Notice, 91 FR at 1583.

(d) *Treatment of deposits and withdrawals*. Further, member firms would be permitted to treat all deposits and withdrawals of cash or securities into or from a margin account during the day as occurring simultaneously and immediately after the beginning of the day, notwithstanding the time of occurrence. The same would be permitted for any transaction that closes a position that was open at the beginning of the day. FINRA stated this allows net deposits, and margin released by closing positions existing at the end of the day, to reduce or eliminate intraday margin deficits that otherwise would have occurred as a result of activity before the deposits or liquidations took place.⁴¹

(e) *Multiple legs of a spread and options exercised and liquidated on the same day*. Member firms would also be able to treat as occurring simultaneously:

(1) the execution of multiple legs of a spread as a result of a single order submission or otherwise substantially contemporaneously;⁴² or

(2) the creation of a position by the assignment or exercise of an option and the liquidation of such position during the same day.⁴³

(f) *Computing IML*. FINRA proposed, for purposes of paragraph (d)(2)(B) of FINRA Rule 4210, if two or more activities in a margin account occurred during a day and the member cannot demonstrate that one activity occurred before another activity, then the IML with respect to such activities must be computed on the assumption that the activities occurred in an order that results in the highest intraday margin deficit for such day.⁴⁴

3. Satisfaction of Intraday Margin Deficits and 90-Day Freeze

To promote a disciplined approach to intraday margin, FINRA proposed paragraphs (d)(2)(C) and (d)(2)(D) of FINRA Rule 4210 that would establish specified timeframes for the satisfaction of intraday margin deficits, and requirement to freeze an account where a customer makes a practice of failing to satisfy intraday margin deficits as promptly as possible.

First, FINRA proposed new paragraph (d)(2)(C) which includes three core provisions. The first provision would require intraday margin deficits to be

satisfied as promptly as possible if a margin account (other than a good faith account or a portfolio margin account) has an intraday margin deficit with respect to a day in which there is an IML-reducing transaction in such account.⁴⁵ Second, FINRA proposed that an intraday margin deficit for a day would be “satisfied” for purposes of the rule if, from the end of such day to the end of a subsequent day, the customer made net deposits, or otherwise caused an increase in the account’s IML, sufficient to equal the intraday margin deficit. The rule would provide that net deposits or increases in IMLs may satisfy multiple outstanding intraday margin deficits for the same margin account.⁴⁶ Third, FINRA proposed that an intraday margin deficit would remain outstanding until satisfied or until immediately after the close of business on the fifteenth business day after the date of the intraday margin deficit.⁴⁷

Under proposed new paragraph (d)(2)(D), FINRA proposed that if a customer makes a practice of failing to satisfy intraday margin deficits as promptly as possible, and fails to satisfy an intraday margin deficit by the close of business on the fifth business day after it occurs, the member firm must enforce written policies and procedures reasonably designed to prevent the customer from creating or increasing a short position or a debit balance (other than by closing a short position) for 90 calendar days after such fifth business day or until the intraday margin deficit has been satisfied (without regard to its expiration pursuant to proposed Rule 4210(d)(2)(C)(iii)).⁴⁸ The proposed amendment would provide that a customer shall not be considered to be making a practice of failing to satisfy intraday margin deficits as promptly as possible due to intraday margin deficits that:

(i) Do not exceed the lesser of 5% of the equity in the margin account or \$1,000; or

(ii) Are reasonably determined by the member to have occurred under extraordinary circumstances such that failures to satisfy such intraday margin deficits do not reflect a practice of failing to satisfy intraday margin deficits as promptly as possible.⁴⁹

⁴⁵ See proposed FINRA Rule 4210(d)(2)(C)(i). See also Notice, 91 FR at 1584.

⁴⁶ See proposed FINRA Rule 4210(d)(2)(C)(ii). See also Notice, 91 FR at 1584.

⁴⁷ See proposed FINRA Rule 4210(d)(2)(C)(iii). See also Notice, 91 FR at 1584.

⁴⁸ See proposed FINRA Rule 4210(d)(2)(D). See also Notice, 91 FR at 1584.

⁴⁹ See proposed FINRA Rule 4210(d)(2)(D)(i)–(ii). See also Notice, 91 FR at 1584.

⁴¹ See proposed FINRA Rule 4210(d)(2)(B)(iii). See also Notice, 91 FR at 1583.

⁴² See proposed FINRA Rule 4210(d)(2)(B)(v)a. See also Notice, 91 FR at 1583.

⁴³ See proposed FINRA Rule 4210(d)(2)(B)(v)b. See also Notice, 91 FR at 1583–84.

⁴⁴ See proposed FINRA Rule 4210(d)(2)(B)(vi). See also Notice, 91 FR at 1584.

4. Portfolio Margin Amendments

The proposed rule change would update provisions of paragraph (g) of FINRA Rule 4210 with respect to portfolio margin. Specifically, because the proposed rule change would render obsolete references under FINRA Rule 4210 that are premised on specified conditions for the applicability of the current day trading margin requirements, FINRA proposed to delete paragraph (g)(13).⁵⁰

In lieu of paragraph (g)(13), the proposed rule change would establish new paragraphs (g)(1)(J) and (g)(1)(K) of FINRA Rule 4210, which would provide that, among the other monitoring provisions for portfolio margin, a member, in performing the risk analysis of portfolio margin accounts required by the rule, would need to include in the written risk analysis methodology procedures and guidelines for: (1) determining and monitoring intraday risk created by activity in each portfolio margin account; and (2) requiring each portfolio margin account that maintains less than \$5 million in equity to maintain margin for intraday risk that is substantially similar to the margin required for positions existing at the end of the day.⁵¹ FINRA stated it believes this approach, which preserves the \$5 million threshold that currently applies, is well understood by industry participants and appropriate given the nature of portfolio margin activity.⁵²

C. Implementation and Amendment No. 1

FINRA stated that if the Commission approves the proposed changes, FINRA would announce the effective date in a *Regulatory Notice*. Noting that member firms may need adequate time to prepare to implement the new requirements, while others may be able to implement them more quickly, FINRA stated that members should be provided with an interim period in which they may continue applying the current day trading margin requirements as appropriate (e.g., by account) while preparing to implement the new requirements.⁵³ FINRA also stated that it believes that member firms that prefer to implement the new requirements more quickly should be allowed to do so prior to the expiration of this interim period. Consequently, FINRA anticipated that the interim period would be for 12 months after FINRA announces the effective date of the

proposed rule change in a *Regulatory Notice*.

On April 2, 2026, FINRA filed Amendment No. 1 to the proposed rule change.⁵⁴ Amendment No. 1 revised language in the Notice regarding the implementation date of the proposed rule change to provide that if the Commission approves the proposal, FINRA would issue a *Regulatory Notice* announcing an effective date of 45 days from the publication of that *Regulatory Notice*, and to provide that members that need more time to implement the new requirements are permitted to phase-in implementation over a period of 18 months following the publication of the *Regulatory Notice*. Amendment No. 1 also made certain non-substantive edits to the same paragraph in the Notice.⁵⁵

Finally, FINRA stated that to aid members in preparing for implementation of the proposed rule change, FINRA will make available on its website training materials, illustrative examples and other guidance as appropriate regarding the application of intraday margin.⁵⁶

III. Discussion and Commission Findings

After careful review of the proposed rule change, as modified by Amendment No. 1, comment letters, and FINRA's responses to the comments, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities association.⁵⁷ Specifically, for the reasons discussed below, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act,⁵⁸ which requires, among other things, that FINRA rules 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 facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open

market and, in general, to protect investors and the public interest.

A. New Intraday Margin Requirements

As stated in section I. above, the Commission received comments to the Notice.⁵⁹ Most commenters, including individual investors,⁶⁰ overwhelmingly supported the proposal to replace the current day trading margin requirements with the proposed intraday margin requirements, including elimination of the \$25,000 minimum equity requirements and definition of pattern day trader.⁶¹ Commenters supported the

⁵⁹ See Comment File.

⁶⁰ See, e.g., Letters from Roger Allen (Feb. 6, 2026); Angel Anderson (Jan. 28, 2026 and Jan. 31, 2026); Thomas Androxman (Feb. 17, 2026); Thomas Berk (Mar. 10, 2026) ("Berk Letter"); Chao (Jan. 30, 2026) ("Chao Letter"); Charles A (Jan. 15, 2026); Ethan Chia (various letters) ("Chia Letter"); Monica Cutsforth-Balele (Feb. 13, 2026) ("Cutsforth Letter"); Cenk Darendeli (Feb. 16, 2026) ("Darendeli Letter"); David (Jan. 28, 2026); Katherine Diamond (Mar. 2, 2026) ("Diamond Letter"); Treavor Anthony English (Jan. 15, 2026) ("English Letter"); Findley Flanagan (Jan. 11, 2026) ("Flanagan Letter"); Ernest F. Fleming, Jr. (Mar. 2, 2026) ("Fleming Letter"); Teri Gonzales (Jan. 12, 2026); Moshe Grama (Jan. 31, 2026) ("Grama Letter"); Russell Grove (Jan. 27, 2026) ("Grove Letter"); Frieda Gail Hedglin (Jan. 22, 2026); Abi Hernandez (Jan. 13, 2026); Randy Lee Hockenberry (Jan. 14, 2026) ("Hockenberry Letter"); Wade Horner (Feb. 24, 2026) ("Horner Letter"); Alecia Johnson (Jan. 25, 2025) (A. Johnson Letter"); J. Johnson (Jan. 29, 2026); Michael Kramer (Jan. 28, 2026 and Feb. 5, 2026) ("Kramer Letter"); Steven Lee (Jan. 23, 2026); Roberto Lopez (Jan. 22, 2026); Caleb Miner (Feb. 2, 2026); William Minerich (Jan. 27, 2026); Terry Monroe (Jan. 15, 2026); Joseph Morrell (Jan. 16, 2026); Christopher Murrow (Mar. 8, 2026) ("Murrow Letter"); Wanson Ng (Feb. 27, 2026) ("Ng Letter"); Warren Odom (Feb. 26, 2026); Daniel Pardo (Jan. 16, 2026) ("Pardo Letter"); Sagar Paudel (Feb. 2, 2026) ("Paudel Letter"); Karmic Pretizas (Mar. 16, 2026) ("Pretizas Letter"); M.E. Raatz (Jan. 12, 2026); Jonathan Rimdzius (Feb. 4, 2026) ("Rimdzius Letter"); Christopher Rodriguez (Feb. 5, 2026); Kyle Sandvold (Jan. 16, 2026) ("Sandvold Letter"); Alexander Ski (Jan. 12, 2026) ("Ski Letter"); James A. Steward (Feb. 2, 2026); J.W. Sung (Jan. 13, 2026); Swag City (Jan. 24, 2026); Tim Taylor (Jan. 27, 2026); James Walker (Feb. 3, 2026); James D.B. Williams (Feb. 4, 2026) ("Williams Letter").

⁶¹ See, e.g., Letters from Kevin Skarbek, Chairman of the Board and James Toes, President & CEO, Security Traders Association (Feb. 20, 2026) ("STA Letter"); Jake Chupick, SVP, Active Trading, Lightspeed Financial Services Group, LLC (Feb. 19, 2026) ("Lightspeed Letter"); Patrick Sexton EVP, General Counsel, and Corporate Secretary, Cboe Global Markets, Inc. (Feb. 17, 2026) ("Cboe Letter"); Faris Matalaka, Managing Director, Trading and Margin Services, Charles Schwab & Co., Inc. (Feb. 12, 2026) ("Schwab Letter"); Katie Kolchin, CFA, Managing Director, Head of Equity & Options Market Structure, and Joseph Corcoran, Managing Director & Associate General Counsel, SIFMA (Feb. 6, 2026) ("SIFMA Letter"); Edward Nasti, Vice President, Head of Legal, Alpaca Securities, LLC (Feb. 4, 2026) ("Alpaca Letter"); Matt Billings, President, Robinhood Financial LLC and Robinhood Securities, LLC, (Feb. 4, 2026) ("Robinhood Letter"); Nicolas Morgan, President, Investor Choice Advocates Network (Feb. 4, 2026) ("ICAN Letter"); Jennifer Nayar, Chief Executive

Continued

⁵⁰ See also Notice, 91 FR at 1584.

⁵¹ See proposed FINRA Rules 4210(g)(1)(J) and (K). See also Notice, 91 FR at 1584.

⁵² See Notice, 91 FR at 1584.

⁵³ See Notice, 91 FR at 1584.

⁵⁴ See Amendment No. 1.

⁵⁵ See *id.* See also section III.C. of this order (discussing FINRA's response to comments received regarding the proposed implementation period and the Commission's findings with respect to FINRA's revised implementation proposal, as set forth in Amendment No. 1).

⁵⁶ See Notice, 91 FR at 1584.

⁵⁷ In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵⁸ 15 U.S.C. 78o-3(b)(6).

elimination of the \$25,000 minimum equity stating that it favors wealthier investors and creates an arbitrary barrier for smaller investors.⁶² Commenters stated that the proposed intraday margin requirements rather than arbitrary thresholds (e.g., \$25,000 equity requirement) would be a more effective way to align trading activity with risk exposure in real-time and better enable retail traders to manage their actual risk.⁶³ Other commenters stated that individual day traders play an important role in the markets, and that the new intraday requirements will provide equal opportunity for retail participants, while still maintaining appropriate safeguards.⁶⁴

Commenters also stated that the current day trading requirements may prevent retail investors from exiting losing positions or force them to stay in disadvantageous ones to prevent themselves from being designated a pattern day trader.⁶⁵ As such, commenters stated that these requirements subject day traders to higher risk and the potential for financial harm.⁶⁶ Another commenter stated that the existing requirements are difficult for investors to comprehend and operate unfairly in practice, resulting in frequent investor complaints.⁶⁷ Other commenters stated that aligning margin requirements with actual intraday exposure would result in better and more efficient customer margining, and promote capital efficiency, fairness, and stability while maintaining appropriate safeguards against excessive leverage.⁶⁸

Commenters stated that significant technological advances since the adoption of FINRA Rule 4210 have enabled firms to implement robust, real-time risk management systems capable of assessing intraday risk and client balances dynamically.⁶⁹ A commenter also stated that technological advancements such as low-cost trading apps, real-time market data, and educational resources, which were

previously available only to professional traders or those with significant capital lowered the barrier to entry making it possible for a broader demographic of investors to engage with the financial markets with minimal capital.⁷⁰ Another commenter stated that the proposal appropriately focuses on the practical risk concern that matters most in today's fast markets—the risk of intraday maintenance margin shortfalls at the time exposure is created, rather than the customer's day trade count or a prior day-trading buying power snapshot.⁷¹

Commenters stated that implementing the intraday margin approach should also be easier for customers to understand, which will reduce confusion and the likelihood of complaints, and will reduce “firm hopping” that occurs if a customer is designated a “pattern day trader.”⁷² Another commenter stated that the proposal maintains strong safeguards because firms would still be required to monitor accounts continuously, restrict activity when intraday deficits arise, and impose consequences for repeated failures to meet margin obligations. The commenter stated that this ensures investor protection without unnecessarily limiting market participation.⁷³

One commenter supported FINRA's decision to structure the proposal so that member firms may comply by either implementing real-time controls to prevent intraday margin deficits from arising or by using a single end-of-day computation.⁷⁴ Commenters stated that this flexibility encourages continued industry modernization without prescribing specific technologies or implementation paths and accommodates diverse business models and systems, while requiring prompt satisfaction of identified deficits and meaningful consequences for repeated failures, resulting in a more coherent framework for intraday risk.⁷⁵

One commenter stated that while targeted revisions may be in order, FINRA has not made the case for wholesale changes to the day trading margin requirements without adequate justification and that many of the risks and concerns that originally led to the adoption of the day trading rules exist today.⁷⁶ The commenter stated that zero

commission trading platforms may pose harm to small, less experience retail investors, the “finfluencers” on social media platforms have proliferated and are encouraging risk taking and speculation, and that entry of younger investors into the markets with higher risk appetites bolsters the need for strong day trading rules.⁷⁷ The commenter stated it would be inappropriate for FINRA to remove or dilute important regulatory guardrails without assurance that firms will manage day trading risks.⁷⁸ This commenter also stated that permitting members to use real-time monitoring or an end-of-day calculation would give firms too much discretion.⁷⁹ Finally, this commenter stated that FINRA did not seek adequate notice and comment on the proposal, that FINRA's retrospective review of the day trading requirements in Regulatory Notice 24–13 was insufficient, and that FINRA should collect more empirical evidence.⁸⁰

In response to the comments raising concerns about the elimination of the current day trading requirements, FINRA agreed with the commenter about the importance of margin as a regulatory guardrail.⁸¹ FINRA stated that the proposal does not eliminate margin, but replaces the outdated day trading margin requirements with modern effective standards that recognize the significant advances in market technology since the time when day trading margin rules were adopted. FINRA stated that real-time monitoring of intraday risk is something that firms are already doing.⁸² FINRA stated that the claim that FINRA does not have adequate justification of the rule changes minimizes the changes in modern markets and the needs of today's investors, as many expressed in comments to the proposal.⁸³ FINRA also highlighted that other commenters disagreed with the statements in the commenter's letter by stating that they were frustrated with the commenter's portrayal of retail investors, believed the insistence on maintaining the \$25,000 minimum equity is a discriminatory type of wealth test, and stated that the proposed rule change is quite obviously

of Financial Institutions, North American Securities Administration Association (Feb. 4, 2026) (“NASAA Letter”).

⁷⁷ See NASAA Letter.

⁷⁸ See NASAA Letter.

⁷⁹ See NASAA Letter.

⁸⁰ See NASAA Letter.

⁸¹ See FINRA Letter.

⁸² See FINRA Letter.

⁸³ See FINRA Letter.

Officer, Sterling Trading Tech (Jan. 15, 2026) (“Sterling Letter”).

⁶² See STA Letter; Cboe Letter; ICAN Letter; Pretizas Letter; Berk Letter; Fleming Letter; Williams Letter; Pardo Letter; Sandvold Letter; English Letter; Hockenberry Letter; Letter from Gerald J. Driver (Jan. 13, 2026); Letter from Tom Edic (Jan. 12, 2026); Flanagan Letter.

⁶³ See Ng Letter.

⁶⁴ See Murrow Letter; Paudel Letter; Schwab Letter.

⁶⁵ See Diamond Letter; Rimdzis Letter; Ski Letter.

⁶⁶ See Cutsforth Letter; Grama Letter; Chao Letter; Grove Letter.

⁶⁷ See Robinhood Letter.

⁶⁸ See Horner Letter; Lightspeed Letter; SIFMA Letter.

⁶⁹ See STA Letter; Cboe Letter.

⁷⁰ See STA Letter.

⁷¹ See Alpaca Letter.

⁷² See Robinhood Letter; A. Johnson Letter.

⁷³ See Letter from Justin Bentley Letter (Jan. 24, 2026).

⁷⁴ See Alpaca Letter.

⁷⁵ See Alpaca Letter; Sterling Letter.

⁷⁶ See Letter from Marni Rock Gibson, NASAA President and Commissioner, Kentucky Department

before the Commission for public comment.⁸⁴

In addition, FINRA stated that it does not share the commenter's view that a retrospective review cannot provide a sufficient foundation from which to put forward a proposed rule change.⁸⁵ FINRA stated, as discussed in the proposal, that it received broad input in response to the retrospective review, and engaged in extensive outreach, the tenor of which reflected strong value in moving to an intraday margin rule.⁸⁶ FINRA stated it disagrees with the commenter that the proposal dilutes margin and that it is problematic for FINRA to permit flexibility as to the methods members use to implement the requirements.⁸⁷ FINRA also stated that it has been clear that margin determinations are a matter of the objective definitions and parameters set forth in the proposal, and members will be expected to act consistently with those standards.⁸⁸

The proposed rule change modernizes current day trading margin requirements to alleviate unnecessary burdens on broker-dealers and customers, while continuing to address the risks of intraday trading exposures. Additionally, the requirement that a broker-dealer collect the largest intraday margin deficit from customers will ensure customers maintain equity in their margin accounts aligned with the amount of market exposure they have at any point in a trading day, whether they day trade or not. This intraday margin requirement will address the risks of intraday margin exposures without diminishing the protections of the current day trading requirements that require customers to post additional margin related to intraday trading to supplement regular maintenance margin requirements under FINRA Rule 4210.⁸⁹

The proposed rule will provide broker-dealers flexibility in determining the intraday margin deficit on a day in which there is an IML-reducing transaction, and provides certain parameters a broker-dealer may follow in determining the intraday margin deficit.⁹⁰ This flexibility reflects advances in technology and risk management since the adoption of the day trading margin requirements. Broker-dealers may use real-time

monitoring to block trades that would create or increase a customer's intraday margin deficits. Alternatively, the proposed rule permits a broker-dealer to compute a customer's intraday margin deficit at the end of the day.⁹¹ This flexibility recognizes that broker-dealers have diverse business models and serve a range of customers, from large retail broker-dealers with many day trading accounts to broker-dealers with primarily wealth management clients who rarely engage in day trading.

While the new intraday margin requirements provide flexibility to broker-dealers, the proposed rule's requirements tie the computation of a customer's intraday margin deficit to the current maintenance margin requirements under Rule 4210 (through the definition of intraday margin level or IML).⁹² As a result, the proposed rule allows broker-dealers to determine intraday margin deficits in the most effective way for their specific business model or customer base, while requiring computations based on existing maintenance margin requirements.⁹³ This requirement will promote consistent margin practices among FINRA broker-dealer members and mitigate risks that broker-dealers compete by implementing lower intraday margin standards.

Further, the new intraday margin requirement will enhance market access allowing increased investor participation in the securities markets and facilitating capital formation. More specifically, removing the \$25,000 minimum equity requirement for accounts of customers deemed pattern day traders⁹⁴ will enhance access to the securities markets by eliminating financial barriers for individuals with limited capital. Therefore, the new intraday margin requirements will permit more investors to participate in the securities markets and pursue their chosen trading strategies while maintaining safeguards for broker-dealers and investors against the current risks of intraday trading exposures. Additionally, customers of FINRA member broker-dealers remain subject to current initial and regular maintenance margin requirements under FINRA Rule 4210.⁹⁵ This

promotes fair, orderly and efficient markets by requiring uniform initial and maintenance margin requirements for customers of FINRA members under Rule 4210 regardless of whether they engage in day trading.

Removing the \$25,000 minimum equity rule and other day trading requirements—such as defining “pattern day trader” (generally any customer who executes four or more day trades within five business days)⁹⁶ and standards for “day-trading buying power”⁹⁷—will ease regulatory burdens, reduce customer confusion, and lower compliance costs. The new intraday margin rules should be easier for customers to understand, as they no longer depend on counting trades over several days to determine pattern day trader status or require customers to monitor their day-trading buying power. Further, eliminating the definition of pattern day trader may reduce customers' potential losses, as they no longer will need to base trade decisions on whether they will fall within that designation. This streamlining of the day trading margin requirements to address intraday margin exposures may decrease compliance costs for broker-dealers because customer complaints may be reduced, and the rule will no longer require broker-dealers to track a customer's day trades or compute day-trading buying power. Consequently, the new intraday margin requirements will enable broker-dealers to compute intraday margin requirements more efficiently and reduce burdens for customers, while continuing to protect investors by addressing the risks of intraday margin exposures.

In response to the commenter that supported targeted changes to the current day trading margin requirements, but stated that FINRA did not make a case for wholesale changes to the rule because of the risks that retail traders continue to face,⁹⁸ the Commission agrees with FINRA that the proposal does not eliminate margin but replaces outdated day trading margin requirements with modern, effective standards that recognize the significant advances in market technology since the day trading rules were originally adopted.⁹⁹ Technological advances such as app-based trading platforms, increased availability of information,

including the \$2,000 minimum equity requirement or the initial margin requirements under the Federal Reserve Board's Regulation T (12 CFR 220.1, *et seq.*). See current FINRA Rule 4210(b)(1) through (4).

⁹⁶ See current FINRA Rule 4210(f)(8)(B)(ii).

⁹⁷ See current FINRA Rule 4210(f)(8)(B)(iii).

⁹⁸ See NASAA Letter.

⁹⁹ See FINRA Letter.

⁸⁴ See FINRA Letter. See also Chia Letter (Feb. 7, 2026) and Kramer Letter (Feb. 5, 2026).

⁸⁵ See FINRA Letter.

⁸⁶ See FINRA Letter; see also Notice, 91 FR at 1581–82.

⁸⁷ See FINRA Letter.

⁸⁸ See FINRA Letter.

⁸⁹ See current FINRA Rule 4210(f)(8).

⁹⁰ See proposed FINRA Rule 4210(d)(2)(A) and (B).

⁹¹ See Notice, 91 FR at 1582.

⁹² See proposed FINRA Rule 4210(a)(17) (defining the term “IML” or “intraday margin level” which is tied to the maintenance margin requirements under Rule 4210 (other than paragraph (d)(2)).

⁹³ *Id.*

⁹⁴ See current FINRA Rule 4210(f)(8)(B)(iv)a.

⁹⁵ For example, the minimum initial margin requirement for the purpose of effecting new securities transactions under current FINRA Rule 4210 is the greater of certain requirements,

and influence of social media do not mitigate the risk inherent in day trading or the fact the using margin may amplify those risks. The new intraday margin requirements, however, continue to address the risks of intraday exposures present in a day trading strategy, as well as intraday exposure risks in customer margin accounts, while eliminating outdated requirements that are a burden on both customers and broker-dealers. In addition, the new intraday margin requirements will address gaps in the current day trading requirements by covering the use of intraday leverage through intraday margin requirements that will include trading in ODTE that the current day trading requirements do not consider.¹⁰⁰ Therefore, the new intraday margin requirement retains the protections of the current rule in requiring customers to post additional margin to cover intraday leverage to supplement regular maintenance margin requirements without diminishing investor protection. Further, the rule will limit a customer's (including a customer with limited equity) ability to create or increase a short position or debit balance (other than by closing a short position) for a specified time period if an intraday margin deficit has not been satisfied under the requirements of the rule.¹⁰¹

Moreover, in addition to the new intraday margin requirements, other existing margin requirements will continue to require that broker-dealers ensure that customers maintain sufficient equity in their margin accounts. As stated in the Notice, the intraday margin requirements will supplement the existing maintenance margin requirements under Rule 4210.¹⁰² Further, other existing requirements under Rule 4210 also safeguard broker-dealers from the risks of intraday exposures. For example, broker-dealers may always collect additional margin from customers than required under Rule 4210 under their "house" margin requirements.¹⁰³ Existing requirements in Rule 4210 also require broker-dealers to have procedures to review the need for

instituting higher margin requirements, mark-to-markets and collateral deposits than are required by Rule 4210 for individual securities or customer accounts.¹⁰⁴ Consequently, the new intraday margin requirements and existing requirements under Rule 4210 will protect broker-dealers and customers against the risks of intraday exposures and the build-up of unmarginated positions intraday, while eliminating the outdated and burdensome provisions of the current day trading requirements.

In addition, in response to the comment that FINRA seeks regulatory approval without adequate notice and comment because it did not seek public comment on the notice before filing it with the Commission,¹⁰⁵ FINRA appropriately highlighted its retrospective review of the current day trading rules, the broad response received in response to its retrospective review, and the extensive outreach it engaged in developing the rule proposal.¹⁰⁶ There is no requirement for FINRA to seek public comment on a proposed rule change prior to filing it with the Commission. Further, the proposal is subject to the notice and comment process under section 19(b) of the Exchange Act.¹⁰⁷ As discussed above, the Commission received numerous comments on the proposal from various market participants including individuals, broker-dealers, and associations.¹⁰⁸ Commenters overwhelmingly supported replacing the current day trading margin requirements with an intraday margin requirement.¹⁰⁹ This proposed rule change will eliminate burdensome requirements with an intraday margin requirement that will continue to address the risks of intraday margin exposures. Further, FINRA undertook an economic impact assessment of the proposed rule change, which included discussion of the regulatory need for the proposed rule change, economic baseline, economic impacts, and alternatives considered.¹¹⁰

¹⁰⁴ See proposed FINRA Rule 4210(d)(1)(C).

¹⁰⁵ See NASAA Letter.

¹⁰⁶ See FINRA Letter and Notice, 91 FR at 1581–82.

¹⁰⁷ Under Section 19(b) of the Exchange Act, self-regulatory organizations ("SROs") generally must file proposed rule changes with the Commission for notice, public comment, and Commission approval, prior to implementation. 15 U.S.C. 78s(b). Section 19(b)(1) of the Exchange Act requires each SRO to file with the SEC "any proposed rule or any proposed change in, addition to, or deletion from the rules of . . . [a] self-regulatory organization." 15 U.S.C. 78s(b)(1).

¹⁰⁸ See Comment File.

¹⁰⁹ See section III.B. above (discussing comments).

¹¹⁰ See Notice, 91 FR at 1585–89.

B. Requests for Clarifications and Guidance on Certain Aspects of the Proposal

In response to the Notice, some commenters requested clarifications or guidance regarding certain aspects of the proposed rule change.¹¹¹ FINRA appropriately responded to those comments or stated it will provide further explanation and guidance to assist members with these and other operational issues, as appropriate, if the Commission approves the proposal.¹¹² This is consistent with other proposed rule changes where FINRA answered questions and provided further guidance to market participants regarding implementation of new rules.¹¹³

C. Implementation Period

Finally, in response to the proposed implementation period of 12 months after FINRA announces the effective date of the proposed rule change in a *Regulatory Notice*, commenters expressed strong preferences for prompt implementation of the proposal.¹¹⁴ Two commenters expressed support for the 12-month timeframe,¹¹⁵ with one stating there is a risk that customers will migrate to firms that implement the intraday margin requirements more quickly than others.¹¹⁶ Two commenters recommended that FINRA extend the implementation timeframe to 18-months to provide members more time to update their processes and methodologies.¹¹⁷ One commenter supporting an 18-month timeframe also recommended an interval of 30 to 60 days between FINRA's announcement of the new requirements and the effective date when members can apply the new requirements to prevent broker-dealers from being placed at a competitive disadvantage while completing their operational preparations.¹¹⁸ Another

¹¹¹ See Alpaca Letter; SIFMA Letter.

¹¹² See FINRA Letter—Specific Suggestions from Commenters Supporting the Proposal. In the Notice, FINRA stated that it will make further guidance available on its website, including training materials, illustrative examples, and other guidance as appropriate, regarding the application of intraday margin. See Notice, 91 FR at 1584.

¹¹³ See, e.g., Frequently Asked Questions ("FAQs") Regarding Covered Agency Transaction Margin under FINRA Rule 4210, available at: www.finra.org (providing guidance from FINRA in the form of answers to FAQs regarding the application of Rule 4210 as amended by SR-FINRA-2021-010).

¹¹⁴ See Darendeli Letter; Letter from Abi Hernandez (Feb. 13, 2026); Letter from Ethan Chia (Feb. 12, 2026); Letter from Jack Griffith (Jan. 23, 2026).

¹¹⁵ See Alpaca Letter; Lightspeed Letter.

¹¹⁶ See Lightspeed Letter.

¹¹⁷ See SIFMA Letter; STA Letter.

¹¹⁸ See STA Letter.

¹⁰⁰ See Notice, 91 FR at 1582. The current day trading requirements do not consider ODTE trades because a day trade is defined as the purchasing and selling or the selling and purchasing of the same security on the same day in a margin account (with certain exceptions). See current FINRA Rule 4210(f)(8)(B)(i).

¹⁰¹ See proposed FINRA Rule 4210(d)(2)(D).

¹⁰² See e.g., current FINRA Rule 4210(c) and Notice, 91 FR at 1584.

¹⁰³ See proposed FINRA Rule 4210(d)(1)(B). This existing paragraph was renumbered in the proposal to account for the new intraday margin requirements under proposed paragraph (d)(2) of Rule 4210. See Notice, 91 FR at 1582, at n.26.

commenter stated that a 12-month phased implementation may create confusion among customers and competitive pressures for firms to attempt to gain an advantage through early adoption of the new intraday requirements.¹¹⁹ This commenter suggested a single, uniform implementation date of six months after the Commission approves the proposed rule change or a date that would be no earlier than late-2026.¹²⁰

In response to the comments, FINRA highlighted the very strong interest numerous commenters expressed in replacing the current day trading requirements with the new intraday margin requirements and their expectation that implementation will proceed promptly.¹²¹ Balanced with this, FINRA stated it is important to ensure, to the extent possible, that the transition to the new requirements takes place in an orderly and fair fashion.¹²² Having considered the comments, FINRA stated that it believes a limited interval could serve the interest of orderly markets, but should not be so long as to frustrate the general desire for the transition to proceed expeditiously.¹²³

As such, FINRA stated if the Commission approves the proposal, it intends to issue a *Regulatory Notice* announcing an effective date of 45 days from publication of the *Regulatory Notice*, while allowing members that need more time to implement the new requirements to phase-in implementation over a period of 18 months from publication of the *Regulatory Notice*.¹²⁴ With regard to the timeframe for the phase-in period given the additional information gained from the comments on how much time members may need to prepare, FINRA believes extending the phased implementation to 18 months from the date of the *Regulatory Notice* is appropriate.¹²⁵

FINRA's proposed implementation schedule is appropriate and consistent with the requirements of the Exchange Act. An 18-month phased-in implementation timeframe from the date of publication of the *Regulatory Notice* will provide flexibility for broker-dealers to implement the new intraday margin requirements any time after the 45-day effective date. The 45-day effective date following the publication

of the *Regulatory Notice*, during which all member firms must apply the current day trading rules should facilitate a smooth transition to implementation.

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 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-FINRA-2025-017 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-FINRA-2025-017. 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 FINRA. 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-FINRA-2025-017 and should be submitted on or before May 8, 2026.

V. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of the notice of the filing of Amendment No. 1 in the **Federal Register**. Amendment No. 1 revised the timing of the phased implementation of the proposed rule change in direct response to comments received, balancing the interest expressed by commenters for implementation to proceed promptly with the need for an orderly and fair transition to the new

requirements. Amendment No. 1 does not alter any substantive provisions of the proposed rule change from what is set forth in the Notice, which was subject to public comment. Further, Amendment No. 1 does not raise any novel regulatory concerns that have not previously been subject to comment.

Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,¹²⁶ to approve the proposed rule change, SR-FINRA-2025-017, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered pursuant to Section 19(b)(2) of the Exchange Act¹²⁷ that the proposed rule change (SR-FINRA-2025-017), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²⁸

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07485 Filed 4-16-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105227; File No. SR-LTSE-2026-08]

Self-Regulatory Organizations: Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend LTSE Fee Schedule To Modify Transaction Fees

April 14, 2026.

Pursuant to 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 March 31, 2026, Long-Term Stock Exchange, Inc. ("LTSE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹²⁶ 15 U.S.C. 78s(b)(2).

¹²⁷ 15 U.S.C. 78s(b)(2).

¹²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹¹⁹ See Schwab Letter.

¹²⁰ See Schwab Letter.

¹²¹ See FINRA Letter.

¹²² See FINRA Letter.

¹²³ See FINRA Letter.

¹²⁴ See Amendment No. 1; FINRA Letter.

¹²⁵ See FINRA Letter; Amendment No. 1.

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 the LTSE Fee Schedule to modify transaction fees applicable to securities priced below \$1.00. The Exchange proposes to implement the changes to the fee schedule pursuant to this proposal on April 1, 2026.

The text of the proposed rule change is available at the Exchange's website at <https://longtermstockexchange.com/> and at the principal office of the Exchange.

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 its Schedule of Fees to reduce the transaction fee for removing liquidity in securities priced below \$1.00 via a new program called the Sub-Dollar Incentive Program ("SDIP"). Currently, LTSE charges a fee of 0.20% of TDV for removing both displayed and non-displayed liquidity in securities priced below \$1.00.³ The Exchange now proposes to reduce this fee to 0.00% of TDV.

Through SDIP, the Exchange seeks to incentivize interaction in these lower-priced securities to improve price discovery, remove friction while creating and exiting trading positions, and increase overall execution volume. By eliminating taker fees in these securities, the Exchange will reduce transaction costs for liquidity takers,

encouraging greater order flow and increased interaction with displayed liquidity.

Increased interaction with displayed liquidity is expected to incentivize market participants to compete more aggressively to provide liquidity in these securities. The Exchange believes that this increased competition among liquidity providers will result in tighter bid-ask spreads, increased depth of book, and improved price discovery.

Importantly, the Exchange is not proposing to change its existing liquidity provider rebates in securities priced below \$1.00. By maintaining the incentives available to liquidity providers while eliminating fees for liquidity takers, the Exchange seeks to promote a more balanced and efficient market structure in which both liquidity provision and liquidity interaction are encouraged.

The Exchange believes that this approach strengthens overall market quality by promoting fair and efficient execution. Investors, particularly retail investors and institutional market participants, benefit from more competitive pricing, lower execution costs, and reduced market impact. These benefits are consistent with the Exchange's broader objective of fostering a robust and competitive exchange eco-system.

The Exchange also notes that it operates in a highly competitive environment in which market participants can readily direct order flow to competing venues. The proposed change is designed to enhance the Exchange's competitiveness in lower-priced securities by reducing transaction costs and encouraging increased participation.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁴ in general, and furthers the objectives of Section 6(b)(4) of the Act,⁵ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among all of its Members and issuers and other persons using its facilities; Section 6(b)(5) of the Act,⁶ which requires, among other things, that the rules of the Exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest and are not designed to permit unfair

discrimination between customers, issuers, brokers or dealers. The Exchange also believes that the proposed rule change is reasonable, fair and equitable, and non-discriminatory.

Section 6(b)(4) requires that exchange fees be reasonable and equitably allocated. The Exchange believes the proposed fee change is reasonable because it reduces transaction costs for liquidity takers in securities priced below \$1.00, thereby encouraging increased order flow and execution activity. By removing taker fees in these securities, the Exchange reduces friction associated with entering and exiting trading positions, which is expected to increase overall volume.

The Exchange further believes that the proposal is an equitable allocation of fees because it applies uniformly to all Members trading securities priced below \$1.00 and does not impose disparate fees among similarly situated participants. In addition, the Exchange believes the proposed fee structure is reasonable because it maintains existing incentives for liquidity providers while eliminating costs for liquidity takers. This balanced approach is designed to enhance overall market quality by encouraging both the provision of liquidity and interaction with that liquidity.

Section 6(b)(5) requires that exchange rules promote just and equitable principles of trade, remove impediments to a free and open market, and protect investors and the public interest. The Exchange believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market by reducing transaction costs in lower-priced securities and encouraging increased interaction with displayed liquidity. By lowering barriers to trading, the proposal is expected to increase participation, improve execution quality, and enhance price discovery.

The Exchange further believes that the proposal promotes just and equitable principles of trade by fostering competition among liquidity providers. As liquidity takers are incentivized to interact more frequently with displayed quotes, liquidity providers are expected to compete more aggressively on price and size, resulting in tighter spreads and increased display depth.

The Exchange believes that these outcomes directly benefit investors by improving execution quality, reducing trading costs, and minimizing market impact. The proposal is not unfairly discriminatory because it applies equally to all Members and market

³ See the Exchange's Schedule of Fees available on its website at: [https://cdn.prod.website-files.com/6462417e8db99f8baa06952c/69a703be63c2891f46cae82a_LTSE%20Fee%20Schedule_February%2C%201%202026%20\(Formatting%20updated%202.2.2026\).docx.pdf](https://cdn.prod.website-files.com/6462417e8db99f8baa06952c/69a703be63c2891f46cae82a_LTSE%20Fee%20Schedule_February%2C%201%202026%20(Formatting%20updated%202.2.2026).docx.pdf).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78f(b)(5).

participants trading securities priced below \$1.00.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,⁷ the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange operates in a highly competitive environment in which it must continually adjust its pricing to attract order flow. The proposed reduction in taker fees is designed to enhance the Exchange's competitiveness for trading in lower priced securities.

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

This proposed rule change establishes dues, fees or other charges among its members and, as such, may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act⁸ and paragraph (f)(2) of Rule 19b-4 thereunder.⁹ Accordingly, the proposed rule change would take effect upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or

- Send an email to rule-comments@sec.gov. Please include file number SR-LTSE-2026-08 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-2026-08. 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-LTSE-2026-08 and should be submitted on or before May 8, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07486 Filed 4-16-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0574]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Rule 3a-8 Under the Investment Company Act of 1940

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (SEC or "Commission") is soliciting comments on the proposed collection of information.

17 CFR 270.3a-8 (rule 3a-8 under the Investment Company Act of 1940 (15 U.S.C. 80a) (the "Act")), serves as a

nonexclusive safe harbor from investment company status for certain research and development companies ("R&D companies"). The rule requires that the board of directors of an R&D company seeking to rely on the safe harbor adopt an appropriate resolution evidencing that the company is primarily engaged in a non-investment business and record that resolution contemporaneously in its minute books or comparable documents. An R&D company seeking to rely on the safe harbor must retain these records only as long as such records must be maintained in accordance with state law. The rule also requires the board of directors of a company that relies on the safe harbor to adopt a written policy with respect to the company's capital preservation investments. We expect that the board of directors will base its decision to adopt the resolution discussed above, in part, on investment guidelines that the company will follow to ensure its investment portfolio is in compliance with the rule's requirements.

The collection of information imposed by rule 3a-8 is voluntary because the rule is an exemptive safe harbor, and therefore, R&D companies may choose whether to rely on it. The purposes of the information collection requirements in rule 3a-8 are to ensure that: (i) the board of directors of an R&D company is involved in determining whether the company should be considered an investment company and subject to regulation under the Act, and (ii) adequate records are available for Commission review, if necessary. Rule 3a-8 would not require the reporting of any information or the filing of any documents with the Commission. Commission staff estimates that there is no annual recordkeeping burden associated with the rule's requirements. Nevertheless, the Commission requests authorization to maintain an inventory of one burden hour for administrative purposes.

Commission staff estimates that approximately 721,792 R&D companies may take advantage of rule 3a-8.¹ Given that the board resolutions and investment guidelines will generally need to be adopted only once (unless relevant circumstances change),² the

¹ See National Science Foundation, National Center for Science and Engineering Statistics, Business Enterprise Research and Development, 2023 Data Tables, Table 10, available at: <https://nces.nsf.gov/surveys/business-enterprise-research-development/2023#data>.

² In the event of changed circumstances, the Commission believes that the board resolution and investment guidelines will be amended and

⁷ 15 U.S.C. 78f(b)(8).

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 17 CFR 240.19b-4(f)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

Commission believes that all the R&D companies that existed prior to the adoption of rule 3a–8 adopted their board resolutions and established written investment guidelines in 2003 when the rule was adopted. We expect that R&D companies formed subsequent to the adoption of rule 3a–8 would adopt the board resolution and investment guidelines simultaneously with their formation documents in the ordinary course of business.³ Therefore, we estimate that rule 3a–8 does not impose additional burdens.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the SEC, including whether the information will have practical utility; (b) the accuracy of the SEC's estimate of the burden imposed by the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated, electronic collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to PaperworkReductionAct@sec.gov by June 16, 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 15, 2026.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026–07555 Filed 4–16–26; 8:45 am]

BILLING CODE 8011–01–P

recorded in the ordinary course of business and would not create additional time burdens.

³ In order for these companies to raise sufficient capital to fund their product development stage, Commission staff believes that they will need to present potential investors with investment guidelines; investors generally want to be assured that the company's funds are invested consistent with the goals of capital preservation and liquidity.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105235; File No. SR–SAPPHIRE–2026–15]

Self-Regulatory Organizations; MIAx Sapphire, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAx Sapphire Fee Schedule for All Liquidity Taker Event Reports

April 14, 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, MIAx Sapphire, LLC (“MIAx Sapphire” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAx Sapphire Options Exchange Fee Schedule (the “Fee Schedule”) to: (i) increase the annual fee for all Liquidity Taker Event Reports (described below); (ii) establish annual and monthly fees for the Purge Liquidity Taker Report; (iii) establish a discount program for market participants with multiple annual subscriptions to the various Liquidity Taker Event Reports; and (iv) establish a sunset period in which the Exchange will no longer offer monthly subscriptions to all Liquidity Taker Event Reports.

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings>, and at MIAx Sapphire's principal office.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set

forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to: (i) increase (or, as described below, establish) the annual fee for all Liquidity Taker Event Reports;³ (ii) establish annual and monthly fees for the Purge Report; (iii) establish a discount program for market participants with multiple annual subscriptions to two or more of the Reports; and (iv) establish a sunset period in which the Exchange will no longer offer monthly subscriptions to the Reports.

Background

Currently, the Exchange offers the Simple Order Report, Complex Order Report and Resting Simple Order Report as Member ⁴-specific reports, which are available for purchase by Exchange Members on a voluntary basis. In general, the Simple Order Report, Complex Order Report and Resting Simple Order Report are each daily reports that provide a Member (“Recipient Member”) with its liquidity response time details for executions against an order resting on the Simple Order Book ⁵ (or Strategy Book ⁶), where that Recipient Member attempted to execute against such resting order within certain timeframes.⁷

For the Simple Order Report and Complex Order Report, the Exchange assesses a fee of \$4,000 per month for

³ See Exchange Rules 531(a)–(d), providing the rule text for the following: (a) Liquidity Taker Event Report—Simple Orders (the “Simple Order Report”); (b) Liquidity Taker Event Report—Complex Orders (the “Complex Order Report”); (c) Liquidity Taker Event Report—Resting Simple Orders (the “Resting Simple Order Report”); and (d) Purge Liquidity Taker Report (the “Purge Report”). The Simple Order Report, Complex Order Report, Resting Simple Order Report and Purge Report are collectively referred to herein as the “Reports.”

⁴ See Exchange Rule 100.

⁵ The “Simple Order Book” is the Exchange's regular electronic book of orders and quotes. See Exchange Rule 100.

⁶ The “Strategy Book” is the Exchange's electronic book of complex orders. See Exchange Rule 100. A “complex order” is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the “legs” or “components” of the complex order), for the same account, in a conforming or non-conforming ratio as defined in Exchange Rule 518 for the purposes of executing a particular investment strategy. See Exchange Rule 518(a).

⁷ See Exchange Rules 531(a)–(c) (providing details regarding the information contained in each of the Simple Order Report, Complex Order Report, and Resting Simple Order Report).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

monthly subscribers or the discounted fee of \$24,000 per year for annual subscribers. For the Resting Simple Order Report, the Exchange assesses a fee of \$2,000 per month for monthly subscribers or the discounted fee of \$12,000 per year for annual subscribers. The Exchange also offers subscribers to both the Simple Order Report and Complex Order Report a discount for annual subscriptions to both of those reports called the “12 Month Subscription Discount” in Section 7 of the Fee Schedule. In particular, the Exchange assesses subscribers a discounted fee of \$40,000 per year when they purchase annual subscriptions to both the Simple Order Report and Complex Order Report. Subscribers with an existing 12 month subscription to either the Simple Order Report or Complex Order Report, but not both, may add a subscription to the Simple Order Report or Complex Order Report during their current 12 month subscription. In such case, the fee for the added report is pro-rated for the remainder of the subscriber’s current 12 month subscription based on the amount of the 12 Month Subscription Discount. Subscribers receive the 12 Month Subscription Discount for subscribing to both the Simple Order Report and Complex Order Report on the renewal date of their original subscription. The Exchange also provides that new subscribers will be charged for the full calendar month for which they subscribe and will be provided Liquidity Taker Event Report (Simple, Complex, and/or Resting Simple Order Report) data for each trading day of the calendar month prior to the day on which they subscribed.

On February 5, 2026, the Exchange filed a proposed rule change with the Securities and Exchange Commission (“Commission”) to establish the Purge Report.⁸ In that filing, the Exchange stated that it would issue an alert to market participants regarding the date that the Purge Report would be available to subscribers. On March 26, 2026, the Exchange issued an alert announcing that the Purge Report would become available for subscription beginning April 1, 2026, with fees to be announced in a future alert and rule filing with the Commission.⁹

⁸ See Securities Exchange Act Release No. 104859 (February 18, 2026), 91 FR 8546 (February 23, 2026) (SR-SAPPHIRE-2026-06).

⁹ See Trading Alert, MIAx Exchange Group—Options Markets—Purge Liquidity Taker Report Launching April 1, 2026, available at <https://www.miaxglobal.com/alert/2026/03/26/miax-exchange-group-options-markets-purge-liquidity-taker-report-launching-2?nav=all>.

Proposal To Increase the Annual Fee for the Simple Order Report, Complex Order Report and Resting Simple Order Report

The Exchange proposes to amend Section 7 of the Fee Schedule to increase the annual fee for each of the Simple Order Report and Complex Order Report from \$24,000 to \$30,000.¹⁰ The Exchange notes that the annual fee for the Simple Order Report and Complex Order Report, as proposed to be amended by herein (including the multiple report discount described below), remains similar to the annualized fee charged by other exchanges for their similar reports.¹¹ The proposed annual fee of \$30,000 for each of the Simple Order Report and Complex Order Report is also discounted when compared to the monthly fee for each report of \$4,000 (*i.e.*, \$4,000 per month multiplied by twelve months means that a subscriber that took the monthly subscription for an entire year would be charged \$48,000 rather than the \$30,000 proposed annual fee). The Exchange also proposes to increase the annual fee for the Resting Simple Order Report from \$12,000 to \$15,000. The Exchange does not propose to amend the monthly fee amounts.

Proposal To Establish Annual and Monthly Fees for the Purge Report

The Exchange proposes to amend Section 7 of the Fee Schedule to establish a new row in the table to provide for a monthly and annual fee for

¹⁰ The Exchange also proposes to make non-substantive changes to amend all references in Section 7 of the Fee Schedule from “12 month subscription” to now be to “annual subscription.” The purpose of these changes is to provide consistency in the Fee Schedule regarding fees for the Reports, including changes proposed in this filing. The Exchange also proposes to delete the “12 Month Subscription Discount” as the Exchange proposes a revised discounted fee structure herein.

¹¹ See, e.g., Cboe BZX Exchange, Inc. (“BZX”) Options Fee Schedule, Cboe Timestamping Service (assessing members a fee of \$3,500 per month for a subscription to the Missed Liquidity Report) and Cboe EDGX Exchange, Inc. (“EDGX”) Options Fee Schedule, Cboe Timestamping Service (assessing members a fee of \$3,500 per month for a subscription to the Missed Liquidity Report). On an annualized basis, a BZX or EDGX member would pay a total of \$42,000 per year for the Missed Liquidity Report (\$3,500 per month multiplied by 12 months). See also BZX Rule 21.15(b)(7)(1) (“The Missed Liquidity Report . . . provides time details for executions of orders and quotes that rest on the book where the Member receiving the report attempted to execute against a resting order or quote within an Exchange-determined period of time . . .”) and EDGX Rule 21.15(b)(7)(1) (“The Missed Liquidity Report . . . provides time details for executions of orders and quotes that rest on the book where the Member receiving the report attempted to execute against a resting order or quote within an Exchange-determined period of time . . .”).

the Purge Report, which will be offered as a subscription for the first time beginning April 1, 2026. In general, the Purge Report, is a daily report that provides a Member (“Recipient Member”) with the liquidity response/taker time details for executions against quotes entered by the Recipient Member that are resting on the Simple Order Book that occur before and after the receipt of a purge¹² message sent by the Recipient Member, where that Recipient Member attempted to cancel such resting quote within the timeframes specified under Exchange Rule 531(d)(2).¹³

The Exchange proposes to assess a fee of \$4,000 per month for monthly subscriptions to the Purge Report or \$30,000 per year for annual subscriptions to the Purge Report. Similar to the Simple Order Report, Complex Order Report and Resting Simple Order Report, new subscribers to the Purge Report will be charged for the full calendar month for which they subscribe and will be provided Purge Report data for each trading day of the calendar month prior to the day on which they subscribed.

Proposal To Establish a Sunset Period for Monthly Subscriptions

Next, the Exchange proposes to amend Section 7 of the Fee Schedule to establish a sunset period for all monthly subscriptions to the Reports. As described above, market participants may currently purchase monthly subscriptions to the Simple Order Report (\$4,000 per month), Complex Order Report (\$4,000 per month), and the Resting Simple Order Report (\$2,000 per month). Also as described and proposed above, beginning April 1, 2026, market participants may purchase monthly subscriptions to the Purge Report for the corresponding fee of \$4,000 per month.

The Exchange now proposes to amend the Fee Schedule to provide that effective December 31, 2026, the Exchange will no longer offer monthly subscriptions to the Simple Order Report, Complex Order Report, Resting Simple Order Report, and Purge Report. Current monthly subscribers to each of the Reports may terminate their subscriptions or transition to an annual

¹² Purge messages are sent over purge ports, which support only MEO mass cancel messages. See MIAx Sapphire Options Exchange User Manual, Version 1.2.0, Section 5.01 (dated December 19, 2025), available at https://www.miaxglobal.com/miax_sapphire_electronic_market_user_manual.pdf.

¹³ See Exchange Rule 531(d) (providing details regarding the information contained in the Purge Report). See also Securities Exchange Act Release No. 104859 (February 18, 2026), 91 FR 8546 (February 23, 2026) (SR-SAPPHIRE-2026-06).

subscription at the prevailing rates for each of the Reports at any time. Further, the Exchange proposes to amend the Fee Schedule to provide that beginning January 1, 2027, the Exchange will only offer annual subscriptions to the Simple Order Report, Complex Order Report, Resting Simple Order Report and Purge Report, with new/renewal subscriptions taking effect on a semi-annual basis (*i.e.*, January 1st or July 1st of each year). For new subscribers between the semi-annual subscription dates of January 1st or July 1st, beginning April 1, 2026, the Exchange will pro-rate the annual fee based on the number of months remaining to the next semi-annual renewal date. The pro-rated fee will take into account the discount for subscribers with multiple reports, as described below. All current (prior to April 1, 2026) annual subscriptions will run through the expiration date of the current annual term at the current annual rates (*i.e.*, \$24,000 per year for the Simple Order Report or Complex Order Report; \$12,000 per year for the Resting Simple Order Report; and \$40,000 per year for combined annual subscriptions to both the Simple Order Report and Complex Order Report). At the expiration of the current annual term, subscribers may renew their annual subscriptions at the prevailing rates, including the discount for multiple subscriptions as described below, or terminate their subscriptions.

The purpose of these changes is to reduce billing complexity and streamline the fee structure for the Reports. The Exchange notes that the majority of subscribers purchase annual subscriptions to the Reports and each monthly subscriber will have nine months (*i.e.*, April through December 2026) to determine whether they would like to transition to an annual subscription or terminate their subscriptions altogether.

Proposal To Establish a Discount Program for Multiple Annual Subscriptions

Finally, the Exchange proposes to amend Section 7 of the Fee Schedule to establish a discount for market participants that purchase multiple annual subscriptions. In particular, the Exchange proposes to provide in the Fee Schedule that effective beginning April 1, 2026, new annual subscribers to multiple Reports will be charged based on the number and type of Reports pursuant to the following schedule of fees:

- An annual subscription to one of the following will be \$30,000 annually (per the rates in the table in Section 7 of the Fee Schedule): the Simple Order

Report, Complex Order Report or Purge Report.

- Annual subscriptions to two of the following will be \$50,000 annually: the Simple Order Report, Complex Order Report and/or Purge Report.

- Annual subscriptions to all three of the following will be \$70,000 annually: the Simple Order Report, Complex Order Report and Purge Report.

- For subscribers to one or more of the Simple Order Report, Complex Order Report or Purge Report, the cost to add an annual subscription to the Resting Simple Order Report will be \$10,000 instead of the fee described for the Resting Simple Order Report in the table in Section 7 of the Fee Schedule (*i.e.*, \$15,000, as proposed to be increased herein).

The following examples are intended to clarify how the Exchange intends to assess fees for the Reports during the transition to only annual subscriptions, including how the Exchange will assess fees pursuant to the proposed discount program (all subscriptions are assumed to be on an annual basis at the proposed higher rates as the discount will only apply to annual subscriptions):

Example 1

“Member A” subscribes annually to all four Reports beginning July 1, 2026. “Member A” would be assessed a total fee of \$80,000 pursuant to the proposed discount for multiple annual subscriptions (\$70,000 for the Simple Order Report, Complex Order Report and Purge Report + \$10,000 to add on the Resting Simple Order Report). “Member A’s” subscription to all four Reports would run through June 30, 2027, at which time “Member A” would be subject to the next semi-annual renewal period and could terminate any or all subscriptions.

Example 2

“Member B” subscribes annually to the Simple Order Report beginning April 20, 2026. “Member B” would be assessed \$2,500 each month for the months of April (and receive the full data set for the entire month of April), May and June 2026, for a total of \$7,500. This is calculated by dividing the proposed annual fee of \$30,000 for the Simple Order Report by twelve months ($\$30,000/12 = \$2,500$) and then multiplying by the number of months remaining until the July 1st semi-annual renewal date, including any partial month when the subscription began (*i.e.*, remainder of April, a and full months for May and June, which equals three total months). Beginning July 1, 2026, the semi-annual renewal date, “Member B” would be assessed the

annual fee of \$30,000 for the Simple Order Report subscription, which would run through June 30, 2027.

Example 3

Prior to April 1, 2026, “Member C” has an annual subscription to both the Simple Order Report and Complex Order Report, with an expiration date of February 28, 2027. “Member C” has already paid the \$40,000 discounted rate (per the current terms of the Fee Schedule) for a subscription to both the Simple Order Report and Complex Order Report. “Member C” will continue to receive data for the Simple Order Report and Complex Order Report through the end of February 2027. At that time, if “Member C” wanted to continue subscribing to only the Simple Order Report and Complex Order Report, then “Member C” would be assessed pro-rated fees of \$16,666.67¹⁴ covering March, April, May and June 2027, which is based on the discounted rate for multiple annual subscriptions (*i.e.*, \$50,000 annually). This is calculated by dividing the proposed annual fee of \$50,000—the discounted rate for annual subscriptions to multiple Reports (other than the Resting Simple Order Report)—by twelve months ($\$50,000/12 = \$4,166.66$) and then multiplying by the number of months remaining until the July 1st semi-annual renewal date, including any partial month when the subscription began (*i.e.*, March, April, May and June 2027, which equals four total months). Beginning July 1, 2027, the semi-annual renewal date, “Member C” would be assessed the discounted annual fee of \$50,000 for multiple subscriptions, which would run through June 30, 2028.

Example 4

“Member D” has a monthly subscription to the Simple Order Report. “Member D” will continue to pay the \$4,000 monthly subscriber fee each month until the end of December 2026. At that time, “Member D” may terminate their subscription entirely (or at anytime before December) or transition to an annual subscription for the Simple Order Report, which would be \$30,000, effective for January 1, 2027. In this case, there would be no pro-rated fees because January 1st is the semi-annual renewal date.

Example 5

“Member E” has annual subscriptions to both the Simple Order Report and Complex Order Report beginning March

¹⁴ Throughout this filing, the Exchange rounded up or down to the nearest whole cent when providing fee calculations.

1, 2026. “Member E” is assessed the \$40,000 discounted fee pursuant to the “12 Month Subscription Discount” as currently provided for in Section 7 of the Fee Schedule, pursuant to which the Exchange will provide “Member E” the data for the Simple Order Report and Complex Order Report each month through February 2027. Assume that in September 2026, “Member E” wants to add an annual subscription to the Purge Report. In this case, the Exchange will assess “Member E” the pro-rated discounted fee for multiple annual subscriptions until the “12 Month Subscription Discount” expires, at which time the newly proposed rates for subscribing to two or more annual reports will apply, as described above. For clarity, to add an annual subscription to the Purge Report in September 2026, “Member E” will be assessed an additional \$1,666.67 each month (calculated by dividing the \$20,000 discounted price to add an annual subscription to the Purge Report based on the multiple report annual discount and is in addition to the \$40,000 already paid) for September, October, November, and December 2026, as well as January and February 2027. Beginning March 1, 2027, assuming “Member E” wants to continue annual subscriptions to the Simple Order Report, Complex Order Report and Purge Report, the Exchange will assess “Member E” the monthly pro-rated amount for three annual subscriptions until the next semi-annual renewal date of July 1, 2027. Accordingly, “Member E” will be assessed \$5,833.33 each month of March, April, May and June 2027. This is calculated by dividing the annual fee for subscribing to all three of the Simple Order Report, Complex Order Report and Purge Report (\$70,000) by twelve months, which equals \$5,833.33 per month until the next semi-annual renewal date. On July 1, 2027, “Member E” will be assessed the full annual fee for multiple annual subscriptions of \$70,000.

The purpose of establishing the discount program for market participants that purchase annual subscriptions to two or more of the Reports is to provide an incentive via reduced fees for market participants to continue receiving the data provided in the Reports.

* * * * *

The Reports are being offered to Members on a completely voluntary basis in that the Exchange is not required by any rule or regulation to make this data available and potential subscribers may purchase any report

only if they voluntarily choose to do so. It is a business decision of each Member whether to subscribe to each Report or not. Not all Members purchase the Reports. Members may cancel their subscription to any of the Reports at any time.

The proposed changes are effective beginning April 1, 2026.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁶ in particular, in that it is 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 protect investors and the public interest, and is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for the reports is consistent with Section 6(b) of the Act¹⁷ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁸ in particular, in that it is an equitable allocation of dues, fees and other charges among its Members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“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 Reports further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The Reports also promote increased transparency through the dissemination of the data contained in each of the Reports. Particularly, the Reports will benefit investors by facilitating their prompt access to the value-added information that is included in each of the Reports. The Reports will allow Members to access information regarding their trading or purge activity that they may utilize to evaluate their own trading or purge behavior and order interactions.

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(4).

Proposals To Increase the Annual Fee for the Simple Order Report, Complex Order Report and Resting Simple Order Report and Establish Fees for the Purge Report

The Exchange believes the proposed increased annual fee for the Simple Order Report and Complex Order Report are reasonable as the proposed increase is modest and is still comparable to the annualized fee charged by other exchanges for similar reports. In particular, BZX and EDGX each assess a monthly fee of \$3,500 for subscriptions to their Missed Liquidity Reports. On an annualized basis, a BZX or EDGX member would pay a total of \$42,000 per year for the Missed Liquidity Report (\$3,500 per month multiplied by 12 months). When compared to the Exchange’s proposed annual fee of \$30,000 for each of the Simple Order Report or Complex Order Report, the Exchange believes its proposed fee increase is reasonable. Further, when looking at the Exchange’s proposed fee for the Simple Order Report and Complex Order Report on a per month basis, the Exchange believes the proposed fee is reasonable as it is effectively less than the monthly fee assessed by BZX and EDGX for their similar reports (*i.e.*, \$30,000 divided by twelve months = \$2,500 per month).¹⁹

The Exchange believes the proposed increased fee for an annual subscription to the Resting Simple Order Report is reasonable as the proposed fee is still both modest and lower than fees (as proposed to be increased herein) charged by the Exchange for similar data products, *i.e.*, the Simple Order Report and Complex Order Report. The proposed increased fee for the Resting Simple Order Report continues to be less expensive than the Exchange’s Simple Order Report and Complex Order Report because the Exchange believes that the information provided in the Resting Simple Order Report may not be as valuable to market participants as the other information contained in the Simple Order Report and Complex Order Report, which measures the data in the first 200 microseconds of the time the resting order was received by the Exchange. While the Exchange believes that the Resting Simple Order Report continues to be useful to market participants, it may not be as helpful as the other reports offered by the Exchange and, therefore, the Exchange proposes a lower annual fee for the Resting Simple Order Report.

The Exchange believes the proposed fees for the Purge Report are reasonable

¹⁹ See *supra* note 11.

because they are identical to the fees (as proposed) that the Exchange assesses for its Simple Order Report and Complex Order Report. The Exchange also believes the proposed fees for the Purge Report are reasonable as they would support the introduction of a new market data product to Market Makers that are interested in gaining insight into latency in connection with purge messages that failed to cancel their quotes resting on the Simple Order Book. The Purge Report accomplishes this by providing those Market Makers data to analyze by how much time their purge message may have missed cancelling a quote before (or after) execution of that quote against a contra-side order. The Purge Report will provide greater visibility by showing how much time a purge message missed canceling a quote, particularly as market conditions change throughout the day and Market Makers attempt to cancel and replace quotes in certain symbols.

Indeed, if the Exchange proposed fees that market participants viewed as excessively high, then the proposed fees would simply serve to reduce demand for the Reports, which as noted, are entirely optional. Other options exchanges are also free to introduce their own comparable data products with lower prices to better compete with the Exchange's offerings. As such, the Exchange believes that the proposed fees for the Reports are reasonable and set at a level to compete with other options exchanges that may choose to offer similar reports or do offer similar reports today. Moreover, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Reports and instead purchase another exchange's similar data product, which may offer similar data points, albeit based on that other market's trading activity.

Selling market data, such as one of the Reports, is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in continuing to attract subscribers for the Reports, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, firms can decrease or discontinue their use of the data and/or avail themselves of similar products that may be offered by other exchanges.²⁰ The Exchange, therefore, believes that the proposed fees for the Reports reflect the competitive environment and would be properly

assessed to subscribers to each of the Reports. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all subscribers who choose to purchase such data. It is a business decision of each Member that chooses to purchase any of the Reports. The Exchange's proposed fees would not differentiate between subscribers that purchase the Reports and are set at modest levels that would allow any interested Member to purchase such data based on their business needs.

The Exchange reiterates that the decision as to whether or not to purchase the Reports is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the Reports, and the Exchange is not required to make the Reports available to all investors. It is entirely a business decision of each Member to subscribe to the Reports. The Exchange offers the Reports as a convenience to Members to provide them with additional information regarding trading or purging activity on the Exchange on a delayed basis after the close of regular trading hours. A Member that chooses to subscribe to the Reports may discontinue receiving the Reports at any time if that Member determines that the information contained in the Reports is no longer useful.

Proposal To Establish a Sunset Period for Monthly Subscriptions

The Exchange believes its proposal to sunset monthly subscriptions at the end of 2026 is reasonable because it is intended to reduce billing complexity and streamline the fee structure for the Reports. The Exchange notes that the majority of subscribers purchase annual subscriptions to the Reports and each monthly subscriber will have nine months to determine whether they would like to transition to an annual subscription or terminate their subscriptions altogether. The Exchange believes this proposed change is equitable and not unfairly discriminatory because all subscribers will be subject to the same annual fees once the sunset period ends for monthly subscriptions, with the annual fee for each Report assessed at a discounted rate compared to the current monthly rates. The Exchange also believes that transitioning to only annual subscriptions will improve the efficiency by which the Exchange may deliver the Reports by doing so on a regular basis over a prolonged and set period of time.

Proposal To Establish a Discount Program for Multiple Annual Subscriptions

The Exchange also believes it is reasonable to provide discounts for market participants that subscribe to multiple Reports. The Exchange believes the discounted fees for subscribers to multiple Reports may incentivize more Members to subscribe and determine whether they realize value from the Reports. The Exchange believes the discounted fees for the Reports is equitable and not unfairly discriminatory because the discounted rates will apply equally to all market participants that subscribe to two or more of the Reports.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Inter-Market Competition

The Exchange developed the Reports in order to keep pace with changes in the industry and evolving customer needs and demands, and believes the Reports will continue to contribute to robust competition among national securities exchanges, including with the proposed fee changes described herein. The Exchange believes the proposed fee changes in this filing permit fair competition among national securities exchanges, all of which may create similar data products for their markets, including at least two exchanges that already offer similar products.²¹

The Exchange does not believe the proposed fee changes would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own comparable reports with lower prices to better compete with the Exchange's offerings. The Exchange operates in a highly competitive environment, and its ability to price the Reports is constrained by competition among exchanges who choose to adopt similar products. The Exchange must consider this in its pricing discipline in order to compete for subscribers of the Exchange's market data via the Reports. For example, proposing fees that are excessively higher than fees for potentially similar data products would simply serve to reduce demand for the Exchange's Reports, which as discussed, market participants are under no obligation to utilize. In this competitive environment, potential purchasers are

²⁰ See *supra* note 11.

²¹ See *supra* note 11.

free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Intra-Market Competition

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fees apply uniformly to any purchaser in that the Exchange does not differentiate between subscribers that purchase the reports. The proposed fees are set at a modest level that would allow any interested Member to purchase such data based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,²² and Rule 19b-4(f)(2)²³ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-SAPPHIRE-2026-15 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-SAPPHIRE-2026-15. 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-SAPPHIRE-2026-15 and should be submitted on or before May 8, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07493 Filed 4-16-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105229; File No. SR-CboeEDGA-2026-010]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)-(D) To Describe the Behavior of Orders Containing a Non-Displayed Instruction

April 14, 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 8, 2026, Cboe EDGA Exchange, Inc. (the "Exchange" or "EDGA") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the

proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (the "Exchange" or "EDGA") is filing with the Securities and Exchange Commission ("Commission") a proposal to amend Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)-(D) to describe the behavior of orders containing a Non-Displayed instruction. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)-(D) to describe the behavior of orders containing a Non-Displayed instruction. The Commission recently approved a filing by the Exchange's affiliate exchange, Cboe EDGX Exchange, Inc. (hereinafter "EDGX" or "EDGX Exchange"), to implement a substantially similar amendment to EDGX Exchange Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)-(D) in conjunction with EDGX's proposal to introduce a Retail Price Improvement ("RPI")

²² 15 U.S.C. 78s(b)(3)(A)(ii).

²³ 17 CFR 240.19b-4(f)(2).

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

program (the “EDGX RPI Filing”).⁵ The Exchange proposes to amend Rule 11.6(e)(2) and Rule 11.10(a)(4)(C) to become substantially similar to EDGX Exchange Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D), which as described above, were recently approved by the Commission. The only differences between the proposed Rules and the EDGX Rules are references to corresponding rules within the EDGA Rulebook that differ from the EDGX Rulebook. The Exchange is also not proposing to introduce an RPI Program as was contained in the EDGX RPI Filing.

By way of background, the Exchange currently permits orders to be entered with a Non-Displayed instruction (a “Non-Displayed Order”) pursuant to Rule 11.6(e)(2). Current Rule 11.6(e)(2) states that a Non-Displayed instruction is “[a]n instruction the User⁶ may attach to an order stating that the order is not to be displayed by the System on the EDGA Book.”⁷ The Exchange now proposes to amend Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) in order to more accurately describe the price at which a Non-Displayed Order posts to the EDGA Book and at what price a Non-Displayed Order may execute in certain situations. The Exchange believes the proposed amendments to Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) are necessary in order to provide market participants with greater certainty and clarity regarding the current entry and execution of orders with Non-Displayed instructions on the Exchange. The Exchange also believes the proposed amendments are necessary to align the rules of the Exchange with the rules of its affiliate, EDGX Exchange.

Specifically, the Exchange proposes to introduce Rule 11.6(e)(2)(A), which provides that when a Non-Displayed Order is entered, the Non-Displayed Order will be executed against previously posted orders on the EDGA Book that are priced equal to or better than the price of the Non-Displayed Order, up to the full amount of such previously posted orders, unless such executions would trade through a Protected Quotation.⁸ Any portion of a

Non-Displayed Order that cannot be executed in this manner will be posted to the EDGA Book, (unless the Non-Displayed Order has a time-in-force of Immediate-or-Cancel (“IOC”)⁹ and/or routed if it has been designated as a routable order.

Next, the Exchange next proposes to introduce Rule 11.6(e)(2)(B), which describes the price at which a Non-Displayed Order is posted and ranked on the EDGA Book in the event that it is not executed pursuant to proposed Rule 11.6(e)(2)(A). Proposed Rule 11.6(e)(2)(B)(i) provides if the limit price of a Non-Displayed Order would lock the EDGA Book, the Non-Displayed Order will be posted on the EDGA Book at the locking price and will be executed as set forth in Rule 11.10(a)(4)(D). If, however, an inbound Non-Displayed Order cannot execute due to User instruction (e.g., Post Only¹⁰ or minimum quantity) and does not contain a price slide instruction, the Non-Displayed Order will be cancelled. An inbound Non-Displayed Order that cannot execute upon entry and contains a price slide instruction will be ranked at the locking price upon entry. Proposed Rule 11.6(e)(2)(B)(ii) provides if the limit price of the Non-Displayed Order would cross a Protected Quotation and the Non-Displayed Order contains a price slide instruction, the Non-Displayed Order will be executed as set forth in Rule 11.6(l)(1)(B) or cancel, based on User instruction. If the entered limit price of the Non-Displayed Order would cross a Protected Quotation and the Non-Displayed Order does not contain a price slide

quotation that is the best bid or best offer of a national securities exchange or association. The term “Protected Quotation” shall mean a quotation that is a Protected Bid or Protected Offer.

⁹ See Exchange Rule 11.6(q)(1). Immediate-or-Cancel (“IOC”) is 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.

¹⁰ See Rule 11.6(n)(4). A Post Only instruction is 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 EDGA Book, except as described below. An order with a Post Only instruction will remove contra-side liquidity from the EDGA 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 EDGA Book and subsequently provided liquidity, include the applicable fees charged or rebates provided.

instruction, the Non-Displayed Order will cancel or route, based on User instruction. Proposed Rule 11.6(e)(2)(B)(iii) provides that in situations where there is a resting Non-Displayed Order on the buy (sell) side of the market and an incoming Non-Displayed Order on the sell (buy) side of the market is unable to execute due to User instruction (e.g., Post Only or minimum quantity) and posts to the EDGA Book at a price that locks the resting Non-Displayed Order, an incoming Non-Displayed Order on the buy (sell) side of the market may execute with the resting Non-Displayed Order on the sell (buy) side of the market at the locking price ahead of the Non-Displayed Order on the buy (sell) side of the market. The Exchange believes that it is more appropriate to permit later-arriving orders to execute ahead of a resting order posted to the EDGA Book that is in a locked state due to the presence of a contra-side order with specific User instructions (e.g., Post Only or minimum quantity) rather than cancel or slide the later-arriving order due to the information leakage that would occur as a result of the cancellation. The Exchange has included an example to demonstrate this operation, which is contained in proposed Rule 11.6(e)(2)(B)(iii).

Example

- NBBO for security ABC is \$10.00 × \$10.05.
- User 1 enters a MidPoint Peg¹¹ order to buy 100 shares of ABC at \$10.03. User 1’s order is posted to the EDGA Book and ranked at \$10.025.
- User 2 enters a MidPoint Peg Post Only order to sell 100 shares of ABC at \$10.02. User 2’s order is posted to the EDGA Book and ranked at \$10.025.
- User 3 enters an IOC order to buy 100 shares of ABC at \$10.05.
- **Result:** Pursuant to proposed Rule 11.6(e)(2)(B)(iii), User 3’s order trades with User 2’s MidPoint Peg Post Only order at a price of \$10.025. In this instance, User 3’s order trades with User 2’s order ahead of User 1’s order because when User 2’s order was originally entered, it was unable to execute due to the Post Only instruction. As both User 2’s order and User 1’s order are non-displayed orders (MidPoint Peg orders by nature are non-displayed), the Exchange allows User 2’s order to post to the EDGA Book and

¹¹ See Rule 11.8(d). A MidPoint Peg order is a non-displayed Market Order or Limit Order with an instruction to execute at the midpoint of the NBBO, or, alternatively, pegged to the less aggressive of the midpoint of the NBBO or one minimum price variation inside the same side of the NBBO as the order.

⁵ See Securities Exchange Act Release No. 105052 (March 19, 2026), 91 FR 14052 (March 24, 2026) (SR-ChoeEDGX–2025–072).

⁶ See Rule 1.5(ee). The term “User” shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.

⁷ See Rule 1.5(d). The term “EDGA Book” shall mean the System’s electronic file of orders.

⁸ See Rule 1.5(v). The term “Protected Bid” or “Protected Offer” shall mean a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated

be ranked at the locking price as the non-displayed nature of these orders would not cause a violation of Regulation NMS. The Exchange believes that if it were instead to slide User 2's order in accordance with Rule 11.6(l)(3) or cancel User 2's order so that it would not create an internal locked book, the act of sliding or cancelling User 2's order would result in information leakage. As such, the Exchange believes that it is appropriate to permit User 3's order to trade ahead of User 1's resting order at a price of \$10.025.

Finally, the Exchange also proposes to amend Rule 11.10(a)(4)(C)–(D) to better describe the execution of Non-Displayed Orders in situations where a locked market exists on the EDGA Book. Rule 11.10(a)(4)(C) currently states that certain orders are permitted to post and rest on the EDGA Book at prices that lock contra-side liquidity, provided, however, that the System will never display a locked market. The Exchange proposes to add language to Rule 11.10(a)(4)(C) to provide that consistent with Rule 11.9, which sets forth the Exchange's rule regarding priority of orders, Non-Displayed Orders and orders subject to display-price sliding as set forth in Rule 11.6(l)(1) (defined as the "Resting Orders") cannot be executed pursuant to Rule 11.10 when such Resting Orders would be executed at prices equal to displayed orders on the opposite side of the market (the "Locking Price").¹² The Exchange also proposes to amend Rule 11.10(a)(4)(D) to conform with the proposed changes in Rule 11.10(a)(4)(C) with regard to the use of the terms Resting Order and Locking Price. Proposed Rule 11.10(a)(4)(D) will be revised from its current text to provide that in the event that an incoming order described in subparagraphs (A) and (B) is a Market Order or is a Limit Order priced more aggressively than the Locking Price of a Resting Order as described in subparagraph (C), the Exchange will execute the Resting Order at, in the case of a Resting Order bid, one-half minimum price variation less than the Locking Price, and, in the case of a Resting Order offer, one-half minimum price variation more than the Locking Price.

The proposed changes to Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) will describe the current behavior of

orders containing a Non-Displayed instruction in greater detail and align the rules of the Exchange with its affiliate exchange, EDGX. The Exchange is not proposing to amend its current functionality regarding Non-Displayed Orders, but rather seeks to amend its rules so that Users and other market participants will have greater certainty and clarity regarding how a Non-Displayed Order is posted and ranked on the EDGA Book during certain scenarios involving locked and crossed markets.

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.¹³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ 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)¹⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed amendments to Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) to introduce additional rule text describing the entry and execution of Non-Displayed Orders on the Exchange promote just and equitable principles of trade by providing additional certainty and clarity to market participants regarding how the System processes Non-Displayed Orders. Specifically, the Exchange seeks to provide additional information regarding the price at which a Non-Displayed Order is posted and ranked on the EDGA Book when a Non-Displayed Order either locks or crosses a Protected Quotation or when a Non-Displayed Order locks the EDGA Book. Further, the Exchange is not proposing to amend Non-Displayed Order

behavior, but rather only seeking to introduce additional language to its rules to provide additional explanation and clarity to Users and market participants about Non-Displayed Order behavior during a locked or crossed market scenario. By introducing the proposed rule text, Users will have a better understanding of how a Non-Displayed Order is posted and ranked during certain scenarios involving locked and crossed markets, which benefits all Users and the marketplace as a whole.

Additionally, the Exchange believes its proposal to introduce additional rule text describing the entry and execution of Non-Displayed Orders on the Exchange is not unfairly discriminatory as all Users and market participants will be subject to the same application of the Exchange's rules and will have equal access to the Exchange rulebook. Finally, the Exchange notes that the proposed text of Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) has already been approved by the Commission for the Exchange's affiliate exchange.¹⁶ Indeed, the proposed amendments are substantially similar those approved by the Commission for EDGX Exchange with differences only to account for the Exchange's existing rule text. Thus, the proposed amendments to Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) do not present any novel issues for the Commission's consideration.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes do not impose any burden on intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes to Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) are not proposed for competitive reasons but rather to provide Users with additional clarity and transparency about what price a Non-Displayed Order is posted, ranked, and executed during certain scenarios involving locked and crossed markets. Nor do the proposed changes modify the functionality or behavior of Non-Display Orders or any other order type on the Exchange. Rather, the proposed rule changes clarify the current functionality and behavior of Non-Displayed Orders on the Exchange. The proposed rule changes will also align the Exchange's rule text with that

¹² Any incoming order that would execute against the Resting Order at the Locking Price would receive a priority advantage over the displayed order at the Locking Price. As such, the Exchange does not execute a Resting Order against an incoming order at the Locking Price if there is also a displayed order resting on the EDGA Book at the Locking Price.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ *Id.*

¹⁶ *Supra* note 5.

of its affiliate exchange, EDGX. Finally, all Users and market participants will be subject to the same application of the Exchange's rules and will have equal access to the Exchange rulebook. Thus, the proposed rule changes add clarity and transparency to the rules of the Exchange regarding Non-Displayed Orders and will not impose any burden on intramarket or intermarket competition.

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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁷ and Rule 19b-4(f)(6)¹⁸ thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay contained in Rule 19b-4(f)(6)(iii) so that the proposed rule change may become operative upon filing. The Exchange states that the proposed rule change will align the Exchange Rules regarding treatment of Non-Displayed Order with that of the Exchange's affiliate, EDGX. Because the proposed rule change does not raise any novel regulatory issues, the Commission believes that waiver of the operative delay is consistent with the protection with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.¹⁹

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-ChoeEDGA-2026-010 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-ChoeEDGA-2026-010. 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-ChoeEDGA-2026-010 and should be submitted on or before May 8, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07488 Filed 4-16-26; 8:45 am]

BILLING CODE 8011-01-P

²⁰ 17 CFR 200.30-3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105233; File No. SR-LCH SA-2026-001]

Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to the CDSClear Risk Framework

April 14, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 8, 2026, Banque Centrale de Compensation, which conducts business under the name LCH SA ("LCH SA"), 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 the clearing agency. 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

LCH SA is proposing to modify its CDS Clearing risk framework by amending the (i) CDSClear Margin Reference Guide (the "Margin Guide") and (ii) CDSClear Default Fund Reference Guide (the "Stress Guide") to incorporate and accommodate the proposed changes and also adopt the new common LSEG template (the "Proposed Rule Change").

The text of the Proposed Rule Change has been annexed as Exhibit 5.³

The implementation of the Proposed Rule Change will be contingent on LCH SA's receipt of all necessary regulatory approvals.⁴

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA included statements concerning the purpose of and basis for the Risk Policies and discussed any comments it received on the Risk Policies. The text of these statements may be examined at the places specified in Item IV below.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ All capitalized terms not defined herein have the same definition as in the Rule Book or Procedures, as applicable.

⁴ The Proposed Rule Change was already approved by the French competent authorities and Emir College under the procedure for EMIR Article 49 (ESMA91-1505572268-4323 Final Report on EMIR 3 RTS model validations) and also rule certified with the CFTC (rules02252639859.pdf)

¹⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁸ 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.

¹⁹ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

LCH SA 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 Proposed Rule change is being adopted by LCH SA to amend the risk framework of its CDSClear service to address certain LCH SA Model Validation Team recommendations issued originally from an independent regular annual review performed in 2020 related to the lookback period as part of the Spread Margin calculation, in particular a request to introduce a fixed size of the lookback period to avoid dilution risk which may arise in an ever growing lookback period if only mild scenarios are added and the average over an ever growing number of worst case scenarios is progressively trending downwards. LCH SA is also proposing to amend the stress scenario definitions to ensure all scenarios are plausible. This stress scenario change is expected to lead to a significant decrease in the Default Fund as most existing scenarios are shown to exceed the once-in-thirty-year event threshold defined in the LCH SA Financial Risk Adequacy Policy,⁵ therefore leading to a currently overconservative Default Fund. LCH SA will still meet or exceed the 99.7% coverage target for all members and will still be able to withstand the default of the two simultaneous defaults of the largest member groups under extreme but plausible market conditions. To effectuate these changes, LCH SA is proposing to amend its Margin Guide and its Stress Guide to accommodate those proposed changes. LCH SA is also proposing to restructure and reorganize the contents in each document to conform with a common template adopted by LSEG entities.⁶ This common template aims to make it easier for model validation teams to review all models across LSEG.

Specifically, LCH SA is proposing to modify the Spread Margin calculation to:

- reduce the size of the lookback period;

- reduce the weight given to the current volatility when rescaling historical returns;
- change the risk measure for the spread margin floor to be a VaR;
- consider profit and loss ("P&L") over five days in each scenario of the spread margin; and
- adjust historical returns from 2007 to make them more relevant to current market regime.

LCH SA is also proposing to modify the stress scenario definitions to ensure all scenarios are plausible.

LCH SA has determined that LCH SA's CDS Clearing Rules currently appropriately describe the Proposed Rule Change and, therefore, no change in the legal documentation is necessary. However, to accommodate those proposed changes, LCH SA is proposing to amend the Margin Guide and the Stress Guide as follows.

a. The Margin Guide

LCH SA is proposing to amend the Margin Guide to incorporate changes related to the Spread Margin to address the dilution risk mentioned earlier in the document, and replace the ever-growing lookback period by one with a fixed size. The lookback will always be composed of a stressed period and a 10-year rolling window. This stressed period is July 2007 to June 2010 in the current proposal but would be reviewed every year as part of the annual model validation. To anticipate the potential disappearance of significant dates, the proposed changes are also accompanied by a new annual test which would assess the impact on the spread margin of removing the oldest year of the 10-year rolling window. LCH SA is proposing to make other clarifying and conforming changes as part of the transfer to the new LSEG template. The proposed changes to the Risk Framework are as follows:

- Section 4.7.4 introduces the concept of a 10-year rolling lookback window, joined with a fixed three-year period also included in the lookback, as well as the treatment applied to historical data from 2007, covering two of the five changes listed above in impacting the Spread Margin, namely reduce the size of the lookback and adjust historical returns from 2007 to make them more relevant to the current market regime. The proposed change in the lookback period would apply to both the scaled and unscaled model, in order to ensure that the sample does not grow over time.
- LCH SA proposes to update the 10-year rolling window daily, with one day from the previous 10 years dropping and the most recent day being added.

This addresses the dilution risk originally flagged by the model validation team while recognizing the regime change observed during the period.

- Section 5.2.4.2 replaces the Expected Shortfall measure by a VaR measure for the Spread Margin floor using unscaled returns, as part of the Proposed Rule Change. In other words, the core spread margin calculation that is using volatility scaled returns is still using an Expected Shortfall measure, but the Spread Margin floor is moving from Expected Shortfall to VaR. As a consequence, the Spread Margin will move from being the max between an Expected Shortfall using volatility scaled returns and an Expected Shortfall using unscaled returns to being the max between an Expected Shortfall using volatility scaled returns and a VaR using unscaled returns. This simplifies the floor, ensures the main model is driving the margin more often, and aligns with general market practice for a regulatory floor.

- Spread margin scenarios currently retain the worst end of day point over the 5-day period of the calculation. Section 5.2.4.1.5 shows a P&L calculated between business date and business date plus five, reflecting the fact that the P&L will now be calculated as at the five-day P&L. This significantly reduces the complexity of the calculations and therefore helps speed up the margin calculations, so that CDSClear can confirm within the regulatory timeframe whether a trade sent for clearing is accepted or rejected, as required by EU MiFIR⁷ and U.S. CFTC⁸ regulations. This change allows us to calculate only one P&L per scenario of the Expected Shortfall, instead of calculating five P&Ls and taking the worst, which cuts down calculation time with a minimal impact on the final margin.

- Section 5.2.4.1.1 replaces the 50% weight given to the current volatility with a 25% weight when rescaling returns before applying them to create simulated spread scenarios, as part of

⁷ See Article 29 of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments (MiFIR) and amending Regulation (EU) No 648/2012 requiring authorized CCPs to establish effective systems, procedures and arrangements to ensure that cleared derivatives transactions are submitted and accepted for clearing on a straight-through processing ("STP").

⁸ See 17 CFR 39.12(b)(7)(ii) requiring a DCO to have rules that provide that the DCO will accept or reject for clearing as quickly after execution as would be technologically practicable if fully automated systems were used, all contracts that are listed for clearing by the DCO and are executed competitively on or subject to the rules of a DCM or SEF.

⁵ See Exchange Act Release No. 104051 (Sept. 25, 2025), 90 FR 47001 (Sept. 30, 2025) (SR-LCH SA-2025-007), which approved the LCH SA Financial Risk Adequacy Policy.

⁶ LCH SA is a wholly owned subsidiary of LCH Group Holdings Limited which is majority owned by London Stock Exchange Group plc (LSEG), and therefore LCH SA is part of the LSEG group.

the Proposed Rule Change. This means that after having divided past returns by the volatility observed on that past date to normalize the return, it is now multiplied by a value equal to the sum of 25% of the current volatility and 75% of the volatility on the past date corresponding to the original return, instead of having both weights set to 50%. This feature helps improve the procyclicality risk profile of the Spread Margin as it gives less weight to the most recent volatility and therefore decreases the impact renewed market volatility may have on the margins.

- Section 5.2.4.1.6 amends the logic for applying jump to default calculations ahead of an option exercise date, such that defaults are assumed to happen after the credit spreads have moved and the exercise decision has been taken. This simplification relates to the change towards a five-day P&L, which leads to the short charge calculation now only occurring on day five of each scenario, instead of happening for each day of each scenario.

The remainder of the Risk Framework described in the Margin Guide does not change the calculations. Some sections of the previous version of the document have been copied as is, commented as “No Change” in the Excel chart filed as Exhibit 3 that maps the sections of the previous version of the Margin Guide to the sections of the new version, while others have been rewritten for clarity. In this regard:

- A new Section “Executive Summary” is providing a high-level view of the CDS Clear Risk Framework to comply with the LSEG model documentation template requirements.

- A new Section 1 is providing more context on the use and purpose of the model to comply with the LSEG model documentation template requirements.

- A new Section 2 is providing details of the model limitations and compensating controls. Most were already existing and documented elsewhere, and only one new limitation is introduced related to the control put in place to monitor the potential removal of key historical events from the 10Y rolling lookback window used in the spread margin calculations.

- Old Section 3.1 giving a summary of multiple margins has been removed to now separate margins into different sections to comply with the LSEG model documentation template requirements.

- Section 4.7.2 is largely unchanged from the previous Section 2.3.1, with a minor update to incorporate the description of structural and contractual subordination for credit default swaps.

- Section 4.1 is based on the previous Section 2.3.4 but expands to give more details of the market data processing upstream of the margin calculations, in order to satisfy the requirements of the new LSEG template.

- Section 5 introduces margins that were missing from the summary table (Contingency Variation Margin a.k.a. CVM, Legal Entity Identifier margin a.k.a. LEI, Net Capital Ratio, Credit Quality Margin and Default Fund Additional Margin a.k.a. DFAM were missing).

- Section 5.1.4.1 rewrites the presentation of the different combinations of the International Swaps and Derivatives Association (“ISDA”) definitions and seniorities considered in the jump to default scenarios, summarizing them all in a table, without changing the calculation.

- Sections 5.1.4.3 and 5.2.4.3.5 clarify the treatment of jump to default risk close to maturity dates to cover the risk that bought protection via a CDS contract, index or single name, would not be applicable for credit events happening after the maturity date of the contract, not introducing any change in the calculation.

- Section 5.2.4.1.7.1 replaces the multiple tables of combinations of defaults and recovery rates from the previous section 3.5.1 into a single condensed table to ease the reading, not introducing any change in the calculation.

- Section 5.2.4.3.4 is modifying the split of Spread Margin and Short Charge, without affecting the sum of both margins considered together. Previous Section 3.5.6 was considering Spread Margin as an Expected Shortfall calculation of its own, and the Short Charge as a difference between (a) an Expected Shortfall considering continuous market moves and jump to default risk jointly and (b) the Spread Margin. This makes it difficult to decompose the margins as the worst scenarios selected in (a) are not necessarily the same as the scenarios selected in (b). To remedy this, the new Margin Guide will still consider an Expected Shortfall covering market moves and jump to default risk, but defines the Spread Margin as the part of the P&L attributable to the market moves only, while the Short Charge represents the incremental P&L attributable to jump to default risk within the same Expected Shortfall, on the same worst scenarios. Also, Spread Margin and Short Charge are now described together in one section to better explain the interplay between the credit spread risk and jump to default risk described in this paragraph.

- Section 5.4.4 is merging together the calculation for all types of products instead of separating them into different subsection to emphasize that the calculation logic remains the same.

- Section 5.5.4.1.1 simplifies the presentation of the Wrong Way Risk shock applied and removes the distinction between systemic and non-systemic entities from the definitions as the treatment is the same for both in the margin calculations.

- Section 5.5.4.1.5 clarifies how the correlation used in the wrong way risk calculation and the latest state of implementation of the most recent change to the wrong way risk model in a footnote.

- Sections 5.6.4.1. and 5.6.4.2. give more details about the purpose of each scenario defined in the Vega margin calculation.

- Section 5.7 describes the exact same calculation of Liquidity charge that was previously documented but now adds the clarifying sections required by the LSEG model documentation template such as a model overview and a description of the model inputs and outputs. It also introduces the official name of the relevant credit indices instead of their commonly used names.

- Section 5.8 describes the same calculation of Accrued Coupon Liquidation Risk margin that was previously documented with additional changes needed to accommodate the LSEG model documentation template.

- Section 5.9 describes the same calculation of Credit event margin that was previously documented with additional changes needed to accommodate the LSEG model documentation template.

- Section 5.10, which is based on Section 7 of the previous Margin Guide, clarifies the use case for Contingency Variation Margin (CVM). The margin is meant to cover the risk that Variation Margin (VM) may not be paid at the next VM call, and calls for extra collateral every time the expected VM call would be potentially larger than a single day of price moves. This can happen:

- For new trades, should the upfront be far from the current market value, the initial VM payment can be large; or

- When payment systems are closed. This is currently only relevant for USD, as LCH SA is open for clearing on days when U.S. banks are closed. In such a case, the VM that would have been expected to be paid in the morning is instead converted in Euros and called as CVM, to be released the next day when the USD VM can settle again.

- Section 5.11 describes the same calculation of Legal Entity Identifier margin that was previously documented

with additional changes needed to accommodate the LSEG model documentation template.

- Section 5.12 describes the same calculation of Net Capital Ratio margin that was previously documented with additional changes needed to accommodate the LSEG model documentation template.
- Sections 5.13 and 5.14 introduce margins that were covered in Sections 3.1 and 3.2 of the Stress Guide (respectively Credit Quality Margin and DFAM), without changing the calculations, to make it clear that these are charged as part of the IM like all other margins described in the Margin Guide. Section 5.14 however changes the order in which the calculation steps are presented to enhance readability.
- Section 5.15 is based on previous Section 5 but removes sections on coupon and upfront cashflows which are independent from the risk model.
- Sections 6, 7 and 8 are generic sections introduced to comply with the LSEG template requirements.

b. The Stress Guide

LCH SA is proposing to amend the Stress Guide to reflect the proposed changes to the definition of stress scenarios. Some non-substantive clarifications have also been proposed, at the request of the Model Validation Team or as part of the transfer to the new LSEG template. The proposed changes in the Stress Guide are as follows:

- Currently, the set of stress test scenarios have an assumption of an extended holding period of, at a minimum, five days, but this varies from one scenario to the next. As proposed, the newly renumbered Section 5.1.1.1 would clarify that the holding period considered in the calibration of stress scenarios is set to seven days across all scenarios. LCH SA believes this change is necessary to bring consistency between stress scenarios and make them more comparable to each other.
- Section 5.1.4 is the main change compared to the previous version, as it discards most of the old scenarios and introduces the new ones:
 - Currently, the listed scenarios, such as those calibrated around Lehman Brothers' 2008 collapse or Black Monday, do not satisfy the definition of plausibility as described in the LCH Financial Risk Adequacy Policy because of multipliers applied to the historical shocks. As such, the proposed historical scenarios would be chosen as plausible based on a defined set of consistent criteria across all scenarios such that the worst historical stress can be captured

consistently across multiple periods, but without adding arbitrary multipliers on top of historical moves which would push them beyond the plausibility limit. One criterion is used for directional scenarios and another for decorrelation scenarios, to identify the most significant seven-day periods through history for both kinds of events. This means historical moves such as the ones observed around the default of Lehman Brothers or during the trigger of the Covid crisis are still captured and reflected in the new set of historical scenarios.

- Currently, theoretical scenarios are based on expert judgment, with values which were deemed conservative enough to protect the CCP but without clean quantification of how plausible the scenarios were. As proposed, theoretical scenarios would rely on a multivariate distribution calibrated on historical data to generate extreme but plausible scenarios quantified as once-in-30 years events, in line with LCH policies. The calibrated distribution is used to generate sample joint returns across risk factors, which are then sorted based on criteria representing key trading strategies to identify the most extreme draws in the sample for each risk profile.

- Scenarios for implied volatilities would keep the same calibration but would be considered jointly with spread moves to better capture the cross-effect of both risk factors on the option price.

- Section 5.1.4.2 aligns the handling of option exercise with regular margins, assuming market moves happen first, then exercise decisions are reflected in the calculation, and then the impact of defaulting entities is considered.

The rest of the CDSClear risk framework described in the Stress Guide does not change. Some sections of the previous version of the document have been copied as is, commented as "No Change" in the chart that maps the sections of the previous version of the Stress Guide to the sections of the new version, while others have been rewritten for clarity. In this regard:

- A new section "Executive Summary" is providing a high-level view of the CDSClear Stress Risk Framework to comply with the LSEG model documentation template requirements;
- A new Section 1 is providing more context on the use and purpose of the model to comply with the LSEG model documentation template requirements;
- A new Section 2 is providing information on the model limitations and compensating controls to comply with the LSEG model documentation template requirements;

- A new Section 3 is justifying the modelling approach to comply with the LSEG model documentation template requirements;

- A new Section 4 is describing the modelling data to comply with the LSEG model documentation template requirements;

- Section 5.1.1.2 summarizes the definition of the Default Fund size in a more condensed manner, aligned with the LSEG template, without introducing any change to the calculation.

Section 5.1.4.4 rewrites the logic of the stressed Short Charge in the manner of the Short Charge in the Margin Guide, in particular introducing tables to more clearly summarize the combinations of ISDA definitions and seniorities that can default together and to summarize the recovery rates used in the Net Short Exposure calculations, leading to the corresponding deletions in Section 5.1.4.2.4 to avoid duplication. This section therefore replaces the old Section 2.4.

Although the proposed changes to the Spread Margin are expected to have a minimal impact, the changes to ensure all stress scenarios used to size the Default Fund are plausible is expected to have a noticeable impact, measured as a 41% decrease on average over the 12 month period leading to March 2026, with the minimum decrease measured at 32% and maximum decrease measured at 44%. As noted previously, this will not prevent LCH SA from being able to withstand the default of the two simultaneous defaults of the largest member groups under extreme but plausible market conditions. In terms of distribution of the impact across clearing members, all clearing members not triggering the default fund contribution floor will see a decrease in their Default Fund Contribution requirement of the same percentage as the allocation key is based on initial margin which is only marginally changing. This means that amongst members not triggering the default fund contribution floor the larger clearing members currently contributing larger euro amounts towards the Default Fund will see a larger euro amount of money credit to them when the changes are implemented, with the largest decrease in euros across the period equal to 605 million euros for the largest member. The smallest members who were subject to a default fund contribution floor set to 10 million euros would still be subject to the same floor and would therefore not see any change in their contribution amounts. In other words, all members would see the same relative impact on their contribution, except if

their contribution is small enough that it is floored to 10 million euros.

1. Statutory Basis

LCH SA has determined that the Proposed Rule Change is consistent with the requirements of Section 17A of the Act⁹ and regulations thereunder applicable to it, including Commission Rule 17ad–22(e).¹⁰ In particular, Section 17A(b)(3)(F) of the Act requires, *inter alia*, that the rules of a clearing agency be designed to “promote the prompt and accurate clearance and settlement of . . . derivatives agreements, contracts, and transactions”.¹¹ Through the proposed change toward a reduced lookback window and a five-day P&L, LCH SA is simplifying the margin calculations without a significant impact on the margin coverage expecting that this should promote the prompt and accurate clearance and settlement of the CDS/Clear instruments in accordance with the requirements of Section 17A(b)(3)(F) of the Act.¹²

Rule 17ad–22(e)(6)(i) requires a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed, as applicable, to cover 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.¹³ LCH SA believes that the Proposed Rule Change would enhance LCH SA’s risk-based margin system by improving the calculations with a revised volatility scaling which would limit procyclicality and a reduced lookback window decreasing the dilution of stressed periods and continuing to produce margin levels commensurate with the risks as illustrated by the back-testing performed on the new proposed model, which is fully consistent with the requirements of Rule 17ad–22(e)(6)(i).¹⁴

Rule 17ad–22(e)(4)¹⁵ requires LCH SA to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, among other requirements.

LCH SA believes that the proposed changes that would apply with the new risk model would continue to provide sufficient margin requirements to cover its credit exposure to its clearing members from clearing such contracts, consistent with the requirements of Rule 17ad–22(e)(4).¹⁶

Rule 17ad–22(e)(4)(vi)(B) and (C) requires LCH SA to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by testing the sufficiency of its total financial resources available to meet the minimum financial resource requirements by, among other things, conducting a comprehensive analysis on at least a monthly basis of the existing stress testing scenarios, models, and underlying parameters and assumptions; and conducting a comprehensive analysis of stress testing scenarios, models, and underlying parameters and assumptions more frequently than monthly when the products cleared or markets served display high volatility or become less liquid, or when the size or concentration of positions held by the covered clearing agency’s participants increases significantly.¹⁷ The Margin Guide and Stress Guide, including the proposed changes, interact with and remain subject to the Financial Resource Adequacy Policy (“FRAP”) that is part of its governance framework.¹⁸ The FRAP contemplates monthly reverse stress testing, and less than monthly under certain conditions, that is consistent with the comprehensive analysis requirement of Rule 17ad–22(e)(4)(vi)(B) and (C).¹⁹

Rule 17ad–22(e)(3)²⁰ requires LCH SA to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency. By adopting the new appropriate LSEG template in accordance with the Group requirements and by also addressing the LCH SA Model Validation Team recommendations for enhancing its risk

framework and meeting the relevant quality criteria in accordance with the existing Model Validation Policy and procedure, the Proposed Rule Change remains fully consistent with the requirements of Rule 17ad–22(e)(3).²¹

Rule 17ad–22(b)(3) requires, in relevant part, a clearing agency for security-based swaps to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain financial resources “sufficient to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions.”²² As discussed above, LCH SA is modifying the stress scenarios used to size the default fund to ensure they remain plausible. In particular, the usage of a quantitative approach to build market data shocks targeting the once in 30 years plausibility limit in line with LCH policies provide a clear procedure to maintain financial resources sufficient to withstand defaults in extreme but plausible market conditions. The actual sizing of the Default Fund itself does not change, such that LCH SA is still covering the default of two participant families to which it has the largest exposures.

For all the reasons stated above, LCH SA believes that the Proposed Rule Change is consistent with the requirements of prompt and accurate clearance and settlement of securities transactions in Section 17(A)(b)(3)(F)²³ of the Act, the requirements of a risk-based margin system in Rule 17ad–22(e)(6)(i)²⁴ and of a sound risk management framework in Rule 17ad–22(e)(3)²⁵ with also the monitoring and management of the credit exposures to participants in Rule 17ad–22(e)(4),²⁶ as well as with the requirements of 17ad–22(b)(3).²⁷

B. Clearing Agency’s Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act 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.²⁸ LCH SA does not believe that the proposed rule change would have any impact, impose burdens on competition that are not necessary or appropriate in furtherance of the

⁹ 15 U.S.C. 78q–1.

¹⁰ 17 CFR 240.17ad–22.

¹¹ 15 U.S.C. 78q–1(b)(3)(F).

¹² *Id.*

¹³ 17 CFR 240.17ad–22(e)(6)(i).

¹⁴ *Id.*

¹⁵ 17 CFR 240.17ad–22(e)(4).

¹⁶ *Id.*

¹⁷ 17 CFR 240.17ad–22(e)(4)(vi)(B) and (C).

¹⁸ See *supra* note 3.

¹⁹ 17 CFR 240.17ad–22(e)(4)(vi)(B) and (C).

²⁰ 17 CFR 240.17ad–22(e)(3).

²¹ *Id.*

²² 17 CFR 240.17ad–22(b)(3).

²³ 15 U.S.C. 78q–1(b)(3)(F).

²⁴ 17 CFR 240.17ad–22(e)(6)(i).

²⁵ 17 CFR 240.17ad–22(e)(3).

²⁶ 17 CFR 240.17ad–22(e)(4).

²⁷ 17 CFR 240.17ad–22(b)(3).

²⁸ 15 U.S.C. 78q–1(b)(3)(I).

purposes of the Act. Indeed, all clearing members would see the same relative decrease in their default fund contribution so that all clearing participants are treated equally, except if their default fund contribution is small enough that it is subject to the 10 million euros floor in which case the decrease could be smaller or even nil. The Proposed Rule Change was discussed with the current Clearing Members and would not affect their ability or of other market participants generally to engage in cleared transactions or to access clearing services. The Proposed Rule Change will have no effect on the open access model maintained by LCH SA.

Therefore, LCH SA does not believe that the proposed rule change would

impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the Proposed Rule Change and none have been received by LCH SA.

III. Date of Effectiveness of the Proposed Rule Change

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) by order approve or disapprove such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-LCH SA-2026-001 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-LCH SA-2026-001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>). Copies of the filing will be available for inspection and copying at the principal office of LCH SA and on LCH SA's website at <http://www.lch.com/resources/rules-and-regulations/proposed-rule-changes-0>.

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-LCH SA-2026-001 and should be submitted on or before May 8, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07492 Filed 4-16-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105232; File No. SR-MIAX-2026-14]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIA X Options Exchange Fee Schedule for All Liquidity Taker Event Reports

April 14, 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, Miami International Securities Exchange, LLC ("MIA X" or "Exchange") filed with the Securities and Exchange

Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIA X Options Exchange Fee Schedule (the "Fee Schedule") to: (i) increase the annual fee for all Liquidity Taker Event Reports (described below); (ii) establish annual and monthly fees for the Purge Liquidity Taker Report; (iii) establish a discount program for market participants with multiple annual subscriptions to the various Liquidity Taker Event Reports; and (iv) establish a sunset period in which the Exchange will no longer offer monthly subscriptions to all Liquidity Taker Event Reports.

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings> and at MIA X's principal office.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to: (i) increase (or, as described below, establish) the annual fee for all Liquidity Taker Event Reports;³ (ii) establish annual and

³ See Exchange Rules 531(a)-(d), providing the rule text for the following: (a) Liquidity Taker Event Report—Simple Orders (the "Simple Order Report"); (b) Liquidity Taker Event Report—Complex Orders (the "Complex Order Report"); (c) Liquidity Taker Event Report—Resting Simple Orders (the "Resting Simple Order Report"); and (d) Purge Liquidity Taker Report (the "Purge Report").

Continued

²⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

monthly fees for the Purge Report; (iii) establish a discount program for market participants with multiple annual subscriptions to two or more of the Reports; and (iv) establish a sunset period in which the Exchange will no longer offer monthly subscriptions to the Reports.

Background

Currently, the Exchange offers the Simple Order Report, Complex Order Report and Resting Simple Order Report as Member⁴-specific reports, which are available for purchase by Exchange Members on a voluntary basis. In general, the Simple Order Report, Complex Order Report and Resting Simple Order Report are each daily reports that provide a Member (“Recipient Member”) with its liquidity response time details for executions against an order resting on the Simple Order Book⁵ (or Strategy Book⁶), where that Recipient Member attempted to execute against such resting order within certain timeframes.⁷

For the Simple Order Report and Complex Order Report, the Exchange assesses a fee of \$4,000 per month for monthly subscribers or the discounted fee of \$24,000 per year for annual subscribers. For the Resting Simple Order Report, the Exchange assesses a fee of \$2,000 per month for monthly subscribers or the discounted fee of \$12,000 per year for annual subscribers. The Exchange also offers subscribers to both the Simple Order Report and Complex Order Report a discount for annual subscriptions to both of those reports called the “12 Month Subscription Discount” in Section 7 of the Fee Schedule. In particular, the Exchange assesses subscribers a discounted fee of \$40,000 per year when they purchase annual subscriptions to both the Simple Order Report and Complex Order Report. Subscribers with an existing 12 month subscription to

either the Simple Order Report or Complex Order Report, but not both, may add a subscription to the Simple Order Report or Complex Order Report during their current 12 month subscription. In such case, the fee for the added report is pro-rated for the remainder of the subscriber’s current 12 month subscription based on the amount of the 12 Month Subscription Discount. Subscribers receive the 12 Month Subscription Discount for subscribing to both the Simple Order Report and Complex Order Report on the renewal date of their original subscription. The Exchange also provides that new subscribers will be charged for the full calendar month for which they subscribe and will be provided Liquidity Taker Event Report (Simple, Complex, and/or Resting Simple Order Report) data for each trading day of the calendar month prior to the day on which they subscribed.

On January 26, 2026, the Exchange filed a proposed rule change with the Securities and Exchange Commission (“Commission”) to establish the Purge Report.⁸ In that filing, the Exchange stated that it would issue an alert to market participants regarding the date that the Purge Report would be available to subscribers. On March 26, 2026, the Exchange issued an alert announcing that the Purge Report would become available for subscription beginning April 1, 2026, with fees to be announced in a future alert and rule filing with the Commission.⁹

Proposal To Increase the Annual Fee for the Simple Order Report, Complex Order Report and Resting Simple Order Report

The Exchange proposes to amend Section 7 of the Fee Schedule to increase the annual fee for each of the Simple Order Report and Complex Order Report from \$24,000 to \$30,000.¹⁰ The Exchange notes that the annual fee for the Simple Order Report and Complex Order Report, as proposed to

be amended by herein (including the multiple report discount described below), remains similar to the annualized fee charged by other exchanges for their similar reports.¹¹ The proposed annual fee of \$30,000 for each of the Simple Order Report and Complex Order Report is also discounted when compared to the monthly fee for each report of \$4,000 (*i.e.*, \$4,000 per month multiplied by twelve months means that a subscriber that took the monthly subscription for an entire year would be charged \$48,000 rather than the \$30,000 proposed annual fee). The Exchange also proposes to increase the annual fee for the Resting Simple Order Report from \$12,000 to \$15,000. The Exchange does not propose to amend the monthly fee amounts.

Proposal To Establish Annual and Monthly Fees for the Purge Report

The Exchange proposes to amend Section 7 of the Fee Schedule to establish a new row in the table to provide for a monthly and annual fee for the Purge Report, which will be offered as a subscription for the first time beginning April 1, 2026. In general, the Purge Report, is a daily report that provides a Member (“Recipient Member”) with the liquidity response/taker time details for executions against quotes entered by the Recipient Member that are resting on the Simple Order Book that occur before and after the receipt of a purge¹² message sent by the Recipient Member, where that Recipient Member attempted to cancel such resting quote within the timeframes

The Simple Order Report, Complex Order Report, Resting Simple Order Report and Purge Report are collectively referred to herein as the “Reports.”

⁴ See Exchange Rule 100.

⁵ The “Simple Order Book” is the Exchange’s regular electronic book of orders and quotes. See Exchange Rule 518(a)(17).

⁶ The “Strategy Book” is the Exchange’s electronic book of complex orders and complex quotes. See Exchange Rule 518(a)(19). A “complex order” is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the “legs” or “components” of the complex order), for the same account, in a conforming or non-conforming ratio as defined in Exchange Rule 518 for the purposes of executing a particular investment strategy. See Exchange Rule 518(a)(5).

⁷ See Exchange Rules 531(a)–(c) (providing details regarding the information contained in each of the Simple Order Report, Complex Order Report, and Resting Simple Order Report).

⁸ See Securities Exchange Act Release No. 104778 (February 6, 2026), 91 FR 6276 (February 11, 2026) (SR-MIAX-2026-05).

⁹ See Trading Alert, MIA Exchange Group—Options Markets—Purge Liquidity Taker Report Launching April 1, 2026, available at <https://www.miaxglobal.com/alert/2026/03/26/miax-exchange-group-options-markets-purge-liquidity-taker-report-launching-2?nav=all>.

¹⁰ The Exchange also proposes to make non-substantive changes to amend all references in Section 7 of the Fee Schedule from “12 month subscription” to now be to “annual subscription.” The purpose of these changes is to provide consistency in the Fee Schedule regarding fees for the Reports, including changes proposed in this filing. The Exchange also proposes to delete the “12 Month Subscription Discount” as the Exchange proposes a revised discounted fee structure herein.

¹¹ See, *e.g.*, Cboe BZX Exchange, Inc. (“BZX”) Options Fee Schedule, Cboe Timestamping Service (assessing members a fee of \$3,500 per month for a subscription to the Missed Liquidity Report) and Cboe EDGX Exchange, Inc. (“EDGX”) Options Fee Schedule, Cboe Timestamping Service (assessing members a fee of \$3,500 per month for a subscription to the Missed Liquidity Report). On an annualized basis, a BZX or EDGX member would pay a total of \$42,000 per year for the Missed Liquidity Report (\$3,500 per month multiplied by 12 months). See also BZX Rule 21.15(b)(7)(1) (“The Missed Liquidity Report . . . provides time details for executions of orders and quotes that rest on the book where the Member receiving the report attempted to execute against a resting order or quote within an Exchange-determined period of time . . .”) and EDGX Rule 21.15(b)(7)(1) (“The Missed Liquidity Report . . . provides time details for executions of orders and quotes that rest on the book where the Member receiving the report attempted to execute against a resting order or quote within an Exchange-determined period of time . . .”).

¹² Purge messages are sent over purge ports, which support only quote mass cancel messages. See MIA Options Exchange User Manual, Version 1.0.0, Section 5.01 (dated December 12, 2023), available at https://www.miaxglobal.com/miax_options_user_manual.pdf.

specified under Exchange Rule 531(d)(2).¹³

The Exchange proposes to assess a fee of \$4,000 per month for monthly subscriptions to the Purge Report or \$30,000 per year for annual subscriptions to the Purge Report. Similar to the Simple Order Report, Complex Order Report and Resting Simple Order Report, new subscribers to the Purge Report will be charged for the full calendar month for which they subscribe and will be provided Purge Report data for each trading day of the calendar month prior to the day on which they subscribed.

Proposal To Establish a Sunset Period for Monthly Subscriptions

Next, the Exchange proposes to amend Section 7 of the Fee Schedule to establish a sunset period for all monthly subscriptions to the Reports. As described above, market participants may currently purchase monthly subscriptions to the Simple Order Report (\$4,000 per month), Complex Order Report (\$4,000 per month), and the Resting Simple Order Report (\$2,000 per month). Also as described and proposed above, beginning April 1, 2026, market participants may purchase monthly subscriptions to the Purge Report for the corresponding fee of \$4,000 per month.

The Exchange now proposes to amend the Fee Schedule to provide that effective December 31, 2026, the Exchange will no longer offer monthly subscriptions to the Simple Order Report, Complex Order Report, Resting Simple Order Report, and Purge Report. Current monthly subscribers to each of the Reports may terminate their subscriptions or transition to an annual subscription at the prevailing rates for each of the Reports at any time. Further, the Exchange proposes to amend the Fee Schedule to provide that beginning January 1, 2027, the Exchange will only offer annual subscriptions to the Simple Order Report, Complex Order Report, Resting Simple Order Report and Purge Report, with new/renewal subscriptions taking effect on a semi-annual basis (*i.e.*, January 1st or July 1st of each year). For new subscribers between the semi-annual subscription dates of January 1st or July 1st, beginning April 1, 2026, the Exchange will pro-rate the annual fee based on the number of months remaining to the next semi-annual renewal date. The pro-rated fee will take into account the discount for

subscribers with multiple reports, as described below. All current (prior to April 1, 2026) annual subscriptions will run through the expiration date of the current annual term at the current annual rates (*i.e.*, \$24,000 per year for the Simple Order Report or Complex Order Report; \$12,000 per year for the Resting Simple Order Report; and \$40,000 per year for combined annual subscriptions to both the Simple Order Report and Complex Order Report). At the expiration of the current annual term, subscribers may renew their annual subscriptions at the prevailing rates, including the discount for multiple subscriptions as described below, or terminate their subscriptions.

The purpose of these changes is to reduce billing complexity and streamline the fee structure for the Reports. The Exchange notes that the majority of subscribers purchase annual subscriptions to the Reports and each monthly subscriber will have nine months (*i.e.*, April through December 2026) to determine whether they would like to transition to an annual subscription or terminate their subscriptions altogether.

Proposal To Establish a Discount Program for Multiple Annual Subscriptions

Finally, the Exchange proposes to amend Section 7 of the Fee Schedule to establish a discount for market participants that purchase multiple annual subscriptions. In particular, the Exchange proposes to provide in the Fee Schedule that effective beginning April 1, 2026, new annual subscribers to multiple Reports will be charged based on the number and type of Reports pursuant to the following schedule of fees:

- An annual subscription to one of the following will be \$30,000 annually (per the rates in the table in Section 7 of the Fee Schedule): the Simple Order Report, Complex Order Report or Purge Report.
- Annual subscriptions to two of the following will be \$50,000 annually: the Simple Order Report, Complex Order Report and/or Purge Report.
- Annual subscriptions to all three of the following will be \$70,000 annually: the Simple Order Report, Complex Order Report and Purge Report.
- For subscribers to one or more of the Simple Order Report, Complex Order Report or Purge Report, the cost to add an annual subscription to the Resting Simple Order Report will be \$10,000 instead of the fee described for the Resting Simple Order Report in the table in Section 7 of the Fee Schedule

(*i.e.*, \$15,000, as proposed to be increased herein).

The following examples are intended to clarify how the Exchange intends to assess fees for the Reports during the transition to only annual subscriptions, including how the Exchange will assess fees pursuant to the proposed discount program (all subscriptions are assumed to be on an annual basis at the proposed higher rates as the discount will only apply to annual subscriptions):

Example 1

“Member A” subscribes annually to all four Reports beginning July 1, 2026. “Member A” would be assessed a total fee of \$80,000 pursuant to the proposed discount for multiple annual subscriptions (\$70,000 for the Simple Order Report, Complex Order Report and Purge Report + \$10,000 to add on the Resting Simple Order Report). “Member A’s” subscription to all four Reports would run through June 30, 2027, at which time “Member A” would be subject to the next semi-annual renewal period and could terminate any or all subscriptions.

Example 2

“Member B” subscribes annually to the Simple Order Report beginning April 20, 2026. “Member B” would be assessed \$2,500 each month for the months of April (and receive the full data set for the entire month of April), May and June 2026, for a total of \$7,500. This is calculated by dividing the proposed annual fee of \$30,000 for the Simple Order Report by twelve months (\$30,000/12 = \$2,500) and then multiplying by the number of months remaining until the July 1st semi-annual renewal date, including any partial month when the subscription began (*i.e.*, remainder of April, a and full months for May and June, which equals three total months). Beginning July 1, 2026, the semi-annual renewal date, “Member B” would be assessed the annual fee of \$30,000 for the Simple Order Report subscription, which would run through June 30, 2027.

Example 3

Prior to April 1, 2026, “Member C” has an annual subscription to both the Simple Order Report and Complex Order Report, with an expiration date of February 28, 2027. “Member C” has already paid the \$40,000 discounted rate (per the current terms of the Fee Schedule) for a subscription to both the Simple Order Report and Complex Order Report. “Member C” will continue to receive data for the Simple Order Report and Complex Order Report through the end of February 2027. At

¹³ See Exchange Rule 531(d) (providing details regarding the information contained in the Purge Report). See also Securities Exchange Act Release No. 104778 (February 6, 2026), 91 FR 6276 (February 11, 2026) (SR-MIAX-2026-05).

that time, if “Member C” wanted to continue subscribing to only the Simple Order Report and Complex Order Report, then “Member C” would be assessed pro-rated fees of \$16,666.67¹⁴ covering March, April, May and June 2027, which is based on the discounted rate for multiple annual subscriptions (i.e., \$50,000 annually). This is calculated by dividing the proposed annual fee of \$50,000—the discounted rate for annual subscriptions to multiple Reports (other than the Resting Simple Order Report)—by twelve months ($\$50,000/12 = \$4,166.66$) and then multiplying by the number of months remaining until the July 1st semi-annual renewal date, including any partial month when the subscription began (i.e., March, April, May and June 2027, which equals four total months). Beginning July 1, 2027, the semi-annual renewal date, “Member C” would be assessed the discounted annual fee of \$50,000 for multiple subscriptions, which would run through June 30, 2028.

Example 4

“Member D” has a monthly subscription to the Simple Order Report. “Member D” will continue to pay the \$4,000 monthly subscriber fee each month until the end of December 2026. At that time, “Member D” may terminate their subscription entirely (or at anytime before December) or transition to an annual subscription for the Simple Order Report, which would be \$30,000, effective for January 1, 2027. In this case, there would be no pro-rated fees because January 1st is the semi-annual renewal date.

Example 5

“Member E” has annual subscriptions to both the Simple Order Report and Complex Order Report beginning March 1, 2026. “Member E” is assessed the \$40,000 discounted fee pursuant to the “12 Month Subscription Discount” as currently provided for in Section 7 of the Fee Schedule, pursuant to which the Exchange will provide “Member E” the data for the Simple Order Report and Complex Order Report each month through February 2027. Assume that in September 2026, “Member E” wants to add an annual subscription to the Purge Report. In this case, the Exchange will assess “Member E” the pro-rated discounted fee for multiple annual subscriptions until the “12 Month Subscription Discount” expires, at which time the newly proposed rates for subscribing to two or more annual

reports will apply, as described above. For clarity, to add an annual subscription to the Purge Report in September 2026, “Member E” will be assessed an additional \$1,666.67 each month (calculated by dividing the \$20,000 discounted price to add an annual subscription to the Purge Report based on the multiple report annual discount and is in addition to the \$40,000 already paid) for September, October, November, and December 2026, as well as January and February 2027. Beginning March 1, 2027, assuming “Member E” wants to continue annual subscriptions to the Simple Order Report, Complex Order Report and Purge Report, the Exchange will assess “Member E” the monthly pro-rated amount for three annual subscriptions until the next semi-annual renewal date of July 1, 2027. Accordingly, “Member E” will be assessed \$5,833.33 each month of March, April, May and June 2027. This is calculated by dividing the annual fee for subscribing to all three of the Simple Order Report, Complex Order Report and Purge Report (\$70,000) by twelve months, which equals \$5,833.33 per month until the next semi-annual renewal date. On July 1, 2027, “Member E” will be assessed the full annual fee for multiple annual subscriptions of \$70,000.

The purpose of establishing the discount program for market participants that purchase annual subscriptions to two or more of the Reports is to provide an incentive via reduced fees for market participants to continue receiving the data provided in the Reports.

* * * * *

The Reports are being offered to Members on a completely voluntary basis in that the Exchange is not required by any rule or regulation to make this data available and potential subscribers may purchase any report only if they voluntarily choose to do so. It is a business decision of each Member whether to subscribe to each Report or not. Not all Members purchase the Reports. Members may cancel their subscription to any of the Reports at any time.

The proposed changes are effective beginning April 1, 2026.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁶ in particular, in that it is

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 protect investors and the public interest, and is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for the reports is consistent with Section 6(b) of the Act¹⁷ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁸ in particular, in that it is an equitable allocation of dues, fees and other charges among its Members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“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 Reports further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The Reports also promote increased transparency through the dissemination of the data contained in each of the Reports. Particularly, the Reports will benefit investors by facilitating their prompt access to the value-added information that is included in each of the Reports. The Reports will allow Members to access information regarding their trading or purge activity that they may utilize to evaluate their own trading or purge behavior and order interactions.

Proposals To Increase the Annual Fee for the Simple Order Report, Complex Order Report and Resting Simple Order Report and Establish Fees for the Purge Report

The Exchange believes the proposed increased annual fee for the Simple Order Report and Complex Order Report are reasonable as the proposed increase is modest and is still comparable to the annualized fee charged by other exchanges for similar reports. In particular, BZX and EDGX each assess a monthly fee of \$3,500 for subscriptions to their Missed Liquidity Reports. On an annualized basis, a BZX or EDGX member would pay a total of \$42,000 per year for the Missed Liquidity Report (\$3,500 per month

¹⁴ Throughout this filing, the Exchange rounded up or down to the nearest whole cent when providing fee calculations.

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(4).

multiplied by 12 months). When compared to the Exchange's proposed annual fee of \$30,000 for each of the Simple Order Report or Complex Order Report, the Exchange believes its proposed fee increase is reasonable. Further, when looking at the Exchange's proposed fee for the Simple Order Report and Complex Order Report on a per month basis, the Exchange believes the proposed fee is reasonable as it is effectively less than the monthly fee assessed by BZX and EDGX for their similar reports (*i.e.*, \$30,000 divided by twelve months = \$2,500 per month).¹⁹

The Exchange believes the proposed increased fee for an annual subscription to the Resting Simple Order Report is reasonable as the proposed fee is still both modest and lower than fees (as proposed to be increased herein) charged by the Exchange for similar data products, *i.e.*, the Simple Order Report and Complex Order Report. The proposed increased fee for the Resting Simple Order Report continues to be less expensive than the Exchange's Simple Order Report and Complex Order Report because the Exchange believes that the information provided in the Resting Simple Order Report may not be as valuable to market participants as the other information contained in the Simple Order Report and Complex Order Report, which measures the data in the first 200 microseconds of the time the resting order was received by the Exchange. While the Exchange believes that the Resting Simple Order Report continues to be useful to market participants, it may not be as helpful as the other reports offered by the Exchange and, therefore, the Exchange proposes a lower annual fee for the Resting Simple Order Report.

The Exchange believes the proposed fees for the Purge Report are reasonable because they are identical to the fees (as proposed) that the Exchange assesses for its Simple Order Report and Complex Order Report. The Exchange also believes the proposed fees for the Purge Report are reasonable as they would support the introduction of a new market data product to Market Makers that are interested in gaining insight into latency in connection with purge messages that failed to cancel their quotes resting on the Simple Order Book. The Purge Report accomplishes this by providing those Market Makers data to analyze by how much time their purge message may have missed cancelling a quote before (or after) execution of that quote against a contra-side order. The Purge Report will provide greater visibility by showing

how much time a purge message missed canceling a quote, particularly as market conditions change throughout the day and Market Makers attempt to cancel and replace quotes in certain symbols.

Indeed, if the Exchange proposed fees that market participants viewed as excessively high, then the proposed fees would simply serve to reduce demand for the Reports, which as noted, are entirely optional. Other options exchanges are also free to introduce their own comparable data products with lower prices to better compete with the Exchange's offerings. As such, the Exchange believes that the proposed fees for the Reports are reasonable and set at a level to compete with other options exchanges that may choose to offer similar reports or do offer similar reports today. Moreover, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Reports and instead purchase another exchange's similar data product, which may offer similar data points, albeit based on that other market's trading activity.

Selling market data, such as one of the Reports, is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in continuing to attract subscribers for the Reports, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, firms can decrease or discontinue their use of the data and/or avail themselves of similar products that may be offered by other exchanges.²⁰ The Exchange, therefore, believes that the proposed fees for the Reports reflect the competitive environment and would be properly assessed to subscribers to each of the Reports. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all subscribers who choose to purchase such data. It is a business decision of each Member that chooses to purchase any of the Reports. The Exchange's proposed fees would not differentiate between subscribers that purchase the Reports and are set at modest levels that would allow any interested Member to purchase such data based on their business needs.

The Exchange reiterates that the decision as to whether or not to purchase the Reports is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the Reports, and the Exchange

is not required to make the Reports available to all investors. It is entirely a business decision of each Member to subscribe to the Reports. The Exchange offers the Reports as a convenience to Members to provide them with additional information regarding trading or purging activity on the Exchange on a delayed basis after the close of regular trading hours. A Member that chooses to subscribe to the Reports may discontinue receiving the Reports at any time if that Member determines that the information contained in the Reports is no longer useful.

Proposal To Establish a Sunset Period for Monthly Subscriptions

The Exchange believes its proposal to sunset monthly subscriptions at the end of 2026 is reasonable because it is intended to reduce billing complexity and streamline the fee structure for the Reports. The Exchange notes that the majority of subscribers purchase annual subscriptions to the Reports and each monthly subscriber will have nine months to determine whether they would like to transition to an annual subscription or terminate their subscriptions altogether. The Exchange believes this proposed change is equitable and not unfairly discriminatory because all subscribers will be subject to the same annual fees once the sunset period ends for monthly subscriptions, with the annual fee for each Report assessed at a discounted rate compared to the current monthly rates. The Exchange also believes that transitioning to only annual subscriptions will improve the efficiency by which the Exchange may deliver the Reports by doing so on a regular basis over a prolonged and set period of time.

Proposal To Establish a Discount Program for Multiple Annual Subscriptions

The Exchange also believes it is reasonable to provide discounts for market participants that subscribe to multiple Reports. The Exchange believes the discounted fees for subscribers to multiple Reports may incentivize more Members to subscribe and determine whether they realize value from the Reports. The Exchange believes the discounted fees for the Reports is equitable and not unfairly discriminatory because the discounted rates will apply equally to all market participants that subscribe to two or more of the Reports.

¹⁹ See *supra* note 11.

²⁰ See *supra* note 11.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Inter-Market Competition

The Exchange developed the Reports in order to keep pace with changes in the industry and evolving customer needs and demands, and believes the Reports will continue to contribute to robust competition among national securities exchanges, including with the proposed fee changes described herein. The Exchange believes the proposed fee changes in this filing permit fair competition among national securities exchanges, all of which may create similar data products for their markets, including at least two exchanges that already offer similar products.²¹

The Exchange does not believe the proposed fee changes would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own comparable reports with lower prices to better compete with the Exchange's offerings. The Exchange operates in a highly competitive environment, and its ability to price the Reports is constrained by competition among exchanges who choose to adopt similar products. The Exchange must consider this in its pricing discipline in order to compete for subscribers of the Exchange's market data via the Reports. For example, proposing fees that are excessively higher than fees for potentially similar data products would simply serve to reduce demand for the Exchange's Reports, which as discussed, market participants are under no obligation to utilize. In this competitive environment, potential purchasers are free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Intra-Market Competition

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fees apply uniformly to any purchaser in that the Exchange does not differentiate between subscribers that purchase the reports. The proposed fees are set at a modest level that would allow any interested Member to

purchase such data based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,²² and Rule 19b-4(f)(2)²³ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MIAX-2026-14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-MIAX-2026-14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MIAX-2026-14 and should be submitted on or before May 8, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-07491 Filed 4-16-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105228; File No. SR-CboeBZX-2026-029]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)-(D) To Describe the Behavior of Non-Displayed Orders

April 14, 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 8, 2026, Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") is filing with the Securities and Exchange Commission ("Commission") a proposal to amend Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)-(D) to describe the behavior of Non-Displayed Orders. The

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

²¹ See *supra* note 11.

²² 15 U.S.C. 78s(b)(3)(A)(ii).

²³ 17 CFR 240.19b-4(f)(2).

text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) to describe the behavior of Non-Displayed Orders. The Commission recently approved a filing by the Exchange's affiliate exchange, Cboe EDGX Exchange, Inc. (hereinafter "EDGX" or "EDGX Exchange"), to implement a substantially similar amendment to EDGX Exchange Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) in conjunction with EDGX's proposal to introduce a Retail Price Improvement ("RPI") program (the "EDGX RPI Filing").⁵ The Exchange proposes to amend Rule 11.9(c)(11) and Rule 11.13(a)(4)(C) to become substantially similar to EDGX Exchange Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D), which as described above, were recently approved by the Commission. The only differences between the proposed Rules and the EDGX Rules are references to corresponding rules within the BZX Rulebook that differ from the EDGX Rulebook. The Exchange is also not proposing to introduce an RPI Program as was contained in the EDGX RPI Filing.

By way of background, the Exchange currently permits orders to be entered as Non-Displayed Orders pursuant to Rule 11.9(c)(11). Current Rule 11.9(c)(11)

states that a Non-Displayed Order is "[a] market or limit order that is not displayed on the Exchange." The Exchange now proposes to amend Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) in order to more accurately describe the price at which a Non-Displayed Order posts to the BZX Book⁶ and at what price a Non-Displayed Order may execute in certain situations. The Exchange believes the proposed amendments to Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) are necessary in order to provide market participants with greater certainty and clarity regarding the current entry and execution of orders with Non-Displayed instructions on the Exchange. The Exchange also believes the proposed amendments are necessary to align the rules of the Exchange with the rules of its affiliate, EDGX Exchange.

Specifically, the Exchange proposes to introduce Rule 11.9(c)(11)(A), which provides that when a Non-Displayed Order is entered, the Non-Displayed Order will be executed against previously posted orders on the BZX Book that are priced equal to or better than the price of the Non-Displayed Order, up to the full amount of such previously posted orders, unless such executions would trade through a Protected Quotation.⁷ Any portion of a Non-Displayed Order that cannot be executed in this manner will be posted to the BZX Book, (unless the Non-Displayed Order has a time-in-force of Immediate-or-Cancel ("IOC")⁸) and/or routed if it has been designated as a routable order.

Next, the Exchange next proposes to introduce Rule 11.9(c)(11)(B), which describes the price at which a Non-Displayed Order is posted and ranked on the BZX Book in the event that it is not executed pursuant to proposed Rule 11.9(c)(11)(A). Proposed Rule 11.9(c)(11)(B)(i) provides if the limit price of a Non-Displayed Order would

lock the BZX Book, the Non-Displayed Order will be posted on the BZX Book at the locking price and will be executed as set forth in Rule 11.13(a)(4)(C)[sic]. If, however, an inbound Non-Displayed Order cannot execute due to User⁹ instruction (e.g., Post Only¹⁰ or minimum quantity) and does not contain a price slide instruction, the Non-Displayed Order will be cancelled. An inbound Non-Displayed Order that cannot execute upon entry and contains a price slide instruction will be ranked at the locking price upon entry. Proposed Rule 11.9(c)(11)(B)(ii) provides if the limit price of the Non-Displayed Order would cross a Protected Quotation and the Non-Displayed Order contains a price slide instruction, the Non-Displayed Order will be executed as set forth in Rule 11.9(g)(1) or cancel, based on User instruction. If the entered limit price of the Non-Displayed Order would cross a Protected Quotation and the Non-Displayed Order does not contain a price slide instruction, the Non-Displayed Order will cancel or route, based on User instruction. Proposed Rule 11.9(c)(11)(B)(iii) provides that in situations where there is a resting Non-Displayed Order on the buy (sell) side of the market and an incoming Non-Displayed Order on the sell (buy) side of the market is unable to execute due to User instruction (e.g., Post Only or minimum quantity) and posts to the BZX Book at a price that locks the resting Non-Displayed Order, an incoming Non-Displayed Order on the buy (sell) side of the market may execute with the resting Non-Displayed Order on the sell (buy) side of the market at the locking price ahead of the Non-Displayed Order on the buy (sell) side of the market. The Exchange believes that it is more appropriate to permit later-arriving orders to execute ahead of a resting order posted to the BZX Book that is in a locked state due to the presence of a contra-side order with specific User instructions (e.g.,

⁶ See Rule 1.5(e). The term "BZX Book" shall mean the System's electronic file of orders.

⁷ See Rule 1.5(t). The term "Protected Bid" or "Protected Offer" shall mean a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association. The term "Protected Quotation" shall mean a quotation that is a Protected Bid or Protected Offer.

⁸ See Exchange Rule 11.9(b)(1). An Immediate-or-Cancel ("IOC") Order is a limit order that 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 BZX Book. IOC limit orders that are not designated as "BZX Only" and that cannot be executed in accordance with Rule 11.13(a)(4) on the System when reaching the Exchange will be eligible for routing away pursuant to Rule 11.13(b).

⁹ See Rule 1.5(cc). The term "User" shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.

¹⁰ See Rule 11.9(c)(6). A Post Only Order is an order that is to be ranked and executed on the Exchange pursuant to Rule 11.12 and Rule 11.13(a)(4) or cancelled, as appropriate, without routing away to another trading center except that the order will not remove liquidity from the BZX Book, other than as described below. A BZX Post Only Order will remove contra-side liquidity from the BZX 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 BZX Book and subsequently provided liquidity, including the applicable fees charged or rebates provided.

⁵ See Securities Exchange Act Release No. 105052 (March 19, 2026), 91 FR 14052 (March 24, 2026) (SR-CboeEDGX-2025-072).

Post Only or minimum quantity) rather than cancel or slide the later-arriving order due to the information leakage that would occur as a result of the cancellation. The Exchange has included an example to demonstrate this operation, which is contained in proposed Rule 11.9(c)(11)(B)(iii).

Example

- NBBO for security ABC is \$10.00 × \$10.05.
- User 1 enters a Mid-Point Peg ¹¹ order to buy 100 shares of ABC at \$10.03. User 1's order is posted to the BZX Book and ranked at \$10.025.
- User 2 enters a Mid-Point Peg Post Only order to sell 100 shares of ABC at \$10.02. User 2's order is posted to the BZX Book and ranked at \$10.025.
- User 3 enters an IOC Order to buy 100 shares of ABC at \$10.05.
- *Result:* Pursuant to proposed Rule 11.9(c)(11)(B)(iii), User 3's order trades with User 2's Mid-Point Peg Post Only order at a price of \$10.025. In this instance, User 3's order trades with User 2's order ahead of User 1's order because when User 2's order was originally entered, it was unable to execute due to the Post Only instruction. As both User 2's order and User 1's order are non-displayed orders (Mid-Point Peg orders by nature are non-displayed), the Exchange allows User 2's order to post to the BZX Book and be ranked at the locking price as the non-displayed nature of these orders would not cause a violation of Regulation NMS. The Exchange believes that if it were instead to slide User 2's order in accordance with Rule 11.9(g)(2) or cancel User 2's order so that it would not create an internal locked book, the act of sliding or cancelling User 2's order would result in information leakage. As such, the Exchange believes that it is appropriate to permit User 3's order to trade ahead of User 1's resting order at a price of \$10.025.

Finally, the Exchange also proposes to amend Rule 11.13(a)(4)(C)–(D) to better describe the execution of Non-Displayed Orders in situations where a locked market exists on the BZX Book. Rule 11.13(a)(4)(C) currently states that certain orders are permitted to post and rest on the BZX Book at prices that lock contra-side liquidity, provided, however, that the System will never

display a locked market. The Exchange proposes to add language to Rule 11.13(a)(4)(C) to provide that consistent with Rule 11.12, which sets forth the Exchange's rule regarding priority of orders, Non-Displayed Orders and orders subject to display-price sliding as set forth in Rule 11.9(g)(1) (defined as the "Resting Orders") cannot be executed pursuant to Rule 11.13 when such Resting Orders would be executed at prices equal to displayed orders on the opposite side of the market (the "Locking Price").¹² The Exchange also proposes to amend Rule 11.13(a)(4)(D) to conform with the proposed changes in Rule 11.13(a)(4)(C) with regard to the use of the terms Resting Order and Locking Price. Proposed Rule 11.13(a)(4)(D) will be revised from its current text to provide that in the event that an incoming order described in subparagraphs (A) and (B) is a Market Order or is a Limit Order priced more aggressively than the Locking Price of a Resting Order as described in subparagraph (C), the Exchange will execute the Resting Order at, in the case of a Resting Order bid, one-half minimum price variation less than the Locking Price, and, in the case of a Resting Order offer, one-half minimum price variation more than the Locking Price.

The proposed changes to Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) will describe the current behavior of orders containing a Non-Displayed instruction in greater detail and align the rules of the Exchange with its affiliate exchange, EDGX. The Exchange is not proposing to amend its current functionality regarding Non-Displayed Orders, but rather seeks to amend its rules so that Users and other market participants will have greater certainty and clarity regarding how a Non-Displayed Order is posted and ranked on the BZX Book during certain scenarios involving locked and crossed markets.

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.¹³ Specifically,

the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ 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)¹⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed amendments to Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) to introduce additional rule text describing the entry and execution of Non-Displayed Orders on the Exchange promote just and equitable principles of trade by providing additional certainty and clarity to market participants regarding how the System processes Non-Displayed Orders. Specifically, the Exchange seeks to provide additional information regarding the price at which a Non-Displayed Order is posted and ranked on the BZX Book when a Non-Displayed Order either locks or crosses a Protected Quotation or when a Non-Displayed Order locks the BZX Book. Further, the Exchange is not proposing to amend Non-Displayed Order behavior, but rather only seeking to introduce additional language to its rules to provide additional explanation and clarity to Users and market participants about Non-Displayed Order behavior during a locked or crossed market scenario. By introducing the proposed rule text, Users will have a better understanding of how a Non-Displayed Order is posted and ranked during certain scenarios involving locked and crossed markets, which benefits all Users and the marketplace as a whole.

Additionally, the Exchange believes its proposal to introduce additional rule text describing the entry and execution of Non-Displayed Orders on the Exchange is not unfairly discriminatory as all Users and market participants will be subject to the same application of the Exchange's rules and will have equal access to the Exchange rulebook. Finally, the Exchange notes that the

¹¹ See Rule 11.9(c)(9). A Mid-Point Peg Order is a limit order that after entry into the System, the price of the order is automatically adjusted by the System in response to changes in the NBBO to be pegged to the mid-point of the NBBO, or, alternatively, pegged to the less aggressive of the midpoint of the NBBO or one minimum price variation inside the same side of the NBBO as the order.

¹² Any incoming order that would execute against the Resting Order at the Locking Price would receive a priority advantage over the displayed order at the Locking Price. As such, the Exchange does not execute a Resting Order against an incoming order at the Locking Price if there is also a displayed order resting on the BZX Book at the Locking Price.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ *Id.*

proposed text of Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) has already been approved by the Commission for the Exchange's affiliate exchange.¹⁶ Indeed, the proposed amendments are substantially similar those approved by the Commission for EDGX Exchange with differences only to account for the Exchange's existing rule text. Thus, the proposed amendments to Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) do not present any novel issues for the Commission's consideration.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes do not impose any burden on intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes to Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) are not proposed for competitive reasons but rather to provide Users with additional clarity and transparency about what price a Non-Displayed Order is posted, ranked, and executed during certain scenarios involving locked and crossed markets. Nor do the proposed changes modify the functionality or behavior of Non-Display Orders or any other order type on the Exchange. Rather, the proposed rule changes clarify the current functionality and behavior of Non-Displayed Orders on the Exchange. The proposed rule changes will also align the Exchange's rule text with that of its affiliate exchange, EDGX. Finally, all Users and market participants will be subject to the same application of the Exchange's rules and will have equal access to the Exchange rulebook. Thus, the proposed rule changes add clarity and transparency to the rules of the Exchange regarding Non-Displayed Orders and will not impose any burden on intramarket or intermarket competition.

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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁷ and Rule 19b–4(f)(6)¹⁸ thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay contained in Rule 19b–4(f)(6)(iii) so that the proposed rule change may become operative upon filing. The Exchange states that the proposed rule change will align the Exchange Rules regarding treatment of Non-Displayed Order with that of the Exchange's affiliate, EDGX. Because the proposed rule change does not raise any novel regulatory issues, the Commission believes that waiver of the operative delay is consistent with the protection with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.¹⁹

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:

¹⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁸ 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.

¹⁹ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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–2026–029 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–2026–029. 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–2026–029 and should be submitted on or before May 8, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–07487 Filed 4–16–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105230; File No. SR–CboeBYX–2026–012]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) To Describe the Behavior of Non-Displayed Orders

April 14, 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 8, 2026, Cboe BYX Exchange, Inc. (the

²⁰ 17 CFR 200.30–3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

¹⁶ *Supra* note 5.

“Exchange” or “BYX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) is filing with the Securities and Exchange Commission (“Commission”) a proposal to amend Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) to describe the behavior of Non-Displayed Orders. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) to describe the behavior of Non-Displayed Orders. The Commission recently approved a filing by the Exchange’s affiliate exchange, Cboe EDGX Exchange, Inc. (hereinafter “EDGX” or “EDGX Exchange”), to implement a substantially similar amendment to EDGX Exchange Rule

11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) in conjunction with EDGX’s proposal to introduce a Retail Price Improvement (“RPI”) program (the “EDGX RPI Filing”).⁵ The Exchange proposes to amend Rule 11.9(c)(11) and Rule 11.13(a)(4)(C) to become substantially similar to EDGX Exchange Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D), which as described above, were recently approved by the Commission. The only differences between the proposed Rules and the EDGX Rules are references to corresponding rules within the BYX Rulebook that differ from the EDGX Rulebook. The Exchange is also not proposing to introduce an RPI Program as was contained in the EDGX RPI Filing.

By way of background, the Exchange currently permits orders to be entered as Non-Displayed Orders pursuant to Rule 11.9(c)(11). Current Rule 11.9(c)(11) states that a Non-Displayed Order is “[a] market or limit order that is not displayed on the Exchange.” The Exchange now proposes to amend Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) in order to more accurately describe the price at which a Non-Displayed Order posts to the BYX Book⁶ and at what price a Non-Displayed Order may execute in certain situations. The Exchange believes the proposed amendments to Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) are necessary in order to provide market participants with greater certainty and clarity regarding the current entry and execution of orders with Non-Displayed instructions on the Exchange. The Exchange also believes the proposed amendments are necessary to align the rules of the Exchange with the rules of its affiliate, EDGX Exchange.

Specifically, the Exchange proposes to introduce Rule 11.9(c)(11)(A), which provides that when a Non-Displayed Order is entered, the Non-Displayed Order will be executed against previously posted orders on the BYX Book that are priced equal to or better than the price of the Non-Displayed Order, up to the full amount of such previously posted orders, unless such executions would trade through a Protected Quotation.⁷ Any portion of a

Non-Displayed Order that cannot be executed in this manner will be posted to the BYX Book, (unless the Non-Displayed Order has a time-in-force of Immediate-or-Cancel (“IOC”)⁸) and/or routed if it has been designated as a routable order.

Next, the Exchange next proposes to introduce Rule 11.9(c)(11)(B), which describes the price at which a Non-Displayed Order is posted and ranked on the BYX Book in the event that it is not executed pursuant to proposed Rule 11.9(c)(11)(A). Proposed Rule 11.9(c)(11)(B)(i) provides if the limit price of a Non-Displayed Order would lock the BYX Book, the Non-Displayed Order will be posted on the BYX Book at the locking price and will be executed as set forth in Rule 11.13(a)(4)(C)[sic]. If, however, an inbound Non-Displayed Order cannot execute due to User⁹ instruction (e.g., Post Only¹⁰ or minimum quantity) and does not contain a price slide instruction, the Non-Displayed Order will be cancelled. An inbound Non-Displayed Order that cannot execute upon entry and contains a price slide instruction will be ranked at the locking price upon entry. Proposed Rule 11.9(c)(11)(B)(ii) provides if the limit price of the Non-Displayed Order would cross a Protected Quotation and the Non-Displayed Order contains a price slide instruction, the Non-Displayed Order will be executed as set forth in Rule 11.9(g)(1) or cancel, based on User instruction. If the entered limit price of the Non-Displayed Order would cross a Protected Quotation and the Non-Displayed Order does not contain a

term “Protected Quotation” shall mean a quotation that is a Protected Bid or Protected Offer.

⁸ See Exchange Rule 11.9(b)(1). An Immediate-or-Cancel (“IOC”) Order is a limit order that 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 BYX Book. IOC limit orders that are not designated as “BYX Only” and that cannot be executed in accordance with Rule 11.13(a)(4) on the System when reaching the Exchange will be eligible for routing away pursuant to Rule 11.13(b).

⁹ See Rule 1.5(cc). The term “User” shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.

¹⁰ See Rule 11.9(c)(6). A Post Only Order is an order that is to be ranked and executed on the Exchange pursuant to Rule 11.12 and Rule 11.13(a)(4) or cancelled, as appropriate, without routing away to another trading center except that the order will not remove liquidity from the BYX Book, other than as described below. A BYX Post Only Order will remove contra-side liquidity from the BYX 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 BYX Book and subsequently provided liquidity, including the applicable fees charged or rebates provided.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ See Securities Exchange Act Release No. 105052 (March 19, 2026), 91 FR 14052 (March 24, 2026) (SR-CboeEDGX-2025-072).

⁶ See Rule 1.5(e). The term “BYX Book” shall mean the System’s electronic file of orders.

⁷ See Rule 1.5(t). The term “Protected Bid” or “Protected Offer” shall mean a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association. The

price slide instruction, the Non-Displayed Order will cancel or route, based on User instruction. Proposed Rule 11.9(c)(11)(B)(iii) provides that in situations where there is a resting Non-Displayed Order on the buy (sell) side of the market and an incoming Non-Displayed Order on the sell (buy) side of the market is unable to execute due to User instruction (e.g., Post Only or minimum quantity) and posts to the BYX Book at a price that locks the resting Non-Displayed Order, an incoming Non-Displayed Order on the buy (sell) side of the market may execute with the resting Non-Displayed Order on the sell (buy) side of the market at the locking price ahead of the Non-Displayed Order on the buy (sell) side of the market. The Exchange believes that it is more appropriate to permit later-arriving orders to execute ahead of a resting order posted to the BYX Book that is in a locked state due to the presence of a contra-side order with specific User instructions (e.g., Post Only or minimum quantity) rather than cancel or slide the later-arriving order due to the information leakage that would occur as a result of the cancellation. The Exchange has included an example to demonstrate this operation, which is contained in proposed Rule 11.9(c)(11)(B)(iii).

Example

- NBBO for security ABC is \$10.00 × \$10.05.
- User 1 enters a Mid-Point Peg ¹¹ order to buy 100 shares of ABC at \$10.03. User 1's order is posted to the BYX Book and ranked at \$10.025.
- User 2 enters a Mid-Point Peg Post Only order to sell 100 shares of ABC at \$10.02. User 2's order is posted to the BYX Book and ranked at \$10.025.
- User 3 enters an IOC Order to buy 100 shares of ABC at \$10.05.
- *Result:* Pursuant to proposed Rule 11.9(c)(11)(B)(iii), User 3's order trades with User 2's Mid-Point Peg Post Only order at a price of \$10.025. In this instance, User 3's order trades with User 2's order ahead of User 1's order because when User 2's order was originally entered, it was unable to execute due to the Post Only instruction. As both User 2's order and User 1's order are non-displayed orders (Mid-Point Peg orders by nature are

non-displayed), the Exchange allows User 2's order to post to the BYX Book and be ranked at the locking price as the non-displayed nature of these orders would not cause a violation of Regulation NMS. The Exchange believes that if it were instead to slide User 2's order in accordance with Rule 11.9(g)(2) or cancel User 2's order so that it would not create an internal locked book, the act of sliding or cancelling User 2's order would result in information leakage. As such, the Exchange believes that it is appropriate to permit User 3's order to trade ahead of User 1's resting order at a price of \$10.025.

Finally, the Exchange also proposes to amend Rule 11.13(a)(4)(C)–(D) to better describe the execution of Non-Displayed Orders in situations where a locked market exists on the BYX Book. Rule 11.13(a)(4)(C) currently states that certain orders are permitted to post and rest on the BYX Book at prices that lock contra-side liquidity, provided, however, that the System will never display a locked market. The Exchange proposes to add language to Rule 11.13(a)(4)(C) to provide that consistent with Rule 11.12, which sets forth the Exchange's rule regarding priority of orders, Non-Displayed Orders and orders subject to display-price sliding as set forth in Rule 11.9(g)(1) (defined as the "Resting Orders") cannot be executed pursuant to Rule 11.13 when such Resting Orders would be executed at prices equal to displayed orders on the opposite side of the market (the "Locking Price").¹² The Exchange also proposes to amend Rule 11.13(a)(4)(D) to conform with the proposed changes in Rule 11.13(a)(4)(C) with regard to the use of the terms Resting Order and Locking Price. Proposed Rule 11.13(a)(4)(D) will be revised from its current text to provide that in the event that an incoming order described in subparagraphs (A) and (B) is a Market Order or is a Limit Order priced more aggressively than the Locking Price of a Resting Order as described in subparagraph (C), the Exchange will execute the Resting Order at, in the case of a Resting Order bid, one-half minimum price variation less than the Locking Price, and, in the case of a Resting Order offer, one-half minimum price variation more than the Locking Price.

The proposed changes to Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) will describe the current behavior of orders containing a Non-Displayed instruction in greater detail and align the rules of the Exchange with its affiliate exchange, EDGX. The Exchange is not proposing to amend its current functionality regarding Non-Displayed Orders, but rather seeks to amend its rules so that Users and other market participants will have greater certainty and clarity regarding how a Non-Displayed Order is posted and ranked on the BYX Book during certain scenarios involving locked and crossed markets.

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.¹³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁴ 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)¹⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed amendments to Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) to introduce additional rule text describing the entry and execution of Non-Displayed Orders on the Exchange promote just and equitable principles of trade by providing additional certainty and clarity to market participants regarding how the System processes Non-Displayed Orders. Specifically, the Exchange seeks to provide additional information regarding the price at which a Non-Displayed Order is posted and ranked on the BYX Book when a Non-Displayed Order either locks or crosses a Protected Quotation or when a Non-

¹¹ See Rule 11.9(c)(9). A Mid-Point Peg Order is a limit order that after entry into the System, the price of the order is automatically adjusted by the System in response to changes in the NBBO to be pegged to the mid-point of the NBBO, or, alternatively, pegged to the less aggressive of the midpoint of the NBBO or one minimum price variation inside the same side of the NBBO as the order.

¹² Any incoming order that would execute against the Resting Order at the Locking Price would receive a priority advantage over the displayed order at the Locking Price. As such, the Exchange does not execute a Resting Order against an incoming order at the Locking Price if there is also a displayed order resting on the BYX Book at the Locking Price.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ *Id.*

Displayed Order locks the BYX Book. Further, the Exchange is not proposing to amend Non-Displayed Order behavior, but rather only seeking to introduce additional language to its rules to provide additional explanation and clarity to Users and market participants about Non-Displayed Order behavior during a locked or crossed market scenario. By introducing the proposed rule text, Users will have a better understanding of how a Non-Displayed Order is posted and ranked during certain scenarios involving locked and crossed markets, which benefits all Users and the marketplace as a whole.

Additionally, the Exchange believes its proposal to introduce additional rule text describing the entry and execution of Non-Displayed Orders on the Exchange is not unfairly discriminatory as all Users and market participants will be subject to the same application of the Exchange's rules and will have equal access to the Exchange rulebook. Finally, the Exchange notes that the proposed text of Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) has already been approved by the Commission for the Exchange's affiliate exchange.¹⁶ Indeed, the proposed amendments are substantially similar those approved by the Commission for EDGX Exchange with differences only to account for the Exchange's existing rule text. Thus, the proposed amendments to Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) do not present any novel issues for the Commission's consideration.

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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes do not impose any burden on intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes to Rule 11.9(c)(11) and Rule 11.13(a)(4)(C)–(D) are not proposed for competitive reasons but rather to provide Users with additional clarity and transparency about what price a Non-Displayed Order is posted, ranked, and executed during certain scenarios involving locked and crossed markets. Nor do the proposed changes modify the functionality or behavior of Non-Display Orders or any other order type on the Exchange. Rather, the proposed rule changes clarify the current functionality and

behavior of Non-Displayed Orders on the Exchange. The proposed rule changes will also align the Exchange's rule text with that of its affiliate exchange, EDGX. Finally, all Users and market participants will be subject to the same application of the Exchange's rules and will have equal access to the Exchange rulebook. Thus, the proposed rule changes add clarity and transparency to the rules of the Exchange regarding Non-Displayed Orders and will not impose any burden on intramarket or intermarket competition.

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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁷ and Rule 19b–4(f)(6)¹⁸ thereunder.

The Exchange has requested that the Commission waive the 30-day operative delay contained in Rule 19b–4(f)(6)(iii) so that the proposed rule change may become operative upon filing. The Exchange states that the proposed rule change will align the Exchange Rules regarding treatment of Non-Displayed Order with that of the Exchange's affiliate, EDGX. Because the proposed rule change does not raise any novel regulatory issues, the Commission believes that waiver of the operative delay is consistent with the protection with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.¹⁹

¹⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁸ 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.

¹⁹ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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–ChoeBYX–2026–012 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–ChoeBYX–2026–012. 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–ChoeBYX–2026–012 and should be submitted on or before May 8, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026–07489 Filed 4–16–26; 8:45 am]

BILLING CODE 8011–01–P

²⁰ 17 CFR 200.30–3(a)(12), (59).

¹⁶ *Supra* note 5.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105236; File No. SR–EMERALD–2026–09]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Emerald Options Exchange Fee Schedule To Amend the Fees for All Liquidity Taker Event Reports

April 14, 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, MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the MIAX Emerald Options Exchange Fee Schedule (the “Fee Schedule”) Schedule to: (i) increase the annual fee for all Liquidity Taker Event Reports (described below); (ii) establish annual and monthly fees for the Purge Liquidity Taker Report; (iii) establish a discount program for market participants with multiple annual subscriptions to the various Liquidity Taker Event Reports; and (iv) establish a sunset period in which the Exchange will no longer offer monthly subscriptions to all Liquidity Taker Event Reports.

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/miax-options/rule-filings>, and at the Exchange’s principal office.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set

forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to: (i) increase (or, as described below, establish) the annual fee for all Liquidity Taker Event Reports;³ (ii) establish annual and monthly fees for the Purge Report; (iii) establish a discount program for market participants with multiple annual subscriptions to two or more of the Reports; and (iv) establish a sunset period in which the Exchange will no longer offer monthly subscriptions to the Reports.

Background

Currently, the Exchange offers the Simple Order Report, Complex Order Report and Resting Simple Order Report as Member⁴-specific reports, which are available for purchase by Exchange Members on a voluntary basis. In general, the Simple Order Report, Complex Order Report and Resting Simple Order Report are each daily reports that provide a Member (“Recipient Member”) with its liquidity response time details for executions against an order resting on the Simple Order Book⁵ (or Strategy Book⁶), where that Recipient Member attempted to execute against such resting order within certain timeframes.⁷

For the Simple Order Report and Complex Order Report, the Exchange

³ See Exchange Rules 531(a)–(d), providing the rule text for the following: (a) Liquidity Taker Event Report—Simple Orders (the “Simple Order Report”); (b) Liquidity Taker Event Report—Complex Orders (the “Complex Order Report”); (c) Liquidity Taker Event Report—Resting Simple Orders (the “Resting Simple Order Report”); and (d) Purge Liquidity Taker Report (the “Purge Report”). The Simple Order Report, Complex Order Report, Resting Simple Order Report and Purge Report are collectively referred to herein as the “Reports.”

⁴ See Exchange Rule 100.

⁵ The “Simple Order Book” is the Exchange’s regular electronic book of orders and quotes. See Exchange Rule 518(a)(15).

⁶ The “Strategy Book” is the Exchange’s electronic book of complex orders and complex quotes. See Exchange Rule 518(a)(17). A “complex order” is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the “legs” or “components” of the complex order), for the same account, in a conforming or non-conforming ratio as defined in Exchange Rule 518 for the purposes of executing a particular investment strategy. See Exchange Rule 518(a)(5).

⁷ See Exchange Rules 531(a)–(c) (providing details regarding the information contained in each of the Simple Order Report, Complex Order Report, and Resting Simple Order Report).

assesses a fee of \$4,000 per month for monthly subscribers or the discounted fee of \$24,000 per year for annual subscribers. For the Resting Simple Order Report, the Exchange assesses a fee of \$2,000 per month for monthly subscribers or the discounted fee of \$12,000 per year for annual subscribers. The Exchange also offers subscribers to both the Simple Order Report and Complex Order Report a discount for annual subscriptions to both of those reports called the “12 Month Subscription Discount” in Section 7 of the Fee Schedule. In particular, the Exchange assesses subscribers a discounted fee of \$40,000 per year when they purchase annual subscriptions to both the Simple Order Report and Complex Order Report. Subscribers with an existing 12 month subscription to either the Simple Order Report or Complex Order Report, but not both, may add a subscription to the Simple Order Report or Complex Order Report during their current 12 month subscription. In such case, the fee for the added report is pro-rated for the remainder of the subscriber’s current 12 month subscription based on the amount of the 12 Month Subscription Discount. Subscribers receive the 12 Month Subscription Discount for subscribing to both the Simple Order Report and Complex Order Report on the renewal date of their original subscription. The Exchange also provides that new subscribers will be charged for the full calendar month for which they subscribe and will be provided Liquidity Taker Event Report (Simple, Complex, and/or Resting Simple Order Report) data for each trading day of the calendar month prior to the day on which they subscribed.

On February 5, 2026, the Exchange filed a proposed rule change with the Securities and Exchange Commission (“Commission”) to establish the Purge Report.⁸ In that filing, the Exchange stated that it would issue an alert to market participants regarding the date that the Purge Report would be available to subscribers. On March 26, 2026, the Exchange issued an alert announcing that the Purge Report would become available for subscription beginning April 1, 2026, with fees to be announced in a future alert and rule filing with the Commission.⁹

⁸ See Securities Exchange Act Release No. 104858 (February 18, 2026), 91 FR 8554 (February 23, 2026) (SR–EMERALD–2026–06).

⁹ See Trading Alert, MIAX Exchange Group—Options Markets—Purge Liquidity Taker Report Launching April 1, 2026, available at <https://www.miaxglobal.com/alert/2026/03/26/miax->

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

Proposal To Increase the Annual Fee for the Simple Order Report, Complex Order Report and Resting Simple Order Report

The Exchange proposes to amend Section 7 of the Fee Schedule to increase the annual fee for each of the Simple Order Report and Complex Order Report from \$24,000 to \$30,000.¹⁰ The Exchange notes that the annual fee for the Simple Order Report and Complex Order Report, as proposed to be amended by herein (including the multiple report discount described below), remains similar to the annualized fee charged by other exchanges for their similar reports.¹¹ The proposed annual fee of \$30,000 for each of the Simple Order Report and Complex Order Report is also discounted when compared to the monthly fee for each report of \$4,000 (*i.e.*, \$4,000 per month multiplied by twelve months means that a subscriber that took the monthly subscription for an entire year would be charged \$48,000 rather than the \$30,000 proposed annual fee). The Exchange also proposes to increase the annual fee for the Resting Simple Order Report from \$12,000 to \$15,000. The Exchange does not propose to amend the monthly fee amounts.

Proposal To Establish Annual and Monthly Fees for the Purge Report

The Exchange proposes to amend Section 7 of the Fee Schedule to

exchange-group-options-markets-purge-liquidity-taker-report-launching-2?nav=all.

¹⁰ The Exchange also proposes to make non-substantive changes to amend all references in Section 7 of the Fee Schedule from “12 month subscription” to now be to “annual subscription.” The purpose of these changes is to provide consistency in the Fee Schedule regarding fees for the Reports, including changes proposed in this filing. The Exchange also proposes to delete the “12 Month Subscription Discount” as the Exchange proposes a revised discounted fee structure herein.

¹¹ See, *e.g.*, Cboe BZX Exchange, Inc. (“BZX”) Options Fee Schedule, Cboe Timestamping Service (assessing members a fee of \$3,500 per month for a subscription to the Missed Liquidity Report) and Cboe EDGX Exchange, Inc. (“EDGX”) Options Fee Schedule, Cboe Timestamping Service (assessing members a fee of \$3,500 per month for a subscription to the Missed Liquidity Report). On an annualized basis, a BZX or EDGX member would pay a total of \$42,000 per year for the Missed Liquidity Report (\$3,500 per month multiplied by 12 months). See also BZX Rule 21.15(b)(7)(1) (“The Missed Liquidity Report . . . provides time details for executions of orders and quotes that rest on the book where the Member receiving the report attempted to execute against a resting order or quote within an Exchange-determined period of time . . .”) and EDGX Rule 21.15(b)(7)(1) (“The Missed Liquidity Report . . . provides time details for executions of orders and quotes that rest on the book where the Member receiving the report attempted to execute against a resting order or quote within an Exchange-determined period of time . . .”).

establish a new row in the table to provide for a monthly and annual fee for the Purge Report, which will be offered as a subscription for the first time beginning April 1, 2026. In general, the Purge Report, is a daily report that provides a Member (“Recipient Member”) with the liquidity response/taker time details for executions against quotes entered by the Recipient Member that are resting on the Simple Order Book that occur before and after the receipt of a purge¹² message sent by the Recipient Member, where that Recipient Member attempted to cancel such resting quote within the timeframes specified under Exchange Rule 531(d)(2).¹³

The Exchange proposes to assess a fee of \$4,000 per month for monthly subscriptions to the Purge Report or \$30,000 per year for annual subscriptions to the Purge Report. Similar to the Simple Order Report, Complex Order Report and Resting Simple Order Report, new subscribers to the Purge Report will be charged for the full calendar month for which they subscribe and will be provided Purge Report data for each trading day of the calendar month prior to the day on which they subscribed.

Proposal To Establish a Sunset Period for Monthly Subscriptions

Next, the Exchange proposes to amend Section 7 of the Fee Schedule to establish a sunset period for all monthly subscriptions to the Reports. As described above, market participants may currently purchase monthly subscriptions to the Simple Order Report (\$4,000 per month), Complex Order Report (\$4,000 per month), and the Resting Simple Order Report (\$2,000 per month). Also as described and proposed above, beginning April 1, 2026, market participants may purchase monthly subscriptions to the Purge Report for the corresponding fee of \$4,000 per month.

The Exchange now proposes to amend the Fee Schedule to provide that effective December 31, 2026, the Exchange will no longer offer monthly subscriptions to the Simple Order Report, Complex Order Report, Resting Simple Order Report, and Purge Report. Current monthly subscribers to each of

the Reports may terminate their subscriptions or transition to an annual subscription at the prevailing rates for each of the Reports at any time. Further, the Exchange proposes to amend the Fee Schedule to provide that beginning January 1, 2027, the Exchange will only offer annual subscriptions to the Simple Order Report, Complex Order Report, Resting Simple Order Report and Purge Report, with new/renewal subscriptions taking effect on a semi-annual basis (*i.e.*, January 1st or July 1st of each year). For new subscribers between the semi-annual subscription dates of January 1st or July 1st, beginning April 1, 2026, the Exchange will pro-rate the annual fee based on the number of months remaining to the next semi-annual renewal date. The pro-rated fee will take into account the discount for subscribers with multiple reports, as described below. All current (prior to April 1, 2026) annual subscriptions will run through the expiration date of the current annual term at the current annual rates (*i.e.*, \$24,000 per year for the Simple Order Report or Complex Order Report; \$12,000 per year for the Resting Simple Order Report; and \$40,000 per year for combined annual subscriptions to both the Simple Order Report and Complex Order Report). At the expiration of the current annual term, subscribers may renew their annual subscriptions at the prevailing rates, including the discount for multiple subscriptions as described below, or terminate their subscriptions.

The purpose of these changes is to reduce billing complexity and streamline the fee structure for the Reports. The Exchange notes that the majority of subscribers purchase annual subscriptions to the Reports and each monthly subscriber will have nine months (*i.e.*, April through December 2026) to determine whether they would like to transition to an annual subscription or terminate their subscriptions altogether.

Proposal To Establish a Discount Program for Multiple Annual Subscriptions

Finally, the Exchange proposes to amend Section 7 of the Fee Schedule to establish a discount for market participants that purchase multiple annual subscriptions. In particular, the Exchange proposes to provide in the Fee Schedule that effective beginning April 1, 2026, new annual subscribers to multiple Reports will be charged based on the number and type of Reports pursuant to the following schedule of fees:

- An annual subscription to one of the following will be \$30,000 annually

¹² Purge messages are sent over purge ports, which support only quote mass cancel messages. See MIAX Emerald Options Exchange User Manual, Version 1.0.0, Section 5.01 (dated December 12, 2023), available at https://www.miaxglobal.com/miax_emerald_user_manual.pdf.

¹³ See Exchange Rule 531(d) (providing details regarding the information contained in the Purge Report). See also Securities Exchange Act Release No. 104858 (February 18, 2026), 91 FR 8554 (February 23, 2026) (SR-EMERALD-2026-06).

(per the rates in the table in Section 7 of the Fee Schedule): the Simple Order Report, Complex Order Report or Purge Report.

- Annual subscriptions to two of the following will be \$50,000 annually: the Simple Order Report, Complex Order Report and/or Purge Report.
- Annual subscriptions to all three of the following will be \$70,000 annually: the Simple Order Report, Complex Order Report and Purge Report.
- For subscribers to one or more of the Simple Order Report, Complex Order Report or Purge Report, the cost to add an annual subscription to the Resting Simple Order Report will be \$10,000 instead of the fee described for the Resting Simple Order Report in the table in Section 7 of the Fee Schedule (*i.e.*, \$15,000, as proposed to be increased herein).

The following examples are intended to clarify how the Exchange intends to assess fees for the Reports during the transition to only annual subscriptions, including how the Exchange will assess fees pursuant to the proposed discount program (all subscriptions are assumed to be on an annual basis at the proposed higher rates as the discount will only apply to annual subscriptions):

Example 1

“Member A” subscribes annually to all four Reports beginning July 1, 2026. “Member A” would be assessed a total fee of \$80,000 pursuant to the proposed discount for multiple annual subscriptions (\$70,000 for the Simple Order Report, Complex Order Report and Purge Report + \$10,000 to add on the Resting Simple Order Report). “Member A’s” subscription to all four Reports would run through June 30, 2027, at which time “Member A” would be subject to the next semi-annual renewal period and could terminate any or all subscriptions.

Example 2

“Member B” subscribes annually to the Simple Order Report beginning April 20, 2026. “Member B” would be assessed \$2,500 each month for the months of April (and receive the full data set for the entire month of April), May and June 2026, for a total of \$7,500. This is calculated by dividing the proposed annual fee of \$30,000 for the Simple Order Report by twelve months ($\$30,000/12 = \$2,500$) and then multiplying by the number of months remaining until the July 1st semi-annual renewal date, including any partial month when the subscription began (*i.e.*, remainder of April, a and full months for May and June, which equals three total months). Beginning July 1,

2026, the semi-annual renewal date, “Member B” would be assessed the annual fee of \$30,000 for the Simple Order Report subscription, which would run through June 30, 2027.

Example 3

Prior to April 1, 2026, “Member C” has an annual subscription to both the Simple Order Report and Complex Order Report, with an expiration date of February 28, 2027. “Member C” has already paid the \$40,000 discounted rate (per the current terms of the Fee Schedule) for a subscription to both the Simple Order Report and Complex Order Report. “Member C” will continue to receive data for the Simple Order Report and Complex Order Report through the end of February 2027. At that time, if “Member C” wanted to continue subscribing to only the Simple Order Report and Complex Order Report, then “Member C” would be assessed pro-rated fees of \$16,666.67¹⁴ covering March, April, May and June 2027, which is based on the discounted rate for multiple annual subscriptions (*i.e.*, \$50,000 annually). This is calculated by dividing the proposed annual fee of \$50,000—the discounted rate for annual subscriptions to multiple Reports (other than the Resting Simple Order Report)—by twelve months ($\$50,000/12 = \$4,166.66$) and then multiplying by the number of months remaining until the July 1st semi-annual renewal date, including any partial month when the subscription began (*i.e.*, March, April, May and June 2027, which equals four total months). Beginning July 1, 2027, the semi-annual renewal date, “Member C” would be assessed the discounted annual fee of \$50,000 for multiple subscriptions, which would run through June 30, 2028.

Example 4

“Member D” has a monthly subscription to the Simple Order Report. “Member D” will continue to pay the \$4,000 monthly subscriber fee each month until the end of December 2026. At that time, “Member D” may terminate their subscription entirely (or at anytime before December) or transition to an annual subscription for the Simple Order Report, which would be \$30,000, effective for January 1, 2027. In this case, there would be no pro-rated fees because January 1st is the semi-annual renewal date.

Example 5

“Member E” has annual subscriptions to both the Simple Order Report and Complex Order Report beginning March 1, 2026. “Member E” is assessed the \$40,000 discounted fee pursuant to the “12 Month Subscription Discount” as currently provided for in Section 7 of the Fee Schedule, pursuant to which the Exchange will provide “Member E” the data for the Simple Order Report and Complex Order Report each month through February 2027. Assume that in September 2026, “Member E” wants to add an annual subscription to the Purge Report. In this case, the Exchange will assess “Member E” the pro-rated discounted fee for multiple annual subscriptions until the “12 Month Subscription Discount” expires, at which time the newly proposed rates for subscribing to two or more annual reports will apply, as described above. For clarity, to add an annual subscription to the Purge Report in September 2026, “Member E” will be assessed an additional \$1,666.67 each month (calculated by dividing the \$20,000 discounted price to add an annual subscription to the Purge Report based on the multiple report annual discount and is in addition to the \$40,000 already paid) for September, October, November, and December 2026, as well as January and February 2027. Beginning March 1, 2027, assuming “Member E” wants to continue annual subscriptions to the Simple Order Report, Complex Order Report and Purge Report, the Exchange will assess “Member E” the monthly pro-rated amount for three annual subscriptions until the next semi-annual renewal date of July 1, 2027. Accordingly, “Member E” will be assessed \$5,833.33 each month of March, April, May and June 2027. This is calculated by dividing the annual fee for subscribing to all three of the Simple Order Report, Complex Order Report and Purge Report (\$70,000) by twelve months, which equals \$5,833.33 per month until the next semi-annual renewal date. On July 1, 2027, “Member E” will be assessed the full annual fee for multiple annual subscriptions of \$70,000.

The purpose of establishing the discount program for market participants that purchase annual subscriptions to two or more of the Reports is to provide an incentive via reduced fees for market participants to continue receiving the data provided in the Reports.

* * * * *

The Reports are being offered to Members on a completely voluntary

¹⁴ Throughout this filing, the Exchange rounded up or down to the nearest whole cent when providing fee calculations.

basis in that the Exchange is not required by any rule or regulation to make this data available and potential subscribers may purchase any report only if they voluntarily choose to do so. It is a business decision of each Member whether to subscribe to each Report or not. Not all Members purchase the Reports. Members may cancel their subscription to any of the Reports at any time.

The proposed changes are effective beginning April 1, 2026.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁶ in particular, in that it is 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 protect investors and the public interest, and is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for the reports is consistent with Section 6(b) of the Act¹⁷ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁸ in particular, in that it is an equitable allocation of dues, fees and other charges among its Members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations ("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 Reports further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The Reports also promote increased transparency through the dissemination of the data contained in each of the Reports. Particularly, the Reports will benefit investors by facilitating their prompt access to the value-added information that is included in each of the Reports. The Reports will allow Members to access information regarding their trading or purge activity that they may utilize to

evaluate their own trading or purge behavior and order interactions.

Proposals To Increase the Annual Fee for the Simple Order Report, Complex Order Report and Resting Simple Order Report and Establish Fees for the Purge Report

The Exchange believes the proposed increased annual fee for the Simple Order Report and Complex Order Report are reasonable as the proposed increase is modest and is still comparable to the annualized fee charged by other exchanges for similar reports. In particular, BZX and EDGX each assess a monthly fee of \$3,500 for subscriptions to their Missed Liquidity Reports. On an annualized basis, a BZX or EDGX member would pay a total of \$42,000 per year for the Missed Liquidity Report (\$3,500 per month multiplied by 12 months). When compared to the Exchange's proposed annual fee of \$30,000 for each of the Simple Order Report or Complex Order Report, the Exchange believes its proposed fee increase is reasonable. Further, when looking at the Exchange's proposed fee for the Simple Order Report and Complex Order Report on a per month basis, the Exchange believes the proposed fee is reasonable as it is effectively less than the monthly fee assessed by BZX and EDGX for their similar reports (*i.e.*, \$30,000 divided by twelve months = \$2,500 per month).¹⁹

The Exchange believes the proposed increased fee for an annual subscription to the Resting Simple Order Report is reasonable as the proposed fee is still both modest and lower than fees (as proposed to be increased herein) charged by the Exchange for similar data products, *i.e.*, the Simple Order Report and Complex Order Report. The proposed increased fee for the Resting Simple Order Report continues to be less expensive than the Exchange's Simple Order Report and Complex Order Report because the Exchange believes that the information provided in the Resting Simple Order Report may not be as valuable to market participants as the other information contained in the Simple Order Report and Complex Order Report, which measures the data in the first 200 microseconds of the time the resting order was received by the Exchange. While the Exchange believes that the Resting Simple Order Report continues to be useful to market participants, it may not be as helpful as the other reports offered by the Exchange and, therefore, the Exchange proposes a lower annual fee for the Resting Simple Order Report.

The Exchange believes the proposed fees for the Purge Report are reasonable because they are identical to the fees (as proposed) that the Exchange assesses for its Simple Order Report and Complex Order Report. The Exchange also believes the proposed fees for the Purge Report are reasonable as they would support the introduction of a new market data product to Market Makers that are interested in gaining insight into latency in connection with purge messages that failed to cancel their quotes resting on the Simple Order Book. The Purge Report accomplishes this by providing those Market Makers data to analyze by how much time their purge message may have missed cancelling a quote before (or after) execution of that quote against a contra-side order. The Purge Report will provide greater visibility by showing how much time a purge message missed canceling a quote, particularly as market conditions change throughout the day and Market Makers attempt to cancel and replace quotes in certain symbols.

Indeed, if the Exchange proposed fees that market participants viewed as excessively high, then the proposed fees would simply serve to reduce demand for the Reports, which as noted, are entirely optional. Other options exchanges are also free to introduce their own comparable data products with lower prices to better compete with the Exchange's offerings. As such, the Exchange believes that the proposed fees for the Reports are reasonable and set at a level to compete with other options exchanges that may choose to offer similar reports or do offer similar reports today. Moreover, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Reports and instead purchase another exchange's similar data product, which may offer similar data points, albeit based on that other market's trading activity.

Selling market data, such as one of the Reports, is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in continuing to attract subscribers for the Reports, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, firms can decrease or discontinue their use of the data and/or avail themselves of similar products that may be offered by other exchanges.²⁰ The Exchange, therefore, believes that the proposed fees for the

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(4).

¹⁹ See *supra* note 11.

²⁰ See *supra* note 11.

Reports reflect the competitive environment and would be properly assessed to subscribers to each of the Reports. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all subscribers who choose to purchase such data. It is a business decision of each Member that chooses to purchase any of the Reports. The Exchange's proposed fees would not differentiate between subscribers that purchase the Reports and are set at modest levels that would allow any interested Member to purchase such data based on their business needs.

The Exchange reiterates that the decision as to whether or not to purchase the Reports is entirely optional for all potential subscribers. Indeed, no market participant is required to purchase the Reports, and the Exchange is not required to make the Reports available to all investors. It is entirely a business decision of each Member to subscribe to the Reports. The Exchange offers the Reports as a convenience to Members to provide them with additional information regarding trading or purging activity on the Exchange on a delayed basis after the close of regular trading hours. A Member that chooses to subscribe to the Reports may discontinue receiving the Reports at any time if that Member determines that the information contained in the Reports is no longer useful.

Proposal To Establish a Sunset Period for Monthly Subscriptions

The Exchange believes its proposal to sunset monthly subscriptions at the end of 2026 is reasonable because it is intended to reduce billing complexity and streamline the fee structure for the Reports. The Exchange notes that the majority of subscribers purchase annual subscriptions to the Reports and each monthly subscriber will have nine months to determine whether they would like to transition to an annual subscription or terminate their subscriptions altogether. The Exchange believes this proposed change is equitable and not unfairly discriminatory because all subscribers will be subject to the same annual fees once the sunset period ends for monthly subscriptions, with the annual fee for each Report assessed at a discounted rate compared to the current monthly rates. The Exchange also believes that transitioning to only annual subscriptions will improve the efficiency by which the Exchange may deliver the Reports by doing so on a regular basis over a prolonged and set period of time.

Proposal To Establish a Discount Program for Multiple Annual Subscriptions

The Exchange also believes it is reasonable to provide discounts for market participants that subscribe to multiple Reports. The Exchange believes the discounted fees for subscribers to multiple Reports may incentivize more Members to subscribe and determine whether they realize value from the Reports. The Exchange believes the discounted fees for the Reports is equitable and not unfairly discriminatory because the discounted rates will apply equally to all market participants that subscribe to two or more of the Reports.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Inter-Market Competition

The Exchange developed the Reports in order to keep pace with changes in the industry and evolving customer needs and demands, and believes the Reports will continue to contribute to robust competition among national securities exchanges, including with the proposed fee changes described herein. The Exchange believes the proposed fee changes in this filing permit fair competition among national securities exchanges, all of which may create similar data products for their markets, including at least two exchanges that already offer similar products.²¹

The Exchange does not believe the proposed fee changes would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own comparable reports with lower prices to better compete with the Exchange's offerings. The Exchange operates in a highly competitive environment, and its ability to price the Reports is constrained by competition among exchanges who choose to adopt similar products. The Exchange must consider this in its pricing discipline in order to compete for subscribers of the Exchange's market data via the Reports. For example, proposing fees that are excessively higher than fees for potentially similar data products would simply serve to reduce demand for the Exchange's Reports, which as discussed, market participants are under no obligation to utilize. In this competitive environment, potential purchasers are

free to choose which, if any, similar product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

Intra-Market Competition

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fees apply uniformly to any purchaser in that the Exchange does not differentiate between subscribers that purchase the reports. The proposed fees are set at a modest level that would allow any interested Member to purchase such data based on their business needs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,²² and Rule 19b-4(f)(2)²³ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-EMERALD-2026-09 on the subject line.

²² 15 U.S.C. 78s(b)(3)(A)(ii).

²³ 17 CFR 240.19b-4(f)(2).

²¹ See *supra* note 11.

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-EMERALD-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 (<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-EMERALD-2026-09 and should be submitted on or before May 8, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07494 Filed 4-16-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0655]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Regulation 14N and Schedule 14N

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.

Regulation 14N (17 CFR 240.14n-1 through 240.14n-3) and Schedule 14N (17 CFR 240.14n-101) requires the filing of certain information with the

Commission by shareholders who submit a nominee or nominees for director pursuant to applicable state law, or a company's governing documents. Schedule 14N provides notice to the company of the shareholder's or shareholder group's intent to have the company include the shareholder's or shareholder group's nominee or nominees for director in the company's proxy materials. This information is intended to assist shareholders in making an informed voting decision with regards to any nominee or nominees put forth by a nominating shareholder or group, by allowing shareholders to gauge the nominating shareholder's interest in the company, longevity of ownership, and intent with regard to continued ownership in the company. We estimate that Schedule TO is filed once per year by one respondent, for an estimated total of one response annually. We estimate that Schedule 14N requires approximately 30 burden hours per response and approximately \$6,000 cost burden per response, for an estimated total annual reporting burden of 30 hours (30 burden hours per response × one response) and an estimated total annual cost burden of \$6,000 (one response × \$6,000 per response).

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 16, 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 15, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-07554 Filed 4-16-26; 8:45 am]

BILLING CODE 8011-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21146]

Van Pool Transportation LLC and AG Van Pool Holdings, LP—Acquisition of Control—Specialty Transportation, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving and Authorizing Finance Transaction.

SUMMARY: On March 18, 2026, Van Pool Transportation LLC (Van Pool) and AG Van Pool Holdings, LP (AG Holdings) (collectively, Applicants), both noncarriers, filed an application to acquire control of an interstate passenger motor carrier, Specialty Transportation, Inc. (Specialty), from its sole shareholder, Bennett Grossman (Seller). The Board is tentatively approving and authorizing the proposed acquisition of control. If no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by June 1, 2026. If any comments are filed, Applicants may file a reply by June 16, 2026. If no opposing comments are filed by June 1, 2026, this notice shall be effective on June 2, 2026.

ADDRESSES: Comments, referring to Docket No. MCF 21146, may be filed with the Board either via e-filing on the Board's website or in writing addressed to: Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001. In addition, send one copy of comments to Applicants' representative: Kiefer A. Light, Beacon Mobility Corp., 3700 Embassy Parkway, Suite 500, Akron, OH 44333.

FOR FURTHER INFORMATION CONTACT: Sarah Fancher at (202) 915-8445. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

SUPPLEMENTARY INFORMATION: According to the application, Van Pool is a Delaware limited liability company indirectly controlled by AG Holdings through intermediary holding companies.¹ (Appl. 2-4.) Neither Van

¹ Specifically, Applicants state that Van Pool is wholly owned by VP Intermediate Company (VP Intermediate), a Delaware corporation and noncarrier holding company, and that VP Intermediate is wholly owned by Beacon Mobility Corp. (Beacon Mobility), a Delaware corporation and noncarrier holding company. (Appl. 14.) Beacon Mobility is wholly owned by Beacon

²⁴ 17 CFR 200.30-3(a)(12).

Pool nor AG Holdings is a federally regulated carrier. (*Id.*) However, Van Pool directly owns and controls all equity and voting interest in 23 interstate passenger motor carriers (the Affiliated Carriers).² (*Id.* at 2–3.) The Affiliated Carriers are:³

- NRT Bus, Inc., which primarily provides non-regulated student transportation services for schools in Massachusetts (Essex, Middlesex, Norfolk, Suffolk, and Worcester Counties), and occasional charter services, (*id.* at 4);
- Trombly Motor Coach Service, Inc., which primarily provides non-regulated student transportation services for schools in Massachusetts (Essex and Middlesex Counties), and occasional charter services, (*id.* at 4–5);
- Salter Transportation, Inc., which primarily provides non-regulated student transportation services for schools in Massachusetts (Essex County) and New Hampshire, and occasional charter services, (*id.* at 5);

Mobility Intermediate Corp. (Beacon Intermediate), a Delaware corporation and noncarrier holding company. (*Id.*) Beacon Intermediate is wholly owned by Beacon Mobility Preferred Issuer, LLC (Beacon Preferred), a Delaware limited liability company and noncarrier holding company, and Beacon Preferred is wholly owned by Van Pool Group Holdings, L.P. (Group Holdings), a Delaware limited partnership and noncarrier holding company. (*Id.* at 14–15.) Group Holdings is majority-owned and controlled by AG Holdings, a Delaware limited partnership and noncarrier holding company. (*Id.* at 15.) AG Holdings is owned by investment funds affiliated with Audax Management Company, LLC (the Audax Funds), a Delaware limited liability company. (*Id.*) According to Applicants, none of these entities has interstate passenger motor carrier authority, a U.S. Department of Transportation (USDOT) number, or a USDOT safety rating, and none of the entities control any regulated interstate passenger carriers other than as set forth in the application. (*Id.*)

² On December 12, 2025, the Board published notice tentatively approving Applicants' acquisition of control of Lavdas Enterprises, Inc., d/b/a Lavdas Limousines, Inc. (Lavdas) (90 FR 57803). See *Van Pool Transp. LLC—Acquis. of Control—Lavdas Enters., Inc.*, MCF 21140 (STB served Dec. 12, 2025). However, Applicants state that they and Lavdas ultimately did not consummate the transaction. (Appl. 3 n.2.) Accordingly, Lavdas is not among the Affiliated Carriers. (*Id.*)

Additionally, on December 23, 2025, the Board published notice tentatively approving an application by Applicants to continue in control of two of Applicants' subsidiaries—Rolling V Bus Corp. (Rolling V) and STS of New Mexico, LLC (STS)—upon Rolling V and STS becoming federally regulated passenger motor carriers (90 FR 60,223). See *Van Pool Transp. LLC—Continuance in Control—Rolling V Bus Corp.*, MCF 21141 (STB served Dec. 23, 2025). Applicants note, however, that STS has not yet applied for interstate authority since approval was granted but is expected to apply in the near future. (Appl. 3 n.2.) Accordingly, STS is not currently among the Affiliated Carriers.

³ Additional information about these motor carriers, including principal place of business, USDOT numbers, motor carrier numbers, USDOT safety ratings, fleet composition, and driver count, can be found in the application. (See Appl., Ex. A.)

- Easton Coach Company, LLC, which provides (i) intrastate paratransit, shuttle, and line-run services under contracts with regional transportation authorities and other organizations, primarily in New Jersey and eastern Pennsylvania, and (ii) private intrastate and interstate charter motor coach and shuttle services, primarily in eastern Pennsylvania, (*id.*);

- F. M. Kuzmeskus, Inc., d/b/a Travel Kuz, which provides (i) non-regulated school bus transportation services, (ii) intrastate and interstate motor coach and limousine charter services, and (iii) limited intrastate and interstate charter services using school buses, all in western Massachusetts and southern Vermont, (*id.* at 5–6);

- Alltown Bus Service Inc. (Alltown), which primarily provides non-regulated student transportation services for schools in the metropolitan area of Chicago, Ill., and its northern suburbs. Alltown also provides occasional charter services, (*id.* at 6);

- DS Bus Lines, Inc., which primarily provides (i) non-regulated student transportation services for schools in Kansas (Beloit, Kansas City, Lincoln, Olathe, and Shawnee), Missouri (Belton and Smithville), Colorado (the metropolitan area of Denver), and Oklahoma (the metropolitan area of Tulsa), (ii) intrastate employee shuttle services in Colorado and Texas, and (iii) occasional charter services, (*id.* at 6–7);

- Royal Coach Lines, Inc., which primarily provides (i) non-regulated student transportation services for schools in the metropolitan area of Westchester County, N.Y., and southern Connecticut and (ii) contract and charter transportation services in the same areas for activities such as summer camps, events, and group trips, (*id.* at 7);

- Local Motion, LLC, which provides non-regulated school bus, charter, and shuttle services in the metropolitan area of Boston, Mass., (*id.*);

- Butler's Bus Service, Inc. (BBS), which primarily provides non-regulated student transportation services for schools in the New Hampshire cities of Manchester, North Haverhill, Milford, and Center Barnstead, and the Vermont cities of Orleans, Lyndonville, and White River Junction. BBS also provides occasional charter services, (*id.* at 7–8);

- TransAction Corporate Shuttles, Inc., which provides shuttle, on-demand transportation, and charter services in Massachusetts, (*id.* at 8);

- Dell Transportation Corp. (Dell), which primarily provides non-regulated student transportation for schools, and occasional charter services. The geographic service area of Dell is primarily the towns of Hempstead, N.Y.,

Port Washington, N.Y., and Great Neck, N.Y., (*id.*);

- Hendrickson Bus Corporation (Hendrickson), which primarily provides non-regulated student transportation for schools, and charter transportation for school-related extracurricular activities such as athletic events, field trips, and other school-sponsored functions. The geographic service area of Hendrickson is primarily Bayville, N.Y., and Port Washington, N.Y., (*id.* at 8–9);

- Huntington Coach Corporation (Huntington Corp.), which provides primarily non-regulated student transportation for schools, and charter transportation for school-related extracurricular activities such as athletic events, field trips, and other school-sponsored functions. The geographic service area that Huntington Corp. serves is primarily Northport, N.Y., and Huntington Station, N.Y., (*id.* at 9);

- Huntington Coach, LLC (Huntington LLC), which primarily provides non-regulated student transportation for schools, and charter transportation for school-related extracurricular activities such as athletic events, field trips, and other school-sponsored functions. The geographic service area of Huntington LLC is primarily Huntington Station, N.Y., (*id.*);

- Towne Bus Corp. (Towne Corp.), which primarily provides non-regulated student transportation for schools, and charter transportation for school-related extracurricular activities such as athletic events, field trips, and other school-sponsored functions. The geographic service area of Towne Corp. is primarily Long Island, N.Y., (*id.* at 9–10);

- Towne Bus LLC (Towne LLC), which primarily provides non-regulated student transportation for schools, and transportation for school-related extracurricular activities such as athletic events, field trips, and other school-sponsored functions. The geographic service area of Towne LLC is primarily Long Island, N.Y., (*id.* at 10);

- Van Trans LLC (Van Trans), which primarily provides non-regulated student transportation for schools, and transportation for school-related extracurricular activities such as athletic events, field trips, and other school-sponsored functions. The geographic service area of Van Trans is primarily Bronx, N.Y., (*id.*);

- WE Transport (NY) LLC (WE NY), which primarily provides non-regulated student transportation for schools, and transportation for school-related extracurricular activities such as athletic events, field trips, and other school-sponsored functions. The geographic

service area of WE NY is primarily Long Island, N.Y., (*id.* at 10–11);

- WE Transport LLC (Connecticut) (WE CT), which primarily provides non-regulated student transportation for schools, and transportation for school-related extracurricular activities such as athletic events, field trips, and other school-sponsored functions. The geographic service area of WE CT is primarily Bridgeport, Conn., (*id.* at 11);

- WE Transport, Inc. (WE Transport), which primarily provides non-regulated student transportation for schools, and transportation for school-related extracurricular activities such as athletic events, field trips, and other school-sponsored functions. The geographic service area of WE Transport is primarily Long Island, N.Y., (*id.*);

- George M. Carroll Transportation, Inc., d/b/a George M. Carroll Inc. (GMCT), which primarily provides regular home-to-school transportation services, with a focus on special needs students, and charter services that primarily involve transportation to and from school-related extracurricular activities such as athletic events, field trips, and other school-sponsored functions. GMCT also provides occasional non-school-related charter services for special occasions such as weddings, wine tours, proms, sporting events, and airport trips. The geographic service area of GMCT is primarily within Orange County, N.Y., (*id.* at 11–12); and

- Rolling V Bus Corp., which primarily provides non-regulated student transportation for schools, and charter transportation for school-related extracurricular activities such as athletic events, field trips, and other school-sponsored functions. The geographic service area of Rolling V is primarily within New York (Sullivan, Ulster, and Delaware Counties), (*id.* at 12).

In the present application, Applicants seek Board approval to acquire control of Specialty from Seller. Specialty is a Connecticut corporation with its principal place of business in Hartford, Conn. (*Id.*) Specialty operates as a motor carrier, with a core service area within Hartford County, Conn., particularly the Connecticut towns of West Hartford, Avon, and Farmington, as well as the Connecticut towns of Guilford and Wallingford surrounding Hartford County. (*Id.* at 13.) On rare occasions Specialty's charter operations extend beyond this core area to include interstate service into New York and Massachusetts. (*Id.*) According to the application, Specialty primarily provides home-to-school and charter student transportation services to and from extracurricular activities such as

athletic events, field trips, and other school-sponsored functions. (*Id.* at 12–13.) Specialty also provides luxury charter bus services for activities such as scenic tours, corporate retreats, and weddings. (*Id.*) Specialty's fleet consists of approximately 13 school buses (1–8 passengers), 173 school buses (16+ passengers), 110 mini-buses (16+ passengers), 166 vans (1–8 passengers), and 55 vans (9–15 passengers). (*Id.*) Applicants also provide additional details regarding Specialty's principal place of business, USDOT number, FMCSA docket number, fleet composition, and driver count. (*Id.*, Ex. A.)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least (1) the effect of the proposed transaction on the adequacy of transportation to the public, (2) the total fixed charges resulting from the proposed transaction, and (3) the interest of affected carrier employees. Applicants have submitted the information required by 49 CFR 1182.2, including information demonstrating that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), *see* 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded \$2 million during a consecutive 12-month period ending not more than six months before the date of the agreement of the parties, *see* 49 CFR 1182.2(a)(5). (Appl. 15–20.)

Applicants do not expect the proposed acquisition of control to have a material, detrimental impact on the adequacy of transportation services available to the public. (*Id.* at 16.) According to Applicants, services available to the public will be improved as operating efficiencies are realized and additional services and capacity are made available. (*Id.*) Applicants add that their acquisition of control of Specialty is consistent with the practices within the passenger motor carrier industry of strong, well-managed transportation organizations adapting their corporate structure to operate several different passenger carriers within similar service markets, but in different geographic areas. (*Id.* at 15–16.) Applicants expect the transaction to result in improved operating efficiencies, increased equipment utilization rates, and cost savings derived from economies of scale within Applicants' subsidiaries, all of which will help to ensure the provision of

adequate service to the public. (*Id.* at 17.)

According to Applicants, demand for school bus transportation and charter services in the areas served by Specialty is strong and is expected to increase in the foreseeable future. (*Id.* at 19.) Applicants assert that the markets that Specialty serves are very competitive due to the significant number of national, regional, and local providers operating in those markets. (*Id.*) Applicants state that providers competing with Specialty include, but are not limited to, First Student, DATTCO, M&J, Autumn Transportation, Durham School Services, and Student Transportation of America. (*Id.*) Applicants also state that Specialty's service area is geographically dispersed from service areas of Applicants' Affiliated Carriers and that there is very limited overlap in customer bases as between the Affiliated Carriers and Specialty. (*Id.*) In light of the highly competitive nature of Specialty's operating environment and the limited intersection between its operations and those of the Affiliated Carriers, Applicants argue that the impact of the transaction on the regulated motor carrier industry will be minimal at most, and neither competition nor the public interest will be adversely affected. (*Id.* at 19–20.)

Applicants concede that the proposed transaction will increase fixed charges in the form of higher interest expenses, explaining that funds will be borrowed to finance the transaction. (*Id.* at 17.) Applicants state that the increase in fixed charges will not affect the provision of transportation to the public. (*Id.*)

Additionally, Applicants do not expect the transaction to have a substantial impact on employees or labor conditions because they intend to continue Specialty's existing operations. (*Id.* at 17–18.) Applicants do not anticipate a measurable increase or reduction in Specialty's workforce but acknowledge that staffing redundancies may result in limited downsizing of back-office or managerial-level personnel. (*Id.* at 18.) Applicants do not expect the transaction to result in changes in compensation levels or benefits. (*Id.*)

Based on their representations, the Board finds that Applicants' acquisition of control of Specialty is consistent with the public interest. The application will be tentatively approved and authorized. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to

reconsider the application. *See* 49 CFR 1182.6. If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action in this proceeding.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at www.stb.gov.

It is ordered:

1. The transaction is approved and authorized, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective on June 2, 2026, unless opposing comments are filed by June 1, 2026. If any comments are filed, Applicants may file a reply by June 16, 2026.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

By the Board, Board Members Fuchs, Hedlund, and Schultz.

Decided: April 10, 2026.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2026-07482 Filed 4-16-26; 8:45 am]

BILLING CODE 4915-01-P

TENNESSEE VALLEY AUTHORITY

Notice of Meeting Cancellation

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of meeting cancellation.

SUMMARY: The Tennessee Valley Authority (TVA) announces that the April 23, 2026 meeting of the TVA Regional Energy Resource Council is cancelled. This meeting was announced in the **Federal Register** on April 8, 2026. TVA will announce the new date for this meeting in a future **Federal Register** notice.

DATES: The meeting announced in the **Federal Register** notice published April 8, 2026 (FR Doc. 2026-06774) is cancelled.

FOR FURTHER INFORMATION CONTACT: Bekim Haliti, bhaliti@tva.gov or 931-349-1894.

Dated: April 13, 2026.

Amy Edge,

Designated Federal Officer, Tennessee Valley Authority.

[FR Doc. 2026-07553 Filed 4-16-26; 8:45 am]

BILLING CODE 8120-08-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice of AIP Property Release: Kelso Municipal Airport, Kelso, Washington

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of request to release Airport Improvement Program property.

SUMMARY: Notice is being given that the FAA is considering a request from the City of Kelso, Washington to waive the AIP property requirements and dispose of approximately 0.42 acres of airport property located at Kelso Municipal Airport, in Kelso, Washington.

DATES: Comments are due within 30 days of the date of the publication of this notice in the **Federal Register**.

ADDRESSES: Emailed comments can be provided to Mr. Tim House, Lead Planner, Seattle Airports District Office, timothy.a.house@faa.gov.

FOR FURTHER INFORMATION CONTACT: Tim House, Lead Planner, Seattle Airports District Office, 2200 S 216 St., Des Moines, WA 98198. Documents reflecting this FAA action may be reviewed at the above locations.

SUPPLEMENTARY INFORMATION: The subject property is located north of the airport and separated from the aeronautical use area. This release will allow the City of Kelso to swap 0.42 acres of airport land for 0.41 acres of City of Kelso right of way. The project will also include the City of Kelso fencing the resulting land to more clearly define the airport boundary. It has been determined through study that the subject 0.42 acres will not be needed for aeronautical purposes.

(Authority: Title 49 U.S.C. 47107(h)(2).)

Issued in Des Moines, Washington on April 14, 2026.

Ryan Zulauf,

Acting Manager, Seattle Airports District Office.

[FR Doc. 2026-07480 Filed 4-16-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA-2025-5699; Summary Notice No. 2026-12]

Petition for Exemption; Summary of Petition Received; The Boeing Company

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before May 7, 2026.

ADDRESSES: Send comments identified by docket number FAA-2025-5699 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at (202) 493-2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time.

Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Nondie Hemphill, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, at 202-267-9677.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Dan A. Ngo,

Manager, Part 11 Petitions Branch, Office of Rulemaking.

Petition For Exemption

Docket No.: FAA-2025-5699.

Petitioner: The Boeing Company.

Section(s) of 14 CFR Affected: 14 CFR § 38.1, 40 CFR 1030.1.

Description of Relief Sought: The Boeing Company (Boeing) seeks relief from Title 14, Code of Federal Regulations (14 CFR) § 38.1 and Title 40 CFR 1030.1. These regulations, which adopt the International Civil Aviation Organization's (ICAO) global standard for airplane CO₂ certification requirements (Annex 16, Volume III), prohibit the issuance of an original certificate of airworthiness on or after January 1, 2028, for certain subsonic jet airplanes that do not meet specific fuel efficiency and greenhouse gas emission limits.

Boeing seeks relief to allow the certification of 35 Boeing 777 dedicated Freighter (777F) airplanes after January 1, 2028 which are unable to comply with the fuel efficiency limits set by the regulations. The requested exemption would allow the company to meet existing customer demand and maintain production continuity until its more fuel-efficient replacement, the 777-8F, becomes available.

[FR Doc. 2026-07551 Filed 4-16-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2026-1992]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Notice of Proposed Construction or Alteration, Notice of Actual Construction or Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: 30-Day notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 20, 2026. The FAA uses the information collected on form 7460-1 to determine the effect a proposed construction or alteration would have on air navigation and the National Airspace System (NAS) and the information collected on form 7460-2 to measure the progress of actual construction.

DATES: Written comments should be submitted by May 18, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: David Maddox by email at: david.maddox@faa.gov; phone: (202) 267-4525.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120-0001.

Title: Notice of Proposed Construction or Alteration, Notice of Actual Construction or Alteration.

Form Numbers: FAA Forms 7460-1 and 7460-2.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 20, 2026 (91 FR 2415). 49 U.S.C Section 44718 states that the Secretary of Transportation shall require notice of structures that may affect navigable airspace, air commerce, or air capacity. These notice requirements are contained in 14 CFR 77. The information is collected via FAA Forms 7460-1 and 7460-2.

Respondents: Approximately 85,000 registered respondents including individuals or organizations that propose construction or alteration projects and are required to provide adequate notification to the FAA of that construction or alteration.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: Approximately 15 Minutes.

Estimated Total Annual Burden: 63,332 hours.

Issued in Washington, DC.

Julie A. Morgan,

Manager, Obstruction Evaluation Group, A/V-A500.

[FR Doc. 2026-07557 Filed 4-16-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2025-0096]

Deepwater Port License Application: ST LNG Deepwater Port Development Project—Draft Environmental Impact Statement

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice of availability; notice of public meeting; request for comments.

SUMMARY: MARAD announces the availability of the Draft Environmental Impact Statement (DEIS) for the ST LNG Deepwater Port Development Project (ST LNG) Deepwater Port License Application. In addition, MARAD announces an informational open house and a public meeting for the DEIS. Publication of this notice announces the availability of the DEIS, requests public comments and participation, provides information on how to participate in the environmental impact review process, and announces the informational open house and public meeting.

DATES: The open house and public meeting will be held on Wednesday, May 6, 2026. The open house will take place from 5:00 p.m. to 6:00 p.m. Central Standard Time (CST), and the public meeting will take place from 6:00 p.m. to 8:00 p.m. CST. These events will be held at the Bay City Civic Center, 201 7th Street, Bay City, Texas 77414. Responsive materials must be submitted through the Federal eRulemaking Portal or to the Federal Docket Management Facility as detailed in the **ADDRESSES** section below no later than 45 days after the Environmental Protection Agency (EPA) publishes its notice of availability of the DEIS in the **Federal Register**.

ADDRESSES: You may submit comments to the DOT Docket, DOT Docket Number MARAD–2025–0096 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Search “MARAD–2025–0096” and follow the instructions for submitting comments.
- **Mail or Hand Delivery:** The Docket Management Facility is located at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590. Documents may be delivered between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and mailing address, an email address, and/or a telephone number on a cover page so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying and electronic filing.

The instructions listed in this section are the only methods in which comments will be accepted for submission to the docket. It is the commenter's responsibility to comply with the instructions above to ensure that their comments are properly submitted for consideration and review. Comments that are not submitted using the specified methods and outlined within this notice will not be considered.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if

submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Barton, Maritime Administration, telephone: 202–366–0302, email: Deepwater.Ports@dot.gov.

SUPPLEMENTARY INFORMATION:

Public Meeting and Open House

We encourage you to attend the informational open house and public meeting to learn about and comment on the ST LNG project. You will have the opportunity to submit comments on the issues related to the ST LNG project, which MARAD and appropriate cooperating agencies will review and address in the Final Environmental Impact Statement (FEIS).

Speakers at the public meeting will be recognized in the following order: first, elected officials, public agencies, individuals, or groups who sign up at the public meeting, to be called on in the order they signed up, and then anyone else who wishes to speak.

To allow everyone a chance to speak at the public meeting, we may limit speaker time, extend the meeting hours, or both. You must identify yourself and any organization you represent by name. Your remarks will be recorded and transcribed for inclusion in the public docket.

You may submit written material through the docket submission process, even if you choose to speak. Written material should include your name and address and will be published on the public docket. Public docket materials will be made available to the public on the DOT Docket (*see* **ADDRESSES**).

If you plan to participate in the open house or public meeting and need special assistance such as sign language interpretation, non-English language interpretation services, or other reasonable accommodations, please notify MARAD (*see* **FOR FURTHER INFORMATION CONTACT**) at least seven business days in advance of the public meeting. Include your contact information as well as information about your specific needs.

Request for Comments

We request public comments or other relevant information related to the DEIS for the ST LNG project. The comments will inform the preparation of the FEIS. We encourage attendance at the public meeting; however, the public meeting is not the only opportunity you will have to comment on the ST LNG project. You

may also submit comments directly to the Federal eRulemaking Portal or the Federal Docket Management Facility during the public comment period (*see* **DATES**). We will consider all substantive comments and materials that are received no later than 45 days after the Environmental Protection Agency (EPA) publishes its notice of availability of the DEIS. MARAD will consider comments submitted after that comment period to the extent practicable.

The ST LNG application, all comments, and associated documentation are available for viewing at the *Federal eRulemaking Portal* website at <http://www.regulations.gov> and identified by the DOT Docket Number listed above.

Summary of Application

The application proposes the ownership, construction, operation, and eventual decommissioning of the ST LNG deepwater port terminal to be located approximately 10.4 nautical miles (19.2 kilometers) offshore Matagorda, Texas, and capable of exporting up to 8.4 MTPA of liquefied natural gas.

A Notice of Application that summarized the ST LNG Deepwater Port License Application was published in the **Federal Register** on Monday, July 7, 2025 (90 FR 29930). A Notice of Intent to Prepare an Environmental Impact Statement and Notice of Public Meeting was published in the **Federal Register** on Tuesday, July 15, 2025 (90 FR 31741). This Notice of Availability incorporates those **Federal Register** notices by reference.

Once the DEIS comment period closes, MARAD and other appropriate cooperating agencies will consider substantive comments received and prepare a FEIS. We will announce the availability of the FEIS in the **Federal Register**. The Deepwater Port Act of 1974 requires a final public hearing be held in the Adjacent Coastal State(s), following issuance of the FEIS. The purpose of the final public hearing is to receive comments on matters related to whether the deepwater port license application should be approved by the Maritime Administrator.

(Authority: 33 U.S.C. 1501, *et seq.*, 49 CFR 1.93).

By Order of the Maritime Administrator.
T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.

[FR Doc. 2026–07517 Filed 4–16–26; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Agency Information Collection Activities; Comment Request on Application for Extension of Time To Furnish Recipient Statements**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Information Collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before June 16, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include "OMB Control No. 1545–2313" in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Kerry Dennis, (202) 317–5751.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record, and viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology;

and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Application for Extension of Time to Furnish Recipient Statements.
OMB Control Number: 1545–2313.
Form Number: 15397.

Abstract: The Secretary may grant an extension of time in which to furnish to employees/contractors the statements required by law. Currently, regulations allow the taxpayer to request an extension of time via letter. This form provides taxpayers with a more structured way of making the request. This will ease the burden on the taxpayers and improve IRS processing time.

Current Actions: There is no change in burden at this time. However, the number of responses has increased due to updated filing estimates.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 35,000.

Estimated Time per Response: .72 hours.

Estimated Total Annual Burden Hours: 25,200 hours.

Dated: April 15, 2026.

Kerry Dennis,

Tax Analyst.

[FR Doc. 2026–07539 Filed 4–16–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Agency Information Collection Activities; Comment Request on Tuition Statement**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before June 16, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include "OMB Control No. 1545–1574" in the subject line of the message.

FOR FURTHER INFORMATION CONTACT:

View the latest drafts of the tax forms related to the information collection listed in this notice at <https://www.irs.gov/draft-tax-forms>. Requests for additional information or copies of this collection should be directed to Marcus W. McCrary, 470–769–2001.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record, and viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Tuition Statement.

OMB Control Number: 1545–1574.

Form Number: 1098–T.

Abstract: Section 6050S of the Internal Revenue Code requires eligible education institutions to report certain information regarding tuition payments to the IRS and to students. Form 1098–T has been developed to meet this requirement.

Current Actions: There is no change to the previously approved information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for profit institutions.

Estimated Number of Responses: 24,762,900.

Estimated Time per Response: 13 minutes.

Estimated Total Annual Burden Hours: 5,447,838.

Dated: April 15, 2026.

Marcus W. McCrary,
Tax Analyst.

[FR Doc. 2026–07540 Filed 4–16–26; 8:45 am]

BILLING CODE 4830–GV–P

DEPARTMENT OF THE TREASURY

Privacy Act of 1974; System of Records

AGENCY: Department of the Treasury.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of the Treasury (“Treasury” or the “Department”) proposes to establish a new Treasury system of records titled, “Department of the Treasury, .031—Trump Accounts Program (TAP) System of Records.” This system of records supports the Treasury’s administration, oversight and compliance activities associated with Trump accounts, which are a type of traditional IRA established for the exclusive benefit of, and designed to promote long-term wealth building for, eligible American children. Records maintained in this system enable Treasury to administer and oversee program operations, ensure compliance with applicable statutory requirements, and carry out the objectives for Trump accounts.

DATES: Submit comments on or before May 18, 2026. This new system will be effective upon publication. The routine uses will be applicable on May 18, 2026 unless Treasury receives comments and determines that changes to the system of records notice are necessary.

ADDRESSES: Comments may be submitted to the Federal eRulemaking Portal electronically at <http://www.regulations.gov>. Comments can also be mailed to U.S. Department of the Treasury, Attention: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records, 1500 Suite #8100, JBAB, 250 Murray Lane SW, BLDG 410/Door 123, Washington, DC 20222.

Treasury encourages comments to be submitted via <https://www.regulations.gov>. All comments received, including attachments and other supporting documents, are part of the public record and subject to public disclosure. All comments received will be posted without change to www.regulations.gov, including any personal information provided. You should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice and privacy issues, please contact: Ryan Law, Deputy Assistant Secretary for Privacy, Transparency, and Records at U.S. Department of the Treasury, 1500 Suite #8100, JBAB, 250 Murray Lane SW, BLDG 410/Door 123, Washington, DC 20222; telephone: (202) 622–5710.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, as amended (the Privacy Act), the Department of the Treasury proposes to establish a new Treasury system of records titled, “Department of the Treasury, .031—Trump Accounts Program (TAP) System of Records.”

Treasury is publishing this System of Records Notice (SORN) to establish and maintain records that are retrieved by a personal identifier in connection with the oversight, compliance and integrity of the Trump accounts established pursuant to 26 U.S.C. 530A. This system of records supports Treasury’s responsibilities under Section 70204 of Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA) or the 2025 Budget Reconciliation Act, and related provisions of the Internal Revenue Code, including 26 U.S.C. 530A and 26 U.S.C. 6434 and associated sections governing eligibility, contributions, distributions, reporting, and oversight of Trump Accounts Program. Among other requirements, these statutory authorities require Treasury to create or organize the initial Trump account for each eligible individual, make a one-time \$1,000 pilot program contribution of an eligible child, and make a qualified general contribution to a qualified class of account beneficiaries.

Additionally, this system of records is being established to enable an effective program, to support internal controls, compliance monitoring, auditability, and program integrity functions. The system facilitates the compliance and oversight of accounts for eligible individuals; categorization and tracking of contributions and distributions; enforcement of statutory limits and restrictions; reconciliation of deposits and transfers; and generation and receipt of required reports. The system also supports activities designed to prevent improper elections, detect potential fraud or misuse, identify noncompliance with statutory or regulatory requirements, and ensure accurate financial and programmatic reporting.

To carry out these responsibilities, Treasury collects and maintains

personally identifiable information necessary for verifying eligibility to create an initial Trump Account or receive a qualified general contribution administer statutory controls and oversee financial agents and trustees. The Bureau of Fiscal Service will support program administration by facilitating the transfer of program data within Treasury for authorized purposes, and by processing payments.

This established system will be included in Treasury’s inventory of record systems.

Below is the description of the Treasury, .031—Trump Accounts Program (TAP) System of Records.

Treasury has provided a report of this system of records to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), pursuant to 5 U.S.C. 552a(r) and OMB Circular A–108, “Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,” dated December 23, 2016.

Ryan Law,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

SYSTEM NAME AND NUMBER:

Department of the Treasury, .031—Trump Accounts Program (TAP) System of Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained by the Department of the Treasury, Treasury Common Services Center (TCSC), and by The Bank of New York Mellon (BNY) and service providers acting on Treasury’s behalf to establish and administer Trump accounts, including associated information technology environments used for enrollment, account servicing, payment processing, reconciliation, and reporting.

The locations at which the system is maintained by Treasury bureau(s) and office(s); and their associated financial agent offices are:

1. Department of the Treasury, Treasury Common Services Center (TCSC), U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20006.
2. Department of the Treasury, Fiscal Service (FS), 801 9th Street, NW Washington, DC 20220.
3. The Bank of New York Mellon, 240 Greenwich St, New York, NY 10286.

SYSTEM MANAGER(S):

1. Chief Information Officer, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20006.

2. Deputy Assistant Secretary, Fiscal Operations and Policy, Office of the Fiscal Assistant Secretary, U.S.; Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 70204 of Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA) or the 2025 Budget Reconciliation Act; 5 U.S.C. 301; and 26 U.S.C. 530A (Trump accounts) and related provisions, and 26 U.S.C. 6434 (Trump accounts contribution pilot program).

PURPOSE(S) OF THE SYSTEM:

Information in this system of records is collected and maintained to support Treasury's compliance and oversight of Trump accounts, including to:

(a) Facilitate registration with BNY to establish Trump accounts for eligible individuals, including election to open an initial Trump account and elections for pilot program contributions.

(b) Track contributions to Trump accounts, including pilot program contributions, qualified general contributions funded by general funding contributions, employer contributions under section 128, qualified rollover contributions, and other non-exempt contributions.

(c) Support controls required by statute and guidance, including contribution limit controls for nonexempt contributions, restrictions on distributions, and investment restrictions to eligible investments.

(d) Support Treasury and trustee reconciliation of deposits, transfers, and account activity.

(e) Produce and receive required reporting, including reports regarding contributions, distributions (including qualified rollover contributions), fair market value, and investment performance.

(f) Support program integrity activities, including preventing improper elections and supporting compliance with applicable statutory and regulatory requirements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Account beneficiaries for whom a Trump account is established.

(b) Individuals who are authorized to request that a Trump account be established for an eligible individual

(including a parent, legal guardian, adult sibling, or grandparent, as applicable under the above cited statutory authorities), and individuals designated as responsible parties for an account during the growth period.

(c) Beneficiaries and other persons acquiring an interest in a Trump account upon the account beneficiary's death (including an estate, where applicable). Employees for whom employer contributions are made under section 128.

(d) Representatives of entities making general funding contributions used to fund qualified general contributions (including representatives of eligible governmental entities and section 501(c)(3) organizations).

(e) Representatives of trustees, fiscal agents, financial agents, and contractors who process, administer, reconcile, or report on Trump accounts on Treasury's behalf.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system may include:

- Name
- Social Security Number
- Date of Birth
- Home Address
- City/Town
- County
- State
- Zip Code
- Relationship
- Phone Number
- Email Address
- Foreign Country Name
- Foreign Province/State/Territory
- Foreign Postal Code
- Signature
- Firm Name
- Firm Address
- Firm's EIN
- PTIN
- Bank account number
- Routing Number

RECORD SOURCE CATEGORIES:

Information contained in the system of records may be provided by:

(a) The authorized individual requesting account establishment of a Trump account under 26 U.S.C. 530A or making a pilot program election under 26 U.S.C. 6434.

(b) Private Sector/Commercial Entities such as Trustees of Trump accounts and related financial institutions servicing, receiving, transferring, or reporting account information.

(c) Treasury and/or Treasury agents and contractors supporting program administration.

(d) Organizations such as employers making contributions under 26 U.S.C. 128 and their representatives and agents.

(e) Entities making general funding contributions, under 26 U.S.C. 530A(f)(2), and their representatives and agents.

(f) Other government agencies such as federal, state, or local entities as necessary to administer applicable requirements.

(g) IRS tax forms (*i.e.*, Form 4547–Trump Account Election(s) and other tax forms as required)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act of 1974, 5 U.S.C. 552a(b), records and/or information or portions thereof maintained as part of this system may be disclosed outside Treasury as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To the United States Department of Justice ("DOJ"), for the purpose of representing or providing legal advice to the Department in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, when such proceeding involves:

(a) The Department or any component thereof;

(b) Any employee of the Department in his or her official capacity;

(c) Any employee of the Department in his or her individual capacity where the Department of Justice or the Department has agreed to represent the employee; or

(d) The United States, when the Department determines that litigation is likely to affect the Department or any of its components; and the use of such records by the DOJ is deemed by the DOJ or the Department to be relevant and necessary to the litigation provided that the disclosure is compatible with the purpose for which records were collected;

(2) To a Federal, State, or local agency, when a record, either alone or in conjunction with other information indicates a violation or potential violation of law that is criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were collected;

(3) To a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(4) To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906;

(5) To appropriate agencies, entities, and person when (1) the Department of the Treasury suspects or has confirmed that there has been a breach of the system of records; (2) the Department of the Treasury has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department of the Treasury (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department of the Treasury's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(6) To another Federal agency or Federal entity, when the Department of the Treasury determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) 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; and

(7) To financial agents and the Department of the Treasury contractors for the purposes of establishing, servicing, and maintaining the Trump accounts.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by Social Security number (SSN), account

number, trustee or another assigned identifier.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system will be maintained and disposed in accordance with National Archives and Records Administration (NARA) retention schedules. The Department of the Treasury is in the process of developing a new records schedule for submission to NARA. Until the new schedule is approved, the records will be treated as permanent.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with the Treasury Shared Services Enterprise Cybersecurity Program Policy. Strict security access, multi-factor authentication and audit logging controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances.

RECORDS ACCESS PROCEDURES:

See "Notification Procedures" below.

CONTESTING RECORD PROCEDURES:

See "Notification Procedures" below.

NOTIFICATION PROCEDURES:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing, in accordance with Treasury's Privacy Act regulations (located at 31 CFR 1.26), to the Freedom of Information Act (FOIA) and Transparency Liaison, whose contact information can be found at <https://home.treasury.gov/footer/freedom-of-information-act> under "FOIA Requester Service Centers and FOIA Liaison." If

an individual believes more than one bureau maintains Privacy Act records concerning him or her, the individual may submit the request to the Office of Privacy, Transparency, and Records, FOIA and Transparency, Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington, DC 20220.

No specific form is required, but a request must be written and:

- Be signed and either notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization;

- State that the request is made pursuant to the FOIA and/or Privacy Act disclosure regulations;

- Include information that will enable the processing office to determine the fee category of the user;

- Be addressed to the bureau that maintains the record (in order for a request to be properly received by the Department, the request must be received in the appropriate bureau's disclosure office);

- Reasonably describe the records;

- Give the address where the determination letter is to be sent;

- State whether or not the requester wishes to inspect the records or have a copy made without first inspecting them; and

- Include a firm agreement from the requester to pay fees for search, duplication, or review, as appropriate. In the absence of a firm agreement to pay, the requester may submit a request for a waiver or reduction of fees, along with justification of how such a waiver request meets the criteria for a waiver or reduction of fees found in the FOIA statute at 5 U.S.C. 552(a)(4)(A)(iii).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2026-07514 Filed 4-16-26; 8:45 am]

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 217

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys in the Gulf of America; Final Rule

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 217**

[Docket No. 260414–0101]

RIN 0648–BO19

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys in the Gulf of America

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

ACTION: Final rule.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS promulgates regulations to govern the incidental taking of marine mammals during geophysical survey activity conducted in the Gulf of America (GOA), over the course of 5 years. These regulations, which allow for the issuance of Letters of Authorization (LOA) to survey operators for the incidental take of marine mammals during the described activities and specified timeframe, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking.

DATES: Effective from April 20, 2026, through April 19, 2031.

ADDRESSES: 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/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-america>. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:**Purpose and Need for Regulatory Action**

On January 19, 2021 (86 FR 5322), in response to a petition request from the Bureau of Ocean Energy Management (BOEM), NMFS issued a final rule implementing incidental take regulations (ITRs) under the MMPA, 16 U.S.C. 1361 *et seq.*, governing the take

of marine mammals incidental to the conduct of geophysical survey activities in the GOA.¹ The ITRs provide a framework for authorization of incidental take through LOAs upon request from individual applicants planning specific geophysical survey activities. The ITRs became effective on April 19, 2021, and are effective through April 19, 2026 (86 FR 5322, January 19, 2021).

NMFS subsequently discovered that the 2021 rule was based on erroneous take estimates. We conducted another rulemaking to reassess the statutorily required findings for issuance of the 2021 ITRs using correct take estimates and other newly available and pertinent information relevant to the analyses supporting some of the findings in the 2021 final rule and the taking allowable under the regulations. We issued a final rule affirming those findings in April 2024, effective through April 19, 2026 (89 FR 31488, April 24, 2024). The 2024 rule did not result in any changes to the existing ITRs.

On March 25, 2025, NMFS received an application from the EnerGeo Alliance (EnerGeo) requesting development of ITRs governing the taking of marine mammals incidental to geophysical survey activity conducted in the GOA over the course of 5 years following the expiration of the existing ITRs. Following receipt of NMFS' comments on the draft application on April 15, 2025, EnerGeo submitted revised versions of the application on July 14, August 8, and August 12, 2025, the last of which was determined to be adequate and complete. NMFS determined at that time, based on the date of submission of the adequate and complete application, that it was unlikely a new rulemaking process could be completed prior to expiration of the existing ITRs on April 19, 2026.

On August 28, 2025, NMFS Office of Protected Resources (OPR) received a request from NMFS Office of Policy (Policy) for reimplementing of the current ITRs to avoid a lapse in ITRs offering incidental take coverage for GOA geophysical survey activities. The request notes that the pending April 2026 expiration of the current ITRs would affect regulatory certainty through loss of an efficient permitting framework, and that reimplementing of the existing ITRs on the basis of the

same specified activity defined in the initial 2021 final rule and associated estimates of incidental take evaluated in the 2024 corrective rulemaking is consistent with the MMPA and appropriate pursuant to Executive Orders 14156, "Declaring a National Energy Emergency," and 14154, "Unleashing American Energy." On October 20, 2025, BOEM (the original petitioner for the current ITRs) submitted a request to be included in the process as a co-petitioner.

NMFS has received multiple requests from industry survey operators relating to specific survey activities that would extend beyond the expiration date of the current ITRs, establishing the ongoing need for the ITRs. The reimplementing of the regulations in effect continues the current established framework for authorization of incidental take through LOAs until superseded by new ITRs promulgated on the basis of the separate EnerGeo request.

Legal Authority for the Action

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce 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 for up to 5 years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the "least practicable adverse impact" (LPAI) on the affected species or stocks and their habitat (see the discussion below in the Proposed Mitigation section), as well as monitoring and reporting requirements. Under NMFS' implementing regulations for section 101(a)(5)(A), NMFS issues LOAs to individuals (including entities) seeking authorization for take under the activity-specific incidental take regulations (50 CFR 216.106).

Severability

In the event a court were to invalidate some but not all aspects of NMFS' small numbers interpretation/application, NMFS intends that the remaining aspects of the rule and ITRs be severable to the extent possible. The extent to which this is possible may depend on which aspect is invalidated. The small numbers standard is a statutory requirement that could be satisfied on an LOA-by-LOA basis in accordance with the ruling of a court if for example the court upholds NMFS' LOA-by-LOA

¹ Pursuant to Executive Order 14172, "Restoring Names That Honor American Greatness," and Department of the Interior Secretarial Order 3423, "The Gulf of America," the body of water formerly known as the Gulf of Mexico is now called the Gulf of America. Accordingly, NMFS amended the incidental take regulations to reflect the change. See 90 FR 38001 (August 7, 2025).

aspect of our interpretation but rules adversely on other aspects of our small numbers interpretation.

Importantly, the negligible impact analysis for this 5-year rule is the biologically relevant inquiry, and that analysis is based on the total annual estimated taking for all activities the regulations will govern over the five-year period. Our ability to issue LOAs to allow the incidental take of marine mammals, subject to the mitigation, monitoring, and reporting requirements, is based on our findings in this final rule that the total taking over the five-year period of the rule will have a negligible impact on the affected species or stocks; that the mitigation and related monitoring required in the ITRs will effect the least practicable adverse impact on those species or stocks; and our determination in this rule that any LOA we issue must not involve taking that exceeds one-third of the abundance for that species or stock.

Summary of Major Provisions Within the Regulations

Following is a summary of the major provisions of this final rule regarding geophysical survey activities. The regulations contain requirements for mitigation, monitoring, and reporting, including:

- Standard detection-based mitigation measures, including use of visual and acoustic observation to detect marine mammals and shutdown of acoustic sources in certain circumstances;
- A time-area restriction designed to avoid effects to bottlenose dolphins in times and places of particular importance;
- Vessel strike avoidance measures; and
- Monitoring and reporting requirements.

These measures are unchanged from those included in the current ITRs. See 50 CFR 217.180 *et seq.*

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the

species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, 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 causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

On January 19, 2021, we issued a final rule with ITRs to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted in U.S. waters of the GOA over the course of the statutory maximum of 5 years (86 FR 5322, January 19, 2021). NMFS subsequently discovered that the 2021 rule was based on erroneous take estimates. We conducted another rulemaking to reassess the statutorily required findings for issuance of the 2021 ITRs using correct take estimates and other newly available and pertinent information relevant to the analyses supporting some of the findings in the 2021 final rule and the taking allowable under the regulations. We issued a final rule affirming those findings in April 2024 (89 FR 31488, April 24, 2024). The 2024 rule did not result in any changes to the existing ITRs, which provide a framework for authorization of incidental take through LOAs upon request from individual applicants planning specific geophysical survey activities. The existing ITRs are in effect through April 19, 2026.

On March 25, 2025, NMFS received an application from EnerGeo requesting development of ITRs governing the taking of marine mammals incidental to geophysical survey activity conducted in the GOA over the course of 5 years following the date of issuance.

Following receipt of NMFS’ comments on the draft application on April 15, 2025, EnerGeo submitted revised versions of the application on July 14, August 8, and August 12, 2025. On September 24, 2025 (90 FR 45936), we published a notice of receipt of the request in the **Federal Register**, requesting comments and information related to the request.

On August 28, 2025, NMFS OPR received a request from NMFS Policy for reimplementation of the current ITRs. The request notes that the pending April 2026 expiration of the current ITRs would affect regulatory certainty with loss of an efficient permitting framework, and that reimplementation of the existing ITRs on the basis of the same specified activity and activity levels defined in the initial 2021 final rule and associated estimates of incidental take evaluated in the 2024 corrective rulemaking is consistent with the MMPA and appropriate pursuant to Executive Orders 14156, “Declaring a National Energy Emergency,” and 14154, “Unleashing American Energy.” On September 3, 2025 (90 FR 42569), we published a notice of receipt of the request in the **Federal Register**, requesting comments and information related to the request. All comments received are available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-america>. Among the comments was a letter from EnerGeo and other industry trade associations expressing support for NMFS’ proposed issuance of reimplemented ITRs until superseded by new ITRs promulgated on the basis of the separate EnerGeo request. Please see the letters for full comments.

On October 20, 2025, BOEM (the original petitioner for the current ITRs) submitted a request to be included in the process as a co-petitioner, expressing support for the requested reimplementation of the existing ITRs. Both the NMFS Policy and BOEM requests are available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-america>.

This final rule provides analysis of the same activities and activity levels considered for the 2021 final rule, which were unchanged in the 2024 final rule, and utilizes the same modeling methodology described in the 2024 final rule. We incorporate the best available information, including information that was newly evaluated in the 2024 final rule and any information that is newly available since issuance of the 2024

final rule. The 2024 final rule incorporated expanded modeling results relative to the 2021 final rule that estimate take utilizing the existing methodology but also consider the effects of using smaller airgun arrays (relative to the proxy source originally defined by BOEM) that are currently prevalent as evidenced by LOA applications received by NMFS to date (see <https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-america>).

There are no changes to the nature or level of the specified activities within or across years or to the geographic scope of the activity. There is no new information pertaining to the estimates of marine mammal take presented in the 2024 final rule and, therefore, no changes to those take numbers. Based on our assessment of the specified activity in light of the 2024 revised take estimates and other new information, we have determined that the proposed ITRs, which reimplements the current ITRs and includes the required mitigation and associated monitoring measures, satisfies the MMPA requirement to prescribe the means of effecting the LPAI on the affected species or stocks and their habitat, and contains the requirements pertaining to monitoring and reporting.

Summary of the Action

This final rule provides analysis of the same activities and activity levels considered for the 2024 final rule and utilizes the same modeling methodology described in the 2024 final rule. There are no changes to the nature or level of the specified activities within or across years or to the geographic scope of the activity. Based on our assessment of the specified activity in light of the take estimates, which remain unchanged, we have determined that the total taking over the five-year period of the specified activity will have a negligible impact on the affected species or stocks of marine mammals.² Additionally, the regulations promulgated here satisfy the MMPA requirement to prescribe the means of effecting the least practicable adverse impact on the affected species or stocks and their habitat and contain monitoring and reporting requirements pertaining to the taking.

² There are no relevant subsistence uses implicated by this action. Therefore the taking from the specified activity will not have an unmitigable adverse impact on the availability of the species for taking for relevant subsistence uses. See 16 U.S.C. 1371(a)(5)(A).

Description of the Specified Activity

Overview

The specified activity for this action as requested by the NMFS' Policy petition is unchanged from the specified activity considered for the 2021 and 2024 rules, consisting of geophysical surveys conducted for a variety of reasons. Actual total amounts of effort (including by survey type and location) are not known in advance of receiving LOA requests, but take in excess of what is analyzed in this rule would not be authorized. Applicants seeking authorization for take of marine mammals incidental to survey activities outside the geographic scope of the rule (i.e., within the former Gulf of Mexico Energy Security Act (GOMESA) (Sec. 104, Pub. L. 109–432)³ moratorium area) would need to pursue a separate MMPA incidental take authorization (see figure 1).

EnerGeo's 2025 ITR petition suggests that the existing level of effort estimates, by survey type and location, are a reasonable representation of the activities expected to occur under our final ITR reimplementation rule (which EnerGeo supports). EnerGeo's petition, available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-america>, carries forward the same survey types and similar estimated annual levels of effort by survey type and location as specified by BOEM over a 10-year period (as adjusted in 2020 by BOEM to account for removal from consideration of the area then under a Congressional leasing moratorium under GOMESA). The most notable difference is EnerGeo's estimate that approximately 40 percent of forecast survey effort may be accomplished using alternative sources that have less environmental impact than airgun arrays (e.g., tuned pulse or dual barbell sources; additional descriptions of these source types may be found in **Federal Register** notices of LOA issuance under the existing ITRs, e.g., 86 FR 37309, July 15, 2021; 87 FR 55790, September 12, 2022; 88 FR 72739, October 23, 2023). NMFS will address these changes to survey effort in a future rulemaking on EnerGeo's petition. For the current rulemaking, we have determined the specified activity that is the subject of this final rule is a

³ The Congressional moratorium in GOMESA was in place until June 30, 2022. On September 8, 2020, the President withdrew, under section 12 of the Outer Continental Shelf Lands Act, the same area covered by the prior GOMESA moratorium from disposition by leasing for 10 years, beginning on July 1, 2022, and ending on June 30, 2032.

reasonable projection on which to proceed.

Geophysical surveys are conducted to obtain information on marine seabed and subsurface geology for a variety of reasons, including to obtain data for hydrocarbon and mineral exploration and production; aid in siting of oil and gas structures, facilities, and pipelines; identify possible seafloor or shallow depth geologic hazards; and locate potential archaeological resources and benthic habitats that should be avoided.

Deep penetration seismic surveys using airgun arrays as an acoustic source (sound sources are described in the *Detailed Description of Activities* section) are a primary method of obtaining geophysical data used to characterize subsurface structure. These surveys are designed to illuminate deeper subsurface structures and formations. A deep penetration survey uses an acoustic source suited to provide data on geological formations that may be thousands of meters (m) beneath the seafloor, as compared with a shallow penetration or high resolution geophysical (HRG) survey that may be intended to evaluate shallow subsurface formations or the seafloor itself (e.g., for hazards).

Deep penetration surveys may be two-dimensional (2D) or three-dimensional (3D), and there are a variety of survey methodologies designed to provide the specific data of interest. 2D surveys are designed to acquire data over large areas (thousands of square miles) in order to screen for potential hydrocarbon prospectivity, and provide a cross-sectional image of the structure. In contrast, 3D surveys may use similar acoustic sources but are designed to cover smaller areas with greater resolution (e.g., with closer survey line spacing), providing a volumetric image of underlying geological structures. Repeated 3D surveys are referred to as four-dimensional (4D), or time-lapse, surveys that assess the depletion of a reservoir.

Shallow penetration and high-resolution surveys are designed to highlight seabed and near-surface potential obstructions, archaeology, and geohazards that may have safety implications during rig installation or well and development facility siting. Shallow penetration surveys may use a small airgun array, single airgun, or similar sources, while high-resolution surveys (which are limited to imaging the seafloor itself) may use a variety of sources, such as sub-bottom profilers, single or multibeam echosounders, or side-scan sonars.

Dates and Duration

The specified activities may occur at any time during the 5-year period of validity of the regulations. Actual dates and duration of individual surveys are not known. Although the period of validity is for 5 years, the regulations

would continue in effect only until superseded by new ITRs promulgated on the basis of the separate EnerGeo request.

Specified Geographical Region

Generally speaking, projected survey activity may occur within U.S. waters

within the GOA, outside of the former GOMESA moratorium area. The specified geographical region (with modeling zones and depicting the area withdrawn from leasing consideration) is depicted in figure 1.

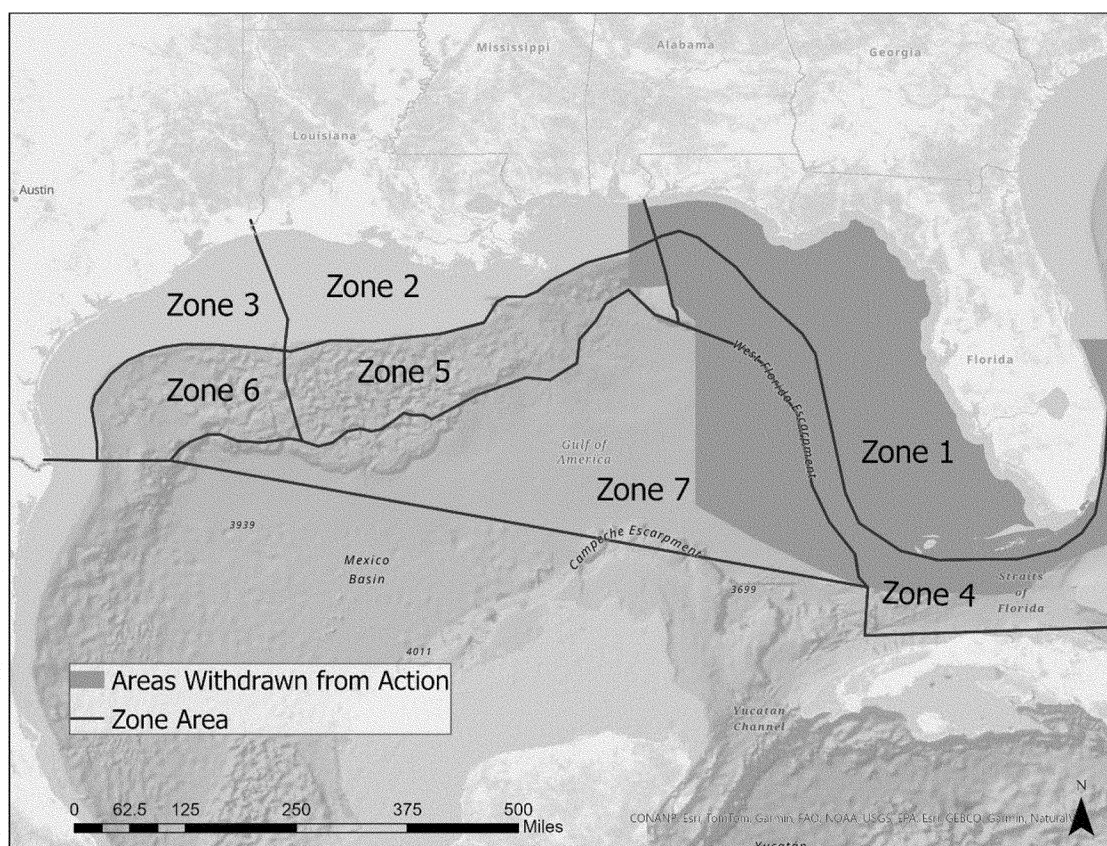


Figure 1—Specified Geographical Region

Representative Sound Sources

Because the specifics of acoustic sources to be used cannot be known in advance of receiving LOA requests from industry operators, it is necessary to define representative acoustic source parameters, as well as representative survey patterns. The supporting modeling for the 2021 ITRs considered two specific airgun array sizes/configurations (4,130 and 8,000 in³ arrays) as well as a single, 90-in³ airgun. For the 2024 rule, modeling of a third representative airgun array size (5,110-in³) was also specifically considered. In its petition for the 2021 ITRs, BOEM determined realistic representative proxy sound sources and survey patterns. We note that EnerGeo's 2025 petition for new ITRs carries forward these assumed proxies regarding survey patterns, as well as the 5,110-in³ array

modeled for the 2024 rule, as representative of ongoing industry survey activities in the GOA.

Acoustic exposure modeling for the 8,000-in³ airgun array and 90-in³ single airgun, which provided support for the 2021 rule, was described in detail in "Acoustic Propagation and Marine Mammal Exposure Modeling of Geological and Geophysical Sources in the Gulf of Mexico" and "Addendum to Acoustic Propagation and Marine Mammal Exposure Modeling of Geological and Geophysical Sources in the Gulf of Mexico" (Zeddies *et al.*, 2015, 2017a). Additional information, including evaluation of the 4,130-in³ airgun array, was provided in "Gulf of Mexico Acoustic Exposure Model Variable Analysis" (Zeddies *et al.*, 2017b).

Modeling of the more representative 5,110-in³ airgun array for NMFS' 2024 rule (in view of LOA applications received to date under the current ITRs)

was described in a 2022 memorandum (Weirathmueller *et al.*, 2022). These reports provide full detail regarding the modeled acoustic sources and survey types and are available online at: www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-america.

Representative sources for the modeling include the three different airgun arrays, the single airgun, and an acoustic source package including a sub-bottom profiler in combination with multibeam echosounder and side-scan sonar. Two major survey types were considered: large-area seismic (including 2D, 3D NAZ, 3D WAZ, and coil surveys) and small-area, high-resolution geotechnical (including single airgun surveys and HRG surveys using the aforementioned package of sources). The nominal airgun sources used for analysis of this final rule include a small single airgun (90-in³

airgun) and a large airgun array (8,000-in³). While the 5,110-in³ airgun array is considered most representative of the airgun sources that are likely to be used during deep penetration surveys during the period of effectiveness of these ITRs, the 8,000-in³ airgun array results in larger take numbers for most species for which acoustic exposures were modeled, and provides the basis for the analysis herein to allow the flexibility for applicants to use larger sources when survey objectives dictate. The modeling for the alternative 4,130- and 5,110-in³ arrays provides more realistic estimates of take for use in survey-specific LOAs, depending on the actual acoustic sources planned for use (see Letters of Authorization section). We note that while high-resolution geophysical sources were included for consideration in the 2021 final rule to

allow for take authorization if necessary, these types of sources would not typically be expected to cause the incidental take of marine mammals (Ruppel *et al.*, 2022).

New technologies and/or uses of existing technologies may come into practice during the period of validity of these regulations. As under the 2021 and 2024 final rules, NMFS will evaluate any such developments on a case-specific basis to determine whether expected impacts on marine mammals are consistent with those described or referenced in this document and, therefore, whether any anticipated take incidental to use of those new technologies or practices may appropriately be authorized under the existing regulatory framework. See Letters of Authorization for additional information.

Estimated Levels of Effort

Actual total amounts of effort by survey type and location cannot be known in advance of receiving LOA requests from survey operators. Therefore, BOEM's 2017 Programmatic Environmental Impact Statement (PEIS) provided projections of survey level of effort for the different survey types for a 10-year period (and BOEM refined those projections following removal of the GOMESA area from the scope of activity in 2020). As noted above, and as confirmed by both EnerGeo and BOEM, these estimated levels of effort are expected to remain representative of expected survey activity on an ongoing basis and, therefore, are carried forward unchanged. Table 1 provides those effort projections for the next 5-year period.

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Table 1 -- Projected Levels of Effort in 24-hour Survey Days for 5 Years, by Zone and Survey Type

Year	Zone ₁	2D ₂	3D NAZ ₂	3D WAZ ₂	Coil ₂	VSP ₂	Total (Deep) ₂	Shallow hazards ₃	Boomer ₃	HRG ₃	Total (Shallow) ₃
1	1	0	0	0	0	0	0	0	0	0	0
	2	0	236	0	0	0	236	2	0	18	20
	3	0	30	0	0	0	30	0	0	4	4
	4	0	0	0	0	0	0	0	0	0	0
	5	54	373	184	79	2	692	0	0	25	25
	6	0	186	49	21	0	256	0	0	10	10
	7	46	346	166	71	1	630	0	0	23	23
	Total	100	1,171	399	171	3	1,844	2	0	80	82
2	1	0	0	0	0	0	0	0	0	0	0
	2	0	354	42	19	0	415	2	0	18	20
	3	0	0	0	0	0	0	0	0	4	4
	4	6	0	0	0	0	6	0	0	0	0
	5	0	373	184	79	2	638	0	0	25	25
	6	0	99	0	0	0	99	0	0	11	11
	7	20	336	162	69	1	588	0	0	23	23
	Total	26	1,162	388	167	3	1,746	2	0	81	83
3	1	0	0	0	0	0	0	0	0	0	0
	2	0	236	0	0	0	236	2	0	18	20
	3	0	0	0	0	0	0	0	0	4	4
	4	0	0	0	0	0	0	0	0	0	0
	5	0	328	154	66	2	550	0	0	26	26
	6	0	186	49	21	0	256	0	0	12	12
	7	0	306	139	60	1	506	0	0	24	24
	Total	0	1,056	342	147	3	1,548	2	0	84	86
4	1	0	0	0	0	0	0	0	0	0	0
	2	0	354	42	19	0	415	2	1	16	19
	3	0	30	0	0	0	30	0	0	3	3
	4	12	11	0	0	0	23	0	0	0	0
	5	27	237	92	40	2	398	0	0	26	26
	6	0	99	0	0	0	99	0	0	12	12
	7	63	255	94	40	1	453	0	0	24	24
	Total	102	986	228	99	3	1,418	2	1	81	84
5	1	0	0	0	0	0	0	0	0	0	0
	2	0	236	0	0	0	236	0	0	19	19
	3	0	0	0	0	0	0	0	0	3	3
	4	0	17	0	0	0	17	0	0	0	0
	5	0	283	184	79	2	548	2	1	24	27
	6	0	99	0	0	0	99	0	0	13	13
	7	0	313	162	69	2	546	2	1	23	26
	Total	0	948	346	148	4	1,446	4	2	82	88

¹ Zones follow the zones depicted in figure 1.

² Deep penetration survey types include 2D, which uses one source vessel with one source array; 3D NAZ, which uses two source vessels using one source array each; 3D WAZ and coil, each of which uses four source vessels using one source array each (but with differing survey design); and VSP, which uses one source vessel with one source array. “Deep” refers to survey type, not to water depth.

³ Shallow penetration/HRG survey types include shallow hazards surveys, assumed to use a single 90-in³ airgun or boomer, and high-resolution surveys using the sub-bottom profiler system concurrently with other sources. “Shallow” refers to survey type, not to water depth.

9014, February 24, 2026) for additional detail regarding these activities.

Comments and Responses

NMFS published a notice of proposed rulemaking in the **Federal Register** on February 24, 2026 (91 FR 9014), beginning a 30-day comment period. In that notice, we requested public input on the proposed rule, including but not limited to NMFS' proposed or preliminary findings, determinations, or conclusions regarding the MMPA standards, and the information NMFS relies on in support of those findings, determinations, or conclusions; and NMFS' preliminary decision to not make changes to the 2021 final rule, and the information NMFS relies on in support of those preliminary decisions, and requested that interested persons submit relevant information, suggestions, and comments.

During the 30-day comment period, we received nine comment letters. Of this total, we received four letters from various organizations (described below) and five submissions from private citizens. Submissions from private citizens expressed a mix of generic support for or opposition to the proposed issuance of the regulations, as well as generic support for protection of marine mammals. We do not address these comments further. A letter was submitted jointly by EnerGeo, the American Petroleum Institute, the Louisiana Mid-Continent Oil and Gas Association, the National Ocean Industries Association, and the Offshore Operators Committee (hereafter, the "Associations"). A separate letter was submitted jointly by the Natural Resources Defense Council (NRDC), Association of Zoos and Aquariums, Center for Biological Diversity, Earthjustice, Sierra Club, and Turtle Island Restoration Network (hereafter, "NRDC"). Turtle Island Restoration Network (TIRN) also submitted a letter independently, and an additional letter was submitted by Animal Counsel. TIRN's independent letter provided a generic statement in opposition to issuance of the rule, and we do not address it further.

The Associations express support for issuance of the reimplemented ITRs, stating that "the record should reflect that the request is also made on behalf of the regulated industry participants." The Associations emphasize that they preserve all previously expressed objections to the current ITRs, urge prompt issuance of new ITRs based on the EnerGeo petition, and request that requested LOAs be issued promptly under the reimplemented ITRs. NMFS

does not further address the Associations' letter.

NMFS has reviewed all public comments received on the 2026 proposed rule. All relevant comments and our responses are described below. All comments received are available online at: <https://www.regulations.gov>. A direct link to these comments is provided at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-america>.

Comment 1: Animal Counsel indicated a belief that NMFS' proposal to issue the rule contradicts Congressional intent behind the MMPA and would be incompatible with the original intent of the MMPA. Animal Counsel additionally stated that the legislative history of the MMPA makes clear that the precautionary principle must be applied and bias must favor marine mammals.

Response 1: NMFS believes that this action is fully consistent with the original public meaning of the relevant provisions of the statute, and NMFS disagrees that this action contradicts any requirement of the MMPA or is contrary to Congressional intent as expressed through the enactment of the relevant provisions of the statute. Neither the MMPA nor NMFS' implementing regulations include references to, or requirements for, the precautionary approach, nor is there a clear, agreed-upon description of what the precautionary approach is or would entail in the context of the MMPA or any specific activity. Nevertheless, the MMPA by nature is inherently protective, including the requirement to mitigate to the lowest level practicable ("least" practicable adverse impacts, or "LPAI," on species or stocks and their habitat). This requires that NMFS assess measures in light of the LPAI standard. To ensure that we fulfill that requirement, NMFS considers all potential measures (*e.g.*, from recommendations or review of available data) that have the potential to reduce impacts on marine mammal species or stocks, their habitat, or subsistence uses of those stocks, regardless of whether those measures are characterized as "precautionary."

Comment 2: Animal Counsel requests that NMFS extend the comment period for the proposed rule to a minimum of 60 days and hold public hearings. The request is primarily founded on the contention that an announced March 2026 meeting of the Endangered Species Committee demands delay, with Animal Counsel stating that the meeting "is likely to drastically change the outlook

for marine mammals in the Gulf." Elsewhere in its letter, Animal Counsel highlights the independence of the MMPA from the Endangered Species Act (ESA).

Response 2: We do not find Animal Counsel's rationale persuasive; NMFS finds the 30-day comment period for the proposed rule sufficient. Supporting material for this rule has been available for review during public comment periods for prior rulemakings associated with oil and gas industry geophysical survey activity in the GOA (see 83 FR 29212, June 22, 2018; 88 FR 916, January 5, 2023). This rule covers the same activity and reimplements the measures that were considered in those rulemakings, which were the subject of extensive comment. As to the Endangered Species Committee meeting, we disagree that the Committee's March 31, 2026, action to exempt GOA oil and gas activities from the requirements of ESA section 7 is likely to drastically change the outlook for marine mammals in the GOA. Specifically, the oil and gas activities considered by the Committee included oil and gas exploration, development, and production activities in the Gulf *as well as* the avoidance or minimization measures that are described in the agency action analyzed in NMFS' 2025 biological opinion and in the U.S. Fish and Wildlife Service's 2018 and 2025 consultation decisions. The Committee's exemption order explicitly states that those avoidance and minimization measures shall continue to be implemented. *See* Dep't of the Interior, March 31, 2026, Endangered Species Committee Order, <https://www.doi.gov/endangered-species-committee>. Thus we do not agree that the Committee's order has drastically changed the outlook for marine mammals in the GOA such that we should extend the public comment period or hold public hearings on that basis.

Comment 3: NRDC claims that use of BOEM's programmatic estimates of ongoing geophysical survey activity is arbitrary. NRDC's claim is based on the age of BOEM's original projections, which were initially included in its 2017 PEIS issued under the National Environmental Policy Act (NEPA) before being revised as part of BOEM's 2020 revision of the geographic scope of the program addressed in NMFS' 2021 final rule, and on what NRDC describes as "recent developments that are likely to influence industry development of the Gulf," including prospective future schedules for offshore oil and gas lease sales.

Response 3: NMFS disagrees with NRDC's claim. The programmatic

estimates of ongoing geophysical survey activity included in this rule remain a reasonable representation of ongoing and future activity over the 5-year duration of this rule. While the 10-year projections in the PEIS indeed extended through 2027, they were based on generic expectations regarding BOEM's program over the 10-year window of analysis provided at that time, not on specific understanding of conditions dictating oil and gas industry levels of effort. When revising its level of effort projections in 2020 in support of its 2016 petition for ITRs, BOEM affirmed that the projections should be considered an adequate representation of generic conditions informing the need for survey activity in the GOA. Subsequently, EnerGeo (an industry trade organization dedicated to the geophysical and exploration industry and best positioned to understand future industry demand for survey activity) affirmed the validity of these projections by adopting them as an ongoing representation of future survey activity in its 2025 petition for new ITRs. We also note that actual survey effort under the current ITRs from 2021 to 2025 has been less than the association projections, suggesting that the projections remain reasonable and accommodating of potential future fluctuations in demand.

NRDC's references to new developments relating to schedules for future lease sales are not relevant to our analysis of expected survey activity during the course of the next 5-year period. Future lease sales may influence survey activity beyond the next 5-year period but are unlikely to increase demand on the timeframe imagined by NRDC. NRDC also suggests that speculative future lease sales in areas outside of the geographic scope of this rule, *i.e.*, in the eastern GOA, would invalidate the level of effort projections considered here. However, should this demand in the eastern GOA arise, it would necessarily be subject to additional MMPA incidental take authorization requests, as the area is not covered under this rule.

Comment 4: NRDC expressed concerns regarding NMFS' use of the probabilistic response function described by Wood *et al.* (2012), in which 10 percent, 50 percent, and 90 percent of individuals exposed are assumed to produce a behavioral response (of a sufficient degree of severity to constitute Level B harassment) at exposures of 140, 160, and 180 dB root mean square (rms), respectively. (The function is shifted for the more behaviorally sensitive beaked whales such that 50 percent and 90

percent response probabilities are assumed to occur at 120 and 140 dB rms, respectively.) NRDC stated that the function is inconsistent with the best available science, asserting that behavioral disruptions occur at higher percentages at lower noise exposure levels than those suggested by Wood *et al.* (2012). NRDC's criticism of the function also focused on the use of horizontal displacement studies as the supposed basis of analysis for Wood *et al.* (2012), as well as on the function's nature as a series of step functions. In addition, NRDC expressed concerns that the use of frequency weighting in the Wood *et al.* (2012) approach is inappropriate. Overall, NRDC claims that reliance on this function results in underestimation of impacts and is arbitrary and capricious. Similarly, Animal Counsel urges NMFS to adopt different harassment thresholds.

Response 4: NMFS has historically been criticized for the use of the single-step 160-dB rms approach. Those criticisms are based on the idea that an approach reflecting a more complex multi-step probabilistic function would more effectively represent the known variation in responses at different levels due to differences in the receivers, the context of the exposure, and other factors, as well as the science indicating that animals may react in ways constituting Level B harassment when exposed to lower received levels. In developing the acoustic exposure analysis for the 2021 rule, we reviewed relevant past public comments as well as the best available science, determining that a more complex probabilistic function is indeed better reflective of available scientific information and that it was appropriate to take the fundamental step of recognizing the potential for Level B harassment occurring at exposures to received levels below 160 dB rms (as well as the potential for *no* Level B harassment occurring at exposures above 160 dB rms). This approach also accounts for differential hearing sensitivity by incorporating frequency-weighting functions, as behavioral responses in cetaceans are best explained by the interaction between sound source type and functional hearing group (Gomez *et al.*, 2016). NMFS has determined that the general approach used for this rule—a probabilistic risk function that allows for the likelihood of differential response probability at given received levels on the basis of multiple factors, including behavioral context and distance from the source, and that addresses particularly sensitive

species—is appropriate in light of the best available scientific information.

However, because behavioral responses to sound depend on the context in which an animal receives the sound, including the animal's behavioral mode when it hears sounds, prior experience, additional biological factors, and other contextual factors, predicting when sound levels will be likely to disrupt behavioral patterns is extremely difficult. Even experts have not previously been able to suggest specific new criteria due to these difficulties (*e.g.*, Southall *et al.*, 2007; Gomez *et al.*, 2016). While we acknowledge our approach reduces a complex suite of interactions to make reasonable inferences, it is consistent with the best available science.

NRDC referenced "recent" research they claim is not consistent with the recommendations of Wood *et al.* (2012). We note that, of the nine studies cited by NRDC, five were published prior to the Wood *et al.* (2012) study, and were therefore available for those authors' consideration (and some were specifically referenced by those authors in discussion of their recommendations). Further, we disagree that the referenced findings are inconsistent with Wood *et al.* (2012). For example, a detectable change in motion or vocalization in response to noise exposure does not necessarily mean that a take by Level B harassment under the MMPA has occurred, given that the definition focuses on "disruption of behavioral patterns." NRDC also suggests that some of these studies were not incorporated into Wood *et al.*'s recommendations, or our consideration of those and other potential approaches in context of the available science, and criticize what they view as an over-reliance on horizontal displacement studies as the supposed basis of analysis. While it is true that the majority of available behavioral data focus on avoidance responses, Wood *et al.* (2012) does not mention excluding behavioral studies involving vocal changes, and Southall *et al.* (2007) specifically incorporates numerous studies that do mention changes in vocalization associated with sound exposure. Thus, these datasets were not excluded and as discussed in our notice of proposed rulemaking, we adequately considered all studies addressed by NRDC.

Regarding baleen whales, we acknowledge that changes in vocalization have been observed in association with exposure to airgun surveys within migratory and non-migratory contexts (*e.g.*, Castellote *et al.*, 2012; Blackwell *et al.*, 2013; Cerchio *et*

al., 2014). The potential for such effects to occur over relatively large spatial scales is not surprising for species with large communication spaces (*e.g.*, Clark *et al.*, 2009), but we reiterate our disagreement with NRDC's apparent contention that every detected change to vocalizations rises to the level of a take. NRDC cites reports of changes in vocalization, typically for baleen whales, as evidence in support of lower thresholds, claiming these reactions result in biological consequences indicating that the reaction was indeed a take. However, NMFS is not aware of research that provides a well-supported link between the reported reactions at lower received levels and the putative consequences. In conflict with NRDC's interpretation of the literature are documented instances of marine mammal exposure to greater received levels that did not elicit any response (*e.g.*, Malme *et al.*, 1983, 1984, 1985, 1988; McCauley *et al.*, 1998, 2000a, 2000b; Barkaszi *et al.*, 2012; Stone, 2015a; Gailey *et al.*, 2016; Barkaszi and Kelly, 2018).

The received level associated with stoppage of calling for bowhead whales (*Balaena mysticetus*) observed by Blackwell *et al.* (2013, 2015)—a response that may arguably rise to the level of harassment—is consistent with the Wood *et al.* (2012) scheme, in which the potential for take upon exposure to received levels as low as 140 dB is accounted for. Similarly, the findings of Pirotta *et al.* (2014) for harbor porpoise (*Phocoena phocoena*) are consistent with the treatment of behaviorally sensitive species by Wood *et al.* (2012), in which the potential for take at even lower received levels is accounted for (though irrelevant here, as harbor porpoise are not found in the GOA). The response levels reported by McDonald *et al.* (1995) and Di Iorio and Clark (2009) for blue whales (*Balaenoptera musculus*) also comport with the Wood *et al.* (2012) function, if we assume that the observed responses equate to harassment (though it is not clear that they do). With regard to NRDC's citation of Clark and Gagnon (2006), a non-peer reviewed white paper, NRDC incorrectly calculated the area over which the effect was observed by an order of magnitude (the paper discusses an area of 100 x 100 nmi, which equates to 10,000 nmi²—not 100,000 nmi²).

In regard to Cerchio *et al.* (2014), it is important to note that received levels provided in this study are those recorded at locations of their underwater recording devices. The authors indicated “we did not have the ability to locate the singers or the seismic survey vessel, estimate the

source level of the pulses, the distance between the source and potentially impacted singers, or the received level of the pulses at the singers.” The same situation, *i.e.*, actual received levels at the location of the animals are unknown, is true for Castellote *et al.* (2012) and Clark and Gagnon (2006), which provide average background sound levels with and without the presence of airgun surveys. Thus, not having the location of the animals at the time of exposure makes it difficult to draw conclusions based strictly on received level. NMFS has evaluated the papers and determined they are not informative about appropriate Level B harassment thresholds.

Regarding sperm whales, NMFS disagrees that assuming a 100 percent probability of take of sperm whales upon exposure to survey noise at 135 dB—as suggested by NRDC—is an accurate reflection of the results of the Miller *et al.* (2009) study. While we agree that the work of Miller *et al.* (2009) suggests that sperm whales in the GOA may be susceptible to disruption of foraging behavior upon exposure to relatively moderate sound levels, NRDC incorrectly interprets results of the study in claiming that sperm whale “foraging success” was found to “decline significantly.” Instead, the authors report that buzz rates (a proxy for attempts to capture prey) were approximately 20 percent lower, meaning that the appropriate interpretation would be that foraging activity (versus foraging success) was reduced by 20 percent (Jochens *et al.*, 2008). Of the eight whales tagged in that study, only one was observed to actually cease foraging.

Moreover, while we do believe that these study results support a conclusion that exposure to survey noise can impact foraging activity, others have interpreted them differently, *e.g.*, by focusing on the finding that exposed whales did not change behavioral state during exposure or show horizontal avoidance (a finding replicated in other studies, *e.g.*, Madsen *et al.*, 2002a; Winsor *et al.*, 2017). Importantly, the observed effect was not statistically significant and, as reported by the authors, constituted “subtle effects on their foraging behavior.” Furthermore, the authors of the Wood *et al.* (2012) study explicitly described their consideration of Miller *et al.* (2009) in the development of their recommended criteria. Therefore, the Wood *et al.* (2012) recommendation is indeed consistent with the Miller *et al.* (2009) study. In referencing Bowles *et al.* (1994), NRDC fails to state that the observed cessation of vocalization was

likely in response to a low-frequency tone (dissimilar to airgun signals), though a distant airgun survey was noted as producing signals that were detectable above existing background noise.

Regarding other odontocetes, NRDC's representation of the available scientific information is also inaccurate. Miller *et al.* (2005) specifically state that “[s]ighting rates at distances of 10–20 km from the airgun array were significantly lower than those in areas 20–30 km from the airgun array, where sighting rates were unexpectedly high” (*i.e.*, the study indicates sighting rates of beluga whales (*Delphinapterus leucas*) were lower, not “100% avoidance” as claimed by NRDC). Miller *et al.* (2005) reported seven aerial beluga whale sightings from 8 to 18 km from the survey vessel and two vessel-based beluga whale sightings at 1.5 and 2.5 km from the survey vessel. Furthermore, Southall *et al.* (2007) described the findings of the Miller *et al.* (2005) study as temporary avoidance behaviors at these lower received levels, while Gomez *et al.* (2016) (which NRDC agrees reflects the best available science) evaluated Miller *et al.* (2005) based on a received level of 150 dB. Thus, the Wood *et al.* (2012) approach does capture responses associated with this study.

Additionally, Wood *et al.* (2012) has the advantage of accounting for sensitive species such as beaked whales, meaning that a response of a beaked whale at 140 dB (as cited by NRDC) is covered within the Wood *et al.* (2012) recommended criteria (*e.g.*, Wood *et al.* assumes 90 percent of an exposed beaked whale population will respond at 140 dB).

It should be noted that the systematic review by Gomez *et al.* (2016), cited by NRDC and Animal Counsel in support of their positions, found that received level was not appropriate as the sole indicator of behavioral response. For example, this review shows that “low” effects were actually found to reach peak probability at a higher received level than “moderate” effects for baleen whales. The results of the Gomez *et al.* (2016) review are not inconsistent with Wood *et al.* (2012). With regard to NRDC's comment that the authors consider their results “non-conservative,” Gomez *et al.* (2016) only indicates that they may have scored the severity of vocal responses higher if they had more information on the ecological significance of these types of responses. There is no indication elsewhere in Gomez *et al.* (2016) that their overall results and analysis are “non-conservative.” Commenters also

reference the “more conservative approach” of Nowacek *et al.* (2015), suggesting that this approach is more appropriate. However, the more substantive reviews presented by Southall *et al.* (2007) and Gomez *et al.* (2016) were unable to present any firm recommendations, as noted above. We note that Animal Counsel recommends that NMFS update thresholds to “reflect the findings of Gomez *et al.* (2016) and Nowacek *et al.* (2015),” but provide no specific recommendations. We addressed Gomez *et al.* in further detail in this response, and note that NMFS has addressed the brief, scientifically unsupported recommendation of Nowacek *et al.* (2015) in detail in prior comment responses (e.g., 86 FR 5322, January 19, 2021).

NRDC also criticizes the use of weighting functions in evaluating potential Level B harassment, and specifically criticizes use of the M-weighting scheme of Southall *et al.* (2007). Gomez *et al.* (2016) suggest that incorporation of frequency-weighting is necessary to account for differential hearing sensitivity, as behavioral responses in cetaceans are best explained by the interaction between sound source type and functional hearing group. That is, implementing weighting functions allows for consideration that different marine mammal groups do not hear varying frequencies of sound equally well. Thus, it is appropriate to account for sounds below a group’s best hearing range having a lower likelihood of resulting in a behavioral response (let alone that animals are likely unable to effectively detect sounds at frequencies completely outside their hearing range).

The M-weighting functions are described in Southall *et al.* (2007) as “intentionally precautionary (wide)” (as opposed to the weighting functions used in NMFS’ Technical Guidance to account for noise-induced hearing loss) and are used to account for the functional hearing ranges of different marine mammal hearing groups. This frequency weighting scheme (i.e., M-weighting) was intentionally selected because it is more conservative in accounting for hearing sensitivity (as is appropriate in evaluating potential Level B harassment) than are more recently developed filters designed to better assess potential noise-induced hearing loss.

NRDC asserts that because M-weighting assumes that high- and very high-frequency (HF and VHF) cetaceans are relatively insensitive to noise below 1 kHz, it is likely that the incorporation of M-weighting has a significant downwards effect on take estimates.

This is incorrect. As demonstrated in NMFS’ 2021 final rule, at 250 Hz and above, the M-weighting functions do not result in a significant reduction for HF or VHF cetaceans. Furthermore, the lower bound of the functional hearing range of these groups is 150 Hz for MF cetaceans and 200 Hz for HF cetaceans (i.e., sounds below 100 Hz, where most energy in airgun noise is found and where M-weighting results in the greatest reductions, are outside functional hearing range). At 1 kHz, where these species are most likely to be able to detect and respond to airgun noise, there is very little assumed reduction in sensitivity.

Finally, NRDC advocates for the use of a linear risk function as opposed to the multiple step function of Wood *et al.* (2012), stating that linear risk functions are scientifically accepted methodology that better acknowledge individuals may vary in responsiveness. Although NRDC does not specifically define what they mean by “linear risk function,” NMFS assumes a linear risk function is a smooth, continuous function, as opposed to a function defined by multiple steps, as is the case of Wood *et al.* (2012). NRDC states that Wood *et al.* (2012) “has a significant negative bias on take estimates” where “all exposures from 140 dB to 159.9 dB are considered to produce the same risk.” Wood *et al.* (2012) does acknowledge that responsiveness varies with received levels, while relying on broad steps, rather than a continuous function. These broad steps allow for easier implementation of a risk function and are more practical for most users, which is an important consideration, especially in the context of users that may not have the ability or access to more sophisticated modeling (in contrast to the Navy). Therefore, if new linear risk functions become available, NMFS may still provide a more simplistic function broken down in broad steps, so that it can be applied by all users.

Overall, we reiterate the lack of scientific consensus regarding what criteria might be most appropriate for evaluating Level B harassment. Defining sound levels that disrupt behavioral patterns is difficult because responses depend on complex, difficult to predict contextual factors much more so than received level. Therefore, levels at which responses occur are not necessarily consistent and can be difficult to predict. However, although better methods of assessing likely behavioral response to acoustic stimuli than the relatively simple multi-step function used here may be forthcoming from the scientific community, NMFS

has determined that the recommendations of Wood *et al.* (2012) adequately reflect the available science, and commenters offer no alternative recommendation.

Comment 5: NRDC raised concerns regarding NMFS’ Acoustic Technical Guidance for evaluating the potential for marine mammal hearing loss, claiming that the Technical Guidance is not based on the best available science and leads to underestimation of potential auditory effects. NRDC also asserts that NMFS fails to account for alternative mechanisms of auditory injury, stating that permanent hearing loss (i.e., Level A harassment) may occur through mechanisms other than PTS. NRDC states that NMFS must account for these mechanisms in its assessment of potential injury. Animal Counsel similarly expresses concern regarding the potential for accumulated auditory effects resulting from repeated temporary threshold shift exposures.

Response 5: We first acknowledge our use of the 2018 Revised Technical Guidance (NMFS, 2018) in evaluating the potential for auditory effects in the context of estimating take and refer the reader to the Estimated Take section below for discussion of NMFS’ use of the 2018 guidance for take estimation. Moreover, NMFS did consider the 2024 Technical Guidance. However, NRDC’s critique relates to aspects of the Technical Guidance that predate the 2024 update and, indeed, NMFS considered similar comments from NRDC for issuance of the 2021 final rule.

Regarding the updated 2024 Technical Guidance, the 2024 updated acoustic thresholds (cumulative sound pressure level and peak sound pressure level) for cetaceans either are identical or are higher than those in the 2018 Revised Technical Guidance (i.e., level of exposure has to be higher to result in PTS or AUD INJ compared to the 2018 thresholds). Additionally, the weighting functions were also updated, but this update only resulted in minor changes for LF cetaceans and no changes for the other two cetacean hearing groups, where the peak sound pressure level metric thresholds, which are unweighted, result in the largest isopleths. Furthermore, despite these changes, the Level A harassment isopleths for LF cetaceans are still expected to be within the shutdown zone and would not result in a change in the amount of Level A harassment take expected for this species or any other cetacean in the Gulf.

Each of NMFS’ Technical Guidance documents (NMFS, 2016, 2018, 2024) is a compilation, interpretation, and

synthesis of the scientific literature that provides the best available information regarding the effects of anthropogenic sound on marine mammals' hearing. In 2016, the initial iteration of the Technical Guidance was classified as a Highly Influential Scientific Assessment and, as such, underwent three independent peer reviews, at three different stages in its development, including a follow-up to one of the peer reviews, prior to its dissemination by NMFS. In addition, there were three separate public comment periods, during which time NMFS received and responded to similar comments on the guidance (81 FR 51694), and subsequent public and interagency review under Executive Order 13795. While new information may help to improve the guidance in the future, and NMFS will continue to review the available literature to determine when revisions are appropriate, the science underlying the Technical Guidance (2018 and 2024 update) reflects the best available science, and all information received through peer review and public comment. The concerns raised by NRDC have been addressed by NMFS in responses associated with publication of the guidance (see www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance).

In light of these considerations, NRDC's argument that estimates based on the guidance "are based on methods and assumptions that have no scientific basis" is unpersuasive. NMFS considers the guidance to represent the best scientific information currently available and, given the incorporation of multiple peer reviews and public comment opportunities during its development, we did not solicit and are not responding in detail to comments concerning the contents of the Technical Guidance (NMFS, 2016, 2018, 2024), as such comments are outside the scope of this rulemaking.

NRDC also referenced information related to occupational noise standards established by the National Institute of Occupational Safety and Health (NIOSH). Human noise risk assessments (NIOSH, 1998) are not equivalent (or applicable) to thresholds provided in the guidance, because they are used to predict hearing loss based on a daily 8-h occupational noise exposure over 40 years (*i.e.*, current marine mammal TTS data are only available to predict exposure periods of 24-h or less and cannot be used to assess or predict risk associated with a lifetime of exposure) and are based on larger sample sizes of human listeners (*e.g.*, NIOSH 1972 and 1997 risk assessments were based on a

sample size of 1,172 people). As pointed out in Wright (2015), NIOSH criteria provide a 95 percent confidence interval for their human noise standards but also allow for an excess risk of material hearing impairment, defined as an average threshold elevation for both ears that exceeds 25 dB, of eight percent (*i.e.*, human noise standards limits do allow for some risk; risk is not zero percent and specifically that eight percent of the population is still capable of developing noise-induced hearing loss exceeding 25 dB when exposed to the 85 dB NIOSH level).

Finally, we note that a group of scientists published an update to their original, seminal publication concerning noise exposure criteria to predict the onset of auditory effects in marine mammals (Southall *et al.*, 2007, 2019a), the topic of this comment. The newer peer-reviewed publication evaluates the recommendations of the original publication in light of subsequent scientific findings, including those findings that form the basis for the recommendations of NMFS (2018, 2024). While Southall *et al.* (2019a) provide recommendations for future research that could lead to revisions, the fundamental aspects of an evaluation of the onset of auditory effects for the marine mammals considered in these ITRs (*i.e.*, auditory weighting functions and noise exposure criteria) are identical to those presented by NMFS (2018, 2024) and incorporated into the modeling process developed for these ITRs.

Regarding NRDC's suggestion that NMFS fails to account for alternative mechanisms of auditory injury, NMFS is aware of the work by Kujawa and Liberman (2009), which is cited by NRDC. The authors report that in mice, despite completely reversible threshold shifts that leave cochlear sensory cells intact, there were synaptic level changes and delayed cochlear nerve degeneration. However, the large threshold shifts measured (*i.e.*, maximum 40 dB) that led to the synaptic changes shown in this study are within the range of the large shifts used by Southall *et al.* (2007, 2019a) and in NMFS' Technical Guidance to define PTS onset (*i.e.*, 40 dB). There are no data indicating that smaller levels of TTS would lead to similar changes or what may be the long-term implications of irreversible neural degeneration. The effects of sound exposure on the nervous system are complex, and this will be re-examined as more data become available. It is important to note that NMFS' Technical Guidance incorporated various conservative factors, such as a 6-dB threshold shift to

represent TTS onset (*i.e.*, minimum amount of threshold shift that can be differentiated in most experimental conditions); the incorporation of exposures only with measured levels of TTS (*i.e.*, did not incorporate exposures where TTS did not occur); and assumed no potential of recovery between intermittent exposures. NMFS disagrees that consideration of likely PTS is not sufficient to account for reasonably expected incidents of auditory injury.

NRDC also suggested that NMFS should "revise its take estimates" following the update to the definition of injury in the 2024 Technical Guidance to include indirectly induced injury in addition to PTS. However, this update in terminology is simply an acknowledgement that in addition to PTS, there could be the potential for auditory injury (which may or may not result in PTS). This updated terminology acknowledges data available for terrestrial mammals and that, since the mammalian cochlea is highly conserved, there is the potential for similar auditory injury in marine mammals. However, this terminology change does not numerically affect our acoustic criteria and, therefore, nothing would change in terms of estimated take (*i.e.*, the criteria remain based on a 40 dB threshold shift, reflecting the same threshold shifts associated with auditory injury seen in terrestrial mammal studies). Thus, numerically the 2018 and 2024 criteria account for the potential for auditory injury in the same way, but the updated guidance has changed the terminology to more directly reflect this.

Comment 6: NRDC commented that the aversion adjustment applied to estimates of Level A harassment proposed by NMFS for low- and very high-frequency cetaceans is not supported. NRDC cites NMFS' statements attributing the original modeling decision not to include a quantitative adjustment for aversion to lack of information regarding species-specific degree of aversion and level of onset as suggestive of lack of an "evidentiary basis" for making such an adjustment.

Response 6: NMFS disagrees with these comments and clarifies our position. Aversion is a known real-world phenomenon. It is well-known that animals will avoid unpleasant stimuli, such as very high received levels of sound. A large and growing literature has demonstrated behavioral aversion in a number of contexts for many marine mammal species in increasingly controlled and well-documented contexts. While considerable species, individual, and

context-dependencies exist in terms of received noise levels associated with behavioral aversion, clear patterns of behavioral aversion have been demonstrated empirically within odontocetes and mysticetes (e.g., Miller *et al.*, 2012, 2014; DeRuiter *et al.*, 2013; Southall *et al.*, 2019b). This is particularly true for exposure scenarios in which animals occur relatively close to sources and at the high levels that would be required for even TTS (much less PTS) to occur. In some instances, in these and other studies, behavioral avoidance has been measured at received levels many orders of magnitude below those required for predicted PTS onset and even below the nominal, 50 percent behavioral response probability at 160 dB rms that NMFS has applied historically.

However, accounting for aversion quantitatively in an acoustic exposure modeling process is a significantly data-heavy endeavor and, despite the growing body of evidence there still not sufficient data regarding the specific degree of aversion and level of onset on a species-specific basis. That is, in order to account for aversion within the modeling process, one must program individual simulated animals (animats) representing different species to respond at a specific received level by changing their direction of travel by a specific degree and assuming a specific rate of speed. Through a test scenario evaluation (discussed in detail in the 2021 rulemaking and in associated modeling reports that support this rule), we determined that while this is possible to do, the specific values that must be used in programming the animat response could not be adequately derived. Instead, a nominal offset factor was applied to the modeled injurious exposures based on published model result evaluation to account for aversion.

Ellison *et al.* (2016) modeled scenarios using animal movement models to evaluate predicted PTS in which no aversion was assumed relative to scenarios where reasonable assumptions were made about aversion, in line with historical response probability assumptions and that existing scientific literature suggest are appropriate. Scenarios where no aversion probability was used overestimated the potential for high levels of exposure required for PTS by about five times. Accordingly, for the 2021 final rule, total modeled injurious exposures calculated without accounting for behavioral aversion (for low- and high-frequency species) were multiplied by 0.2. NMFS consulted scientific experts (referred to in the 2021

final rule as the “Expert Working Group,” contracted by NMFS and BOEM to provide scientific expertise in developing a risk assessment framework), including the lead author of Ellison *et al.* (2016), in selecting the specific offset factor, and discussed that selection again in context of the public comments received on that rule. These experts agreed that the approach and specific offset factor was a reasonable approach to addressing the issue of aversion.

NRDC acknowledges that aversion is a meaningful real-world phenomenon that is significantly influential on actual occurrence of Level A harassment, stating that “it is certainly true that some marine mammals will flee the sound.” Ignoring this phenomenon would result in unrealistically high estimates of auditory injury for marine mammals in the GOA. As described above, there is extensive information supporting the aversion concept in marine mammals, but limited quantitative data with which to develop precise, species-specific offset factors. Accordingly, utilizing the available data and expert input, NMFS applied its professional judgement in order to account for this meaningful phenomenon, and has determined it appropriate to retain this approach for the present rule.

Comment 7: Animal Counsel expressed concern that density estimates available for Rice’s whale are based on visual survey data and do not include acoustic detections.

Response 7: We agree that ideally, passive acoustic data could be incorporated to the spatial density models to improve the model predictions. However, incorporation of visual and acoustic data to spatial density models remains cutting edge science, and such models have only rarely been produced. The long-term cetacean density modeling effort presented by Roberts *et al.* (2016) and subsequent, related publications provides an example of the difficulty of doing so. This U.S. Navy-funded effort has been responsible for continually improved iterations of spatial density models for cetaceans along the U.S. East Coast since 2015. However, to date, acoustic data have been incorporated only into models for beaked whales and sperm whales (two species that are most amenable to acoustic surveys and for which acoustic detections are most important to understanding occurrence), and only in the most recently updated model iterations. This required 7 years and a model version 7 for beaked whales and model version 8 for sperm whales (<https://seamap.env.duke.edu/>

models/Duke/EC/). Acoustic data have been used to qualitatively verify density model predictions for certain mysticetes, but have not been incorporated to date into any East Coast mysticete density model. Efforts to evaluate the feasibility and utility of combining visual and acoustic survey data in the GOA have only recently been conducted as a pilot study (Frasier *et al.*, 2021).

We note that the same areas in which the acoustic detections were made are predicted by the spatial density model as being suitable Rice’s whale habitat and, in fact, density predictions within areas expected to provide suitable habitat for Rice’s whale increased compared with the predictions provided by Roberts *et al.* (2016) (e.g., Rice’s whale density value in Zone 5, which includes areas of the central GOA where acoustic detections were made, increased by 71 percent; see Appendix A of Weirathmueller *et al.*, 2022).

Comment 8: NRDC and Animal Counsel assert that NMFS has failed to account adequately for the effects of masking or stress on marine mammals.

Response 8: The potential impacts of masking were properly considered. We acknowledge that masking may impact marine mammals, particularly baleen whales such as the Rice’s whale, and particularly when considered in the context of the full suite of regulated and unregulated anthropogenic sound contributions overlaying an animal’s acoustic habitat. We acknowledge that masking can constitute a take, depending on the particular circumstances, but do not agree that masking effects from the incremental noise contributions of individual activities or sound sources always rise to the level of take. Further, not all takes are readily quantifiable. In this case, while masking is considered in the analysis, we do not believe it will result in take of marine mammals beyond those that have already been quantified as taken by behavioral harassment. Specifically, in the case of these proposed activities, in the event that some masking incidents rise to the level of a take, we would expect them to be accounted for in the quantified exposures above the harassment thresholds. Given the short duration of expected noise exposures, any take by masking in the case of these surveys would be most likely to be incurred by individuals either exposed briefly to notably higher levels or those that are generally in the wider vicinity of the source for comparatively longer times. Both of these situations would be captured in the enumeration of takes by Level B harassment, which accounts for

takes that may occur upon exposure at relatively low levels of received sound (e.g., 140 dB).

In addition, Animal Counsel suggests that NMFS should evaluate “the proposed activity’s acoustic contribution against the natural, pre-industrial baseline rather than the existing anthropogenic soundscape;” however, no recommendation is provided as to how it believes this analysis should be accomplished absent data relating to the “natural, pre-industrial baseline.” In addition, this recommendation runs afoul of the MMPA requirement for NMFS to evaluate the effects of the specified activity alone.

In addition to the comment that NMFS has underestimated takes that may result from masking, commenters disregard the consideration given to masking effects in NMFS’ risk assessment framework (see Negligible Impact Analysis and Determinations). Broadly, the results of the analysis for any given species are based on the integration of two components: the severity of the impacts (which reflects the extent of the activities overlaid with the presence and distribution of the given species) and the vulnerability of that species based on multiple biological and environmental risk factors, including explicit consideration of masking. Expected consequences of masking account for 20 percent of a species’ vulnerability rating, and is a substantial proportion of the vulnerability score.

NMFS recognizes that masking is not necessarily co-extensive with harassment and explicitly recognizes this in our discussion of effects, although we also note that the distances at which behavioral harassment is quantified for this rule are farther than those contemplated in the past, due to the behavioral harassment thresholds used (see the Estimated Take section and comment responses later in this section for further discussion of acoustic thresholds). As discussed in detail in NMFS’ 2021 final rule, NMFS designed and supported the implementation of a chronic and cumulative effects analysis, which is incorporated in NMFS’ discussion of the potential effects of the specified activity here for the specific purpose of addressing the effects of these activities on the listening space of all species and the communication space of Rice’s whales specifically (see Negligible Impact Analysis and Determinations). This modeling effort explicitly considered the effects of masking over realistic spatial scales.

Similarly, we addressed the available literature regarding potential impacts of

stress resulting from noise exposure in marine mammals. As described in that discussion, stress responses are complicated and may or may not have meaningful impacts on marine mammals. NRDC implies that NMFS must (1) enumerate takes resulting from stress alone and (2) specifically address stress in its negligible impact analysis. The effects of stress are not straightforward, and there is no information available to inform an understanding of whether it is reasonably likely that an animal may experience a stress response upon noise exposure that would not be accounted for in NMFS’ existing enumeration of takes via exposure to noise, which includes an accounting for exposures above received levels as low as 140 dB rms (and as low as 120 dB rms for beaked whales). NRDC provides nothing informative regarding how such an analysis might be carried out. With regard to NMFS’ negligible impact analysis, we believe that the potential effects of stress are addressed and subsumed within NMFS’ considerations of severity of effect and vulnerability of affected populations. Similarly, NRDC provides no justification as to why stress would appropriately be considered separately in this analysis, and no useful recommendation as to how to do so, if appropriate. We believe we have appropriately acknowledged the potential effects of stress, and that these potential effects are accounted for within our overall assessment of potential effects on marine mammals.

Comment 9: NRDC states that NMFS uses an “arbitrary” method to convert area-specific risk scores into a “basis for making Gulf-wide negligible impact determinations.” NRDC takes issue with NMFS’ use of the median of zone-specific risk ratings (for those zones including at least 0.05 percent of GOA-wide abundance for a particular species), suggesting that the application of this method inappropriately minimizes findings of “high” to “very high” risk for certain species in Zone 5, where there is a confluence of relatively high levels of survey activity and high proportions of GOA-wide abundance for some species, resulting in high take numbers. NRDC expressed concern that using the median does not allow for appropriate consideration of the importance of specific areas to a particular species, i.e., that this approach “smooths” away granularity of the risk assessment.

Response 9: We disagree with NRDC’s comments on this topic, and note that NRDC provided no alternative recommendation. On the contrary, NMFS’ approach explicitly incorporates

considerations of the importance of a particular area to a species, or the particular localized threats faced by a species, through the zone-specific vulnerability assessment that contributes to the overall risk rating. In addition, NMFS’ approach is specifically designed to retain considerations of zone-specific impacts and vulnerability beyond simply the inclusion of the vulnerability scoring. For example, an alternative approach to generating a GOA-wide risk rating would be to employ a wholly different paradigm in which aggregate GOA-wide vulnerability and severity scores are assessed, versus taking a median value of zone-specific ratings. NMFS retained the median value approach precisely because we believe that evaluating risk for such a large and variable area (i.e., the entire U.S. GOA) with species and activities that are each highly localized would provide only a very general and less informative answer regarding risk. The approach employed by NMFS highlights the fundamental importance of the spatiotemporal intersection of animals and activity as the fundamental driver in evaluating risk, while also allowing us to avoid exactly the effect of concern to NRDC (blurring of localized scoring) by avoiding the influence of areas where a particular species essentially does not occur on the overall risk rating for that species.

NRDC is incorrect that use of the median value is inappropriate or that it has “no biological basis.” We note that mean (or average) values can be more heavily skewed by outliers with small sample size than median values. Thus, we chose the median as a better descriptor of central tendency, which is a more appropriate perspective for the risk analysis. (We also rounded up values of 0.5 (e.g., median score of 3.5 would be rounded to a 4), a mathematically valid approach that builds in a reasonable degree of conservatism.)

One of the fundamental values of the analytical framework is that it is structured in a spatially explicit way that can be applied at multiple scales, based on the scope of the action and the information available, to inform an assessment of the risk associated with the activity (or suite of activities). This allows one to generate overall risk ratings while also evaluating risk on finer scales. In this case, severity ratings were generated on the basis of seven different GOA zones, allowing an understanding not only of the relative scenario-specific risk across the entire GOA, as is demanded for this analysis, but also to better understand the particular zones where risk may be

relatively high (depending on actual future survey effort) and what part of the stock's range may be subject to relatively high risk.

NRDC cites the Expert Working Group (EWG) Report in support of its comment, stating it was “[telling]” that “report did not contrive a Gulf-wide risk assessment” and that “doing so would have belied the very different purpose underlying its design: a relative risk assessment across multiple species and geographies.” Although the initial EWG report (Southall *et al.*, 2017) made available for public review of the framework concept did not derive GOA-wide risk ratings, the EWG did so in a later draft report that NMFS adopted in producing the risk evaluation presented in its 2021 rule.

Comment 10: NRDC asserts that NMFS has failed to appropriately account for stock structure and the importance of certain habitat in its negligible impact analysis, highlighting bottlenose dolphins and sperm whales.

Response 10: Regarding bottlenose dolphins, NRDC criticizes the use of generic risk ratings that homogenize risk for three shelf and coastal bottlenose dolphin stocks. NRDC's comment dramatically inflates this issue through reference to the total 36 stocks of bottlenose dolphin found in the GOA. In fact, 31 of these stocks are comprised of bay, sound, and estuarine populations that are not expected to be affected by the specified activity considered herein. We described and discounted the potential for impacts to these stocks of bottlenose dolphin in the 2018 notice of proposed rulemaking (83 FR 29212, June 22, 2018). As described there, estuarine stocks of bottlenose dolphin primarily inhabit inshore waters of bays, sounds, and estuaries (BSE), and stocks are defined throughout waters adjacent to the specified geographical region. However, estuarine stock ranges are generally described as including coastal waters (*i.e.*, waters adjacent to shore, barrier islands, or presumed outer bay boundaries and outside of typical inshore ranges) to approximately 1–3 km. For example, bottlenose dolphins that were captured in Texas and outfitted with radio transmitters largely remained within the bays, with three individuals tracked to 1 km offshore (Lynn and Würsig, 2002). Radio-tracking of dolphins in the St. Joseph Bay, Florida area showed that most dolphins stayed within the bay and that, although some individuals ranged more than 40 km along the coastline from the study site, they never ventured outside of immediate nearshore waters (Balmer *et al.*, 2008). Dolphins captured in Barataria Bay, Louisiana were fitted

with satellite-linked transmitters, showing that most dolphins remained within the bay, while those that entered nearshore coastal waters remained within 1.75 km (Wells *et al.*, 2017). Therefore, these stocks would not generally be expected to be impacted by the described geophysical surveys. If a deep penetration seismic survey were occurring in nearshore Federal waters (*i.e.*, at least 3 miles from shore but 9 miles from shore off Texas and Florida), it is possible that a dolphin belonging to a BSE stock could be affected. However, such surveys are expected to be rare in such shallow waters, and given the fact that BSE dolphins in sheltered inshore waters would largely not be impacted by noise generated offshore, we believe that impacts from the specified activities that could potentially be considered as a “take” (as defined by the MMPA) should be considered discountable. Further, the eastern coastal stock of bottlenose dolphin range is entirely outside the specified geographical region, and the segregation of density models into ocean and shelf/coastal domains means that stock-specific risk ratings may be attributed to the oceanic stock of bottlenose dolphin. Therefore, the issue described by NRDC is limited to three stocks of bottlenose dolphin: the continental shelf and western and northern coastal stocks, for which homogenized risk ratings are provided for Zones 2 and 3.

Overall, species-level take and abundance estimates are used to support risk ratings for bottlenose dolphins in Zones 2 and 3 out of necessity. As acknowledged in our negligible impact analysis, the best available information (Garrison *et al.*, 2023) was used to inform combined stock values for these zones and did not support further quantitative apportionment of estimated take or abundances to stocks. However, NRDC's criticism of the development of risk ratings for these stocks of bottlenose dolphins is unwarranted. The risk rating is comprised of the severity score, reflecting the homogenous take information available for the three stocks in Zones 2 and 3, and the vulnerability score, which is designed to incorporate stock-specific information regarding status and threats. The population portion of the vulnerability score comprises three components: status, *i.e.*, is the stock listed under the ESA and/or designated as depleted under the MMPA; trend, *i.e.*, does information over the available time series of abundance estimates indicate a trend; and size, *i.e.*, is the population defined as small (less than 2,500). None of the designated stocks of bottlenose

dolphin in Federal waters of the GOA are listed under the ESA or designated as depleted under the MMPA, and none would be classed as small. Regarding trend, for each of the three stocks, two point estimates of abundance are available based on aerial data from surveys during 2011–2012 and 2017–2018 (Garrison *et al.*, 2021). Each of these surveys had a similar design and was conducted using the same aircraft and observer configuration. For each of the three stocks, the 2017–2018 estimate is larger than the 2011–2012 estimate. While a formal trends analysis is not possible based on two point estimates, the information does suggest an increasing trend for these stocks for the purposes of the trend component of the population score. We recognize that the effects of the Deepwater Horizon (DWH) oil spill included likely population reductions for all GOA marine mammal stocks; however, the best available information indicates that these reductions were likely modest for all bottlenose dolphin stocks other than the northern coastal stock, and no more recent population abundance estimates that might reflect any potential reduction are yet available. While the likely decline in population abundance for northern coastal bottlenose dolphins is subsumed within the population score assigned for bottlenose dolphins at the species level for Zones 2 and 3, vulnerability scoring is necessarily performed at the species level such that it may appropriately be integrated with the take-based severity scoring and used to generate an overall zone-specific risk rating. As mentioned above, the best available scientific information does not allow for stock-specific parsing of take for bottlenose dolphins in Zones 2 and 3. Moreover, the trend component of the population score is a relatively small contribution to the overall vulnerability scoring. The likely decline in population abundance for northern coastal bottlenose dolphins, although not reflected in the existing vulnerability scoring, is insignificant as a contribution to the overall vulnerability score for bottlenose dolphins as a species. As noted above, the effects of the DWH oil spill are separately accounted for in the vulnerability scoring and, in summary, the stock-specific status concerns described by NRDC are incorporated to the risk ratings (though we reiterate that NRDC's references to concern relating to the Barataria Bay stock of bottlenose dolphins is in error, as this stock will not be impacted by the specified activities). Importantly, and also not accounted for in the risk assessment

framework, we include significant mitigation (time-area restriction) intended to alleviate impacts to northern coastal bottlenose dolphins during periods of greatest importance for their reproductive behavior.

NRDC contends that through use of homogenous relative risk ratings addressing the combination of bottlenose dolphin stocks residing in Zones 2 and 3, the actual authorization of take of bottlenose dolphins through LOAs could result in greater than a negligible impact through disproportionate impact to the shelf and two coastal stocks of bottlenose dolphin that may be impacted by survey activity occurring in Zones 2 and 3. However, we reiterate that the issues of concern to NRDC are applicable only to the shelf and coastal bottlenose dolphin stocks and Zones 2 and 3, while the majority of projected bottlenose dolphin takes would be expected to accrue to oceanic stock dolphins, reflecting the greater amount of survey effort projected for Zones 4–7. Moreover, as discussed earlier, the risk ratings are only one component of NMFS' negligible impact analysis for each respective stock. Even for these stocks, the implementation of the rule is bound by the description of the specified activity that informs the analysis. That is, the specified activity is comprised of zone- and year-specific effort projections that inform the take estimates and, therefore, the analysis supporting issuance of the rule. Were actual effort to occur in a manner inconsistent with the specified activity, it would not be within the analysis contemplated by the rule. NRDC's comment addresses a hypothetical that cannot occur and still be within the bounds of the rule.

NRDC's additional suggestion, using sperm whales as a case study, that the "averaging of zones disregards the heightened relevance of certain areas to species ecology," has no merit. Leaving aside that we do not "average zones"—elsewhere in its letter, NRDC criticizes NMFS' use of median values to derive Gulf-wide risk ratings—as explained above, both the Gulf-wide and zone-specific relative risk ratings factor into NMFS' negligible impact analysis, as does consideration independent of the risk ratings of impacts to habitat.

Comment 11: Animal Counsel states that NMFS must provide species-specific impact analyses for each species within the blackfish, beaked whale, and *Kogia* guilds rather than relying solely on guild-level estimates.

Response 11: NMFS has performed the requisite species- and stock-level analyses. We acknowledge that stock-specific take estimates cannot be

derived based on the available scientific information, which is resolved for the referenced groups only at the guild level. As described in the Estimated Take and Negligible Impact Analysis and Determinations sections, sightings of these species that provide the basis for both abundance estimates provided in NMFS' Stock Assessment Reports (SARs) and for the density models comprising the best scientific information available regarding marine mammal occurrence in the GOA typically cannot be resolved to the species level. These species are first rarely sighted due to their pelagic distribution and typical high availability bias due to deep-diving behavior and cryptic nature when at the surface, and are generally difficult to distinguish between species when visually observed in the field. Accordingly, abundance estimates in NMFS SARs are recorded for *Mesoplodon* spp. (and, separately, for the goose-beaked whale) and *Kogia* spp. For the broader beaked whale and blackfish guilds, available sightings data, including often unresolved sightings, must be combined in order to develop habitat-based density models, as were used to inform our acoustic exposure modeling effort. Therefore, density and take estimates in this rule are similarly lumped for the referenced guilds, and there is no additional information by which NMFS could appropriately apportion impacts other than equally/proportionally across the constituent species. Animal Counsel appears to misunderstand our description of these issues, suggesting that these issues are only superficial ("grouping based on superficial similarity in looks") and therefore unjustified compared with grouping that may be based on ecological similarity. In this case, these issues are indistinguishable: as described above, the reliance on undifferentiated sightings for members of these guilds is in fact due to similarities in ecological function as well as to visual similarity. However, of greater importance is that Animal Counsel appears to misunderstand our treatment of the constituent species of these guilds in the negligible impact analysis. We reiterate and confirm here that, while we are unable to precisely apportion estimated take to the species level (reflecting the scientific information available to inform the take estimates), we import species-specific considerations to qualitative aspects of the negligible impact analysis and, in so doing, reach the requisite species- and stock-specific negligible impact determinations.

Comment 12: NRDC asserts that NMFS has erroneously used the relativistic assessment produced through the risk assessment framework as the basis for the negligible impact determination, incorrectly applying it as though it evaluated absolute risk.

Response 12: NMFS disagrees with the comment. The relative risk ratings produced through the framework did not replace our judgments regarding the absolute risk to stocks from the specified activity represented by the negligible impact determinations. The relative risk ratings, both Gulf-wide and zone-specific, are one factor in NMFS' stock specific negligible impact determinations. Despite thorough discussion of all relevant factors for each stock in the Negligible Impact Analysis and Determinations section, NRDC confuses our reference to the straightforward risk rating terms (e.g., low, moderate, high) as being solely determinative of the negligible impact determinations.

The risk assessment analysis is an important component of the negligible impact analysis, but is not the sole basis for our determination. Similarly, implicit in NRDC's complaints regarding NMFS' method of evaluating Gulf-wide risk is the suggestion that NMFS did not also consider zone-specific risk in its negligible impact determinations. These claims are incorrect. We incorporate the Gulf-wide relative risk ratings to our negligible impact analysis, but also provide appropriate focus to the specific zones for each species or guild where relative risk was evaluated to be highest. While the risk assessment analysis comprehensively considered the spatial and temporal overlay of the activities and the marine mammals in the GOA, as well as the number of takes predicted by the described modeling, there are details about the nature of any "take" anticipated to result from these activities that were not considered directly in the risk assessment analysis and which warrant explicit consideration in the negligible impact analysis. Accordingly, NMFS' analysis considers the results of the risk assessment analysis, the effects of the required mitigation, and the nature and context of the takes that are predicted to occur. NMFS' analysis also explicitly considers the effects of predicted Level A harassment, duration of Level B harassment events, and impacts to marine mammal habitat, which respectively were not integrated into or included in the risk ratings. These components of the full analysis, along with any germane species or stock-specific information, are integrated and

summarized for each species or stock in the Species and Stock-specific Negligible Impact Analysis Summaries section of the negligible impact analysis.

In addition, while the risk assessment framework comprehensively considers the aggregate impacts to marine mammal populations from the activities addressed in this rule in the context of both the severity of the impacts and the vulnerability of the affected species, it does not fully consider the absence of survey activity in the eastern GOA. While this is to some degree reflected in the updated take estimates, and thereby incorporated into the risk ratings, the absence of survey activities within areas of greater biological importance for certain species benefits those species GOA-wide beyond what is simply reflected in the updated take numbers. The negligible impact analysis considers the beneficial effects of the absence of survey activity in the eastern GOA regarding both acute and chronic effects.

Also, we note that while the risk assessment framework produces relativistic risk ratings, its components consist of absolute concepts, some of which are also absolutely quantified (e.g., whether the specified activity area contains greater than 30 percent of total region-wide estimated population, between 30 and 15 percent, between 15 and 5 percent, or less than 5 percent). Further, NMFS provided substantive input into the scoring used in implementing the EWG framework for the GOA, to ensure that the categories associated with different scores, the scores themselves, and the weight of the scores within the overall risk rating all reflected meaningful biological, activity, or environmental distinctions that would appropriately inform the negligible impact analysis. Accordingly, and as intended, we used our understanding of the framework and best professional judgment to interpret the relativistic results of the risk assessment analysis appropriately into the larger negligible impact analysis, with the other factors discussed above, to make the necessary findings specific to the effects of the total taking on the affected species and stocks.

Comment 13: NRDC asserts that the rule allows for take in excess of the estimates used in its negligible impact determinations.

Response 13: NRDC's comment suggests a misunderstanding of the acoustic exposure modeling process. The comment assumes that because the modeling involved placement of one survey simulation area in each of the seven original modeling zones, real-world surveys taking place at other locations would take place under

conditions (e.g., acoustic propagation, marine mammal density) different than those modeled. That comment confuses the smaller survey boxes with the simulation areas within which sound exposure was modeled, stating that "none of the nominal surveys, save for the survey modeled for zone 4, appear to take place within the proposed critical habitat of Rice's whale" despite the fact that six out of the seven simulation areas overlap the 100–400 m isobaths that mark the proposed designation of Rice's whale critical habitat.

A fundamental component of the modeling approach was the thoroughness with which Gulf-wide conditions were represented in the modeling. Key modeling aspects with geospatial dependence include acoustic propagation conditions and marine mammal density. For the former, propagation conditions were modeled at each of 10 locations representing a full range of static conditions (depths and bottom type) in both the central and western Gulf, with conditions at each of these 10 locations modeled in multiple seasons to understand the full range of dynamic conditions (sound speed profiles). The resulting sound fields were then used in animal movement modeling within the simulation areas to represent the full range of potential conditions that marine mammals may encounter throughout the Gulf and throughout the year. Similarly, average marine mammal density values for each zone were then used to scale the modeled exposure estimates according to real-world density values. While the use of zone-wide average density values does smooth spatial variability in likelihood of encountering particular species of marine mammal, the overall result, both within and across surveys, is a reasonable representation of the likelihood of exposing particular species to sound exceeding harassment criteria.

NMFS acknowledges that a real-world survey occurring in an area with marine mammal occurrence higher than the zonal average may encounter more marine mammals than expected, just as a survey occurring in an area with marine mammal occurrence lower than the zonal average may encounter fewer marine mammals than expected. Overall, during the course of rule implementation, there is no fundamental aspect of the modeling that would result in directionally more marine mammals being impacted than we assume here, regardless of location or season.

Comment 14: NRDC states that NMFS' analysis of the consequences of exposure in support of the negligible

impact analysis "contradicts the factual record," asserting that NMFS wrongly assumed low severity for certain exposure durations and disregarded repeated exposures. Animal Counsel similarly suggests that NMFS ignores the consequences of exposure, referring to the "cumulative impacts of repeat harassment."

Response 14: While NMFS evaluated exposure durations, which are critical to understanding how the authorized takes are likely to impact individual marine mammals, the negligible impact analysis is not dependent on this or any other single factor, as described fully in the Negligible Impact Analysis and Determinations section. Exposure duration was not addressed in the risk assessment framework but was incorporated into the negligible impact analysis.

As we indicate in the Negligible Impact Analysis and Determinations discussion of this final rule, to put the predicted amount of take into meaningful context, it is useful to understand the duration of exposure at or above a given level of received sound (as well as the likely number of repeated exposures across days). While even a momentary exposure above the criteria for Level B harassment counts as an instance of take, that accounting does not make any distinction between fleeting exposures and encounters in which an animal may be exposed to that received level of sound for a longer period of time. This information is meaningful to an understanding of the likely severity of the exposure, which is relevant to the negligible impact evaluation. For example, for bottlenose dolphin exposed to noise from 3D WAZ surveys in Zone 6, the modeling report shows that approximately 72 takes (Level B harassment) would be expected to occur in a 24-hr period. However, each animal modeled has a record or time history of received levels of sound over the course of the modeled 24-hr period. The 50th percentile of the cumulative distribution function indicates that the time spent exposed to levels of sound above 160 dB rms SPL (i.e., the 50 percent midpoint for Level B harassment) would be only 1.8 minutes—a minimal amount of exposure carrying little potential for significant disruption of behavioral activity.

The Species and Stock-specific Negligible Impact Analysis Summaries discussion considers the relative impact ratings in conjunction with required mitigation and other relevant contextual information—including exposure durations at the various thresholds—to produce an assessment of impact to the

stock or species, *i.e.*, the negligible impact determinations. For beaked whales, take is estimated on the basis of a risk function shifted down such that 90 percent of the animals exposed to received levels above 140 dB and 50 percent exposed to received levels above 120 dB are predicted to be harassed. We used this approach based on the documented behavioral sensitivity of beaked whales. However, as NRDC acknowledges, context is important when assessing behavioral responses to sound. The exposures above 120 dB here occur at significant distance from the source (*i.e.*, greater than 50 km). It is generally accepted that an animal's distance from the sound source plays an important role in the animal's behavioral response to a received sound level (*e.g.*, Gomez *et al.*, 2016). NMFS believes that exposures to the relevant harassment thresholds at significant modeled distances from the actual sound source, although included in the take estimates based on the risk function, will not carry significant consequences for the potentially exposed animals. Rather, these exposures are likely to result in significantly less severe responses (if any). Examples provided by NRDC purporting to demonstrate greater severity of response than we have assumed include irrelevant examples—beaked whales are known to respond with greater severity to mid-frequency active military sonar than to other sources, as discussed in greater detail in the Potential Effects of the Specified Activities on Marine Mammals and Their Habitat section of the proposed rule—and examples of “responses” entailing changes to vocalization patterns over longer durations, but these responses do not necessarily rise to the level of a take, much less a take event of significant severity.

Regarding repeated exposures, despite the figures cited by NRDC concerning potential days of activity, it is unlikely that any given individual animal would in fact experience repeated take events of the magnitude suggested. Each of the GOA zones is an extremely large area (average zone size approximately 100,000 km²), and the likely harassment “footprint” of any given survey would be relatively small. Modeled isopleth distances to the 160-dB threshold are approximately 12 km for low-frequency cetaceans (*i.e.*, the Rice's whale), 7 km for high-frequency cetaceans (*i.e.*, sperm whales, beaked whales, dolphins), and 6 km for very high-frequency cetaceans (*i.e.*, *Kogia* spp.). Distances to the 140-dB isopleths are substantially larger, but we again emphasize that only 10

percent of the animals exposed at that level would be expected to incur harassment, while 50 percent of the animals exposed at the 160-dB level would be expected to incur harassment. It is clear that, in reality, there is a relatively low chance of any given individual marine mammal being repeatedly taken within relatively short timeframes, much less that such events would result in fitness consequences for those individuals. Additionally, NRDC suggests that NMFS fails to consider repeated takes at all, when in fact this likelihood is inherently addressed through the severity rating of the risk assessment.

Comment 15: NRDC claims that NMFS' negligible impact analysis is inappropriately reliant upon the prescribed mitigation and, further, that the mitigation will be ineffective. NRDC further expressed concern regarding the efficacy of the prescribed visual and acoustic monitoring methods, stating that species could go undetected. NRDC also repeats an erroneous claim from prior letters that acoustic shutdowns for sperm whales are not required under the ITRs.

Response 15: NMFS did not rely on the mitigation in the negligible impact analysis to the degree NRDC implies. As is stated in the analysis, consideration of the implementation of prescribed mitigation is one factor in the analysis but is not determinative in any case. In certain circumstances, mitigation is more important in reaching the negligible impact determination, *e.g.*, when mitigation helps to alleviate the likely significance of taking by avoiding or reducing impacts in important areas.

NRDC misunderstands the degree to which NMFS relies on shutdowns for sensitive or vulnerable species, including beaked whales, at extended distances. We agree that these measures in and of themselves will have limited benefit for cryptic species such as beaked whales that are unlikely to be observed. However, we believe it makes sense to minimize the duration and intensity of exposure for these species when they are observed, and because shutdowns are practicable we include them in the suite of prescribed measures and discuss them where appropriate. For more readily detected species, such as the sperm whale, which is easily detected when at the surface and vocalizes frequently while underwater, the extended distance shutdowns (for both visual and acoustic detections) should appropriately be considered influential in our assessment of impacts to affected individuals and, therefore, ultimately on the stock. In summary, we consider these measures appropriately

as mitigating factors when considering context as part of our negligible impact analysis.

While NMFS disagrees with some specific comments regarding efficacy, we generally agree with the overall point that there are limitations on what may reasonably be expected from either visual or acoustic monitoring. While visual and acoustic monitoring effectively complement each other, and acoustic monitoring is the more effective monitoring method (for certain species) during periods of impaired visibility, there is no expectation that these methods will detect all marine mammals present. In general, NRDC appears to misunderstand what NMFS claims with regard to what such monitoring may reasonably be expected to accomplish and/or the extent to which we rely on assumptions regarding the efficacy of monitoring in reaching the necessary findings. We acknowledge these limitations in prescribing these monitoring requirements, while stating why NMFS believes that visual and acoustic monitoring, and the related protocols we have prescribed, are an appropriate part of the suite of mitigation measures here that satisfy the MMPA's least practicable adverse impact standard. However, the negligible impact finding is not conditioned on the presumption of a specific degree of monitoring efficacy.

Regarding NRDC's claim that “NMFS hasn't included an acoustic shutdown requirement for sperm whales in its proposed regulation,” we clarify that the requirement to shut down “upon detection of a sperm whale,” which was described in detail in the notice of proposed rulemaking and is included in this final rule, includes detection by either visual or acoustic means.

Comment 16: NRDC asserts that NMFS “arbitrarily dismissed high number of injuries” for *Kogia* spp. Animal Counsel also expressed concern regarding *Kogia* spp., suggesting similarly that the estimated takes of these species were significantly greater than the total population.

Response 16: As basis for its claim that the assessed Level A harassment events are of such magnitude as to call into question NMFS' negligible impact determinations, NRDC states that the annual number of injuries “would amount to 2.4 times the size” of the *Kogia* spp. population and “exceed potential biological removal by some 6700 percent.” (We note that although irrelevant, NRDC's calculations for both values are incorrect.) However, these values are based on the severely negatively biased abundance estimate of 336 provided in NMFS' SAR. Animal

Counsel similarly compares the estimated takes of these species to the SAR abundance estimate of 336. As discussed in the notice of proposed rulemaking (and below), but omitted by NRDC, NMFS' SARs state that the abundance estimate provided for *Kogia* spp. is likely a severe underestimate because it was not corrected for the probability of detection on the trackline, and because *Kogia* spp. are often difficult to see, present little of themselves at the surface, do not fluke when they dive, and have long dive times. In addition, they exhibit avoidance behavior towards ships and changes in behavior towards approaching survey aircraft. As a result, as stated in the notice of proposed rulemaking, we appropriately refer to the model-generated estimated abundance of 1,385 as the most appropriate estimate of abundance available for *Kogia* spp.

NRDC's argument is based entirely on its premise that if the estimated instances of Level A harassment are so large in comparison with the affected population, it cannot be true that the population-level effects of the assessed Level A harassment events can be mild, *i.e.*, that a majority of the population would experience repeated hearing loss, leading to greater injury. Therefore, the invalid basis for the premise renders the comment irrelevant.

Comment 17: Animal Counsel suggests that NMFS' analysis related to Rice's whale is deficient, stating that NMFS must "conduct a separate, dedicated Rice's whale impact analysis incorporating post-2024 passive acoustic data, the multi-year NOAA trophic ecology study, and a population viability model." Animal Counsel separately suggests that NMFS' consideration of prey species impacts is deficient.

Response 17: NMFS fully considered the information Animal Counsel references. In our view, these investigations solidify NMFS' previous understanding of the importance of continental slope waters between approximately 100–400 m water depth as Rice's whale habitat. The previously used spatial density model for Rice's whale (Roberts *et al.*, 2016) identified waters of approximately 100–400 m depth on the continental slope throughout the GOA as potential habitat, and the updated density model (which, as discussed previously, incorporates new data on Rice's whale habitat associations) predictions do not markedly differ (Garrison *et al.*, 2023).

NMFS fully considered new information concerning acoustic detections of Rice's whales in areas

along the shelf break in the central and western GOA, which demonstrates year-round Rice's whale occurrence in areas outside of the previously identified core habitat. Soldevilla *et al.* (2022) detected Rice's whale calls at sites in the central GOA south of Louisiana. A subsequent study placed acoustic recorders in shelf break waters in the same central GOA area and added a location in the western GOA offshore of Texas (Soldevilla *et al.*, 2024). This information provides additional evidence of the regular occurrence of Rice's whales outside the northeastern GOA, with Rice's whale calls recorded on 33 and 25 percent of days at the central and western GOA sites, respectively. As in the prior study, calls were recorded throughout the year. Continued study has demonstrated the persistence of Rice's whale presence in the western GOA (Debich *et al.*, 2025a,b).

In summary, available data related to marine mammal presence and habitat, including impacts to prey species, were considered in the negligible impact analysis. Animal Counsel does not provide adequate detail regarding either the manner in which it believes we did not adequately consider the cited factors, or provide sufficiently detailed recommendations regarding the impact analysis it suggests be conducted, including how it should be conducted differently than or incorporated differently to the impact analysis we present in the Negligible Impact Analysis and Determinations section.

Comment 18: Animal Counsel raises concerns regarding NMFS' negligible impact analysis through comparison of take estimates to NMFS' Potential Biological Removal values.

Response 18: PBR is defined in the MMPA (16 U.S.C. 1362(20)) as "the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population" and is a measure to be considered when evaluating the effects of mortality or serious injury on a marine mammal species or stock. Harassment is not equivalent to serious injury and does not "remove" an individual from a stock. Therefore, the PBR metric is not relevant to an evaluation of the effects of harassment on a stock in the manner suggested by the commenter.

Comment 19: Animal Counsel suggests that NMFS should discount consideration of practicability in determining the appropriate suite of mitigation requirements.

Response 19: Animal Counsel states that practicability should not hold equal

weight with consideration of the effectiveness of a measure when evaluating measures towards achieving the MMPA standard of "least practicable adverse impact." Because mitigation requirements are inherently burdensome, Animal Counsel suggests that consideration of this factor is in conflict with the MMPA. However, this reading is in contradiction with the statutory requirement to prescribe the "means of effecting the least practicable adverse impact." Consideration of practicability is ingrained in the very standard that Animal Counsel urges NMFS to meet, and disregarding practicability would contradict the requirements of the MMPA.

Animal Counsel also suggests that consideration of practicability is at odds with the need to based decisions on the best scientific information available. However, relevant data are not limited to consideration of mitigation effectiveness, but also contribute to an understanding of the operational impacts of a measure, *i.e.*, practicability. In either case (consideration of mitigation effectiveness and practicability), NMFS must consider the available data and make judgments regarding these two primary factors.

In the evaluation of specific measures, the details of the specified activity will necessarily inform each of the two primary factors discussed above (expected reduction of impacts and practicability) and are carefully considered to determine the types of mitigation that are appropriate under the least practicable adverse impact standard. Analysis of how a potential mitigation measure may reduce adverse impacts on a marine mammal stock or species and practicability of implementation are not issues that can be meaningfully evaluated through a yes/no lens. The manner in which, and the degree to which, implementation of a measure is expected to reduce impacts, as well as its practicability, can vary widely. For example, a time-area restriction could be of very high value for reducing the potential for, or severity of, population-level impacts (*e.g.*, avoiding disturbance of feeding females in an area of established biological importance) or it could be of lower value (*e.g.*, decreased disturbance in an area of high productivity but of less firmly established biological importance). Regarding practicability, a measure might involve restrictions in an area or time that impede the operator's ability to acquire necessary data (higher impact), or it could mean incremental delays that increase operational costs but still allow the activity to be conducted (lower impact). A

responsible evaluation of “least practicable adverse impact” will consider the factors along these realistic scales. Expected effects of the activity and of the mitigation as well as status of the stock all weigh into these considerations. Accordingly, the greater the likelihood that a measure will contribute to reducing the probability or severity of adverse impacts to the species or stock or their habitat, the greater the weight that measure is given when considered in combination with practicability to determine the appropriateness of the mitigation measure, and vice versa.

We acknowledge that in some cases, certain mitigation may be necessary in order to make a “negligible impact” finding for an affected species or stock, which is a fundamental requirement of issuing an authorization—in these cases, consideration of practicability may be a lower priority for decision-making if impacts to marine mammal species or stocks would not be negligible in the measure’s absence. However, this circumstance is not present in the analysis presented herein, and practicability must be given due consideration.

Comment 20: NRDC comments that, overall, NMFS has not prescribed mitigation measures sufficient to meet the MMPA’s LPAI standard, and specifically that NMFS must prescribe an area closure for Rice’s whale in order to meet this standard. Animal Counsel expresses similar concerns regarding NMFS’ assessment of the available science regarding Rice’s whale habitat and its LPAI analysis.

Response 20: NRDC provides no actionable recommendation beyond the assertion that NMFS must “provide an area closure” for Rice’s whale. As discussed at length in the Mitigation section of this final rule, we find that, while there is now robust evidence that Rice’s whales utilize areas of the Gulf within roughly the 100–400 m depth isobaths outside of their northeastern GOA core habitat area, key questions remain about Rice’s whale abundance, density, habitat use, demography, and stock structure in the central and western GOA. As was acknowledged by NMFS in its proposed rule to designate critical habitat for Rice’s whale, aside from visual and acoustic detections indicating presence, this area hosts features that comprise characteristics of habitat that is essential to the species. However, it does not follow that the area must be closed to activity of a certain sector, in this case geophysical survey activity. And as described in the notice of proposed rulemaking and later in this rule, there is no available scientific

information that would enable NMFS to identify any particular portion of this broad swath of suitable habitat throughout the GOA that is of particular importance, or to identify any time of year when this habitat may be of particular importance. Absent this information, NMFS is left to contemplate a complete, year-round closure to geophysical survey effort of the 100–400 m isobaths across the entire central to western GOA, based solely on data establishing that the habitat contains features making it suitable for Rice’s whale use, and scant information establishing that Rice’s whales are present in unknown numbers in this area. NRDC does not dispute that the available information does not enable identification of any area or time that could be subject to meaningful consideration as a closure, and it does not attempt to identify and recommend any such area. Instead, NRDC implies that the entire area should be closed by asserting that the MMPA “places no ceiling on the amount of habitat that may be subject to mitigation” and that the entire area should be closed as a result of its assertion that the MMPA demands “overprotection” rather than “underprotection,” without acknowledging that the measures included in the rule may be the right amount of protection.

NRDC’s argument in favor of some sort of area closure rests on a misunderstanding of the acoustic exposure modeling supporting the rule’s take estimates. NRDC wrongly asserts that NMFS’ modeling “placed its nominal surveys entirely or almost entirely outside the [Rice’s] whale’s habitat,” leading to the misguided assertion that “the rule itself is insufficient to ensure that actual take remains within authorized numbers.” As we address in greater detail above, the exposure modeling is representative of all habitat, including Rice’s whale habitat, that may be traversed by projected survey effort, and the assertion that much greater impacts than have been modeled would result is unsupported.

As discussed in detail in the notice of proposed rulemaking, the rate of call detections throughout the year is considerably higher in the eastern GOA than at the central GOA sites where calls were most commonly detected, with at least 8.3 calls/hour among four eastern GOA sites over 110 deployment days (Rice *et al.*, 2014) compared to 0.3 calls/hour over the 299-day deployment at the central GOA site where calls were detected most frequently during the Soldevilla *et al.* (2022) study. During that study, approximately 2,000 total

calls were detected at the central site over 10 months, compared to more than 66,000 total detections at the eastern GOA deployment site over 11 months (approximately 30 times more calls detected at the eastern GOA site) (Soldevilla *et al.*, 2022). Similarly, Soldevilla *et al.* (2024) reported detecting 0.2 calls/hour at the western GOA site off Texas (1,694 detections over 8,547 hours of recording). While continued monitoring off Texas demonstrates ongoing, regular presence of whales (Debich *et al.*, 2025a,b), available information continues to suggest that density and abundance of Rice’s whales is likely lower in the central and western GOA than in the species’ core habitat area in the eastern GOA.

Regarding the suggestion that NMFS has not adequately considered habitat in its consideration of mitigation, we disagree. Habitat value is generally informed by marine mammal presence and use, and the available data can support the consideration and discussion of impacts to (and mitigation for) both marine mammals and their habitat simultaneously. The discussion above clearly considers physical features that can drive habitat use (e.g., depth), as well as detailed information related to relative presence in the eastern versus the central and western GOA, which is indicative of preferred habitat in the east. Because habitat value is generally informed by marine mammal presence and use, in some cases, there may be overlap in measures for the species or stock and for use of habitat. NRDC has not presented any information that would suggest habitat we did not consider for mitigation.

In summary, the newly available data related to marine mammal presence and habitat were considered under the LPAI standard, and we concluded additional mitigation for Rice’s whale was not warranted under that standard. NRDC provides no persuasive argument to the contrary.

Comment 21: NRDC finds fault with NMFS’ consideration of practicability concerning possible closure of potential Rice’s whale habitat in the central and western GOA to future survey activity, suggesting that NMFS’ reference to analysis presented in its Regulatory Impact Analysis (RIA) for the 2021 rule is not relevant. Animal Counsel similarly recommends that NMFS must implement restrictions on survey activity in Rice’s whale habitat (waters 100–400 m depth throughout the Gulf). NRDC also suggests that NMFS must consider that the Outer Continental Shelf Lands Act (OCSLA) “requires a balancing between the development of

offshore energy resources and the protection of marine resources.”

Response 21: As was acknowledged in the proposed rule, the RIA did not directly evaluate a potential closure of potentially suitable habitat in the central and western GOA outside of the Rice’s whale core distribution area. However, we disagree that the RIA is not relevant to our practicability analysis here. The RIA’s assessment of potential restrictions in the northeastern GOA provided a useful framework for considering practicability relating to a broad closure of potential Rice’s whale habitat to future survey activity.

To bolster that discussion, we turned to the same sources of data referenced in the RIA in analysis of potential closure areas considered therein (see <https://www.data.boem.gov/Main/Default.aspx>). While areas of Rice’s whale habitat (*i.e.*, water depths of 100–400 m on the continental shelf break) contain less oil and gas industry infrastructure than do shallower, more mature waters, and have been subject to less leasing activity than deeper waters with greater expected potential reserves, they nonetheless host significant industry activity. BOEM provides summary information by water depth bin, including water depths of 201–400 m. Omitting information regarding water depths of 100–200 m, the area overlaps 33 active leases, with 17 active platforms and over 1,200 approved applications to drill. In the past 20 years, over 500 wells have been drilled in water depths of 100–400 m. These data confirm that there is substantial oil and gas industry activity in this area and, therefore, the inability to collect new seismic data could affect oil and gas development given that oil companies typically use targeted seismic to refine their geologic analysis before drilling a well. In addition, year-round occurrence of Rice’s whales in waters 100–400 m deep precludes the use of seasonal closures to minimize exposure of Rice’s whales. Therefore, we analyzed the potential for a year-round closure, which exacerbates the potential for effects on oil and gas productivity in the GOA because operators have no ability to plan around the closure. While the area is not as important to regional oil and gas productivity as the prospective deepwater central GOA closure analyzed in the RIA (as we acknowledged in the proposed rule), the more area-specific data provided above continue to support NMFS’ previous conclusions, which we affirm here: (1) We are unable to delineate specific areas of Rice’s whale habitat in the central and western GOA where restrictions on

survey activity would be appropriate because there is currently uncertainty about Rice’s whale density, abundance, habitat usage patterns and other factors in the central and western GOA; and (2) there is high likelihood that closures or other restrictions on survey activity in all waters of 100–400 m depth in the central and western GOA would have significant economic impacts. Finally, we note that despite NRDC’s concerns, it does not recommend any particular closure that it believes NMFS should evaluate.

Regarding NRDC’s suggestions concerning OCSLA—a statute administered by BOEM—NMFS’ statutory obligations arise under the MMPA (with associated requirements under the ESA, NEPA, and Administrative Procedure Act (APA), among others). NMFS has no statutory obligation relative to OCSLA. Similarly, NMFS’ obligations under the MMPA require that we prescribe the means of effecting the LPAI on the affected species or stock and their habitat, which we have done here.

Comment 22: NRDC states that NMFS “fails to consider mitigation measures” for Rice’s whale, suggesting that NMFS consider: (1) allowing some survey activities in Rice’s whale habitat (*i.e.*, the 100–400 m isobaths), such as surveys undertaken by leaseholders to develop their lease blocks, while prohibiting others; (2) extending geographically vessel strike avoidance measures “presently in effect for industry”; and (3) requiring use of “lowest practicable source levels within the whales’ communication frequencies for activities taking place in the vicinity of the whales’ habitat.” Animal Counsel also states that NMFS must impose a mandatory 10-knot vessel speed restriction for all project vessels within Rice’s whale habitat.

Response 22: NRDC does not provide supporting detail regarding its recommended mitigation requirements. As such, NMFS is unable to fully evaluate the suggested measures.

Regarding the suggestion to allow some surveys but prohibit others, section 101(a)(5)(A) of the MMPA requires NMFS to make a determination that the take incidental to a “specified activity” will have a negligible impact on the affected species or stocks of marine mammals, and will not result in an unmitigable adverse impact on the availability of marine mammals for taking for subsistence uses. NMFS’ implementing regulations require applicants to include in their request a detailed description of the specified activity or class of activities that can be expected to result in incidental taking of

marine mammals. 50 CFR 216.104(a)(1). Thus, the “specified activity” for which incidental take coverage is being sought under section 101(a)(5)(A) is generally defined and described by the applicant. Here, BOEM, having joined the NMFS Policy request as co-petitioner, is an applicant for the ITRs in support of industry operators, and we are responding to the specified activity as requested, *i.e.*, carrying forward the specified activity underlying the 2021 rule (and making the necessary findings on that basis). BOEM’s initial petition made no distinction between surveys that may be speculative or otherwise fall into a category of surveys that NRDC suggests should be prohibited, and those that are not.

Moreover, NRDC does not describe any useful metric for determining which surveys should be allowed, aside from reference to “surveys undertaken by leaseholders to develop their lease blocks.” The suggestions are not sufficiently developed to allow for adequate consideration.

Regarding vessel strike avoidance measures, NRDC does not specify what measures it is referring to. However, the ITRs already contains a suite of vessel strike avoidance measures that apply wherever survey activity is occurring and, regarding Animal Counsel’s recommendation, these measures include practicable measures expected to avoid the risk of vessel strike, including separation distance requirements from whales and recommendations to slow speeds in the presence of whales. Animal Counsel suggests that the rule is internally contradictory in its “reliance on 5-knot towing speeds;” however, we are not reliant on this fact in determining that strike is unlikely. We acknowledge that support vessels and other vessels not towing gear may travel at speeds in excess of 5 knots. However, it remains that a contributing factor to our assessment of vessel strike risk is the fact that survey vessels are typically slow-moving.

Finally, NRDC does not describe any useful scheme by which “lowest practicable source levels within the whales’ communication frequencies” might be defined. An expert panel, convened by BOEM to determine whether it would be feasible to develop standards to determine a lowest practicable source level, determined that it would not be reasonable or practicable to develop such metrics (see Appendix L in BOEM, 2017). The subject matter is outside NMFS’ expertise, and we have no basis upon which to doubt the panel’s published findings.

Comment 23: Animal Counsel presents certain mitigation recommendations, including that NMFS should (1) require dedicated, independent third-party marine mammal observers for all survey operations, not only those where they are currently mandated; (2) prohibit survey operations from continuing during any passive acoustic monitoring (PAM) malfunction beyond the minimum time necessary for troubleshooting; and, (3) increase exclusion and buffer zones to at least 500 meters for all survey types and eliminate the dolphin exception for shutdown requirements.

Response 23: NMFS has thoroughly evaluated all of Animal Counsel's recommendations in this and prior related rulemakings, and has previously addressed all of these issues. With regard to the suggestion that third-party marine mammal observers should be required for all survey operations, this is a requirement of the rule.

Regarding the allowance that survey operations may continue during brief periods of PAM malfunction, we retain this feature as reasonable consideration of both overall impacts of the suite of mitigation requirements as well as practicability. It would serve little purpose to require cessation of operations during such brief periods, as the overall survey duration would be significantly extended due to the frequent brief disruptions. Each cessation of survey operations requires extended time to reposition the source vessels and engage in necessary pre-clearance and ramp-up periods, and the amount of sound energy in the water overall would be increased. Animal Counsel's recommendation is short-sighted. In addition, the comment references at length other issues associated with broader malfunction than is at issue here, including hypothetical safety issues associated with continued operation during malfunction of acoustic source equipment. This provision of mitigation is solely with respect to malfunction of the PAM listening devices.

Regarding its recommendation to increase exclusion and buffer zones, Animal Counsel offers no supporting rationale other than the unsupported premise that larger is better, claiming that NMFS' required zones are arbitrary "by NMFS' own admission." Nowhere in the record has NMFS stated or suggested that its required zones are arbitrary. NMFS provided a detailed rationale for both the size of the specified zones and for the associated dolphin exemption.

Comment 24: NRDC states that NMFS "fails to reconsider prescribing quieter alternatives to conventional seismic airguns, despite evidence of the availability of such alternatives," and claims that NMFS has not adequately analyzed the practicability of such a requirement. Animal Counsel states that NMFS must require similar measures.

Response 24: NMFS acknowledges that there are an increasing number of sources that may reasonably be considered as environmentally preferable to conventional airguns, including sources operating at lower frequencies and without the high peak pressure output associated with airguns. In fact, such sources have been used during certain surveys conducted under NMFS-issued LOAs. However, imposing requirements to use certain technologies, or prescribing the manner in which geophysical survey data must be acquired, would exceed NMFS' authority under the MMPA. Survey funders and operators define survey objectives and methodologies, including which acoustic sources are used, on the basis of data needs that are beyond NMFS' technical expertise to judge. NRDC argues that specific mandates are not required, versus a generic "best available technology" requirement, but offers no recommended metrics. NMFS agrees that increased use of environmentally preferable sources is an appropriate goal, but it would be more appropriate to continue working with industry to incentivize use of such sources and techniques rather than require them.

Comment 25: NRDC states that NMFS must consider "measures to eliminate duplicative surveys."

Response 25: BOEM has historically been the subject matter expert regarding whether and which surveys are "duplicative." NRDC fails to explain how this is within NMFS' statutory authority or suggest ways to appropriately apportion the amount of effort that it believes should be allowed. NMFS cannot arbitrarily limit planned effort and has no legitimate means of changing the specified activity absent a conclusion that the activity would have more than a negligible impact. However, NMFS has made the necessary findings under the MMPA for issuance of this rule. Similarly, NRDC states that NMFS should "require BOEM to eliminate unnecessary duplication of survey effort" but does not explain how they believe that this suggestion is within NMFS' statutory authority. As the permitting agency, BOEM has the authority to require permit applicants to submit statements indicating that existing data are not available to meet

the data needs identified for the applicant's survey (*i.e.*, non-duplicative survey statement), but such requirements are not within NMFS' purview. NMFS may not demand that BOEM discharge its authority under OCSLA in any particular manner. As stated previously, NMFS considers the specified activity described by an applicant in reviewing a request for an incidental take authorization. Nothing in the statute provides authority to direct consolidation or removal of activities based on some presumption of duplication that NMFS is not qualified to judge.

NMFS also notes that, although surveys may be perceived as "duplicative" simply because other surveys have also occurred in the same location, they are in fact designed specifically to produce proprietary data that satisfies the needs of survey funders. As noted by NRDC, BOEM convened an expert panel to study the issue of duplicative surveys (see Appendix L in BOEM, 2017) and developed standards for consideration of what surveys are duplicative. NRDC provides extensive discussion of their thoughts regarding the insufficiency of BOEM's duplicative survey standard and its implementation. These comments are more appropriately directed to BOEM.

Comment 26: Animal Counsel suggests that NMFS must incorporate enforceable adaptive management triggers into the regulatory text, including automatic review upon finalization of Rice's whale critical habitat, completion of a recovery plan, or updated stock assessments.

Response 26: As acknowledged by Animal Counsel, the ITRs include adaptive management provisions that would allow NMFS to modify the existing mitigation, monitoring, or reporting measures if doing so is practicable and creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in this final rule. Separate from the adaptive management provisions, the ITRs allow that NMFS may modify the requirements without regard for practicability if it determines that an emergency exists that poses a significant risk to the well-being of the affected species or stocks of marine mammals. Animal Counsel does not clarify how it believes its recommendation differs from these provisions, which were included in the proposed rule and in this final rule.

Comment 27: Animal Counsel suggests that NMFS cannot satisfy the MMPA's small numbers requirement, as

the estimated take numbers exceed population estimates.

Response 27: We refer the commenter to the detailed description of NMFS' implementation of the small numbers requirement later in this rule, entailing the appropriate evaluation of small numbers at the LOA stage (see Small Numbers). However, we also note Animal Counsel's reference to inappropriate population abundance estimates in support of its comment. NMFS provides detailed discussion, in this rule and in the notice of proposed rulemaking, regarding its approach to evaluation of the most appropriate abundance estimate for purposes of evaluating "small numbers." As an example, Animal Counsel cites to NMFS' SARs estimate for the Clymene dolphin of 513 (CV = 1.03). As explained later, the most appropriate abundance estimate for this species is the modeled abundance value of over 6,000. NMFS' series of SAR abundance estimates for this stock have fluctuated between 129 and 17,355 animals, *i.e.*, varying by a maximum factor of more than 100. For most species, such fluctuations across these "snapshot" abundance estimates (*i.e.*, that are based on only the most recent year of survey data) reflect interannual variations in dynamic oceanographic characteristics that influence whether animals will be seen when surveying in predetermined locations, rather than any true increase or decline in population abundance. In fact, NMFS' SARs typically caution that trends should not be inferred from multiple such estimates, that differences in temporal abundance estimates are difficult to interpret without an understanding of range-wide stock abundance, and that temporal shifts in abundance or distribution cannot be effectively detected by surveys that only cover portions of a stock's range (*i.e.*, U.S. waters). The corresponding density model for Clymene dolphins predicts a mean abundance of over 6,000 dolphins. Therefore, in this example, Animal Counsel would have us compare takes predicted by a model in which 6,000 dolphins are assumed to exist against an abundance estimate of 513 dolphins. Our goal in assessing predicted takes is to generate a meaningful comparison, which is accomplished through use of the model-predicted abundance.

Comment 28: NRDC asserts that NMFS' interpretation of the MMPA's small numbers requirement is contrary to law, stating its belief that NMFS must make a small numbers determination in the rule, rather than for issuance of individual LOAs; that NMFS must evaluate the same amount of take in order to separately determine that the

total take will both meet the small numbers standard and have a negligible impact; that NMFS must analyze whether the estimated amount of takes over the 5-year ITRs will exceed small numbers for each affected species; and that NMFS' approach impermissibly cuts the public out of the agency's findings.

Response 28: Based on NMFS' analysis of the language and structure of section 101(a)(5)(A) and the implementing regulations for that provision, NMFS disagrees that the small numbers finding must be based on the total of all take over the five-year (or less) period from all potential survey activity. The MMPA does not define small numbers or explain how to apply the term in either section 101(a)(5)(A) or the similar provision for incidental harassment authorizations (IHAs) in section 101(a)(5)(D),⁴ including how to apply the term in a way that allows for consistency across those two provisions that are similar but allow for potentially different time and activity scales. (See Small Numbers below.) Especially when taken together with NMFS' implementing regulations, our approach is consistent with the structure of section 101(a)(5)(A), which provides:

(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specified geographical region, *the Secretary shall allow*, during periods of not more than five consecutive years each, *the incidental, but not intentional, taking* by citizens while engaging in that activity within that region *of small numbers of marine mammals of a species or population stock* if the Secretary, after notice (in the **Federal Register** and in newspapers of general circulation, and through appropriate electronic media, in the coastal areas that may be affected by such activity) and opportunity for public comment—

(I) *finds that the total of such taking during each five-year (or less) period concerned will have a negligible impact* on such species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses

⁴ Section 101(a)(5)(D) states in relevant part:

(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than 1 year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

(I) will have a negligible impact on such species or stock, and

(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses

(Emphasis added.)

Section 101(a)(5)(A)(i)(I) is explicit that the "negligible impact" determination for a specified activity must take into account the "total of such taking" (*i.e.*, all of the taking that the Secretary may conceivably allow (or authorize) under individual LOAs during the five year (or less) period considered for the rule). In contrast, the "small numbers" language in 101(a)(5)(A) is not subject to the same time period requirement of five years (or less in cases where the period being considered for a rule is less than five years).

In our view, the statutory language for small numbers and the negligible impact finding indicates that the negligible impact finding is made based on consideration of an aggregation of potential authorizations (LOAs) for taking small numbers of marine mammals, and allows for different temporal periods in applying the two different standards. The statute contemplates that the Secretary shall allow taking during the five year (or less) period, which, in our view, also implies that there could be multiple allowances or authorizations (*i.e.*, LOAs), so long as the maximum total taking from all of those authorizations combined is considered in the upfront assessment of whether the negligible impact standard is met for the total taking allowable under the regulations.

As we note in our Small Numbers section, the regulatory vehicle for authorizing (*i.e.*, allowing) the take of marine mammals is the LOA, a creature of NMFS' long-standing implementing regulations that is not in the statute. See 50 CFR 216.106. Those 1989 implementing regulations requiring an LOA to effectuate an authorization were in effect when Congress amended the MMPA in 1994 to add section 101(a)(5)(D) for issuance of one-year IHAs, and over the years when Congress amended section 101(a)(5)(A) for various reasons (including most recently in 2018, to extend the maximum authorization period to seven years for military readiness activities, Public Law 115–232 (John S. McCain National Defense Authorization Act for Fiscal Year 2019) (Aug. 13, 2018)).

Under NMFS' approach, the negligible impact analysis for the rulemaking is conducted for the time period covered by the rule (five years in this case, the maximum under the statute for a non-military readiness activity), but the small numbers analysis attaches to the instrument that actually "allows" or authorizes taking, *i.e.*, the LOA. The statute does not preclude

NMFS from issuing an LOA that comports with the small numbers level set forth in the relevant rule for the specified activity. Consistent with the MMPA requirement, here the Secretary (through NMFS) has prescribed the necessary specified activity regulations after notice and comment. At that point, once the regulations are effective, NMFS thereafter may authorize incidental take through the issuance of LOAs, provided that they satisfy the requirements set forth in the rule and regulations, including the small numbers standard articulated in the rule.

NRDC cites *Conservation Council for Hawaii v. NMFS*, 97 F. Supp. 3d 1210 (D. Hawaii 2015), in stating that the MMPA “plainly requires that the agency evaluate both whether there will be small numbers of take and whether there will be a negligible impact” before issuing regulations, and that these determinations “must be based on the same amount of take.” We disagree with the second proposition. In NMFS’ view, *Conservation Council for Hawaii* stands for the proposition that NMFS cannot authorize more take than it has analyzed under the negligible impact standard. 97 F. Supp. 3d at 1221. There the court found that there were substantial differences between the anticipated take numbers, which were the basis for the negligible impact finding, and the amount of take that NMFS was prepared to authorize incidental to U.S. Navy military readiness activities. That case did not involve the small numbers provision, which does not apply in the case of military readiness activities. 16 U.S.C. 1371(a)(5)(F)(i). The court in *Conservation Council for Hawaii* did not consider or make any pronouncements about whether the small numbers provision must be applied to the total annual taking under the rule or whether it could be applied at the LOA stage.

We disagree with NRDC’s view that the word “such” in the phrase “total of such taking” for determining negligible impact means that the analysis for small numbers must also consider the total taking allowable under the regulations. The phrase “total of such taking” in clause (I) clearly refers to what must be considered in making a negligible impact determination, and does not qualify the small numbers requirement. In addition, the statute’s reference to “citizens” in the plural contemplates that there could be more than one entity making a request for take under a regulation for a specified activity. Under the statute, the Secretary (through NMFS) shall allow the take of small numbers of marine mammals by citizens—which, as in this case, could entail more than one requester—

provided that NMFS can make the negligible impact finding for the total of all the taking that may be authorized under the regulations.

NRDC repeatedly states that the negligible impact and small numbers provisions must have separate meaning. NMFS agrees that the two provisions have separate meanings, and this rule satisfies that requirement. Each LOA must meet the small numbers requirement as NMFS has interpreted it in this rule. In other words, it is not sufficient for the survey activity described in an LOA application to fall within the scope of the activity analyzed for the rule and NMFS’ negligible impact determination. The small numbers limitation set forth in this rule also must be satisfied. For example, NMFS may receive an application for an LOA where the take estimates exceed the small numbers standard identified in the rule. In that case, the request would be denied, *even if* the amount of taking was considered in the negligible impact evaluation. Thus the negligible impact and small numbers inquiries are separate and have different meanings.

To summarize, the MMPA is silent on how to apply “small numbers” in either section 101(a)(5)(A) or (D), including in a way that allows for consistency across those two very similar provisions. Moreover, NMFS’ implementing regulations for section 101(a)(5)(A) make it clear that LOAs are the instrument for authorizing (or “allowing”) take. Thus, the mere existence of regulations issued under section 101(a)(5)(A) for a specified activity is not sufficient to authorize take under that provision. An LOA is required.

As we have previously stated, the small numbers standard has limited biological relevance (*i.e.*, there is a lack of a biological underpinning for the concept), but NMFS’ application of the small numbers standard at the LOA stage does not rely on that view for the approach taken here. NMFS’ interpretation and approach are based on analysis of the governing section 101(a)(5)(A) and limited legislative history, and our long-standing approach to implementing section 101(a)(5)(A) through separate LOAs, as well as consideration of section 101(a)(5)(D). In the absence of further congressional guidance on the meaning of the term “small numbers” and how it must be applied, we have determined our interpretation and application of small numbers is the best reading of the statute, consistent with the U.S. Supreme Court’s opinion in *Loper Bright Enters. v. Raimondo*, 603 U.S. 369.

Importantly, the final rule, which was subject to notice and comment, sets the small numbers standard for future LOAs issued under the rule. Moreover, contrary to NRDC’s assertions, NMFS has set the total taking allowable for all LOAs issued under the rule for this specified activity—*i.e.*, the taking that was analyzed for the negligible impact determination. If an LOA application for a survey provides take estimates that are within the small numbers threshold set in this rule, then the LOA for that survey will be deemed to satisfy the small numbers requirement.

As NRDC correctly points out, NMFS’ implementing regulations require issuance of LOAs to be consistent with the “total taking allowable” under the activity-specific regulations. The regulations for the specified activity also reflect this. The rulemaking for these regulations evaluated the level of activity projected in BOEM’s update for its original petition as well as the updated take estimates for the 2024 rule and other available information, and NMFS’ negligible impact determination is based on consideration of that level (and the corresponding take estimates). Any LOA must be within the amount analyzed for the scope of the rule, and the total amount of take under all issued LOAs combined cannot exceed the amount analyzed and “allowable” under the rule for this activity.

NRDC also states that “NMFS must analyze whether the estimated amount of takes over the 5-year proposed ITRs will rise above small numbers for each affected marine mammal species,” referencing NMFS’ use of species-specific scalar ratios (see Estimated Take) and recommending that NMFS “should use the scaled numbers it derived to engage in a small numbers analysis.” Although NRDC’s recommendation is unclear, we disagree with NRDC’s position regarding the need to conduct a small numbers analysis for the total allowable taking over the 5-year ITRs, as discussed elsewhere in this response. However, we do use the “scaled numbers” for purposes of the LOA-by-LOA small numbers analyses, as described in Small Numbers. In addition, NRDC recommends that NMFS should invite comment on the “details of the mathematical modelling used to produce these ratios.” However, this aspect of the rulemaking has been described in detail and available for public review and comment in NMFS’ 2018 (83 FR 29212, June 22, 2018) and 2026 (91 FR 9014, February 24, 2026) rulemakings.

Finally, NRDC’s statement that the public is impermissibly cut out of the

agency's findings is incorrect. Both the proposed and this final rule set forth the maximum total taking and annual taking that would be allowable (via the issuance of LOAs) for the five-year period that the regulations will be effective. The proposed rule included a 30-day public comment period. We also believe that our rulemaking afforded a full and focused opportunity for public review of and comment on the full scope of survey activities and proposed mitigation, rather than through dozens of individual IHAs, each with separate public comment periods. Thus the public had a meaningful opportunity to comment.

Comment 29: NRDC states that the interpretation of "small numbers" presented by NMFS in the notice of proposed rulemaking is contrary to the plain meaning and purpose of the MMPA, in part because NMFS allegedly did not provide a reasoned basis for the take limit proposed (*i.e.*, one-third of the best available species or stock abundance estimate). NRDC makes three specific claims. First, NRDC states that one-third cannot be considered a "small number" within the plain meaning of the word. Second, NRDC states that Congress intended that takes be limited to "infrequent, unavoidable, or accidental" occurrences, but that NMFS has not explained why the taking of up to one-third would be infrequent or unavoidable. Third, NRDC contends that NMFS should define different small numbers thresholds on the basis of the conservation status of individual species.

Response 29: NMFS disagrees with these arguments. Although there is limited legislative history available to guide NMFS and an apparent lack of biological underpinning to the concept, we have worked to develop a reasoned approach to small numbers. In the discussion of Small Numbers in this and our 2021 rule for this specified activity, NMFS explains the concept of "small numbers" in recognition that there could also be quantities of individuals taken that would correspond with "medium" and "large" numbers. As such, NMFS has established that one-third of the most appropriate population abundance number—as compared with the assumed number of individuals taken—is an appropriate limit with regard to "small numbers." This relative approach is consistent with the statement from the legislative history that "[small numbers] is not capable of being expressed in absolute numerical limits" (H.R. Rep. No. 97–228, at 19 (September 16, 1981)), and relevant case law (*Center for Biological Diversity v. Salazar*, 695 F.3d 893, 907 (9th Cir.

2012) (holding that the U.S. Fish and Wildlife Service reasonably interpreted "small numbers" by analyzing take in relative or proportional terms)).

NRDC claims that a number may be considered small only if it is "little or close to zero" or "limited in degree." This selectively picks a definition in support of the commenter's favored position. But the definition of "small" in Webster's New Collegiate Dictionary (1981) included "having little size, esp. as compared with other similar things." See also www.merriam-webster.com/dictionary/small (defining "small" as "having comparatively little size"). These definitions comport with the small numbers method developed by NMFS, which utilizes a proportionality approach. NRDC's comment also ignores the grammar in the relevant legislative history language when stating that NMFS has not explained why the taking of up to one-third would be "infrequent or unavoidable." The actual statement from the legislative history is that taking of marine mammals should be "infrequent, unavoidable, or accidental." H.R. Rep. No. 97–228, at 19 (September 16, 1981) (emphasis added). Like the term "small," infrequent is a relative term that has multiple meanings. In addition, this disjunctive language in the series suggests that taking that is unavoidable or accidental may qualify as small numbers, even if not infrequent.

Finally, the argument to establish a small numbers threshold on the basis of stock-specific conservation status is unnecessarily duplicative of the required negligible impact finding, in which relevant biological and contextual factors are considered in conjunction with the amount of take.

Comment 30: NRDC states that NMFS' severability clause regarding small numbers is inoperable.

Response 30: Our small numbers interpretation and application contains several aspects. In the event a court were to invalidate some but not all aspects of NMFS' small numbers interpretation/application, NMFS intends that the remaining aspects of the rule and ITRs be severable to the extent possible. The extent to which this is possible may depend on which aspect is invalidated. The small numbers standard is a statutory requirement that could be satisfied on an LOA-by-LOA basis in accordance with the ruling of a court if, for example, the court upholds NMFS' LOA-by-LOA aspect of our interpretation but rules adversely on other aspects of our small numbers interpretation. Importantly, the negligible impact analysis for this five-year rule is the biologically relevant

inquiry, and that analysis is based on the total annual estimated taking for all activities the regulations will govern over the 5-year period. Our ability to issue LOAs to allow the incidental take of marine mammals, subject to the mitigation, monitoring, and reporting requirements, is based on our findings in this final rule that the total taking over the 5-year period of the rule will have a negligible impact on the affected species or stocks; that the mitigation and related monitoring required in the ITRs will effect the least practicable adverse impact on those species or stocks; and our determination in this rule that any LOA we issue must not involve taking that exceeds one-third of the abundance for that species or stock.

Comment 31: NRDC asserts that the MMPA "does not authorize NMFS to reissue an incidental take regulation after five consecutive years have passed" and that NMFS is ignoring new information that has become available over the past 5 years. Commenters also suggest that, simply because of the nature of NMFS' action, *i.e.*, reimplementation of the rule, that its necessary determinations (which incorporate all relevant newly available information) are not "fresh."

Response 31: NRDC mischaracterizes the nature of this action, stating that NMFS is "attempting to extend the duration of its 2021 rule beyond 5 years by freezing its previous findings in amber." To the contrary, NMFS has followed all requirements under both MMPA section 101(a)(5)(A) and the APA by conducting a new notice and comment rulemaking; we do not seek to extend the duration of the 2021 rule beyond 5 years without performing the required analysis, making the necessary determinations, and engaging the public as required. While it is correct that NMFS is using the same estimated take numbers from our recent 2024 rule and reimplementing the previously prescribed mitigation, monitoring, and reporting requirements, all necessary analyses have been performed in light of new information. Commenters ignore the substantive changes to estimated take numbers considered for NMFS' 2024 final rule, which incorporated new information available since issuance of the 2021 final rule. No new information is available since 2024 that would impact NMFS' take estimates. Similarly, NMFS has not frozen its previous findings "in amber," but has revised its negligible impact analysis and least practicable adverse impact analysis to consider all relevant new information available since issuance of the 2021 rule. NMFS has appropriately conducted a new action, has performed

new analysis incorporating new information, and has made the necessary findings to issue this final rule and ITRs.

Comment 32: NRDC asserts that NMFS cannot rely upon BOEM's 2017 PEIS to support issuance of a new rule, stating that a new NEPA analysis must be prepared for a new action and that, at minimum, NMFS must supplement the analysis. NRDC also states that NMFS cannot rely on the PEIS because it "does not adequately address NMFS' own actions and responsibilities under the MMPA," given that BOEM's PEIS is "framed around a fundamentally different purpose and need" relating to its mandates under OCSLA that is "incongruent with NMFS obligations under the MMPA." Finally, NRDC states that BOEM's PEIS, as it relates to marine mammals, is deficient on its face due to the range of alternatives and mitigation considered, significance criteria, take and impact estimates, and cumulative impacts analysis. Animal Counsel similarly suggests that the 2017 PEIS must be supplemented.

Response 32: NRDC suggests that NMFS' adoption of BOEM's PEIS and issuance of a Record of Decision (ROD) is not sufficient analysis to address site-specific actions, claims that "neither NMFS nor BOEM ever envisioned that the 2017 PEIS would itself be sufficient to constitute a hard look at future actions not yet contemplated by the agencies," and, without evidence, states that the PEIS is not sufficient to satisfy NMFS' NEPA obligations for actions implementing its ongoing program of issuing requested incidental take authorizations. NMFS' ROD refutes these assertions in part. Of relevance, the ROD states that "unless [future] applications vary substantially from the analysis provided in the 2017 Final PEIS and final rule, this ROD forms the basis for NMFS' decision under NEPA, with no further site-specific analysis necessary." As described in detail herein, the current application and action is the same as that analyzed in the PEIS. The ROD further announces NMFS' decision "to issue . . . future ITAs on a case-by-case basis, if appropriate, consistent with the analyses in the 2017 Final PEIS and mitigation measures specified in the final ITR." Therefore, NMFS' expressed intentions regarding future reliance on BOEM's PEIS were clearly stated in its ROD.

Regarding the suggestion that NMFS can no longer rely on the 2017 PEIS absent supplementation, NMFS has carefully evaluated relevant new information and circumstances over the intervening period and determined that

supplementation is not required. This inquiry, in part, entails an evaluation as to whether new information not previously considered in the PEIS is now available. Given the new information available since the 2017 PEIS, we evaluate whether that information changes the impact analysis for marine mammals contained in the PEIS, and if the impact analyses are different, whether the new information and impact analyses change the impact conclusions provided in the PEIS. One component of new information available since issuance of the PEIS is NMFS' revised take estimates, produced through incorporation of new information in NMFS' 2024 final rule. These revised take estimates, incorporating the current best available scientific information, are uniformly and dramatically lower than those upon which the PEIS analysis is founded. As a result, the PEIS impact conclusions remain robust.

Commenters imply that the PEIS must be supplemented simply due to its age. However, they provide no detailed discussion as to how they believe that the information that is newly available would influence the relevant impact analysis. By design, the PEIS provided analysis of a substantial program of industry survey activity, including evaluation of estimated marine mammal takes substantially greater than those at issue here. Regarding Rice's whale, while the regulatory status of the species has changed in the intervening years, the information underlying that status change, which dates to NMFS' 2016 status review, adequately informed the PEIS's analysis such that it is robust to the evolution of scientific knowledge.

The proposed action at issue in the PEIS is BOEM's issuance of permits or authorizations for survey activities in the GOA. PEIS Chapter 1.1.1. The PEIS also recognizes that NMFS' proposed action is a decision on whether to approve requests for incidental take regulations and is not bound to a particular timeframe or specific request. NOAA was a cooperating agency on BOEM's PEIS, as NOAA has jurisdiction by law and special expertise over marine resources impacted by the proposed action, including marine mammals and federally listed threatened and endangered species. The PEIS explicitly recognizes that the PEIS would be used in support of NMFS' decision on requests for incidental take regulations. See PEIS Appendix B.

It is accepted NEPA practice for NOAA to adopt a lead agency's NEPA analysis when, after independent review, NOAA determines the document to be sufficient. Specifically

here, NOAA is satisfied that BOEM's PEIS adequately addresses the impacts of issuing MMPA incidental take authorizations and that NOAA's comments and concerns have been adequately addressed. There is no requirement that NMFS, as a cooperating agency, issue a separate purpose and need statement in order to ensure adequacy and sufficiency for adoption. Nevertheless, the statement of Purpose and Need in the PEIS explicitly acknowledges NMFS' own separate action of issuing an MMPA incidental take authorization, and the PEIS is replete with discussion of issues relating to the issuance of an MMPA authorization, including discussion of marine mammal impacts, mitigation, and take estimates. NMFS' early participation in the NEPA process and the agency's continuing role in shaping and informing analyses using its special expertise ensured that the analysis in the PEIS is sufficient for purposes of NMFS' own NEPA obligations related to its issuance of an incidental take authorization under the MMPA.

Regarding the alternatives, NMFS' early involvement in the development of the PEIS and role in evaluating the effects of incidental take under the MMPA ensured that the PEIS would include adequate analysis of a reasonable range of alternatives for NMFS. The PEIS includes a no action alternative specifically to address what could happen if NMFS did not issue an MMPA authorization. See PEIS, Chapter 2.9.1, pp. 2–20 to 2–22. Some of the alternatives explicitly reference marine mammals or mitigation designed for marine mammals in their title. More importantly, these alternatives fully analyze a comprehensive variety of mitigation measures for marine mammals. This mitigation analysis supported NMFS' evaluation of our options in potentially issuing an MMPA authorization. This approach to evaluating a reasonable range of alternatives is consistent with NMFS' policy and practice for issuing MMPA incidental take authorizations. NOAA independently reviewed and evaluated the PEIS, including the purpose and need statement and range of alternatives, and determined that the PEIS fully satisfies NMFS' NEPA obligations related to its decision to issue the MMPA final rule requested by BOEM, as well as future incidental take authorizations.

Regarding NRDC's reiterating of comments it submitted during the PEIS development process, as a cooperating agency NMFS reviewed all responses to comments on the draft PEIS that were relevant to its management authorities

and provided input where we deemed it appropriate. See Appendix M of the Final PEIS.

Description of Marine Mammals in the Area of the Specified Activities

Table 2 lists all species with expected potential for occurrence in the GOA and summarizes information related to the population or stock, including potential biological removal (PBR). PBR, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population, is considered in concert with known sources of ongoing anthropogenic mortality (as described in NMFS' SARs). For status of species, we provide information regarding U.S. regulatory status under the MMPA and ESA.

In some cases, species are treated as guilds. In general ecological terms, a guild is a group of species that have similar requirements and play a similar role within a community. However, for purposes of stock assessment or density modeling, certain species may be treated together as a guild because they are difficult to distinguish visually and many observations are ambiguous. For example, NMFS' GOA SARs assess

stocks of *Mesoplodon* spp. and *Kogia* spp. as guilds. Following this approach, we consider beaked whales and *Kogia* spp. as guilds. In this rule, reference to "beaked whales" includes the goose-beaked whale⁵ and Blainville's and Gervais' beaked whales, and reference to "*Kogia* spp." includes both the dwarf and pygmy sperm whale.

The use of guilds herein follows the best available density information (i.e., Garrison *et al.*, 2023). The density models treat beaked whales and *Kogia* spp. as guilds and consolidate four species into an undifferentiated blackfish guild. These species include the melon-headed whale, false killer whale, pygmy killer whale, and killer whale. The model authors determined that, for this group of species, there were insufficient sightings of any individual species to generate a species-specific model (Garrison *et al.*, 2023). Therefore, reference to blackfish hereafter includes the melon-headed whale, false killer whale, pygmy killer whale, and killer whale.⁶ Twenty-one

⁵ Note that this species is referred to in NMFS' SARs as the "Cuvier's beaked whale."

⁶ This rule provides a single take estimate for the melon-headed whale, false killer whale, pygmy killer whale, and killer whale grouped together as the "blackfish." This approach reflects the best available scientific information (Garrison *et al.*,

species (with 24 managed stocks) have the potential to co-occur with the prospective survey activities. All managed stocks in this region are assessed in NMFS' U.S. Atlantic SARs. All values presented in table 2 are the most recent available. For more information, please see information presented in the SARs (available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports>).

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2023). These species are encountered only occasionally during any given vessel survey, and these relatively infrequent encounters make it difficult to fit species-specific detection and habitat models. For each of these models, the authors detail analyses and decisions relevant to model development, as well as notes of caution regarding use of the models given the associated uncertainty resulting from development of a model based on few sightings. The Garrison *et al.* (2023) models are based on survey data from 2003 to 2019. Notably, surveys conducted after 2009 were conducted in "passing" mode, where the ship did not deviate from the trackline to approach and verify species identifications for detected marine mammal groups, resulting in an increase in observed marine mammal groups that could not be identified to species. As a result of these factors, the model authors determined it appropriate to develop a single spatial model based on sightings of unidentified blackfish, in addition to the relatively few sightings where species identification could be confirmed.

Table 2 -- Marine Mammals Potentially Present in the Specified Geographical Region

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N) ¹	NMFS stock abundance (CV, N _{min} , most recent abundance survey) ²	Predicted mean (CV)/ maximum abundance ³	PBR	Annual M/SI ⁴
Order Cetartiodactyla – Cetacea – Superfamily Mysticeti (baleen whales)							
Family Balaenopteridae (rorquals)							
Rice’s whale	<i>Balaenoptera ricei</i>	GOA	E/D; Y	51 (0.50; 34; 2017-18)	173 (0.44)	0.1	0.5
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)							
Family Physeteridae							
Sperm whale	<i>Physeter macrocephalus</i>	GOA	E/D; Y	1,180 (0.22; 983; 2017-18)	2,451 (0.13)	2.0	9.6
Family Kogiidae							
Pygmy sperm whale	<i>Kogia breviceps</i>	GOA	-; N	336 (0.35; 253; 2017-18) ^{5, 6}	1,385 (0.25)	2.5	31
Dwarf sperm whale	<i>K. sima</i>	GOA	-; N				
Family Ziphiidae (beaked whales)							
Goose-beaked whale	<i>Ziphius cavirostris</i>	GOA	-; N	See Footnotes 6-7	1,038 (0.37)	0.1	5.2
Gervais’ beaked whale	<i>Mesoplodon europaeus</i>	GOA	-; N			0.7	
Blainville’s beaked whale	<i>M. densirostris</i>	GOA	-; N				
Family Delphinidae							
Rough-toothed dolphin	<i>Steno bredanensis</i>	GOA	-; N	3,509 (0.67; Unk.; 2009)	4,853 (0.19)	Und et.	39
Common bottlenose dolphin ⁶	<i>Tursiops truncatus truncatus</i>	GOA Oceanic	-; N	7,462 (0.31; 5,769; 2017-18)	151,886 (0.13) (Shelf) 14,652 (0.29) (Oceanic)	58	32
		GOA Continental Shelf	-; N	63,280 (0.11; 57,917; 2017-18)		556	65
		GOA Coastal, Northern	-; N	11,543 (0.19; 9,881; 2017-18)		89	28
		GOA Coastal, Western	-; N	20,759 (0.13; 18,585; 2017-18)		167	36
Clymene dolphin	<i>Stenella clymene</i>	GOA	-; N	513 (1.03; 250; 2017-18)	6,136 (0.86)	2.5	8.4

Atlantic spotted dolphin	<i>S. frontalis</i>	GOA	-; N	21,506 (0.26; 17,339; 2017-18)	12,240 (0.34) (Shelf) 2,100 (0.49) (Oceanic)	166	36
Pantropical spotted dolphin	<i>S. attenuata attenuata</i>	GOA	-; N	37,195 (0.24; 30,377; 2017-18)	50,209 (0.81)	304	241
Spinner dolphin	<i>S. longirostris longirostris</i>	GOA	-; N	2,991 (0.54; 1,954; 2017-18)	2,199 (0.81)	20	113
Striped dolphin	<i>S. coeruleoalba</i>	GOA	-; N	1,817 (0.56; 1,172; 2017-18)	16,102 (0.47)	12	13
Fraser's dolphin	<i>Lagenodelphis hosei</i>	GOA	-; N	213 (1.03; 104; 2017-18)	1,665 (0.73)	1	Unk.
Risso's dolphin	<i>Grampus griseus</i>	GOA	-; N	1,974 (0.46; 1,368; 2017-18)	1,451 (0.43)	14	5.3
Melon-headed whale	<i>Peponocephala electra</i>	GOA	-; N	1,749 (0.68; 1,039; 2017-18)	9,535 (0.40)	10	9.5
Pygmy killer whale	<i>Feresa attenuata</i>	GOA	-; N	613 (1.15; 283; 2017-18)		2.8	1.6
False killer whale	<i>Pseudorca crassidens</i>	GOA	-; N	494 (0.79; 276; 2017-18)		2.8	2.2
Killer whale	<i>Orcinus orca</i>	GOA	-; N	267 (0.75; 152; 2017-18)		1.5	Unk.
Short-finned pilot whale	<i>Globicephala macrorhynchus</i>	GOA	-; N	1,321 (0.43; 934; 2017-18)	3,277 (0.27)	7.5	3.9

¹ ESA status: Endangered (E)/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 which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

² NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

³ This information represents species- or guild-specific abundance predicted by habitat-based cetacean density models (Roberts *et al.*, 2016; Garrison *et al.*, 2023). These models provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. GOA, and we provide the corresponding abundance predictions as a point of reference. Abundance predictions for Fraser's dolphin and rough-toothed dolphin from Roberts *et al.* (2016); abundance predictions for other taxa represent the maximum predicted abundance from Garrison *et al.* (2023).

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 strike). These values are generally considered minimums because, among other reasons, not all fisheries that could interact with a particular stock are observed and/or observer coverage is very low, and, for some stocks (such as the Atlantic spotted dolphin and continental shelf stock of bottlenose dolphin), no estimate for injury due to the DWH oil spill has been included. See SARs for further discussion.

⁵ NMFS' 2020 SARs state that the abundance estimate provided for *Kogia* spp. is likely a severe underestimate because it was not corrected for the probability of detection on the trackline, and because *Kogia* spp. are often difficult to see, present little of themselves at the surface, do not fluke when they dive, and have long dive times. In addition, they

exhibit avoidance behavior towards ships and changes in behavior towards approaching survey aircraft. See Hayes *et al.* (2023).

⁶ Abundance estimates are in some cases reported for a guild or group of species when those species are difficult to differentiate at sea. Similarly, habitat-based cetacean density models are based in part on available observational data which, in some cases, is limited to genus or guild in terms of taxonomic definition. NMFS' SARs present pooled abundance estimates for *Kogia* spp. and *Mesoplodon* spp., while Garrison *et al.* (2023) produced density models to genus level for *Kogia* spp. and as a guild for beaked whales (*Ziphius cavirostris* and *Mesoplodon* spp.) and blackfish (pygmy killer whale, false killer whale, melon-headed whale, and killer whale). Finally, Garrison *et al.* (2023) produced density models for bottlenose dolphins that do not differentiate between stocks, but between oceanic and shelf dolphins.

⁷ NMFS' 2020 SARs provide various abundance estimates for beaked whales: Goose-beaked whale, 18 (CV=0.75); Gervais' beaked whale, 20 (CV=0.98); unidentified Mesoplodont species, 98 (CV=0.46); and unidentified Ziphiids, 181 (CV=0.31). The SARs state that these estimates likely represent severe underestimates, as they were not corrected for the probability of detection on the trackline, and due to the long dive times of these species. See Hayes *et al.* (2023).

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In table 2 above, we report two sets of abundance estimates: those from NMFS' SARs and those predicted by habitat-based cetacean density models. Please see footnote 3 of table 2 for more detail. NMFS' SAR estimates are typically generated from the most recent shipboard and/or aerial surveys conducted. GOA oceanography is dynamic, and the spatial scale of the GOA is small relative to the ability of most cetacean species to travel. U.S. waters only comprise about 40 percent of the entire GOA, and 65 percent of GOA oceanic waters are south of the U.S. Exclusive Economic Zone (EEZ). Studies based on abundance and distribution surveys restricted to U.S. waters are unable to detect temporal shifts in distribution beyond U.S. waters that might account for any changes in abundance within U.S. waters. NMFS' SAR estimates also in some cases do not incorporate correction for detection bias. Therefore, for cryptic or long-diving species (*e.g.*, beaked whales, *Kogia* spp., sperm whales), estimates should generally be considered underestimates (see footnotes 5 and 7 of table 2).

The model-based abundance estimates represent the output of predictive models derived from multi-year observations and associated environmental parameters and incorporate corrections for detection bias (the same models and data from which the density estimates are derived). Incorporating more data over multiple years of observation can yield different results in either direction, as the result is not as readily influenced by fine-scale shifts in species habitat preferences or by the absence of a species in the study area during a given year. NMFS' SAR abundance estimates show substantial year-to-year variability in some cases. Incorporation of correction for detection bias should systematically result in greater abundance predictions. For these

reasons, the model-based estimates are generally more realistic and, for the purposes of assessing estimated exposures relative to abundance—used in this case to understand the scale of the predicted takes compared to the population—NMFS generally believes that the model-based abundance predictions are the best available information and most appropriate because they were used to generate the exposure estimates and therefore provide the most relevant comparison.

As part of our evaluation of the environmental baseline, which is considered as part of the negligible impact analysis, we consider any known areas of importance as marine mammal habitat. We also consider other relevant information, such as unusual mortality events (UME) and the 2010 Deepwater Horizon oil spill.

Habitat—Important habitat areas may include areas of known importance for reproduction, feeding, or migration, or areas where small and resident populations are known to occur. They may have independent regulatory status such as designated critical habitat for ESA-listed species (as defined by section 3 of the ESA) or be identified through other means (*e.g.*, recognized Biologically Important Areas (BIA)).

No critical habitat has yet been designated for the Rice's whale, though a proposed rule to do so was published (88 FR 47453, July 24, 2023). The proposal references the same supporting information discussed herein in suggesting that GOA continental slope waters between 100 and 400 m water depth be designated as critical habitat. In addition, a BIA has been recognized since 2015 (LaBrecque *et al.*, 2015). A detailed description of available information relating to Rice's whale habitat was provided in the notice of proposed rulemaking (91 FR 9014, February 24, 2026). That information is not repeated here; please see that notice for further information.

In summary, available data indicates the presence of a core habitat area in the northeastern GOA (outside the geographic scope of this rule), and the presence of Rice's whales in western and central GOA waters. In particular, passive acoustic data provide evidence that waters 100–400 m deep in the central and western GOA are Rice's whale habitat and are being used by Rice's whales in all seasons, although it remains unknown whether animals are moving between the northwestern and the northeastern GOA or whether these represent different groups of animals (Soldevilla *et al.*, 2022).

Additional recent data continues to show calling activity in the western GOA, with whales acoustically present between 20 and 50 percent of recording days across multiple sites off Texas (Debich *et al.*, 2025a, b). Furthermore, updated photo-identification catalogs suggest potential movement of individuals in and out of the core area, though sightings outside this region remain rare (Aichinger Dias *et al.*, 2025). While these data refine our understanding of the species' range, this information does not reveal information on range different from those previously analyzed.

The available information is consistent with the predictions of Rice's whale density modeling, on which basis NMFS has anticipated and evaluated the potential for and effects of takes of Rice's whale in western and central GOA waters. Little is known about the number of whales that may be present, the nature of these individuals' use of the habitat, or the timing, duration, or frequency of occurrence for individual whales. Conversely, the importance of northeastern GOA waters to Rice's whale recovery is clear (Rosel *et al.*, 2016). A comparison of acoustic and sightings data from the central/western and eastern GOA, even acknowledging the limitations of those data, suggests that occurrence of whales in the northeastern GOA core habitat is

significantly greater and that the area provides the habitat of greatest importance to the species.

Deepwater Horizon Oil Spill—In 2010, the *Macondo* well blowout and explosion aboard the *Deepwater Horizon* drilling rig (also known as the Deepwater Horizon explosion, oil spill, and response; hereafter referred to as the DWH oil spill) caused oil, natural gas, and other substances to flow into the GOA for 87 days before the well was sealed. Total oil discharge was estimated at 3.19 million barrels (134 million gallons), resulting in the largest marine oil spill in history (DWH NRDA Trustees, 2016). In addition, the response effort involved extensive application of dispersants at the seafloor and at the surface, and controlled burning of oil at the surface was also used extensively as a response technique. The oil, dispersant, and burn residue compounds continue to present ecological challenges in the region. NMFS discussed the impacts of the DWH oil spill on marine mammals in detail in its 2018 notice of proposed

rulemaking (83 FR 29212; June 22, 2018), and we refer the reader to that document for additional detail. The 2018 proposed rule provided detailed discussion of the DWH oil spill. Comprehensive monitoring programs (2020–2025) led by NMFS' Southeast Fisheries Science Center and partners have provided updated further insights into post-DWH cetacean distribution and density (Frasier *et al.*, 2024a, b). Recent analysis indicates that many species continue to exhibit densities significantly below pre-spill levels, suggesting a lack of recovery for affected populations. Estimates of annual mortality for many stocks over the period 2014–2018 include mortality attributed to the effects of the DWH oil spill (see table 2) (Hayes *et al.*, 2023), and these mortality estimates are considered as part of the environmental baseline. NMFS similarly treats the effects of the DWH oil spill as part of the baseline in considering the likely resilience of these populations to the effects of the activities considered in this final rule.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (e.g., Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Generalized hearing ranges were chosen based on the ~65 decibel (dB) threshold from composite audiograms, previous analyses in NMFS (2018), and/or data from Southall *et al.* (2007) and Southall *et al.* (2019).

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>i.e.</i> , all species within the group), where individual species' hearing ranges may not be as broad. Generalized hearing range chosen based on ~65 dB threshold from composite audiogram, previous analysis in NMFS 2018, and/or data from Southall <i>et al.</i> (2007); Southall <i>et al.</i> (2019). Additionally, animals are able to detect very loud sounds above and below that “generalized” hearing range.	

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

Potential Effects of the Specified Activities on Marine Mammals and Their Habitat

In NMFS' notice of proposed rulemaking (91 FR 9014, February 24, 2026), this section (Potential Effects) included a comprehensive summary and discussion of the ways that the

specified activity may impact marine mammals and their habitat, including general background information on sound and specific discussion of potential effects to marine mammals from noise produced through use of the acoustic sources considered herein. We do not repeat that discussion here,

instead referring the reader to the notice of proposed rulemaking.

The Estimated Take section that follows includes a quantitative analysis of the number of individuals that are expected to be taken by the specified activity. The Negligible Impact Analysis and Determinations section includes an analysis of how these activities will impact marine mammals and considers the analysis of Potential Effects presented in the notice of proposed rulemaking, the Estimated Take section, and the Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Estimated Take

This section provides an estimate of the numbers and type of incidental takes that may be expected to occur under the specified activity, which informs NMFS’ negligible impact determinations. Realized incidental takes would be determined by the actual levels of activity at specific times and places that occur under any issued LOAs and by the actual acoustic sources used. Take estimates are available for the three different airgun array configurations described previously. The highest modeled estimated take (annual and 5-year total) for each species is analyzed for the negligible impact analysis.

Except with respect to 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 causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment). Harassment is the only type of take expected to result from these activities. It is unlikely that lethal takes would occur even in the absence of the mitigation and monitoring measures, and no such takes are anticipated or will be authorized.

Anticipated takes would primarily be by Level B harassment, as use of the described acoustic sources, particularly airgun arrays, is likely to disrupt behavioral patterns of marine mammals upon exposure to sound at certain levels. There is also some potential for auditory injury (Level A harassment) to result for LF and VHF species due to the size of the predicted auditory injury zones for those species, though none is predicted to occur for Rice’s whales (the only LF cetacean in the GOA). NMFS does not expect auditory injury to occur for HF species. Detailed discussion of this determination was provided in the Estimated take section of the notice of proposed rulemaking (91 FR 9014, February 24, 2026), and is not repeated here.

Below, we summarize how the take that may be authorized was estimated using acoustic thresholds, sound field modeling, and marine mammal density data. In addition to discussion provided below, please see associated companion documents available on NMFS’ website, for additional detail (Zeddies *et al.*, 2015, 2017a; Weirathmueller *et al.*, 2022). A summary overview of the take estimation process, as well as full discussion related to the development of estimated take numbers, is provided below.

Acoustic Thresholds

NMFS uses acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals generally would be reasonably expected to exhibit disruption of behavioral patterns (Level B harassment) or to incur AUD INJ of some degree (Level A harassment).

Level B Harassment—NMFS carries forward the approach to evaluation of potential take by Level B harassment used for the 2021 and 2024 final rules. Based on the practical need to use a relatively simple threshold based on available information that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of Level B harassment (*e.g.*, the historical 160 dB rms threshold for intermittent sources, which include the impulsive sources evaluated herein). In this case, NMFS identified a more complex probabilistic risk function for use in evaluating the potential effects of the specified activity. This function, first described in Wood *et al.* (2012), differs from the single-step 160 dB rms criterion primarily by acknowledging the potential for Level B harassment at exposures to received levels below 160 dB rms as well as the potential that animals exposed to received levels above 160 dB rms will not respond in ways constituting Level B harassment. The approach described by Wood *et al.* (2012) also accounts for differential hearing sensitivity by incorporating the Type I frequency-weighting functions described by Southall *et al.* (2007). The broader Type I filters are appropriately retained for use in evaluating potential behavioral disturbance in conjunction with the probabilistic response function. The criteria are described in table 4.

Table 4 -- Behavioral Exposure Criteria

Group	Probability of response to frequency-weighted rms SPL			
	120	140	160	180
Beaked whales	50%	90%	n/a	n/a
All other species	n/a	10%	50%	90%

Level A harassment—Modeling supporting the 2021 and 2024 final rules relied on NMFS’ Revised Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0; NMFS, 2018) (table 5). Since issuance of those rules, NMFS completed Updated Technical Guidance (NMFS, 2024)

(table 6). Both versions of the technical guidance identify dual criteria, using the cumulative sound exposure level metric and peak sound pressure level metric, to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of

sources (impulsive or non-impulsive). This final rule carries forward the modeling and resulting take estimates (as updated for the 2024 rule) based on the 2018 Technical Guidance (NMFS, 2018), based on our determination that those estimates of Level A harassment remain sufficiently representative of any incidents of Level A harassment that

may reasonably be expected to occur (described next).

Table 5 -- Dual Exposure Criteria for Auditory Injury for Impulsive Sound Sources (NMFS, 2018)

Hearing Group	Peak sound pressure level ¹	Cumulative sound exposure level ²
Low-frequency cetaceans	219 dB	183 dB
Mid-frequency cetaceans	230 dB	185 dB
High-frequency cetaceans	202 dB	155 dB

¹Referenced to 1 μ Pa; unweighted within generalized hearing range

²Referenced to 1 μ Pa²-s; weighted according to appropriate auditory weighting function.

These thresholds are provided in tables 5 and 6. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Revised

Technical Guidance and NMFS' 2024 Updated Technical Guidance, both of which may be accessed at: [https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-](https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance)

mammal-acoustic-technical-guidance. The specified activity considered herein includes the use of impulsive seismic sources (*i.e.*, airguns).

Table 6 -- Dual Exposure Criteria for Auditory Injury for Impulsive Sound Sources (NMFS, 2024)

Hearing Group ¹	Peak sound pressure level ²	Cumulative sound exposure level ³
Low-frequency cetaceans	222 dB	183 dB
High-frequency cetaceans	230 dB	193 dB
Very high-frequency cetaceans	202 dB	159 dB

¹ The Updated 2024 Technical Guidance renamed the former 2018 mid-frequency cetacean hearing group as high-frequency cetaceans and the former 2018 high-frequency cetacean hearing group as very high-frequency cetaceans.

² Referenced to 1 μ Pa; unweighted within generalized hearing range

³ Referenced to 1 μ Pa²-s; weighted according to appropriate auditory weighting function.

In summary, the peak pressure threshold for LF cetaceans increased by 3 dB, while the cumulative SEL threshold (upon which estimates of potential AUD INJ for LF cetaceans is based in this case) is unchanged. As discussed below, no Level A harassment is likely to occur for HF cetaceans, though we note that the cumulative SEL threshold for the hearing group increased by 8 dB. The peak pressure threshold for VHF cetaceans (upon which estimates of potential AUD INJ

are based in this case) is unchanged, while the cumulative SEL threshold increased by 4 dB (see tables 5 and 6). Regarding the underlying frequency sensitivities, the generalized hearing range for LF cetaceans remains essentially the same (currently estimated as 7 Hz–36 kHz versus 7 Hz–35 kHz in the 2018 Technical Guidance), while the current HF cetacean hearing range is unchanged from that estimated for the previously named mid-frequency hearing group.

The current VHF cetacean hearing range was changed more significantly, from 275 Hz–160 kHz (for the previously named HF hearing group) to 200 Hz–165 kHz (see table 3). However, because the potential for Level A harassment is best predicted by exposures above the peak pressure threshold for VHF cetaceans, the change to estimated hearing range, and changes to the auditory weighting function, are not relevant, *i.e.*, frequency weighting is not a factor in evaluating exposures to peak pressure output from

airgun arrays. As the peak pressure threshold for this hearing group is unchanged, no change would be expected to the previously estimated instances of Level A harassment.

Although the operable cumulative SEL threshold for LF cetaceans is unchanged, frequency weighting is irrelevant to evaluations of potential exposure above the threshold. Changes to the LF cetacean weighting function would be expected to result in slight increases to estimated isopleth distances associated with the AUD INJ threshold, though these would remain smaller than the shutdown distance for Rice's whales (see Mitigation). The existing take estimates, which NMFS used for these ITRs, predict that no Level A harassment will occur for Rice's whales. Given the very low likelihood of injurious exposure for Rice's whales, in context of the mitigation requirements, NMFS has determined that the minor changes to the acoustic thresholds as a result of the 2024 Technical Guidance for LF cetaceans do not affect the likelihood of Level A harassment and, therefore, there is no need to update related quantitative estimates. There are no changes to the existing estimates of potential Level A harassment for any species.

Acoustic Exposure Modeling

Zeddies *et al.* (2015, 2017a) provided estimates of the annual marine mammal acoustic exposures exceeding the aforementioned criteria caused by sounds from geophysical survey activity in the GOA for 10 years of notional activity levels, using 8,000-in³ airguns and other sources, as well as full detail regarding the original acoustic exposure modeling conducted in support of BOEM's 2016 petition and NMFS' analysis in support of the 2021 final rule. Zeddies *et al.* (2017b) provided information regarding source and propagation modeling related to the 4,130-in³ airgun array, and Weirathmueller *et al.* (2022) provide detail regarding the modeling performed for the 5,110-in³ airgun array. For full details of the modeling effort, see the reports (available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico>) and review additional, detailed discussion provided in the notice of proposed rulemaking (91 FR 9014, February 24, 2026), which we do not repeat.

The modeling effort produced exposure estimates computed from modeled sound levels as received by animals in a specific modeling area. The GOA was divided into seven modeling

zones with six survey types simulated within each zone to estimate the potential effects of each survey: shelf and slope waters were divided into eastern, central, and western zones, plus a single deep-water zone, to account for both the geospatial dependence of acoustic fields and the geographic variations of animal distributions. Survey types included deep penetration surveys using a large airgun array (2D, 3D NAZ, 3D WAZ, and coil survey types), shallow penetration surveys using a single airgun, and high resolution surveys. We do not discuss HRG surveys further, as they are not considered likely to result in incidental take of marine mammals.

The results from each zone were summed to provide GOA-wide estimates of take for each marine mammal species for each survey type for each notional year. To get these annual aggregate exposure estimates, 24-hr average exposure estimates from each survey type were multiplied by the number of expected survey days from BOEM's effort projections. Because these projections are not season-specific, surveys were assumed to be equally likely to occur at any time of the year and at any location within a given zone.

Marine Mammal Density Information—The best available scientific information was considered in conducting marine mammal exposure estimates (the basis for estimating take). This information consists of habitat-based cetacean density models produced by NMFS' Southeast Fisheries Science Center (Garrison *et al.*, 2023). These models incorporate survey data from 2003 through 2019 including data from survey effort conducted during winter, allowing for increased temporal resolution of model predictions relative to previously available marine mammal density data. In addition, these are the first density models that incorporate survey data collected after the DWH oil spill. New models were produced for all taxa other than Fraser's dolphin and rough-toothed dolphin, as the model authors determined that there were too few detections of these species to support model development. Therefore, we rely on previously available models (Roberts *et al.*, 2016) for these two species.

For species occurring in oceanic waters, the density models are based upon data collected during vessel surveys conducted in 2003–2004, 2009, and 2017–2018 (and surveys conducted in 2019 for Rice's whale). Survey effort was generally conducted in a survey region bounded by the shelf break (approximately the 200-m isobath) to the north and the boundary of the U.S.

EEZ to the south. Separate models were created for species occurring in shelf waters (Atlantic spotted dolphin and bottlenose dolphin) based on seasonal aerial surveys conducted in 2011–2012 and 2017–2018. Based on water depth, the shelf models were used to predict acoustic exposures for these two species in zones 2 and 3 (with zone 1 no longer part of the specified geographical region), and the oceanic models were used to predict exposures in zones 4–7.

As discussed above, the density modeling effort treats beaked whales and *Kogia* spp. as guilds, as sightings of these species are typically difficult to resolve to the species level. In addition, the model authors determined there to be too few sightings and/or too few sightings resolved to species level for the melon-headed whale, false killer whale, pygmy killer whale, and killer whale to produce individual species models. Instead, a single blackfish model was developed to produce guild-level predictions for these species (Garrison *et al.*, 2023).

Take Estimates

Exposure estimates above Level A and Level B harassment criteria, originally developed by Zeddies *et al.* (2015, 2017a, 2017b) and updated by Weirathmueller *et al.* (2022) in association with the activity projections for the various annual effort scenarios, were generated based on the specific modeling scenarios (including source and survey geometry), *i.e.*, 2D survey (1 x source array), 3D NAZ survey (2 x source array), 3D WAZ survey (4 x source array), coil survey (4 x source array).

Level A Harassment—Here, we summarize acoustic exposure modeling results related to Level A harassment. Overall, there is a low likelihood of take by Level A harassment for any species, though the degree of this low likelihood is primarily influenced by the specific hearing group. For HF and VHF cetaceans, potential auditory injury would be expected to occur on the basis of instantaneous exposure to peak pressure output from an airgun array while for LF cetaceans, potential auditory injury would occur on the basis of the accumulation of energy output over time by an airgun array. Importantly, the modeled exposure estimates do not account for either aversion or the beneficial impacts of the required mitigation measures.

Of even greater import for HF cetaceans is that the small calculated Level A harassment zone size in conjunction with the properties of sound fields produced by arrays in the near field versus far field leads to a

logical conclusion that Level A harassment is so unlikely for species in this hearing group as to be discountable.

For HF cetaceans, the only potential injury zones will be based on the peak pressure metric, as such zones will be larger than those calculated on the basis of the cumulative SEL metric (which are essentially non-existent for HF and VHF cetaceans). The estimated zone size for the 230 dB peak threshold for HF cetaceans is only 18 m. In a theoretical modeling scenario, it is possible for animals to engage with such a small assumed zone around a notional point source and, subsequently, for these interactions to scale to predictions of real-world exposures given a sufficient number of predicted 24-hr survey days in confluence with sufficiently high predicted real-world animal densities. However, this is not a realistic outcome, as described in detail in the notice of proposed rulemaking (91 FR 9014, 9045, February 24, 2026).

As a result, for all HF cetaceans, following evaluation of the available scientific literature regarding the auditory sensitivity of HF cetaceans and the properties of airgun array sound fields, NMFS does not expect any reasonable potential for Level A harassment to occur. NMFS expects the potential for Level A harassment of HF cetaceans to be discountable, even before the likely moderating effects of aversion and mitigation are considered (e.g., Nachtigall *et al.*, 2018), and NMFS does not believe that Level A

harassment is a likely outcome for any HF cetacean. The modeling results provided by Weirathmueller *et al.* (2022) and relied upon herein account for this by assuming that any estimated exposures above Level A harassment thresholds for HF cetaceans resulted instead in Level B harassment (as reflected in table 7).

For LF and VHF species, NMFS carries forward its assumptions regarding the effects of aversion and the same approach and specific offset factor used in the 2021 final rule to adjust estimated instances of Level A harassment as a reasonable and likely conservative approach to addressing the issue of aversion. This adjustment was incorporated into the modeling results provided by Weirathmueller *et al.* (2022) and reflected in table 7. This approach and associated considerations are discussed in detail in the notice of proposed rulemaking (91 FR 9014, 9046, February 24, 2026).

For purposes of the negligible impact analyses, NMFS uses the maximum of the species-specific exposure modeling results from the three airgun array configurations/sizes. Specifically, for all species other than Rice's whale, these results are associated with the 8,000-in³ array. For the Rice's whale, modeling associated with the 5,110-in³ array produced larger exposure estimates (discussed below). These species-specific maximum estimates provide the upper bound of take that may be authorized under the rule, while actual

take authorized through LOAs would be determined based on the appropriate source proxy (*i.e.*, either 90-in³ single airgun or 4,130-, 5,110-, or 8,000-in³ airgun array).

Estimated instances of take, *i.e.*, scenario-specific acoustic exposure estimates incorporating the adjustments to Level A harassment exposure estimates discussed here, are shown in table 7. This information regarding total number of takes (with Level A harassment takes based on assumptions relating to HF cetaceans in general as well as aversion), on an annual basis for 5 years, provides the bounds within which LOAs may be issued in association with this regulatory framework.

Typically, and especially in cases where PTS is predicted, NMFS anticipates that some number of individuals may incur temporary threshold shift (TTS). However, it is not necessary to separately quantify those takes, as it is unlikely that an individual marine mammal would be exposed at the levels and duration necessary to incur TTS without also being exposed to the levels associated with potential disruption of behavioral patterns (*i.e.*, Level B harassment). As such, NMFS expects any potential TTS takes to be captured by the estimated Level B harassment takes associated with behavioral disturbance (discussed below).

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Table 7 -- Scenario-specific Instances of Take (by Level A and Level B Harassment) and Mean Annual Take Levels¹

Species	Year 1		Year 2		Year 3		Year 4		Year 5		Mean annual take	
	A	B	A	B	A	B	A	B	A	B	A	B
Rice's whale	0	27	0	26	0	23	0	25	0	30	0	26
Sperm whale	0	13,198	0	11,208	0	11,063	0	8,126	0	10,127	0	10,744
<i>Kogia</i> spp. ²	1 9 2	7,272	1 7 2	6,301	1 6 5	6,104	1 1 8	4,581	1 6 4	5,776	1 6 2	6,007
Beaked whale ²	0	29,415	0	26,955	0	23,551	0	17,307	0	23,060	0	24,058
Rough-toothed dolphin	0	38,535	0	33,878	0	32,241	0	25,290	0	29,373	0	31,863
Bottlenose dolphin	0	284,366	0	418,676	0	251,807	0	439,366	0	248,863	0	328,616
Clymene dolphin	0	29,919	0	23,248	0	25,893	0	17,378	0	21,209	0	23,529
Atlantic spotted dolphin	0	37,080	0	34,140	0	33,126	0	34,343	0	23,906	0	32,519
Pantropical spotted dolphin	0	293,390	0	259,831	0	243,888	0	189,147	0	236,651	0	244,581
Spinner dolphin	0	4,618	0	4,456	0	3,704	0	3,147	0	4,101	0	4,006
Striped dolphin	0	56,797	0	51,623	0	46,820	0	37,449	0	47,084	0	47,955
Fraser's dolphin	0	14,499	0	12,343	0	12,181	0	8,833	0	11,118	0	11,795
Risso's dolphin	0	8,146	0	6,939	0	6,787	0	4,834	0	6,176	0	6,576
Blackfish ²	0	67,509	0	57,010	0	56,860	0	40,787	0	51,138	0	54,661
Short-finned pilot whale	0	14,330	0	9,694	0	12,836	0	7,232	0	8,734	0	10,565

¹ A and B refer to expected instances of take by Level A and Level B harassment, respectively, for Years 1-5. Expected takes by Level A harassment represent modeled exposures adjusted to account for aversion. For the Rice's whale, no takes by Level A harassment are predicted to occur. For *Kogia* spp., exposures above Level A harassment criteria were predicted by the peak SPL metric. For the Rice's whale, the cumulative SEL metric is used to evaluate the potential for Level A harassment.

² *Kogia* spp. includes dwarf and pygmy sperm whales. Beaked whales include the goose-beaked whale and Blainville's and Gervais' beaked whales. Blackfish includes melon-headed whale, false killer whale, pygmy killer whale, and killer whale.

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Discussion of Estimated Take

Modeling for the smaller, 5,110-in³ array illustrated that the larger array is not necessarily always more impactful. Free-field beam patterns are different for the arrays as are the tow depths. The 5,110-in³ array was specified as being

towed at 12 m depth (following typical usage observed by NMFS through review of LOA applications), while the other arrays are assumed to use an 8-m tow depth (assumptions regarding source specifications were made by BOEM as part of its original petition for rulemaking). The depth at which a

source is placed influences the interference pattern caused by the direct and sea-surface reflected paths (the "Lloyd's mirror" effect). The destructive interference from the sea-surface reflection is generally greater for shallow tow depths compared to deeper tow depths. In addition, interactions

between source depth, beam pattern geometry, source frequency content, the environment (e.g., bathymetry and sound velocity profile), and different animal seeding depths and behaviors can give unexpected results. For example, while the larger array may have the longest range for a particular isopleth (sound contour), the overall sound field coverage area was found to have greater asymmetry as a result of the above-mentioned interactions.

While the larger array did produce greater predicted exposures for all species, with the exception of Rice's whales, the differences between predicted exposure estimates for the two larger arrays are not as great as may have been expected on the basis of total array volume alone. The 5,110- and 8,000-in³ arrays are often similar in terms of predicted exposures, although the beam patterns are quite different. For arrays of airgun sources, the chamber volume or the total array volume is not the only meaningful variable. Although it is true that a source with a larger volume is generally louder, in practice this only applies largely to single sources or small arrays of sources and was not the case for the considered arrays. As discussed above, array configuration, tow depth, and bathymetry were significant factors. For example, the 8,000-in³ array generally had a more directional beam pattern than the 4,130- or 5,110-in³ arrays. The vertical structure of the sound field combined with different species' dive depth and surface intervals was important as well.

Level B Harassment

NMFS has determined the values shown in table 7 are a reasonable estimate of the maximum potential instances of take that may occur in each year of the regulations based on projected effort (more specifically, each of these "takes" represents a day in which one individual is exposed above the Level B harassment criteria, even if only for minutes). However, these take numbers do not represent the number of individuals expected to be taken, as they do not consider the fact that certain individuals may be exposed above harassment thresholds on multiple days. Accordingly, NMFS developed a "scalar ratio" approach to inform two important parts of the analyses: understanding a closer approximation of the number of individuals of each species or stock that may be taken within a survey, and understanding the degree to which individuals of each species or stock may be more likely to be repeatedly taken across multiple days within a year.

In order to determine more realistic exposure probabilities for individuals across multiple days, modeled results were compared for a 30-day period versus the aggregation of 24-hr population reset intervals to determine a species-typical offset of modeled daily exposures. When conducting computationally-intensive modeling over the full assumed 30-day survey period (versus aggregating the smaller 24-hr periods for 30 days), results showed about 10–45 percent of the total number of takes calculated using a 24-hr reset of the population, with differences relating to species-typical movement and residency patterns. Given that many of the evaluated survey activities occur for 30-day or longer periods, particularly some of the larger surveys for which the majority of the modeled exposures occur, using such a scaling process is appropriate in order to evaluate the likely severity of the predicted exposures.

This approach was evaluated using six representative species/guilds: Rice's whale, sperm whale, beaked whales, bottlenose dolphin, *Kogia* spp., and short-finned pilot whale. For purposes of this analysis, bottlenose dolphin was used as a proxy for other small dolphin species, and short-finned pilot whale was used as a proxy for other large delphinids. Information regarding the number of modeled animals receiving exposure above criteria for average 24-hr sliding windows scaled to the full 30-day duration and percent change in comparison to the same number evaluated when modeling the full 30-day duration was used to derive the aforementioned 30-day scalar ratios which, when applied to the total instances of take given in table 7, captures repeated takes of individuals at a 30-day sampling level. Scalar ratios are as follows: Rice's whale, 0.189; sperm whale, 0.423; beaked whales, 0.101; bottlenose dolphin, 0.287; *Kogia* spp., 0.321; and short-finned pilot whale, 0.295. Application of the re-scaling method reduced the overall magnitude of modeled takes for all species by slightly more than double to up to ten-fold (table 8).

In summary, comparing the results of modeling simulations that more closely match longer survey durations (30 days) to the results of 24-hour take estimates scaled up to 30 days (as the instances of take in table 7 were calculated) provides the comparative ratios of the numbers of individuals taken/calculated (within a 30-day survey) to instances of take, in order to better understand the comparative distribution of exposures across individuals of different species. These products are used to inform a

better understanding of the nature in which individuals are taken across the multiple days of a longer duration survey given the different behaviors that are represented in the animal modeling and may appropriately be used in combination with the calculated instances of take to predict the number of individuals taken for surveys of similar duration, in order to support evaluation of take estimates in requests for LOAs under the "small numbers" standard, which is based on the number of individuals taken. Application of the scaling method reduced the overall magnitude of modeled takes for all species by a range of slightly more than double up to tenfold (table 8).

These adjusted take numbers, representing a closer approximation of the number of individuals taken (shown in table 8), provide a more realistic basis upon which to evaluate severity of the expected taking. Please see the Negligible Impact Analysis and Determinations section later in this document for additional detail. It is important to recognize that while these scaled numbers better reflect the number of individuals likely to be taken within a single 30-day survey than the number of instances in table 7, they will still overestimate the number of individuals taken across the aggregated GOA activities, because they do not correct for (i.e., further reduce take to account for) individuals exposed to multiple surveys or fully correct for individuals exposed to surveys significantly longer than 30 days.

As noted in the beginning of this section and in the Small Numbers section, using modeled instances of take (table 7) and the method used here to scale those numbers allows one to more accurately predict the number of individuals that will be taken as a result of exposure to one survey and, therefore, these scaled predictions are more appropriate to consider in requests for LOAs to assess whether a resulting LOA would meet the small numbers standard. However, for the purposes of ensuring that the total taking authorized pursuant to all issued LOAs is within the scope of the analysis conducted to support the negligible impact finding in this rule, authorized instances of take (which are the building blocks of the analysis) also must be assessed. Specifically, reflecting table 7 and what has been analyzed, the total instances of take that may be authorized for any given species or stock over the course of the 5 years covered under these regulations must not, and are not expected to, exceed the sum of the 5 years of take indicated for the 5 years in that table. Additionally, in any given

year, the instances of take of any species must not, and are not expected to, exceed the highest annual take listed in table 7 for any of the 5 years for a given species.

Table 8 -- Expected Total Take Numbers, Scaled¹

Species	Year 1	Year 2	Year 3	Year 4	Year 5
Rice's whale	5	5	4	5	6
Sperm whale	5,583	4,741	4,679	3,437	4,284
<i>Kogia</i> spp.	2,334	2,022	1,959	1,470	1,854
Beaked whale	2,971	2,722	2,379	1,748	2,329
Rough-toothed dolphin	11,060	9,723	9,253	7,258	8,430
Bottlenose dolphin	81,613	120,160	72,269	126,098	71,424
Clymene dolphin	8,587	6,672	7,431	4,987	6,087
Atlantic spotted dolphin	10,642	9,798	9,507	9,856	6,861
Pantropical spotted dolphin	84,203	74,571	69,996	54,285	67,919
Spinner dolphin	1,325	1,279	1,063	903	1,177
Striped dolphin	16,301	14,816	13,437	10,748	13,513
Fraser's dolphin	4,161	3,543	3,496	2,535	3,191
Risso's dolphin	2,403	2,047	2,002	1,426	1,822
Blackfish	19,915	16,818	16,774	12,032	15,086
Short-finned pilot whale	4,227	2,860	3,787	2,134	2,576

¹ Scalar ratios were applied to values in table 7 to derive scaled take numbers shown here.

Mitigation

Under section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the LPAI on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses, often referred to in shorthand as "mitigation." NMFS does not have a regulatory definition for LPAI. However, NMFS' implementing regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the LPAI upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)). In the Mitigation section of the 2021 final rule, NMFS included a detailed description of our interpretation of the LPAI standard (including its relationship to the negligible impact standard) and how the LPAI standard is implemented (86 FR 5322, 5407, January 19, 2021). We refer readers to the full LPAI discussion in the 2021 final rule for additional information.

NMFS' evaluation of potential mitigation measures includes consideration of two primary factors:

(1) The manner in which, and the degree to which, implementation of the potential measure(s) is expected to reduce adverse impacts to marine mammal species or stocks, their habitat, and their availability for subsistence uses (where relevant). This analysis considers such things as the nature of the potential adverse impact (such as likelihood, scope, and range), the likelihood that the measure will be effective if implemented, and the likelihood of successful implementation; and

(2) The practicability of the measures for applicant implementation. Practicability of implementation may consider such things as cost, impact on activities, personnel safety, and practicality of implementation.

Application of the LPAI Standard in This Action

In carrying out the MMPA's mandate for this action, NMFS applies the context-specific balance between the manner in which and the degree to which measures are expected to reduce impacts to the affected species or stocks and their habitat and practicability for survey operators. The effects of concern

(i.e., those with the potential to adversely impact species or stocks and their habitat) include auditory injury, severe behavioral reactions, disruptions of critical behaviors, and to a lesser degree, masking and impacts on acoustic habitat.

Mitigation prescribed in the 2021 rule and ITRs focused on measures with proven or reasonably presumed ability to avoid or reduce the intensity of acute exposures that have potential to result in these anticipated effects. To the extent of the information available to NMFS, in prescribing measures for the 2021 ITRs and in determining that the same measures meet the LPAI standard for this final rule, we considered practicability concerns, as well as potential undesired consequences of the measures, e.g., extended periods using the acoustic source due to the need to reshoot lines. NMFS recognizes that instantaneous protocols, such as shutdown requirements, are not capable of avoiding all acute effects, are not suitable for avoiding many cumulative or chronic effects, and do not provide targeted protection in areas of greatest importance for marine mammals. Therefore, in addition to a basic suite of seismic mitigation protocols, we also evaluated time-area restrictions that

would avoid or reduce both acute and chronic impacts of surveys.

In order to satisfy the MMPA's LPAI standard, NMFS evaluated a suite of basic mitigation protocols that are required regardless of the status of a stock. Additional or enhanced protections are required for species whose stocks are in particularly poor health and/or are subject to some significant additional stressor that lessens that stock's ability to weather the effects of the specified activities without worsening its status.

For purposes of defining mitigation requirements, we differentiate here between requirements for two classes of airgun survey activity: deep penetration and shallow penetration, with surveys using arrays greater than 1,500 in³ total airgun volume considered deep penetration. Shallow penetration surveys also include those using single airguns. A third general class of surveys is also considered, referred to here as HRG surveys and includes those surveys using the other electromechanical sources described previously. Below, mitigation requirements are described in detail.

Mitigation-Related Monitoring

Monitoring by dedicated, trained marine mammal observers is required in all water depths and, for certain surveys, observers must be independent. Additionally, for some surveys, NMFS requires that some PSOs have prior experience in the role. Independent observers are employed by a third-party observer provider; vessel crew may not serve as PSOs when independent observers are required. Dedicated observers are those who have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct the survey operator (*i.e.*, vessel captain and crew) with regard to the presence of marine mammals and mitigation requirements. Trained PSOs have successfully completed an approved PSO training course (see Monitoring and Reporting), and experienced PSOs have additionally gained a minimum of 90 days at-sea experience working as a PSO during a deep penetration seismic survey, with no more than 18 months having elapsed since the conclusion of the relevant at-sea experience. Training and experience is specific to either visual or acoustic PSO duties (where required). An experienced visual PSO must have completed approved, relevant training and must have gained the requisite experience working as a visual PSO. An experienced acoustic PSO must have completed a PAM operator training course and must have

gained the requisite experience working as an acoustic PSO. Hereafter, we also refer to acoustic PSOs as PAM operators, whereas when we use "PSO" without a qualifier, the term refers to either visual PSOs or PAM operators (acoustic PSOs).

NMFS does not formally administer any PSO training program or endorse specific providers but will approve PSOs that have successfully completed courses that meet the curriculum and trainer requirements specified herein (see Monitoring and Reporting). NMFS will provide PSO approvals in the context of the need to ensure that PSOs have the necessary training to carry out their duties competently while also approving applicant staffing plans quickly. In order for PSOs to be approved, NMFS must review and approve PSO resumes indicating successful completion of an acceptable training course. A PSO may be trained and/or experienced as both a visual PSO and PAM operator and may perform either duty, pursuant to scheduling requirements. Where multiple PSOs are required and/or PAM operators are required, PSO watch schedules shall be devised in consideration of the following restrictions: (1) a maximum of 2 consecutive hours on watch followed by a break of at least 1 hour between watches for visual PSOs; (2) a maximum of 4 consecutive hours on watch followed by a break of at least 2 consecutive hours between watches for PAM operators; and (3) a maximum of 12 hours observation per 24-hour period. NMFS may grant an exception for the requirement that visual PSOs be limited to a maximum of 2 consecutive hours on watch followed by a break of at least 1 hour between watches if requested on the basis of practicability concerns by LOA applicants. If an exception is granted, visual PSOs would instead be limited to a maximum of 4 consecutive hours on watch followed by a break of at least 2 hours between watches. Further information regarding PSO requirements may be found in the Monitoring and Reporting section, later in this document.

Deep Penetration Surveys—During deep penetration survey operations (*e.g.*, any day on which use of the acoustic source is planned to occur; whenever the acoustic source is in the water, whether activated or not), a minimum of two independent PSOs must be on duty and conducting visual observations at all times during daylight hours (*i.e.*, from 30 minutes prior to sunrise through 30 minutes following sunset).

All source vessels must carry a minimum of one experienced visual PSO, who shall be designated as the

lead PSO, coordinate duty schedules and roles,⁷ and serve as the primary point of contact for the operator. The lead PSO shall determine the most appropriate observation posts that will not interfere with navigation or operation of the vessel while affording an optimal, elevated view of the sea surface. These should be the highest elevation available on each vessel, with the maximum viewable range from the bow to 90 degrees to port or starboard of the vessel. PSOs shall coordinate to ensure 360° visual coverage around the vessel, and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. All source vessels must be equipped with pedestal-mounted "bigeye" binoculars that will be available for PSO use. Within these broad outlines, the lead PSO and PSO team will have discretion to determine the most appropriate vessel- and survey-specific system for implementing effective marine mammal observational effort. Any observations of marine mammals by crew members aboard any vessel associated with the survey, including receiver or chase vessels, should be relayed to the source vessel(s) and to the PSO team.

All source vessels must use a towed PAM system for potential detection of marine mammals at all times when operating the sound source in waters deeper than 100 m. The term "towed PAM system" refers to any combination of hardware and software that uses a towed array for operations. The system must be monitored at all times during use of the acoustic source, and acoustic monitoring must begin at least 30 minutes prior to ramp-up. PAM operators must be independent, and all source vessels shall carry a minimum of two experienced PAM operators. PAM operators shall communicate all detections to visual PSOs, when visual PSOs are on duty, including any determination by the PSO regarding species identification, distance and bearing, and the degree of confidence in the determination. Further detail regarding PAM system requirements may be found in the Monitoring and Reporting section, later in this document.

Visual monitoring must begin at least 30 minutes prior to ramp-up (described below) and must continue until 1 hour after use of the acoustic source ceases or until 30 minutes past sunset. If any marine mammal is observed at any

⁷ The coordination of PSO duty schedules and roles may alternatively be performed by a third-party, shore-based Monitoring Coordinator.

distance from the vessel, a PSO would record the observation and monitor the animal's position (including latitude/longitude of the vessel and relative bearing and estimated distance to the animal) until the animal dives or moves out of visual range of the observer. A PSO would continue to observe the area to watch for the animal to resurface or for additional animals that may surface in the area. Visual PSOs shall communicate all observations to PAM operators, including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination.

As noted previously, all source vessels must carry a minimum of one experienced visual PSO and two experienced PAM operators. The observer designated as lead PSO (including the full team of visual PSOs and PAM operators) must have experience as a visual PSO. The applicant may determine how many additional PSOs are required to adequately fulfill the requirements specified here. To summarize, these requirements are: (1) 24-hour acoustic monitoring during use of the acoustic source in waters deeper than 100 m; (2) visual monitoring during use of the acoustic source by two PSOs during all daylight hours; (3) maximum of 2 consecutive hours on watch followed by a minimum of 1 hour off watch for visual PSOs and a maximum of 4 consecutive hours on watch followed by a minimum of 2 consecutive hours off watch for PAM operators; and (4) maximum of 12 hours of observational effort per 24-hour period for any PSO, regardless of duties.

Shallow Penetration Surveys—During shallow penetration surveys, operators must follow the same requirements described above for deep penetration surveys, with one notable exception: The use of PAM is not required.

HRG Surveys—HRG survey protocols differ from the previously described protocols for deep and shallow penetration surveys, and we differentiate between deep-water (greater than 100 m) and shallow-water HRG surveys. Water depth in the GOA provides a reliable indicator of the marine mammal fauna that may be encountered and, therefore, the complexity of likely observations and concern related to potential effects on deep-diving and/or sensitive species.

Deep-water HRG surveys are required to employ a minimum of one independent visual PSO during all daylight operations, in the same manner as was described for deep and shallow penetration surveys. Shallow-water

HRG surveys are required to employ a minimum of one visual PSO, which may be a crew member. PSOs employed during shallow-water HRG surveys are only required during a pre-clearance period. PAM is not required for any HRG survey.

PAM Malfunction—Survey activity may continue for brief periods of time when the PAM system malfunctions or is damaged. Activity may continue for 30 minutes without PAM while the PAM operator diagnoses the issue. If the diagnosis indicates that the PAM system must be repaired to solve the problem, operations may continue for an additional 2 hours without acoustic monitoring under the following conditions:

- Daylight hours and sea state is less than or equal to Beaufort sea state (BSS) 4;

- No marine mammals (excluding delphinids; see below) detected solely by PAM in the exclusion zone (see below) in the previous 2 hours;

- NMFS is notified via email as soon as practicable with the time and location in which operations began without an active PAM system; and

- Operations with an active acoustic source, but without an operating PAM system, do not exceed a cumulative total of 4 hours in any 24-hour period.

Exclusion Zone and Buffer Zone

An exclusion zone is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce the potential for certain outcomes such as auditory injury or more severe disruption of behavioral patterns. For deep penetration surveys, the PSOs shall establish and monitor a 500-m exclusion zone and additional 500-m buffer zone (total 1,000 m) during the pre-clearance period (see below) and a 500-m exclusion zone during the ramp-up and operational periods (see below for description of extended 1,500-m zone in special circumstances). PSOs should generally focus their observational effort within a 1.5-km zone, to the extent possible, with animals observed at greater distances recorded and mitigation action taken as necessary (see below). For shallow penetration surveys, the PSOs shall establish and monitor a 100-m exclusion zone with additional 100-m buffer (total 200-m zone) during the pre-clearance period and a 100-m exclusion zone during the ramp-up (for small arrays only, versus single airguns) and operational periods (see below for description of extended 500-m zone in special circumstances). PSOs should generally focus their observational effort within a 500-m

zone, to the extent possible, with animals observed at greater distances recorded and mitigation action taken as necessary (see below). These zones shall be based upon radial distance from any element of the airgun array (rather than being based on the center of the array or around the vessel itself). During use of the acoustic source, occurrence of marine mammals within the buffer zone (but outside the exclusion zone) should be communicated to the operator to prepare for the potential shutdown of the acoustic source. Use of the buffer zone in relation to ramp-up is discussed below under "Ramp-up." Further detail regarding the exclusion zone and shutdown requirements is given under "Exclusion Zone and Shutdown Requirements."

Ramp-Up

Ramp-up of an acoustic source is intended to provide a gradual increase in sound levels, enabling animals to move away from the source if the signal is sufficiently aversive prior to its reaching full intensity. Ramp-up is required for all surveys using airgun arrays.

The ramp-up procedure involves a step-wise increase in the number of airguns firing and total array volume until all operational airguns are activated and the full volume is achieved. Ramp-up is required at all times as part of the activation of the acoustic source (including source tests; see "*Miscellaneous Protocols*" for more detail) and may occur at times of poor visibility, assuming appropriate acoustic monitoring with no detections in the 30 minutes prior to beginning ramp-up. Acoustic source activation may only occur at night where operational planning cannot reasonably avoid such circumstances. Ramp-up must occur at night following acoustic source deactivation due to line turn or mechanical difficulty. The operator must notify a designated PSO of the planned start of ramp-up as agreed-upon with the lead PSO; the notification time should be at least 60 minutes prior to the planned ramp-up. A designated PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed.

Ramp-up begins by activating a single airgun (*i.e.*, array element) of the smallest volume in the array. Ramp-up continues in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration. Total duration should not be less than approximately 20 minutes but maximum duration is not prescribed

and will vary depending on the total number of stages. There will generally be one stage in which doubling the number of elements is not possible because the total number is not even. This should be the last stage of the ramp-up sequence. The operator must provide information to the PSO documenting that appropriate procedures were followed. This approach is intended to ensure a perceptible increase in sound output per increment while employing increments that produce similar degrees of increase at each step.

For deep penetration surveys, PSOs must monitor a 1,000-m zone (or to the distance visible if less than 1,000 m) for a minimum of 30 minutes prior to ramp-up (*i.e.*, pre-clearance). For shallow penetration surveys, PSOs must monitor a 200-m zone (or to the distance visible if less than 200 m) for a minimum of 30 minutes prior to ramp-up or start-up (for single airgun or non-airgun surveys; note that extended distance shutdowns, discussed below, may be required if certain species or circumstances are detected within greater distances: 1.5 km for deep penetration surveys and 500 m for shallow penetration surveys). The pre-clearance period may occur during any vessel activity (*i.e.*, transit, line turn). Ramp-up must be planned to occur during periods of good visibility when possible; operators may not target the period just after visual PSOs have gone off duty. Following deactivation of the source for reasons other than mitigation, the operator must communicate the near-term operational plan to the lead PSO with justification for any planned nighttime ramp-up. Ramp-up may not be initiated if any marine mammal is within the designated zone. If a marine mammal is observed within the zone during the pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zone or until an additional time period has elapsed with no further sightings (*i.e.*, 15 minutes for small delphinids and 30 minutes for all other species). PSOs will monitor the exclusion zone during ramp-up, and ramp-up must cease and the source shut down upon observation of marine mammals within or approaching the zone.

Exclusion Zone and Shutdown Requirements

Deep Penetration Surveys—The PSOs must establish a minimum exclusion zone with a 500-m radius as a perimeter around the outer extent of the airgun array (rather than being delineated around the center of the array or the vessel itself). If a marine mammal (other

than the small delphinid species discussed below) appears within or enters this zone, the acoustic source must be shut down (*i.e.*, power to the acoustic source must be immediately turned off). If a marine mammal is detected acoustically, the acoustic source must be shut down, unless the PAM operator is confident that the animal detected is outside the exclusion zone or that the detected species is not subject to the shutdown requirement (see below).

The 500-m radial distance of the standard exclusion zone is expected to contain sound levels exceeding peak pressure injury criteria for all hearing groups other than, potentially, VHF cetaceans, while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. Although significantly greater distances may be observed from an elevated platform under good conditions, NMFS believes that 500 m is likely regularly attainable for PSOs using the naked eye during typical conditions. In addition, an exclusion zone is expected to be helpful in avoiding more severe behavioral responses. Behavioral response to an acoustic stimulus is determined not only by received level but by context (*e.g.*, activity state) including, importantly, proximity to the source (*e.g.*, Southall *et al.*, 2007; Ellison *et al.*, 2012; DeRuiter *et al.*, 2013). In prescribing an exclusion zone, NMFS seeks not only to avoid most potential auditory injury but also to reduce the likely severity of the behavioral response at a given received level of sound.

In summary, NMFS' goal in prescribing a standard exclusion zone distance is to (1) encompass zones for most species within which auditory injury could occur on the basis of instantaneous exposure; (2) provide protection from the potential for more severe behavioral reactions (*e.g.*, panic, antipredator response) for marine mammals at relatively close range to the acoustic source; (3) enable more effective implementation of required mitigation by providing consistency and ease of implementation for PSOs, who need to monitor and implement the exclusion zone; and (4) define a distance within which detection probabilities are reasonably high for most species under typical conditions. NMFS' use of 500 m as the zone is not based directly on any quantitative understanding of the range at which auditory injury would be entirely precluded or any range specifically related to disruption of behavioral

patterns. Rather, we believe it is a reasonable combination of factors. This zone has been proven as a feasible measure through past implementation by operators in the GOA. In summary, a practicable criterion such as this has the advantage of familiarity and simplicity while still providing in most cases a zone larger than relevant auditory injury zones, given realistic movement of source and receiver. Increased shutdowns, without a firm idea of the outcome the measure seeks to avoid, simply displace survey activity in time and increase the total duration of acoustic influence as well as total sound energy in the water (due to additional ramp-up and overlap where data acquisition was interrupted). The shutdown requirement described here would be required for most marine mammals, with certain differences. Small delphinids are excepted from the shutdown requirement, as described in the following section. Certain species are subject to an extended distance shutdown zone, as described in the subsequent section entitled "Other Shutdown Requirements."

Dolphin Exception—The shutdown requirement described above is in place for all marine mammals, with the exception of small delphinids. As defined here, the small delphinid group is intended to encompass those members of the Family Delphinidae most likely to voluntarily approach the source vessel for purposes of interacting with the vessel and/or airgun array (*e.g.*, bow-riding). Here we refer to "large delphinids" and "small delphinids" as shorthand for generally deep-diving versus surface-dwelling/bow-riding groups, respectively, as the important distinction is their dive behavior rather than their size. This exception to the shutdown requirement applies solely to specific genera of dolphins—*Steno*, *Tursiops*, *Stenella*, and *Lagenodelphis* (see table 2)—and applies under all circumstances, regardless of what the perception of the animal(s) behavior or intent may be. Please see the notice of proposed rulemaking for additional detailed discussion of the rationale for the dolphin exception (91 FR 9014, February 24, 2026), which is not repeated here.

Other Surveys—Shutdown protocols for shallow penetration surveys are similar to those described for deep penetration surveys, except that the exclusion zone is defined as a 100-m radial distance around the perimeter of the acoustic source. The small delphinid exception described above for deep penetration surveys would apply. As described previously, no shutdowns would be required for HRG surveys.

Extended Shutdown Requirements for Special Circumstances—Shutdown of the acoustic source is also required in the event of certain other detections beyond the standard exclusion zones. As for normal shutdowns within the standard exclusion zone, shutdowns at extended distance should be made on the basis of confirmed detections (visual or acoustic) within the zone. For deep penetration surveys, NMFS determined an appropriate distance on the basis of available information regarding detection functions for relevant species, but notes that, while based on quantitative data, the distance is an approximate limit that is merely intended to encompass the region within which we would expect a relatively high degree of success in sighting certain species while also improving PSO efficacy by removing the potential that a PSO might interpret these requirements as demanding a focus on areas further from the vessel. NMFS set the shutdown radius for special circumstances (described below) at 1.5 km for deep penetration surveys and 500 m for shallow penetration surveys.

Circumstances justifying shutdown at extended distance (*i.e.*, 1.5 km for deep penetration surveys and 500 m for shallow penetration surveys) include (please see the notice of proposed rulemaking for rationale for each of these circumstances):

- Upon detection of a Rice's whale.
- Upon detection of a sperm whale.
- Upon detection of a beaked whale

or *Kogia* spp.

Shutdown Implementation Protocols—Any PSO on duty has the authority to delay the start of survey operations or to call for shutdown of the acoustic source. When shutdown is called for by a PSO, the acoustic source must be immediately deactivated and any dispute resolved only following deactivation. The survey operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. When both visual PSOs and PAM operators are on duty, all detections must be immediately communicated to the remainder of the on-duty team for potential verification of visual observations by the PAM operator or of acoustic detections by visual PSOs and initiation of dialogue as necessary. When there is certainty regarding the need for mitigation action on the basis of either visual or acoustic detection alone, the relevant PSO(s) must call for such action immediately.

Upon implementation of shutdown, the source may be reactivated after the animal(s) has been observed exiting the exclusion zone or following a 30-minute clearance period with no further detection of the animal(s).

If the acoustic source is shut down for reasons other than mitigation (*e.g.*, mechanical difficulty) for brief periods (*i.e.*, less than 30 minutes), it may be activated again without ramp-up if PSOs have maintained constant observation (including acoustic observation, where required) and no visual detections of any marine mammal have occurred within the relevant exclusion zone and no acoustic detections have occurred (when required). NMFS defines "brief periods" in keeping with other clearance watch periods and to avoid unnecessary complexity in protocols for PSOs. For any longer shutdown (*e.g.*, during line turns), pre-clearance watch and ramp-up are required. For any shutdown at night or in periods of poor visibility (*e.g.*, BSS 4 or greater), ramp-up is required but if the shutdown period was brief and constant observation maintained, pre-clearance watch is not required.

Miscellaneous Protocols

The acoustic source must be deactivated when not acquiring data or preparing to acquire data, except as necessary for testing. Unnecessary use of the acoustic source should be avoided. Firing of the acoustic source at any volume above the stated production volume would not be authorized. Notified operational capacity (not including redundant backup airguns) must not be exceeded during the survey, except where unavoidable for source testing and calibration purposes. All occasions where activated source volume exceeds notified operational capacity must be noticed to the PSO(s) on duty and fully documented for reporting. The lead PSO must be granted access to relevant instrumentation documenting acoustic source power and/or operational volume.

Testing of the acoustic source involving all elements requires normal mitigation protocols (*e.g.*, ramp-up). Testing limited to individual source elements or strings does not require ramp-up but does require pre-clearance.

Restriction Areas

NMFS requires the same coastal restriction included in the 2021 ITRs to provide enhanced protection for northern coastal bottlenose dolphins, and discusses the potential for a restriction area for Rice's whales below. For all other species, there are no known specific areas of particular

importance to consider for time-area restrictions, and no new information to suggest that the standard operational mitigation requirements in the 2021 ITRs are not sufficient and should be changed to meet the LPAI standard.

Coastal Restriction—No airgun surveys may occur from 90° to 84° W long. (as truncated through removal of the GOMESA moratorium area) and shoreward of a line indicated by the 20-m isobath, during the months of January through May. Waters shoreward of the 20-m isobath, where coastal dolphin stocks occur, represent the areas of greatest abundance for bottlenose dolphins.

The restriction is intended specifically to avoid additional stressors to the northern coastal stock of bottlenose dolphins during the time period believed to be of greatest importance as a reproductive period. NOAA estimates that potentially 82 percent of northern coastal dolphins were exposed to DWH oil, resulting in an array of long-term health impacts (including reproductive failure) and possible population reductions of 50 percent for the stock (DWH MMIQT, 2015). The same analysis estimated that these population-level impacts could require 39 years to recovery, in the absence of other additional stressors. The stock has been the subject of multiple declared UMEs.

The January–May timeframe is intended to best encompass the most important reproductive period for bottlenose dolphins in these coastal waters, when additional stress is most likely to have serious impacts on pregnancy and/or survival of neonates. Expert interpretation of the long-term data for neonate strandings is that February–April are the primary months that animals are born in the northern GOA, and that fewer but similar numbers are born in January and May. This refers to long-term averages and in any particular year the peak reproductive period can shift earlier or later.

Rice's Whale—For this final rule, NMFS evaluated the potential for a restriction on survey activity in areas between 100 and 400 m in depth throughout the geographic area covered by the rule for Rice's whales. We first provide a summary of baseline information relevant to our consideration of mitigation for Rice's whales. Rice's whales have a small population size, are restricted to the GOA, and were determined by the status review team to be "at or below the near-extinction population level" (Rosel *et al.*, 2016). While various population abundance estimates are available (*e.g.*,

Garrison *et al.*, 2020, 2023; Hayes *et al.*, 2023; Roberts *et al.*, 2016; Dias and Garrison, 2016), all are highly uncertain because targeted surveys have not been conducted throughout the Rice's whale's range. The most recent statistically-derived abundance estimate, from 2017 and 2018 surveys in the northeastern GOA, is 51 individuals (20–130 95% Confidence Interval (CI)) (Garrison *et al.*, 2020). There may be fewer than 100 individuals throughout the GOA (Rosel *et al.*, 2016). In addition, the population exhibits very low levels of genetic diversity (Rosel and Wilcox, 2014; Rosel *et al.*, 2021). The small population size, restricted range, and low genetic diversity alone place these whales at significant risk of extinction (IWC, 2017). This risk has been exacerbated by the effects of the DWH oil spill, which was estimated to have exposed up to half the population to oil (DWH NRDA Trustees, 2016; DWH MMIQT, 2015). In addition, Rice's whales face a significant suite of anthropogenic threats, including noise produced by airgun surveys (Rosel *et al.*, 2016). Additionally, Rice's whale dive and foraging behavior places them at heightened risk of being struck by vessels and/or entangled in fishing gear (Soldevilla *et al.*, 2017).

Of relevance here, the geographic scope of the specified activity for this final rule excludes the eastern GOA through BOEM's earlier removal of the GOMESA area (see figure 1). This reduced scope effectively minimizes potential impacts to Rice's whales and their core habitat.

It is in the aforementioned context that we evaluated restriction of survey activity over a broad area of the central and/or western GOA within Rice's whale habitat in waters between the 100 and 400 m isobaths. There is no scientific information supporting a temporal component for any potential restriction nor any specific spatial definition for a central and/or western GOA restriction.

The amount of anticipated take of Rice's whales over the 5-year duration of the ITRs is relatively low and limited to Level B harassment. The anticipated magnitude of impacts from any of these anticipated takes is considered to be relatively low, as we concluded that none of these takes are expected to impact the fitness of any individuals. See Negligible Impact Analysis and Determinations. We also note the robust required shutdown measures that utilize highly effective visual and passive acoustic detection methods to avoid marine mammal injury as well as minimize TTS and more severe behavioral responses.

For this rulemaking, NMFS examined the potential for area-based restrictions in the context of the LPAI standard to determine whether a restriction is warranted to minimize the impacts from seismic survey activities on the affected marine mammal species or stocks. This analysis is consistent with the consideration of the LPAI criteria described above when determining appropriateness of mitigation measures. These potential measures were evaluated (see below) in the context of the seismic survey activities (including the geographic scope of the rule) and the other existing mitigation measures that would be implemented to minimize impacts on the affected marine mammal species or stocks from these activities.

To reiterate, the geographic scope of the rule does not cover Rice's whale core habitat in the northeastern GOA, which is the area that contains the highest known densities of Rice's whale and which has defined the movements of previously tagged Rice's whales. Thus, even though individual Rice's whales occurring outside of the core habitat area may experience harassment, the geographic scope of the rule likely precludes significant impacts to Rice's whales at the species level by avoiding takes of the majority of individuals and by avoiding impacts to the habitat that supports the highest densities of the species. This important context generally means that the takes that do occur for Rice's whales are expected to have lower potential to have negative energetic effects or deleterious effects on reproduction that could reduce the likelihood of survival or reproductive success. In addition, NMFS is again requiring mitigation measures that would minimize or alleviate the likelihood of injury (PTS), TTS, and more severe behavioral responses (the 1,500-m shutdown zone). Exposures to airgun noise would occur in open water areas where animals can more readily avoid the source, which moves slowly and in a linear fashion, and find alternate habitat relatively easily. Those mitigation requirements are expected to be effective in ensuring that impacts are limited to lower-level responses with limited potential to significantly alter behavior patterns in ways that would affect the fitness of individuals and by extension the affected species.

In evaluating mitigation for species or stocks and their habitat, we consider the expected benefits of the mitigation measures for the species or stocks and their habitats against the practicability of implementation. This consideration includes assessing the manner in which, and the degree to which, the implementation of the measure(s) is

expected to reduce impacts to marine mammal species or stocks (including through consideration of expected reduced impacts on individuals), their habitat, and their availability for subsistence uses (where relevant). This analysis considers such things as the nature of the activity's adverse impact (likelihood, scope, range); the likelihood that the measure will be effective if implemented; and the likelihood of successful implementation. Practicability of implementing the measure is also assessed and may involve consideration of such things as cost and impact on operations.

Taking into account the above considerations, we provide evaluation of potential survey restrictions in the central and western GOA. Please see discussion of information related to Rice's whale occurrence in the central and western GOA provided previously in the Description of Marine Mammals in the Area of the Specified Activities section, with more detailed discussion provided in the notice of proposed rulemaking (91 FR 9014, February 24, 2026). In summary, passive acoustic data provide evidence that waters 100–400 m deep in the central and western GOA are Rice's whale habitat and are used by Rice's whales in all seasons, though available data suggest that density and abundance of Rice's whales in the central and western GOA are lower than in the core habitat in the northeastern GOA. Little is known about the number of whales that may be present, the nature of these individuals' use of the habitat, or the timing, duration, or frequency of occurrence for individual whales; and predictions of Rice's whale density modeling have been used to estimate potential takes of Rice's whales in the area.

Restricting survey activity in central/western GOA waters from 100 to 400 m depth would avoid likely Level B harassment of any individuals that may occur in the area, but aside from the very large area within the 100–400 m isobaths throughout the GOA generally, there is no information supporting further delineation of any specific area in the central and/or western GOA within which a restriction on survey activity might be expected to provide targeted reductions in adverse impacts to Rice's whales or their habitat. Further, Level B harassment that may occur in the central/western GOA may be expected to have lower potential for meaningful consequences relative to Level B harassment events that occur in the northeastern GOA core habitat area, where important behavior may be more likely disrupted, and where greater numbers of Rice's whale are expected to

occur. The relatively low level of take predicted for Rice's whales in the geographic scope for the specified activity under this final rule, as well as the required mitigation measures (including expanded shutdowns for Rice's whales), which are expected with a high degree of confidence to minimize the duration and intensity of any instances of take that do occur, factor into NMFS' consideration of the potential benefits of any restriction on survey effort in central and western GOA waters 100–400 m depth.

Practicability—NMFS produced a draft RIA in support of the 2018 proposed rule, which evaluated potential costs associated with a range of area-based activity restrictions (available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico>). While the RIA did not directly evaluate the impacts of area-based restrictions for Rice's whales in the central and western GOA, it did consider the impacts of other potential area-based restrictions and in so doing provided a useful framework for considering practicability of area-based restrictions considered in this current rulemaking. The analysis suggested that the analyzed seasonal and year-round area closures would have the potential to generate reductions in leasing, exploration, and subsequent development activity. Although the 2018 draft RIA cautioned that its conclusions were subject to substantial uncertainty, it provided several factors that the likelihood of ultimate impacts to oil and gas production as a result of delays in data collection could be expected to depend upon: (1) oil and gas market conditions; (2) the relative importance of the closure area to oil and gas production; (3) the state of existing data covering the area; and (4) the duration of the closure. For this current rulemaking, NMFS cannot predict factor (1) and does not have complete information regarding factor (3) (though the 2018 draft RIA provides that new surveys are expected to be required to facilitate efficient exploration and development decisions). We can, however, more adequately predict the effects of factors (2) and (4) on the impact of any closure.

Habitat that supports all of the Rice's whale life-history states is generally considered to consist of the aforementioned strip of continental shelf waters within the 100–400 m isobaths throughout the U.S. GOA (Roberts *et al.*, 2016; Garrison *et al.*, 2023; NMFS, 2023). Salinity and surface water velocity are likely predictive of

potential Rice's whale occurrence (Garrison *et al.*, 2023), but these more dynamic variables are less useful in delineating a potential area of importance than the static depth variable. Within this GOA-wide depth range, we focus on the area where Soldevilla *et al.* (2022; 2024) recorded Rice's whale calls as being of interest for a potential restriction. This area lies within the central GOA, where the vast majority of seismic survey effort during NMFS' experience implementing the 2021 rule has occurred. The 2018 proposed rule draft RIA considered the economic impacts of a prospective closure area in deeper waters of the central GOA. The evaluated area was designed to benefit sperm whales and beaked whales, which are found in deep water, and more activity is projected to occur in deep water than in the shelf-break waters where Rice's whale habitat occurs. As such, the 2018 draft RIA analysis likely overestimates the potential impacts of a central or western GOA closure within a portion of the shelf waters considered to be Rice's whale habitat. That said, the draft RIA analysis of deep-water closures in the central GOA suggests that a central GOA closure for Rice's whales could cause significant economic impacts. A key consideration in this finding relates to factor (4), as the analyzed closure for sperm whales and beaked whales was year-round. Similarly here, there is no information to support a temporal component to design of a potential Rice's whale restriction and, therefore, a restriction would appropriately be year-round. As operators have no ability to plan around a year-round restriction, this aspect exacerbates the potential for effects on oil and gas production in the GOA.

We also considered data available specifically for the area under consideration (Rice's whale habitat in the central and western GOA). While Rice's whale habitat (*i.e.*, water depths of 100–400 m on the continental shelf break) contains less oil and gas industry infrastructure than do shallower, more developed waters, and have been subject to less leasing activity than deeper waters with greater expected potential reserves, central and western GOA waters 100–400 m nevertheless host significant industry activity. BOEM provides summary information by water depth bin, including water depths of 201–400 m (see <https://www.data.boem.gov/Main/Default.aspx>). The area covering those depths overlaps 33 active leases, with 17 active platforms and over 1,200 approved applications to drill. In the

past 20 years, over 500 wells have been drilled in water depths of 100–400 m. These data confirm that there is substantial oil and gas industry activity in this area and, therefore, the inability to collect new seismic data could affect oil and gas development given that the oil and gas industry typically uses targeted seismic data to refine geologic analyses before drilling a well. Under the existing rule, NMFS has issued (at the time of writing) 8 LOAs in association with surveys that partially overlapped the central GOA 100–400 m depth band. These surveys support a conclusion that a year-round closure would likely substantially affect future GOA oil and gas activity.

In summary, the foregoing supports that (1) we are unable to delineate specific areas of Rice's whale habitat in the central and western GOA where restrictions on survey activity would be appropriate because there is currently uncertainty about Rice's whale density, abundance, habitat usage patterns and other factors in the central and western GOA; and (2) there is high likelihood that closures or other restrictions on survey activity in all waters of 100–400 m depth in the central and western GOA would have significant economic impacts. Therefore, while new information regarding Rice's whale presence in areas of the GOA outside of the northeastern core habitat suggests that a restriction on survey effort may be expected to reduce adverse impacts to individual whales, there is a lack of information supporting the importance of or appropriately specific timing or location of such a restriction and an unclear understanding of the importance of particular areas to individual whales or the population as a whole. On the other hand, information regarding the potential for economic impacts resulting from a year-round restriction broadly in the 100–400 m area supports our conclusion that there are significant practicability concerns. As a result, NMFS has determined that no additional mitigation is warranted to effect the LPAI on the species.

Entanglement Avoidance

The use of OBN or similar equipment requiring the use of tethers or connecting lines poses an entanglement risk. These measures apply to operators conducting OBN surveys (or surveys using similar equipment), and include: (1) use negatively buoyant coated wire-core tether cable (*e.g.*, 3/4" polyurethane-coated cable with 1/2" wire core); (2) retrieve all lines immediately following completion of the survey; and (3) attach acoustic pingers directly to the coated tether cable. Acoustic releases should

not be used. No unnecessary release lines or lanyards may be used and nylon rope may not be used for any component of the system. Pingers must be attached directly to the nodal tether cable via shackle, with cables retrieved via grapnel. If a lanyard is required it must be as short as possible and made as stiff as possible, *e.g.*, by placing inside a hose sleeve.

Vessel Strike Avoidance

These measures apply to all vessels associated with any survey activity (*e.g.*, source vessels, streamer vessels, chase vessels, supply vessels). However, NMFS notes that these requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply. These measures include the following:

1. Vessel operators and crews must maintain a vigilant watch for all marine mammals and must slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammal. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (distances stated below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.*, PSOs) or crew members, but crew members responsible for these duties must receive sufficient training to (1) distinguish protected species from other phenomena and (2) broadly to identify a marine mammal as a baleen whale, sperm whale, or other marine mammal;

2. Vessel speeds must be reduced to 10 kn or less when mother/calf pairs, pods, or large assemblages of any marine mammal are observed near a vessel;

3. All vessels must maintain a minimum separation distance of 500 m from baleen whales;

4. All vessels must maintain a minimum separation distance of 100 m from sperm whales;

5. All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.*, for animals that approach the vessel); and

6. When marine mammals are sighted while a vessel is underway, the vessel shall take action as necessary to avoid violating the relevant separation distance (*e.g.*, attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction

until the animal has left the area). If marine mammals are sighted within the relevant separation distance, the vessel must reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear or any vessel that is navigationally constrained.

NMFS has carefully evaluated the suite of mitigation measures described here and considered a range of other measures in the context of ensuring that we prescribe the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Based on our evaluation of these measures, we have determined that the required mitigation measures provide the means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an incidental take authorization for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of the authorized taking. NMFS' MMPA implementing regulations further describe the information that an applicant should provide when requesting an authorization (50 CFR 216.104(a)(13)), including the means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and the level of taking or impacts on populations of marine mammals.

Section 101(a)(5)(A) allows that incidental taking may be authorized only if the total of such taking contemplated over the course of 5 years will have a negligible impact on affected species or stocks (a finding based on impacts to annual rates of recruitment and survival) and, further, section 101(a)(5)(B) requires that authorizations issued pursuant to 101(a)(5)(A) be withdrawn or suspended if the total taking is having, or may have, more than a negligible impact (or such information may inform decisions on requests for LOAs under the specific regulations). Therefore, the necessary requirements pertaining to monitoring and reporting must address the total annual impacts to marine mammal species or stocks. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS

should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species in action area (*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 action; 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 important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

NMFS has carefully reviewed the monitoring and reporting requirements prescribed through the current ITRs, and determined that these requirements remain appropriate. We therefore carry forward those requirements, described below, without change.

PSO Eligibility and Qualifications

All PSO resumes must be submitted to NMFS and PSOs must be approved by NMFS after a review of their qualifications. These qualifications include whether the individual has successfully completed the necessary training (see "Training," below) and, if relevant, whether the individual has the requisite experience (and is in good standing). PSOs should provide a current resume and information indicating successful completion of an acceptable PSO training course. In order for a PSO training course to be deemed acceptable by NMFS, the agency must, at minimum, review a course information packet that includes the name and qualifications (*e.g.*, experience, training, or education) of the instructor(s), the course outline or syllabus, and course reference material. Absent a waiver (discussed below),

PSOs must be trained biologists, with the following minimum qualifications:

- A bachelor's degree from an accredited college or university with a major in one of the natural sciences and a minimum of 30 semester hours or equivalent in the biological sciences and at least one undergraduate course in math or statistics; and

- Successful completion of relevant training (described below), including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program.

In addition, it is recommended that PSOs meet the following requirements:

- Experience and ability to conduct field observations and collect data according to assigned protocols (may include academic experience) and experience with data entry on computers;

- Visual acuity in both eyes (vision correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target (required for visual PSOs only);

- Experience or training in the field identification of marine mammals, including the identification of behaviors (required for visual PSOs only);

- Sufficient training, orientation, or experience with the survey operation to ensure personal safety during observations;

- Writing skills sufficient to prepare a report of observations (e.g., description, summary, interpretation, analysis) including but not limited to the number and species of marine mammals observed; marine mammal behavior; and descriptions of activity conducted and implementation of mitigation; and

- Ability to communicate orally, by radio or in person, with survey personnel to provide real-time information on marine mammals detected in the area as necessary.

The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver must include written justification, and prospective PSOs granted waivers must satisfy training requirements described below. Alternate experience that may be considered includes, but is not limited to, the following:

- Secondary education and/or experience comparable to PSO duties;
- Previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; and

- Previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

Training—NMFS does not formally administer any PSO training program or endorse specific providers but will approve PSOs that have successfully completed courses that meet the curriculum and trainer requirements specified herein and, therefore, are deemed acceptable. To be deemed acceptable, training should adhere generally to the recommendations provided by “*National Standards for a Protected Species Observer and Data Management Program: A Model Using Geological and Geophysical Surveys*” (Baker *et al.*, 2013). Those recommendations include the following topics for training programs:

- Life at sea, duties, and authorities;
- Ethics, conflicts of interest, standards of conduct, and data confidentiality;

- Offshore survival and safety training;

- Overview of oil and gas activities (including geophysical data acquisition operations, theory, and principles) and types of relevant sound source technology and equipment;

- Overview of the MMPA and ESA as they relate to protection of marine mammals;

- Mitigation, monitoring, and reporting requirements as they pertain to geophysical surveys;

- Marine mammal identification, biology and behavior;

- Background on underwater sound;

- Visual surveying protocols, distance calculations and determination, cues, and search methods for locating and tracking different marine mammal species (visual PSOs only);

- Optimized deployment and configuration of PAM equipment to ensure effective detections of cetaceans for mitigation purposes (PAM operators only);

- Detection and identification of vocalizing species or cetacean groups (PAM operators only);

- Measuring distance and bearing of vocalizing cetaceans while accounting for vessel movement (PAM operators only);

- Data recording and protocols, including standard forms and reports, determining range, distance, direction, and bearing of marine mammals and vessels; recording GPS location coordinates, weather conditions, Beaufort wind force and sea state, *etc.*;

- Proficiency with relevant software tools;

- Field communication/support with appropriate personnel, and using

communication devices (e.g., two-way radios, satellite phones, internet, email, facsimile);

- Reporting of violations, noncompliance, and coercion; and
- Conflict resolution.

PAM operators should regularly refresh their detection skills through practice with simulation-modeling software and keep up to date with training on the latest software/hardware advances.

Visual Monitoring

The lead PSO is responsible for establishing and maintaining clear lines of communication with vessel crew. The vessel operator shall work with the lead PSO to accomplish this and shall ensure any necessary briefings are provided for vessel crew to understand mitigation requirements and protocols. While on duty, PSOs will continually scan the water surface in all directions around the acoustic source and vessel for presence of marine mammals, using a combination of the naked eye and high-quality binoculars, from optimum vantage points for unimpaired visual observations with minimum distractions. PSOs will collect observational data for all marine mammals observed, regardless of distance from the vessel, including species, group size, presence of calves, distance from vessel and direction of travel, and any observed behavior (including an assessment of behavioral responses to survey activity). Upon observation of marine mammal(s), a PSO will record the observation and monitor the animal's position (including latitude/longitude of the vessel and relative bearing and estimated distance to the animal) until the animal dives or moves out of visual range of the observer, and a PSO will continue to observe the area to watch for the animal to resurface or for additional animals that may surface in the area. PSOs will also record environmental conditions at the beginning and end of the observation period and at the time of any observations, as well as whenever conditions change significantly in the judgment of the PSO on duty.

For all deep penetration surveys, the vessel operator must provide bigeye binoculars of appropriate quality (e.g., 25 x 150; 2.7 view angle; individual ocular focus; height control) solely for PSO use. These should be pedestal-mounted on the deck at the most appropriate vantage point that provides for optimal sea surface observation, PSO safety, and safe operation of the vessel. Other required equipment, which should be made available to PSOs by the third-party observer provider, includes

reticle binoculars of appropriate quality (e.g., 7 x 50), GPS, digital camera with a telephoto lens (the camera or lens should also have an image stabilization system) that is at least 300 mm or equivalent on a full-frame single-lens reflex, compass, and any other tools necessary to adequately perform the tasks described above, including accurate determination of distance and bearing to observed marine mammals.

Acoustic Monitoring

Use of towed PAM is required for deep penetration surveys. Monitoring of a towed PAM system is required at all times for these surveys, from 30 minutes prior to ramp-up, throughout all use of the acoustic source, and for 60 minutes following cessation of survey activity. Towed PAM systems should consist of hardware (e.g., hydrophone array, recorder, cables) and software (e.g., data processing program and algorithm). Some type of automated detection software must be used. Acoustic signals are processed for output to the PAM operator with software designed to detect marine mammal vocalizations. Current PAM technology has some limitations (e.g., limited directional capabilities and detection range, detection of signals due to vessel and flow noise, low accuracy in localization) and there are no formal guidelines currently in place regarding specifications for hardware, software, or operator training requirements.

NMFS' requirement to use PAM refers to the use of calibrated hydrophone arrays with full system redundancy to detect, identify, and estimate distance and bearing to vocalizing cetaceans, to the extent possible. With regard to calibration, the PAM system should have at least one calibrated hydrophone, sufficient for determining whether background noise levels on the towed PAM system are sufficiently low to meet performance expectations. Additionally, if multiple hydrophone types occur in a system (i.e., monitor different bandwidths), then one hydrophone from each such type shall be calibrated, and whenever sets of hydrophones (of the same type) are sufficiently spatially separated such that they would be expected to experience ambient noise environments that differ by 6 dB or more across any integrated species cluster bandwidth, then at least one hydrophone from each set should be calibrated. In terms of calibrating the rest of the system, the signal route to the data recorder and monitoring software shall be calibrated so that the binary amplitude data written to hard disk can be converted into units of acoustic pressure. The configuration of hardware

should be coupled with appropriate software to aid monitoring and listening by a PAM operator skilled in bioacoustics analysis and computer system specifications capable of running appropriate software. GPS data acquisition is recommended for all PAM operations. If the PAM plan (see below) claims an ability to localize, every localization estimate obtained from a PAM system must be accompanied by some estimate of uncertainty and ambiguity.

In the absence of formal standards addressing any of these three facets of PAM technology, all applicants must provide a PAM plan including description of the hardware and software proposed for use prior to proceeding with any survey where PAM is required. Following the survey, a validation document must be submitted as part of required reporting (see below). The purpose of the PAM plan is to demonstrate that the PAM system being proposed for use is adequate for addressing the mitigation goals. The plan shall include methodology and documentation requirements for all stages of the project. PAM plans should, at minimum, adequately address and describe (1) the hardware and software planned for use, including a hardware performance diagram demonstrating that the sensitivity and dynamic range of the hardware is appropriate for the operation; (2) deployment methodology, including target depth/tow distance; (3) definitions of expected operational conditions, used to summarize background noise statistics; (4) proposed detection-classification-localization methodology, including anticipated species clusters (using a cluster definition table), target minimum detection range for each cluster, and the proposed localization method for each cluster; (5) operation plans, including the background noise sampling schedule; (6) array design considerations for noise abatement; and (7) cluster-specific details regarding which real-time displays and automated detectors the operator would monitor. Where relevant, the plan should address the potential for PAM deployment on a receiver vessel or other associated vessel separate from the acoustic source.

Species clusters—The PAM plan shall list the species of concern during the upcoming operation. While some species may be listed individually for special attention, in many circumstances it is expected that for the purposes of a PAM operation multiple species can be grouped together in a “cluster” that shares similar acoustic and behavioral characteristics (e.g., sperm whale, beaked whales). The plan

must specify a target minimum detection (and possibly localization) range for each species cluster used in the document. Different ranges can be defined for different operational conditions. The PAM system may exceed this detection range, but shall always be capable of achieving this minimum detection range.

Hardware and software specifications—The PAM plan shall have a section dedicated to demonstrating that the PAM hardware is sensitive enough to detect signals from the species clusters of concern at the target minimum detection ranges specified. The plan should include a hardware specification table and hardware performance diagram. The diagram will show the sensitivity and bandwidth of the combined array hardware and recording system, as well as the received levels required for a given species cluster to be detectable at the target minimum detection range. The overall goal of the diagram is to visually demonstrate that the planned PAM array/recording system would have the capability of detecting various species clusters at required target ranges, provided that background noise levels are not an issue.

Operational conditions—The validation document should demonstrate whether the PAM system has been compromised by excessive background noise, whether that noise is electronic interference, flow, platform, or environmental noise. Therefore, the PAM plan shall define a set of “operational conditions” under which detection statistics (background noise profiles) will be categorized during the project. Operational conditions consist of three categories: platform activity and status, mitigation (activity) status, and environmental status.

Operating procedures—The PAM plan shall describe the level of effort that is reasonably expected to occur for the monitoring requirements. For every species cluster, the plan should detail which part of the PAM display would be used for detecting that cluster. For example, if a scrolling spectrogram display is being used for a species cluster, then the spectrogram's fast Fourier transform sample size, frequency bandwidth, and their refresh rate shall be specified. Similar details would be provided for other software tools, such as click detectors and other automated detectors and classifiers. The plan shall also provide a screenshot of the expected monitor display.

In coordination with vessel crew, the lead PAM operator will be responsible for deployment, retrieval, and testing and optimization of the hydrophone

array. While on duty, the PAM operator must diligently listen to received signals and/or monitoring display screens in order to detect vocalizing cetaceans, except as required to attend to PAM equipment. The PAM operator must use appropriate sample analysis and filtering techniques and must report all cetacean detections. NMFS recommends that vessel self-noise assessments be undertaken during mobilization in order to optimize PAM array configuration according to the specific noise characteristics of the vessel and equipment involved, and to refine expectations for distance/bearing estimations for cetacean species during the survey. Copies of any vessel self-noise assessment reports must be included with the summary trip report.

Data Collection

PSOs must use standardized electronic data forms. PSOs will record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source to resume survey. If required mitigation was not implemented, PSOs should submit a description of the circumstances. NMFS requires that, at a minimum, the following information be reported:

- Vessel names (source vessel and other vessels associated with survey), vessel size and type, maximum speed capability of vessel, port of origin, and call signs;
- PSO names and affiliations;
- Dates of departures and returns to port with port name;
- Dates and participants of PSO briefings;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort begins and ends and vessel location at beginning and end of visual PSO duty shifts
- Vessel location at 30 second intervals (if software capability allows) or 5-minute intervals (if location must be manually recorded);
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including

Beaufort scale and any other relevant weather conditions including cloud cover, fog, sun glare, night, and overall visibility to the horizon;

- Vessel location when environmental conditions change significantly;
- Factors that may have contributed to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.*, vessel traffic, equipment malfunctions);
- Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in an array, tow depth of an acoustic source, and any other notes of significance (*i.e.*, pre-clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, *etc.*);

• If a marine mammal is sighted, the following information should be recorded:

- Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
- PSO who sighted the animal and PSO location (including height above water) at time of sighting;
- Time of sighting;
- Vessel location at time of sighting;
- Water depth;
- Direction of vessel's travel (compass direction);
- Direction of animal's travel relative to the vessel;
- Pace of the animal;
- Estimated distance to the animal (and method of estimating distance) and its heading relative to vessel at initial sighting;
- Identification of the animal (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified) and PSO confidence in identification; also note the composition of the group if there is a mix of species;
- Estimated number of animals (high/low/best);
- Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, *etc.*);
- Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
- Detailed behavior observations (*e.g.*, number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
- Animal's closest point of approach (CPA) and/or closest distance from the acoustic source;

○ Platform activity at time of sighting (*e.g.*, deploying, recovering, testing, shooting, data acquisition, other); and

○ Description of any actions implemented in response to the sighting (*e.g.*, delays, shutdown, ramp-up); time and location of the action should also be recorded;

• If a marine mammal is detected while using the PAM system, the following information should be recorded:

- An acoustic encounter identification number, and whether the detection was linked with a visual sighting;
- Time when first and last heard;
- Types and nature of sounds heard (*e.g.*, clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal); and
- Any additional information recorded such as water depth of the hydrophone array, bearing of the animal to the vessel (if determinable), species or taxonomic group (if determinable), spectrogram screenshot, and any other notable information.

LOA Reporting

PSO effort, survey details, and sightings data should be recorded continuously during surveys. Reports must include all information described above under "Data Collection," including amount and location of line-kms surveyed and all marine mammal observations with closest approach distance. Draft reports must be submitted to NMFS within 90 days of survey completion or following expiration of an issued LOA. In the event that an LOA is issued for a period exceeding 1 year, annual reports must be submitted during the period of validity. The draft report must be accompanied by a certification from lead PSOs as to the accuracy of the report. A final report must be submitted within 30 days following resolution of any comments on the draft report.

The report must describe the operations conducted and sightings of marine mammals near the operations; provide full documentation of methods, results, and interpretation pertaining to all monitoring; summarize the dates and locations of survey operations, and all marine mammal sightings (dates, times, locations, activities, associated survey activities); and provide information regarding locations where the acoustic source was used. The LOA-holder shall provide geo-referenced time-stamped vessel tracklines for all time periods in which airguns (full array or single) were operating. Tracklines should include points recording any change in airgun status (*e.g.*, when the airguns began

operating, when they were turned off). GIS files shall be provided in ESRI shapefile format and include the UTC date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates should be referenced to the WGS84 geographic coordinate system. In addition to the report, all raw observational data shall be made available to NMFS.

This report must also include a validation document concerning the use of PAM (if PAM was required), which should include necessary noise validation diagrams (NVD) and demonstrate whether background noise levels on the PAM deployment limited achievement of the planned detection goals. A separate diagram should be produced for every background noise percentile chosen for analysis. Background noise percentiles, rather than a simple average of the data, are required because the highly non-stationary characteristics of many background noise profiles cannot be described by a simple mean. For example, data collected during a seismic survey will have short periods of time containing high-intensity pulses and longer periods of time dominated by lower levels of reverberation. Taking a simple mean of these noise data would imply background noise levels substantially higher than what may actually have been present between seismic pulses. A validation report would typically contain between three to five diagrams, depending on the number of percentiles analyzed. At a minimum, the validation report should contain three diagrams that include the 50th percentile (median), 5th percentile, and 95th percentile. The 25th percentile and 75th percentile may also be included. In each percentile diagram, a separate background noise curve shall be drawn for each defined operational condition. In general, the NVD should be generated from the data stream that is used for detecting the presence of marine mammal signals. For example, if beamforming or some other form of array gain has been applied before invoking signal detection, then the NVD should be generated using the beamformed data, and not omnidirectional data. The complete set of NVDs, one for each percentile of interest, combined with a table that lists the fraction of time the activity was in each operational state, provides a means of reviewing the background noise-limitations encountered by the PAM system during various operational conditions. Actual marine mammal detections should be plotted on this diagram for a reasonableness check on

the expected received levels. Overall, the validation document should reiterate all the goals and parameters stated in the planning document and verify that goals were/were not met, why, changes, etc. The validation document also should state whether the planning was suited to the needs of the survey and met the required mitigation standards.

The report must include a post-survey estimate of the instances of take of each species utilizing the line miles of survey actually conducted and the same methods used to initially predict the estimated take in the LOA application. Depending on the length and dates of the survey, LOA-holders may be required to segment take estimates into specific years to support the administration of the rule.

Comprehensive Reporting

Individual LOA-holders will be responsible for collecting and submitting monitoring data to NMFS, as described above. In addition, on an annual basis, LOA-holders will also collectively be responsible for compilation and analysis of those data for inclusion in subsequent annual synthesis reports. Individual LOA-holders may collaborate to produce this report or may elect to have their trade associations support the production of such a report. These reports would summarize the data presented in the individual LOA-holder reports, provide analysis of these synthesized results, discuss the implementation of required mitigation, and present any recommendations. This comprehensive annual report would be the basis of an annual adaptive management process (described below in Adaptive Management). The following topics will be described in comprehensive reporting:

- Summary of geophysical survey activity by survey type, geographic zone (*i.e.*, the seven zones described in the modeling report), month, and acoustic source status (*e.g.*, inactive, ramp-up, full-power, power-down);
- Summary of monitoring effort (on-effort hours and/or distance) by acoustic source status, location, and visibility conditions (for both visual and acoustic monitoring);
- Summary of mitigation measures implemented (*e.g.*, delayed ramp-ups, shutdowns, course alterations for vessel strike avoidance) by survey type and location;
- Sighting rates of marine mammals during periods with and without acoustic source activities and other variables that could affect detectability of marine mammals, such as:

- Initial sighting distances of marine mammals relative to source status;
- Closest point of approach of marine mammals relative to source status;
- Observed behaviors and types of movements of marine mammals relative to source status;
- Distribution/presence of marine mammals around the survey vessel relative to source status; and
- Analysis of the effects of various factors influencing the detectability of marine mammals (*e.g.*, wind speed, sea state, swell height, presence of glare or fog).
- Estimates of total take across all activities for which take is authorized based on actual survey effort and original estimation method;
- Summary and conclusions from monitoring in previous year; and
- Recommendations for adaptive management.

Each annual comprehensive report should cover 1 full year of monitoring effort and must be submitted for review each year. Each report should analyze survey and monitoring effort described in reports submitted by individual LOA-holders during a given 1 year period, beginning from the date of effectiveness of these regulations. Each annual comprehensive report must be submitted for review 90 days following conclusion of the annual reporting period.

Reporting Injured or Dead Marine Mammals

Discovery of Injured or Dead Marine Mammal—In the event that personnel involved in the survey activities covered by the authorization discover an injured or dead marine mammal, the LOA-holder shall report the incident to OPR, NMFS and to the regional stranding network as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Vessel Strike—In the event of a ship strike of a marine mammal by any vessel involved in the activities covered by the authorization, the LOA-holder shall report the incident to OPR, NMFS and to the regional stranding network as

soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Species identification (if known) or description of the animal(s) involved;
- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what operations were being conducted (if applicable);
- Status of all sound sources in use;
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
- Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
- Estimated size and length of animal that was struck;
- Description of the behavior of the marine mammal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;
- Estimated fate of the animal (*e.g.*, dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and
- To the extent practicable, photographs or video footage of the animal(s).

Actions To Minimize Additional Harm to Live-Stranded (or Milling) Marine Mammals

For deep penetration surveys, in the event of a live stranding (or near-shore atypical milling) event within 50 km of the survey operations, where the NMFS stranding network is engaged in herding or other interventions to return animals to the water, the Director of OPR, NMFS (or designee) will advise the LOA-holder of the need to implement shutdown procedures for all active acoustic sources operating within 50 km of the stranding. Shutdown procedures for live stranding or milling marine mammals include the following:

- If at any time, the marine mammals die or are euthanized, or if herding/intervention efforts are stopped, the Director of OPR, NMFS (or designee) will advise the LOA-holder that the shutdown around the animals' location is no longer needed.

- Otherwise, shutdown procedures will remain in effect until the Director of OPR, NMFS (or designee) determines and advises the LOA-holder that all live animals involved have left the area (either of their own volition or following an intervention).

- If further observations of the marine mammals indicate the potential for re-stranding, additional coordination with the LOA-holder will be required to determine what measures are necessary to minimize that likelihood (*e.g.*, extending the shutdown or moving operations farther away) and to implement those measures as appropriate.

Shutdown procedures are not related to the investigation of the cause of the stranding and their implementation is not intended to imply that the specified activity is the cause of the stranding. Rather, shutdown procedures are intended to protect marine mammals exhibiting indicators of distress by minimizing their exposure to possible additional stressors, regardless of the factors that contributed to the stranding.

Additional Information Requests—If NMFS determines that the circumstances of any marine mammal stranding found in the vicinity of the activity suggest investigation of the association with survey activities is warranted (example circumstances noted below), and an investigation into the stranding is being pursued, NMFS will submit a written request to the LOA-holder indicating that the following initial available information must be provided as soon as possible, but no later than 7 business days after the request for information.

- Status of all sound source use in the 48 hours preceding the estimated time of stranding and within 50 km of the discovery/notification of the stranding by NMFS; and
- If available, description of the behavior of any marine mammal(s) observed preceding (*i.e.*, within 48 hours and 50 km) and immediately after the discovery of the stranding.

Examples of circumstances that could trigger the additional information request include, but are not limited to, the following:

- Atypical nearshore milling events of live cetaceans;
- Mass strandings of cetaceans (two or more individuals, not including cow/calf pairs);
- Beaked whale strandings; or,
- Necropsies with findings of pathologies that are unusual for the species or area.

In the event that the investigation is still inconclusive, the investigation of the association of the survey activities is still warranted, and the investigation is still being pursued, NMFS may provide additional information requests, in writing, regarding the nature and location of survey operations prior to the time period above.

Negligible Impact Analysis and Determinations

NMFS' implementing regulations define negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base a negligible impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" by mortality, serious injury, and Level A or Level B harassment, we consider other factors, such as the type of take, the likely nature of any behavioral responses (*e.g.*, intensity, duration), the context of any such responses (*e.g.*, critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into these analyses via their impacts on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality).

For each potential activity-related stressor, NMFS considers the potential effects to marine mammals and the likely significance of those effects to the species or stock as a whole. Potential risk due to vessel collision in view of the related mitigation measures, as well as potential risk due to entanglement and contaminant spills, were addressed in the Mitigation section and in the Potential Effects of the Specified Activity on Marine Mammals section of the notice of proposed rulemaking (91 FR 9014, February 24, 2026), respectively, and are not discussed further, as there are minimal risks expected from these potential stressors.

The "specified activity" for this rule continues to be a broad program of geophysical survey activity that could occur at any time of year in U.S. waters of the GOA, within the same specified geographical region as the 2021 final rule (*i.e.*, U.S. waters of the GOA, excluding the former GOMESA leasing moratorium area). We rely upon the

acoustic exposure modeling developed to support the 2021 final rule and ITRs, as updated for the 2024 corrective rule, which provides marine mammal noise exposure estimates based on projections of future survey effort and best available modeling of sound propagation, animal distribution, and animal movement. This information provides a best estimate of potential acute noise exposure events that may result from the described suite of activities.

Overview of Negligible Impact

Analysis—In recognition of the broad geographic and temporal scale of this activity, we again apply an analytical methodology through which an explicit, systematic risk assessment framework is used to evaluate potential effects of aggregated discrete acoustic exposure events (*i.e.*, geophysical survey activities) on marine mammals, which is in turn used in the negligible impact analysis. This risk assessment framework was described by Southall *et al.* (2017) (available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas>) and applied in support of the 2021 rule.

The systematic risk assessment framework uses the modeling results to put into biologically-relevant context the level of potential risk of injury and/or behavioral impacts to marine mammals. The framework considers both the aggregation of acute effects and the broad temporal and spatial scales over which chronic effects may occur. Generally, this approach is a relativistic risk assessment that provides an interpretation of the exposure estimates within the context of key biological and population parameters (*e.g.*, population size, life history factors, compensatory ability of the species, animal behavioral state, aversion), as well as other biological, environmental, and anthropogenic factors. This analysis was performed on a species-specific basis within each modeling zone (figure 1), and the end result provides an indication of the biological significance of the evaluated exposure numbers for each affected marine mammal stock (*i.e.*, yielding the severity of impact and vulnerability of stock/population information), and forecasts the likelihood of any such impact. This result is expressed as relative impact ratings of overall risk that couple (1) potential severity of effect on a stock, and (2) likely vulnerability of the population to the consequences of those effects, given biologically relevant information (*e.g.*, compensatory ability).

Spectral, temporal, and spatial overlaps between survey activities and animal distribution/hearing sensitivity

are the primary factors that drive the type, magnitude, and severity of potential effects on marine mammals, and these considerations are integrated into both the severity and vulnerability assessments. The risk assessment framework utilizes a strategic approach to balance the weight of these considerations between the two assessments, specifying and clarifying where and how the interactions between potential disturbance and species within these dimensions are evaluated.

This risk assessment framework is one component of the negligible impact analysis. As we explain more below, overall risk ratings from the risk assessment are then considered in conjunction with the required mitigation and any additional relevant contextual information such as the nature of the takes to ultimately inform our negligible impact determinations. Elements of this approach are subjective and relative within the context of this program of projected survey activity and, overall, the analysis necessarily requires the application of professional judgment.

Our negligible impact analyses begin with the risk assessment framework, which comprehensively considers the aggregate impacts to marine mammal populations from the specified activities in the context of both the severity of the impacts and the vulnerability of the affected species. However, it does not consider the effects of the mitigation required through the regulations in identifying risk ratings for the affected species. In addition, while the risk assessment framework comprehensively considers the spatial and temporal overlay of the activities and the marine mammals in the GOA, as well as the number of predicted takes, there are details about the nature of any “take” anticipated to result from these activities that were not considered directly in the framework analysis that warrant explicit consideration in the negligible impact determination.

Accordingly, following the description of the framework analysis presented below, NMFS highlights a few factors regarding the nature of the predicted “takes,” then synthesizes the results of implementation of the framework, the additional factors regarding the nature of the predicted takes, and the anticipated effects of the mitigation to consider the negligible impact determination for each of the species considered here. The risk assessment analysis below is performed for 2 representative years, one representing a relatively high-effort scenario (Year 1 of the effective period of rule) and the other representing a

moderate-effort scenario (Year 4 of the rule). Please see table 1 for details regarding level of effort projections.

Risk Assessment Framework: Severity of Effect

Severity ratings consider the scaled Level B harassment takes relative to zone-specific population abundance to evaluate the severity of effect. As described above in Estimated Take, a significant model assumption was that populations of animals were reset for each 24-hour period. Exposure estimates for the 24-hour period were then aggregated across all assumed survey days as completely independent events, assuming populations turn over completely within each large zone on a daily basis. In order to evaluate modeled daily exposures and determine more realistic exposure probabilities for individuals across multiple days, we used information on species-typical movement behavior to determine a species-typical offset of modeled daily exposures, described under Estimated Take. Given that many of the evaluated survey activities occur for 30-day or longer periods, particularly some of the larger surveys for which the majority of the modeled exposures occur, this scaling process is appropriate to evaluate the likely severity of the predicted exposures (although, for surveys significantly longer than 30 days, the take numbers with this scaling applied would still be expected to overestimate the number of individuals, given the greater degree of repeat exposures that would be expected the longer the survey goes on). This scaling output was used in a severity assessment. This approach is also discussed in more detail in the Southall *et al.* (2017) report.

The scaled Level B harassment takes were then rated through a population-dependent binning system. For each species, scaled takes were divided by the zone-specific predicted abundance, and these proportions were used to evaluate the relative severity of modeled exposures based on the distribution of values across species to evaluate risk associated with behavioral disruption across species—a simple, logical means of evaluating relative risk across species and areas. Relative risk ratings using percent of area population size were defined as follows:

- Very high—Adjusted Level B harassment takes greater than 800 percent of zone-specific population;
- High—Adjusted Level B harassment takes 401–800 percent of zone-specific population;

- Moderate—Adjusted Level B harassment takes 201–400 percent of zone-specific population;

- Low—Adjusted Level B harassment takes 100–200 percent of zone-specific population; and

- Very low—Adjusted Level B harassment takes less than 100 percent of zone-specific population.

Results of the severity ratings are shown in table 9. Level A harassment (including PTS) is not expected to occur for any of the species evaluated here,

with the exception of *Kogia* spp. Estimated takes by Level A harassment for *Kogia* spp. are discussed in further detail in the species-specific sections below.

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Table 9 -- Severity Assessment Rating

Species	Zone 1 ¹		Zone 2		Zone 3		Zone 4 ¹		Zone 5		Zone 6		Zone 7	
	H	M	H	M	H	M	H	M	H	M	H	M	H	M
Rice's whale	VL	VL	VL	VL	VL	VL	VL	VL	VL	VL	VL	VL	n/a	n/a
Sperm whale	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	H	M	L	L	L
<i>Kogia</i> spp.	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	M	M	L	L	VL
Beaked whales	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	VH	VH	VL	VL	VL	VL
Rough-toothed dolphin	VL	VL	L	M	VL	VL	VL	VL	H	H	M	L	L	L
Bottlenose dolphin	VL	VL	L	M	VL	VL	VL	VL	M	M	L	VL	n/a	n/a
Clymene dolphin	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	H	M	L	L	VL
Atlantic spotted dolphin	VL	VL	M	H	VL	VL	VL	VL	H	M	M	L	n/a	n/a
Pantropical spotted dolphin	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	H	M	L	L	VL
Spinner dolphin	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	H	n/a	n/a	VL	VL
Striped dolphin	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	H	M	L	L	VL
Fraser's dolphin	VL	VL	VL	VL	VL	VL	VL	VL	H	H	M	L	L	L
Risso's dolphin	n/a	n/a	VL	VL	n/a	n/a	VL	VL	H	M	M	L	L	VL
Short-finned pilot whale	n/a	n/a	VL	VL	VL	VL	VL	VL	H	M	M	L	VL	VL
Blackfish	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	H	M	L	L	L

H = Year 1 (representative high effort scenario); M = Year 4 (representative moderate effort scenario)

n/a = less than 0.05 percent of GOA-wide population predicted in zone

VL = very low; L = low; M = moderate; H = high; VH = very high

¹ No activity would occur in Zone 1, and no activity is projected in Zone 4 under the high effort scenario.

With no activity in a zone, severity is assumed to be very low.

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*Risk Assessment Framework:
Vulnerability of Affected Population*

Vulnerability rating seeks to evaluate the relative risk of a predicted effect given species-typical and population-specific parameters (e.g., species-specific life history, population factors) and other relevant interacting factors (e.g., human or other environmental stressors). The assessment includes consideration of four categories within

two overarching risk factors (species-specific biological and environmental risk factors). These values were selected to capture key aspects of the importance of spatial (geographic), spectral (frequency content of noise in relation to species-typical hearing and sound communications), and temporal relationships between sound and receivers. Explicit numerical criteria for identifying scores were specified where possible, but in some cases qualitative judgments, based on a reasonable

interpretation of given aspects of the specified activity and how it relates to the species in question and the environment within the specified area, were required. The vulnerability assessment includes factors related to population status, habitat use and compensatory ability, masking, and other stressors. These factors were detailed in Southall *et al.* (2017), and species-specific ratings were updated as appropriate in the 2024 final rule. There is no new information that would

change the species-specific vulnerability assessment ratings since the 2024 final rule, which are shown in table 10. Note that the effects of the DWH oil spill are accounted for through a non-noise chronic anthropogenic risk factor, while the effects to acoustic habitat and on

individual animal behavior via masking are accounted for through the masking and chronic anthropogenic noise risk factors. Note that, as there are certain species-specific elements of the vulnerability assessment, we evaluated each of the four species contained

within the blackfish group. For purposes of evaluating relative risk, we assume that the greatest vulnerability (assessed for melon-headed whale) applies to each species in the blackfish group.

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Table 10 -- Vulnerability Assessment Ratings

Species	Zone						
	1	2	3	4	5	6	7
Rice's whale	H	H	M	H	H	H	n/a
Sperm whale	n/a	n/a	n/a	M	H	M	M
<i>Kogia</i> spp.	n/a	n/a	n/a	L	L	L	L
Beaked whale	n/a	n/a	n/a	L	L	L	L
Rough-toothed dolphin	L	L	L	L	L	L	L
Bottlenose dolphin	L	L	L	VL	L	VL	n/a
Clymene dolphin	n/a	n/a	n/a	L	L	L	L
Atlantic spotted dolphin	M	M	L	L	L	L	n/a
Pantropical spotted dolphin	n/a	n/a	n/a	L	L	L	L
Spinner dolphin	n/a	n/a	n/a	L	L	n/a	L
Striped dolphin	n/a	n/a	n/a	L	L	L	L
Fraser's dolphin	L	L	VL	L	L	L	L
Risso's dolphin	n/a	L	n/a	M	M	M	L
Melon-headed whale	n/a	n/a	n/a	L	M	L	L
Pygmy killer whale	n/a	n/a	n/a	L	L	L	L
False killer whale	n/a	n/a	n/a	L	L	L	L
Killer whale	n/a	n/a	n/a	L	L	L	L
Short-finned pilot whale	n/a	M	L	M	M	M	L

n/a = less than 0.05% of GOA-wide population predicted in zone

VL = very low; L = low; M = moderate; H = high; VH = very high

Risk Assessment Framework: Risk Ratings

In the final step of the framework, severity and vulnerability ratings are integrated to provide relative impact ratings of overall risk, *i.e.*, relative risk ratings. Severity and vulnerability assessments each produce a numerical

rating (1–5) corresponding with the qualitative rating (*i.e.*, very low, low, moderate, high, very high). A matrix is then used to integrate these two scores to provide an overall risk assessment rating for each species. The matrix is shown in table 2 of Southall *et al.*

(2017).

Table 11 provides relative impact ratings for overall risk by zone and activity effort scenario (high and moderate), and table 12 provides GOA-wide relative impact ratings for overall risk for representative high and moderate effort scenarios.

Table 11 -- Overall Evaluated Risk by Zone and Activity Scenario

Species	Zone 1 ¹		Zone 2		Zone 3		Zone 4 ¹		Zone 5		Zone 6		Zone 7	
	H	M	H	M	H	M	H	M	H	M	H	M	H	M
Rice's whale	L	L	L	L	L	L	L	L	L	L	L	L	n/a	n/a
Sperm whale	n/a	n/a	n/a	n/a	n/a	n/a	L	L	VH	VH	M	L	L	L
<i>Kogia</i> spp.	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	M	M	L	L	VL
Beaked whale	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	VH	VH	VL	VL	VL	VL
Rough-toothed dolphin	VL	VL	L	M	VL	VL	VL	VL	H	H	M	L	L	L
Bottlenose dolphin	VL	VL	L	M	VL	VL	VL	VL	H	M	M	VL	n/a	n/a
Clymene dolphin	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	H	M	L	L	VL
Atlantic spotted dolphin	L	L	M	H	VL	VL	VL	VL	H	M	M	L	n/a	n/a
Pantropical spotted dolphin	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	H	M	L	L	VL
Spinner dolphin	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	H	n/a	n/a	VL	VL
Striped dolphin	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	H	M	L	L	L
Fraser's dolphin	VL	VL	VL	VL	VL	VL	VL	VL	H	H	M	L	L	L
Risso's dolphin	n/a	n/a	VL	VL	n/a	n/a	L	L	H	H	M	L	L	VL
Short-finned pilot whale	n/a	n/a	L	L	VL	VL	L	L	H	M	M	L	VL	VL
Blackfish	n/a	n/a	n/a	n/a	n/a	n/a	VL	VL	H	H	M	L	L	L

H = Year 1 (representative high effort scenario); M = Year 4 (representative moderate effort scenario)

n/a = less than 0.05 percent of GOA-wide population predicted in zone

VL = very low; L = low; M = moderate; H = high; VH = very high

¹ No activity would occur in Zone 1, and no activity is projected in Zone 4 under the high effort scenario. With no activity in a zone, severity is assumed to be very low.

Table 12 -- Overall Evaluated Risk by Projected Activity Scenario, GOA-wide

Species	High effort scenario (Year 1)	Moderate effort scenario (Year 4)
Rice's whale	Low	Low
Sperm whale	Low/Moderate ¹	Low
<i>Kogia</i> spp.	Low/Moderate ¹	Very Low/Low ¹
Beaked whales	Very Low	Very Low
Rough-toothed dolphin	Low	Low
Bottlenose dolphin (shelf/coastal)	Very low	Very low
Bottlenose dolphin (oceanic)	Very low	Very low
Clymene dolphin	Low/Moderate ¹	Very Low/Low ¹
Atlantic spotted dolphin	Low/Moderate ¹	Low
Pantropical spotted dolphin	Low/Moderate ¹	Very Low/Low ¹
Spinner dolphin	Very low	Very low
Striped dolphin	Low/Moderate ¹	Low
Fraser's dolphin	Very low	Very low
Risso's dolphin	Low	Low
Short-finned pilot whale	Low	Low
Blackfish	Low/Moderate	Low

¹For these ratings, the median value across zones for the scenario fell between two ratings.

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In order to characterize the relative risk for each species across their entire range in the GOA, we used the median of the seven zone-specific risk ratings for each activity scenario (high and moderate effort), not counting those in which less than 0.05 percent of the GOA-wide abundance occurred ("n/a" in table 11), to describe a GOA-wide risk rating for each of the representative activity scenarios (table 12).

Overall, the results of the risk assessment show that (as expected) risk is highly correlated with effort and density. Areas where little or no survey activity is predicted to occur or areas within which few or no animals of a particular species are believed to occur generally have very low or no potential

risk of negatively affecting marine mammals, as seen across activity scenarios in Zones 1–4 (no activity will occur in Zone 1, which was entirely removed from scope of the rule, and less than 2 percent of Zone 4 remains within scope of the rule). Fewer species are expected to be present in Zones 1–3, where only bottlenose and Atlantic spotted dolphins occur in meaningful numbers. Areas with consistently high projected levels of effort (Zones 5–7) are generally predicted to have higher overall evaluated risk across all species. In Zone 7, animals are expected to be subject to less other chronic noise and non-noise stressors, which is reflected in the vulnerability scoring for that zone. Therefore, despite consistently

high levels of projected effort, overall rankings for Zone 7 are lower than for Zones 5 and 6.

Zone 5 is the only zone with "very high" levels of risk due to behavioral disturbance, identified for two species of particular concern (beaked and sperm whales) due to assumed greater sensitivity to the effects of noise exposure. For sperm whales, this sensitivity is manifest through typically higher vulnerability scoring, whereas the assumed sensitivity of beaked whales to noise exposure is expressed through the application of behavioral harassment criteria (table 4) and, therefore, relatively high estimated take numbers (note that, overall, relative risk for beaked whales is evaluated as "very

low” based on “very low” relative risk ratings under both scenarios in all zones other than Zone 5). A “high” level of relative risk due to behavioral disturbance was identified in Zone 5 under both scenarios for most species (excepting Rice’s whale (both scenarios) and *Kogia* spp., bottlenose dolphin, Atlantic spotted dolphin, and short-finned pilot whale (moderate effort scenario only)). Outside of Zone 5, there is no relative risk evaluated as greater than “moderate” for any species or scenario (excepting Atlantic spotted dolphin in Zone 2). Overall, the greatest relative risk across species is generally seen in Zone 5 (both scenarios) and in Zone 6 (under the high effort scenario).

When considered across both representative activity scenarios (table 12), no species is considered to have even relatively moderate risk, though several species are evaluated as having low to moderate relative risk under the high effort scenario. The rest of the species have no more than low to very low risk under either scenario. Beaked whales, shelf/coastal and oceanic bottlenose dolphin stocks, spinner dolphins, and Fraser’s dolphins are assessed as having no greater than very low relative risk under any scenario.

Although the scores generated by the risk assessment framework and further aggregated across zones (as described above) are species- or guild-specific, additional stock-specific information is also considered in our analysis, where appropriate, as indicated in the Description of Marine Mammals in the Area of the Specified Activity and Mitigation sections, as well as in the Potential Effects of the Specified Activity on Marine Mammals and Their Habitat section of the proposed rule.

Duration of Level B Harassment Exposures

In order to more fully place the predicted amount of take into meaningful context, it is useful to understand the duration of exposure at or above a given level of received sound, as well as the likely number of repeated exposures across days. The accounting of Level B harassment take estimates in the risk assessment framework does not make any distinction between fleeting exposures and more severe encounters in which an animal may be exposed to that received level of sound for a longer period of time. Yet, this information is meaningful to an understanding of the likely severity of the exposure, which is relevant to the negligible impact evaluation and not directly incorporated into the risk assessment framework. Each animal modeled has a record or time history of received levels of sound over the course of the modeled 24-hour period. For example, for the four blackfish species exposed to noise from 3D WAZ surveys, the 50th percentile of the cumulative distribution function indicates that the time spent exposed to levels of sound above 160 dB rms SPL (*i.e.*, the 50 percent midpoint for Level B harassment) would range from only 1.4 to 3.3 minutes—a minimal amount of exposure carrying little potential for significant disruption of behavioral activity. We provide summary information for the species evaluated here regarding the total average time in a 24-hour period that an animal would spend with received levels above 160 dB (the threshold at which 50 percent of the exposed population is considered taken) and between 140 and 160 dB (where 10 percent of the exposed population is considered taken) in table 13.

Additionally, by comparing exposure estimates generated by multiplying 24-hour exposure estimates by the total number of survey days versus modeling for a full 30-day survey duration for six representative species, we were able to refine the exposure estimates to better reflect the number of individuals exposed above threshold within a single survey. Using this same comparison and scalar ratios described earlier, we are able to predict an average number of days that each of the representative species modeled in the test scenario will be exposed above the Level B harassment thresholds within a single survey. As with the duration of exposures discussed above, the number of repeated exposures is important to an understanding of the severity of effects. For example, the ratio for dolphins indicates that the 30-day modeling showed that approximately 29 percent as many individual dolphins (compared to the results produced by multiplying average 24-hour exposure results by the 30-day survey duration) could be expected to be exposed above harassment thresholds. However, scaling up the 24-hour exposure estimates appropriately reflects the instances of exposure above threshold (which cannot be more than 1 in 24 hours), so the inverse of the scalar ratio suggests the average number of days in the 30-day modeling period that any given dolphin is exposed above threshold is approximately 3.5. It is important to remember that this is an average within a given survey, and that it is more likely some individuals would be exposed on fewer days and some on more. Table 13 reflects the average days exposed above threshold for the indicated species after the scalar ratios were applied.

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Table 13 -- Time in Minutes (Per Day) Spent Above Thresholds (50th Percentile) and Average Number of Days Individuals Taken During 30-day Survey

Species	Survey type and time (min/day) above 160 dB rms (50% take)				Survey type and time (min/day) above 140 dB rms (10% take)				Average number of days “taken” during 30-day survey
	2D	3D NAZ	3D WAZ	Coil	2D	3D NAZ	3D WAZ	Coil	
Rice’s whale	7.6	18.2	6.8	21.4	61.7	163.5	55.4	401.1	5.3
Sperm whale	5.2	10.3	4.0	20.7	12.0	31.8	10.7	25.2	2.4
<i>Kogia</i> spp.	3.2	7.9	2.8	15.3	7.6	19.0	6.7	13.9	3.1
Beaked whale	6.0	12.4	4.4	24.0	16.2	39.7	14.1	31.1	9.9
Rough-toothed dolphin	3.0	6.3	2.5	11.4	11.2	27.6	10.2	20.9	3.5
Bottlenose dolphin	4.5	11.7	4.0	16.8	22.0	54.6	19.7	53.2	3.5
Clymene dolphin	1.8	3.9	1.6	8.7	8.0	21.1	7.2	20.4	3.5
Atlantic spotted dolphin	7.0	16.0	6.5	25.7	23.4	58.1	20.9	49.3	3.5
Pantropical spotted dolphin	1.8	4.1	1.6	8.7	8.1	21.0	7.1	22.2	3.5
Spinner dolphin	3.2	8.5	2.7	16.4	12.4	31.0	10.8	22.8	3.5
Striped dolphin	1.8	4.0	1.6	8.5	8.0	21.0	7.2	21.3	3.5
Fraser’s dolphin	2.8	6.4	2.4	13.8	9.4	24.2	8.4	24.0	3.5
Risso’s dolphin	3.4	8.4	2.9	15.3	13.8	37.7	12.2	31.5	3.5
Melon-headed whale	2.6	5.9	2.2	13.1	9.3	24.2	8.3	24.0	3.4
Pygmy killer whale	1.8	3.6	1.4	7.1	7.3	18.5	6.6	17.3	3.4
False killer whale	2.4	4.9	1.9	9.3	8.8	22.0	8.0	17.8	3.4
Killer whale	2.7	6.1	3.3	12.0	16.8	46.1	14.9	73.6	3.4
Short-finned pilot whale	3.3	8.1	2.9	17.5	10.9	27.4	9.8	20.8	3.4

BILLING CODE 3510-22-C*Loss of Hearing Sensitivity*

In general, NMFS expects that noise-induced hearing loss as a result of airgun survey activity, whether temporary (temporary threshold shift, equivalent to Level B harassment) or permanent (PTS, equivalent to Level A harassment), is only possible for LF and VHF cetaceans. The best available scientific information indicates that LF cetacean species (*i.e.*, mysticete whales, including the Rice’s whale) have heightened sensitivity to frequencies in the range output by airguns, as shown by their auditory weighting function, whereas VHF cetacean species (including *Kogia* spp.) have heightened sensitivity to noise in general (as shown by their lower threshold for the onset of PTS) (NMFS, 2024). However, no instances of Level A harassment are predicted to occur for Rice’s whales,

and none may be authorized in any LOAs issued under this rule.

Level A harassment is predicted to occur for *Kogia* spp. (as indicated in table 7). However, the degree of injury (hearing impairment) is expected to be mild. If permanent hearing impairment occurs, it is most likely that the affected animal would lose a few dB in its hearing sensitivity, which in most cases would not be expected to affect its ability to survive and reproduce. Hearing impairment that occurs for these individual animals would be limited to at or slightly above the dominant frequency of the noise sources. In particular, the predicted PTS resulting from airgun exposure is not likely to affect their echolocation performance or communication, as *Kogia* spp. likely produce acoustic signals at frequencies above 100 kHz (Merkens *et al.*, 2018), well above the frequency range of airgun noise.

Further, modeled exceedance of Level A harassment criteria typically resulted from being near an individual source once, rather than accumulating energy from multiple sources. Overall, the modeling indicated that exceeding the SEL threshold for PTS is a rare event, and having 4 vessels close to each other (350 m between tracks) did not cause appreciable accumulation of energy at the ranges relevant for injury exposures. Accumulation of energy from independent surveys is expected to be negligible. This is relevant for *Kogia* spp. because based on their expected sensitivity, we expect that aversion may play a stronger role in avoiding exposures above the peak pressure PTS threshold than we have accounted for.

Some subset of the individual marine mammals predicted to be taken by Level B harassment may incur some TTS. For Rice’s whales, TTS may occur at frequencies important for

communication. However, any TTS incurred would be expected to be of a relatively small degree and short duration. This is due to the low likelihood of sound source exposures of the intensity or duration necessary to cause more severe TTS, given the fact that both sound source and marine mammals are continuously moving, the anticipated effectiveness of shutdowns, and general avoidance by marine mammals of louder sources.

For these reasons, and in conjunction with the required mitigation, NMFS does not believe that Level A harassment (here, PTS) or Level B harassment in the form of TTS will play a meaningful role in the overall degree of impact experienced by marine mammal populations as a result of the projected survey activity. Further, the impacts of any TTS incurred are addressed through the broader analysis of Level B harassment.

Impacts to Habitat

Regarding impacts to prey species such as fish and invertebrates, NMFS' review of the available information leads to a conclusion that the most likely impact of survey activity on prey would be temporary avoidance of an area, with a rapid return to pre-survey distribution and behavior, and minimal impacts to recruitment or survival anticipated. Therefore, 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 to prey species are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations.

Regarding potential impacts to acoustic habitat, NMFS provided a detailed analysis of potential cumulative and chronic effects to marine mammals (found in the Cumulative and Chronic Effects report, available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-america>). See also 83 FR 29212, 29242 (June 22, 2018) for detailed discussion of this analysis. That analysis focused on potential effects to the acoustic habitat of sperm whales and Rice's whales via an assessment of listening and communication space. The analysis performed for sperm whales (which provides a useful proxy for other HF and VHF cetaceans evaluated here) shows that the survey activities do not significantly contribute to the soundscape in the frequency band

relevant for their lower-frequency slow-clicks and that there will be no significant change in communication space for sperm whales. Similar conclusions may be assumed for other HF and VHF cetacean species.

Implications for acoustic masking and reduced communication space resulting from noise produced by airgun surveys in the GOA are expected to be particularly heightened for animals that actively produce low-frequency sounds or whose hearing is attuned to lower frequencies (*i.e.*, Rice's whales). The strength of the communication space approach used here is that it evaluates potential contractions in the availability of a signal of documented importance. In this case, losses of communication space for Rice's whales were estimated to be higher in western and central GOA canyons and shelf break areas. In contrast, relative maintenance of listening area and communication space was seen within the Rice's whale core habitat area in the northeastern GOA. The result was heavily influenced by the projected lack of survey activity in that region, which underscores the importance of maintaining the acoustic soundscape of this important habitat for the Rice's whale. However, no survey activity will occur under this rule within the Rice's whale core habitat area or within the broader eastern GOA (see figure 1). In deepwater areas where larger amounts of survey activity were projected, significant loss of low-frequency listening area and communication space was predicted by the model, but this finding was discounted because Rice's whales are unlikely to occur in deeper waters of the central and western GOA.

Species-Specific Negligible Impact Analysis Summaries

In this section, we consider the relative impact ratings from the risk assessment framework described above in conjunction with the required mitigation and other relevant contextual information in order to produce a final assessment of impact to the species or stocks, *i.e.*, the negligible impact determinations. The effects of the DWH oil spill are accounted for through the risk assessment framework vulnerability scoring (table 10).

Although Rice's whale core habitat in the northeastern GOA is not the subject of restrictions on survey activity, as the scope of the specified activity does not include the area (see figure 1), the beneficial effect for the species remains the same. The absence of survey activity in the eastern GOA benefits GOA marine mammals by reducing the portion of a stock likely exposed to

survey noise and avoiding impacts to certain species in areas of importance for them. Habitat areas of importance in the eastern GOA were discussed in detail in the Proposed Mitigation section of the 2018 notice of proposed rulemaking.

Rice's Whale

The risk assessment analysis, which evaluated the relative significance of the aggregated impacts of the survey activities across seven GOA zones in the context of the vulnerability of each species, concluded that the GOA-wide risk ratings for Rice's whales are low, regardless of activity scenario. We note that, although the evaluated severity of take for Rice's whales is very low in all zones where take could occur, vulnerability for the species is assessed as high in 5 of the 6 zones where the species occurs (vulnerability is assessed as moderate in Zone 3, where less than 1 percent of GOA-wide abundance is predicted to occur). When integrated through the risk framework described above, overall risk for the species is therefore assessed as low for both the high and moderate effort scenarios. In the context of relatively low predicted take numbers, the relative risk ratings for the species are driven by the assessed vulnerability.

We further consider the likely severity of any predicted behavioral disruption of Rice's whales in the context of the likely duration of exposure above Level B harassment thresholds. Specifically, the average modeled time per day spent at received levels above 160 dB rms (the threshold at which 50 percent of the exposed population is considered taken) ranges from 6.8 to 21.4 minutes for deep penetration survey types. The average time spent exposed to received levels between 140 and 160 dB rms (where 10 percent of the exposed population is considered taken) ranges from 55 to 164 minutes for 2D, 3D NAZ, and 3D WAZ surveys, and 401 minutes for coil surveys (which comprise approximately 10 percent of the total activity days).

Importantly, no survey activity will occur within the eastern GOA pursuant to this rule. Although there is evidence of Rice's whale occurrence in the central and western GOA from passive acoustic detections (Soldevilla *et al.*, 2022; 2024), the highest densities of Rice's whales remain confined to the northeastern GOA core habitat. Moreover, the number of individuals that occur in the central and western GOA and nature of their use of this area is poorly understood. Soldevilla *et al.* (2022) suggest that more than one individual was present on at least one occasion, as overlapping calls of

different call subtypes were recorded in that instance, but also state that call detection rates suggest that either multiple individuals are typically calling or that individual whales are producing calls at higher rates in the central/western GOA. Soldevilla *et al.* (2024) provide further evidence that Rice's whale habitat encompasses all 100–400 m depth waters encircling the entire GOA (including Mexican waters), but they also note that further research is needed to understand the density of whales in these areas, seasonal changes in whale density, and other aspects of habitat usage.

This new information does not affect the prior conclusion that the absence of survey activity in the eastern GOA benefits Rice's whales and their habitat by minimizing a range of potential effects of airgun noise, both acute and chronic, that could otherwise accrue to impact the reproduction or survival of individuals in this area, and that the absence of survey activity in the eastern GOA will minimize disturbance of the species in the place most important to them for critical behaviors such as foraging and socialization. The absence of survey activity in this area and significant reduction in associated exposures of Rice's whales to seismic airgun noise is expected to eliminate the likelihood of auditory injury of Rice's whales. Finally, the absence of survey activity in the eastern GOA will reduce chronic exposure of Rice's whales to higher levels of anthropogenic sound and the associated effects including masking, disruption of acoustic habitat, long-term changes in behavior such as vocalization, and stress.

As described in the preceding *Loss of Hearing Sensitivity* section, we have analyzed the likely impacts of potential temporary hearing impairment and do not expect that they would result in impacts on reproduction or survival of any individuals. The extended shutdown zone for Rice's whales (1,500 m)—to be implemented in the unlikely event that a Rice's whale is encountered at that distance—is expected to further minimize the severity of any hearing impairment incurred as well as reduce the likelihood of more severe behavioral responses.

No mortality of Rice's whales is anticipated or authorized. It is possible that Rice's whale individuals, if encountered, will be taken briefly by Level B harassment on one or more days during a year of activity by one type of survey or another and some subset of those exposures above thresholds may be of comparatively long duration within a day. However, the amount of take is low (annual average of 26

incidents, with a maximum in any year of 30), and the significant and critical functional protection afforded through the absence of survey activity in the species' northeastern GOA core habitat and the extended shutdown requirement means that the impacts of the expected takes from these activities are not likely to impact the reproduction or survival of any individual Rice's whales, much less adversely affect the species through impacts on annual rates of recruitment or survival. Accordingly, we conclude the taking from the specified activity will have a negligible impact on Rice's whales as a species.

Sperm Whale

The risk assessment analysis, which evaluated the relative significance of the aggregated impacts of the survey activities across seven GOA zones in the context of the vulnerability of each species, concluded that the GOA-wide risk ratings for sperm whales were between moderate and low (equivalent to a 2.5 on a 5-point scale, with a 3 equating to “moderate”) (for the high effort scenario) or low (for the moderate effort scenario). We further consider the likely severity of any predicted behavioral disruption of sperm whales in the context of the likely duration of exposure above Level B harassment thresholds. Specifically, the average modeled time per day spent at received levels above 160 dB rms (where 50 percent of the exposed population is considered taken) ranges from 4 to 10.3 minutes for 2D, 3D NAZ, and 3D WAZ surveys and up to 20.7 minutes for coil surveys (which comprise less than 10 percent of the total projected activity days) and the average time spent between 140 and 160 dB rms (where 10 percent of the exposed population is considered taken) is 12 to 31.8 minutes.

Odontocetes echolocate to find prey, and while there are many different strategies for hunting, one common pattern, especially for deeper-diving species, is to conduct multiple repeated deep dives within a feeding bout, and multiple bouts within a day, to find and catch prey. While exposures of the short durations noted above could potentially interrupt a dive or cause an individual to relocate to feed, such a short-duration interruption would typically be unlikely to have significant impacts on an individual's energy budget and, further, for these species and this open-ocean area, there are no specific known reasons (*i.e.*, these species range GOA-wide beyond the continental slope and there are no known BIAs) to expect that there would not be adequate alternate feeding areas relatively nearby, especially considering the anticipated

absence of survey activity in the eastern GOA. Importantly, the absence of survey activity in the eastern GOA will reduce disturbance of sperm whales in places of importance to them for critical behaviors such as foraging and socialization and, overall, help to reduce impacts to the species as a whole.

Additionally, we note that the extended distance shutdown zone for sperm whales (1,500 m) is expected to further reduce the likelihood of, and minimize the severity of, more severe behavioral responses. Similarly, application of this extended distance shutdown requirement when calves are present will minimize the potential for and degree of disturbance during this sensitive life stage.

No mortality or Level A harassment of sperm whales is anticipated or authorized. While it is likely that the majority of the individual sperm whales will be impacted briefly on one or more days during a year of activity by one type of survey or another, based on the nature of the individual exposures and takes, as well as the aggregated scale of the impacts across the GOA, and in consideration of the mitigation discussed here, the impacts of the expected takes from these activities are not likely to impact the reproduction or survival of any individuals, much less adversely affect the GOA stock of sperm whales through impacts on annual rates of recruitment or survival. Accordingly, we conclude the taking from the specified activity will have a negligible impact on the GOA stock of sperm whales.

Beaked Whales

In consideration of the similarities in the nature and scale of impacts, we consider the GOA stocks of the goose-beaked whale and Gervais' and Blainville's beaked whales together in this section. The risk assessment analysis, which evaluated the relative significance of the aggregated impacts of the survey activities across seven GOA zones in the context of the vulnerability of each species, concluded that the GOA-wide risk ratings for beaked whales were very low for both effort scenarios. We further consider the likely severity of any predicted behavioral disruption of beaked whales in the context of the likely duration of exposure above Level B harassment thresholds. Beaked whales are considered more behaviorally sensitive to sound than most other species, and therefore we utilize different thresholds to predict behavioral disturbance. This means that beaked whales are evaluated as “taken” upon exposure to received

sound levels as low as 120 dB (where 50 percent of the exposed beaked whale population is considered taken). These received levels are typically reached at extreme distance from the acoustic source (*i.e.*, greater than 50 km from the source). Behavioral responses to noise are significantly correlated with distance from the source (*e.g.*, Gomez *et al.*, 2016); thus potential responses to these relatively low received levels at such great distances, while evaluated here as take under the MMPA, are unlikely to result in any response of such a severity as to carry any cost to the animal (additionally, in certain circumstances, noise from the surveys at these distances may be indistinguishable from other low-frequency background noise). Therefore, as for other species, we consider only the average modeled time per day spent at received levels above 140 dB rms (where 90 percent of the exposed beaked whale populations are considered taken) and 160 dB rms (where, potentially, all exposed beaked whales are taken). Specifically, the average modeled time per day spent at received levels above 160 dB rms ranges from 6 to 12.4 minutes for 2D, 3D NAZ, and 3D WAZ surveys and up to 24 minutes for coil surveys (which comprise less than 10 percent of the total projected activity days), and the average time spent between 140 and 160 dB rms is 14.1 to 16.2 minutes for 3D WAZ and 2D surveys, 31.1 minutes for coil surveys, and 39.7 minutes for 3D NAZ surveys.

Odontocetes echolocate to find prey, and while there are many different strategies for hunting, one common pattern, especially for deeper-diving species, is to conduct multiple repeated deep dives within a feeding bout, and multiple bouts within a day, to find and catch prey. While some of the exposures of the durations noted above could interrupt a dive or cause an individual to relocate to feed because of the lower thresholds combined with the way exposures are distributed across received levels, a higher proportion of the total takes (as compared to other taxa) are at the lower end of the received levels at which take would be expected to occur and at great distance from the acoustic source, where responses (if any) should be assumed to be minor. All else being equal, exposures to lower received levels and, separately, at greater distances might be expected to result in less severe responses, even given longer durations (*e.g.*, DeRuiter *et al.*, 2013). Considered individually or infrequently, these sorts of feeding interruptions would be unlikely to have

significant impacts on an individual's energy budget and, further, for these species and this open-ocean area, there are no specific known reasons (*i.e.*, these species range GOA-wide beyond the continental slope and there are no known BIAs) to expect that there would not be adequate alternate feeding areas relatively nearby, especially considering the anticipated absence of survey activity in the eastern GOA. Importantly, the absence of survey activity in the eastern GOA will reduce disturbance of beaked whales in places of importance to them for critical behaviors such as foraging and socialization and, overall, help to reduce impacts to the species as a whole.

Additionally, we note that the extended distance shutdown zone for beaked whales (1,500 m) is expected to further reduce the likelihood of, and minimize the severity of, more severe behavioral responses.

Of note, due to their pelagic distribution, typical high availability bias due to deep-diving behavior and cryptic nature when at the surface, beaked whales are rarely sighted during at-sea surveys and difficult to distinguish between species when visually observed in the field. Accordingly, abundance estimates in NMFS SARs are recorded for *Mesoplodon* spp. (and, separately, for the goose-beaked whale). Available sightings data, including often unresolved sightings of beaked whales, must be combined in order to develop habitat-based density models for beaked whales, as were used to inform our acoustic exposure modeling effort. Therefore, density and take estimates in this rule are similarly lumped for the three species of beaked whales, and there is no additional information by which NMFS could appropriately apportion impacts other than equally/proportionally across the three species.

No mortality or Level A harassment of any of these three species of beaked whales is anticipated or authorized. While it is likely that the majority of the individuals of these three species will be impacted briefly on one or more days during a year of activity by one type of survey or another, based on the nature of the individual exposures and takes, as well as the aggregated scale of the impacts across the GOA, and in consideration of the mitigation discussed here, the impacts of the expected takes from these activities are not likely to impact the reproduction or survival of any individuals, much less adversely affect the GOA stocks of goose-beaked whale or Gervais' or Blainville's beaked whales through

impacts on annual rates of recruitment or survival. Accordingly, we conclude the taking from the specified activity will have a negligible impact on GOA stocks of beaked whales.

Kogia spp.

The risk assessment analysis, which evaluated the relative significance of the aggregated impacts of the survey activities across seven GOA zones in the context of the vulnerability of each species, concluded that the GOA-wide risk ratings for *Kogia* spp. were between low and moderate (for the high effort scenario) and between very low and low (for the moderate effort scenario). We further consider the likely severity of any predicted behavioral disruption of *Kogia* spp. in the context of the likely duration of exposure above Level B harassment thresholds. Specifically, the average modeled time per day spent at received levels above 160 dB rms (where 50 percent of the exposed population is considered taken) ranges from 2.8 to 7.9 minutes for 2D, 3D NAZ, and 3D WAZ surveys and up to 15.3 minutes for coil surveys (which comprise less than 10 percent of the total projected activity days), and the average time spent between 140 and 160 dB rms (where 10 percent of the exposed population is considered taken) is 6.7 to 19 minutes.

Odontocetes echolocate to find prey, and while there are many different strategies for hunting, one common pattern, especially for deeper diving species, is to conduct multiple repeated deep dives within a feeding bout, and multiple bouts within a day, to find and catch prey. While exposures of the short durations noted above could potentially interrupt a dive or cause an individual to relocate to feed, such a short-duration interruption would be unlikely to have significant impacts on an individual's energy budget and, further, for these species and this open-ocean area, there are no specific known reasons (*i.e.*, these species range GOA-wide beyond the continental slope and there are no known biologically important areas) to expect that there would not be adequate alternate feeding areas relatively nearby, especially considering the anticipated absence of survey activity in the eastern GOA. Importantly, the absence of survey activity in the eastern GOA will reduce disturbance of *Kogia* spp. in places of importance to them for critical behaviors such as foraging and socialization and, overall, help to reduce impacts to the species as a whole.

NMFS has analyzed the likely impacts of potential hearing impairment, including the estimated upper bounds

of auditory injury (Level A harassment) that could be authorized under the rule and do not expect that they would result in impacts on reproduction or survival of any individuals. As described in the previous section, the degree of injury for individuals would be expected to be mild, and the predicted PTS resulting from airgun exposure is not likely to affect echolocation performance or communication for *Kogia* spp. Additionally, the extended distance shutdown zone for *Kogia* spp. (1,500 m) is expected to further minimize the severity of any hearing impairment incurred and also to further reduce the likelihood of, and minimize the severity of, more severe behavioral responses.

Of note, due to their pelagic distribution, small size, and cryptic behavior, pygmy sperm whales and dwarf sperm whales are rarely sighted during at-sea surveys and difficult to distinguish when visually observed in the field. Accordingly, abundance estimates in NMFS SARs are recorded for *Kogia* spp. only, density and take estimates in this rule are similarly lumped for the two species, and there is no additional information by which NMFS could appropriately apportion impacts other than equally/proportionally across the two species.

No mortality of *Kogia* spp. is anticipated or authorized. While it is likely that the majority of the individuals of these two species will be impacted briefly on one or more days during a year of activity by one type of survey or another, based on the nature of the individual exposures and takes, as well as the aggregated scale of the impacts across the GOA, and in consideration of the mitigation discussed here, the impacts of the expected takes from these activities are not likely to impact the reproduction or survival of any individuals, much less adversely affect the GOA stocks of dwarf or pygmy sperm whales through impacts on annual rates of recruitment or survival. Accordingly, we conclude the taking from the specified activity will have a negligible impact on GOA stocks of dwarf or pygmy sperm whales.

Bottlenose Dolphins

The risk assessment analysis, which evaluated the relative significance of the aggregated impacts of the survey activities across seven GOA zones in the context of the vulnerability of each species, concluded that the GOA-wide risk ratings for both oceanic bottlenose dolphins and coastal/shelf bottlenose dolphins are very low for both scenarios. We further considered the likely severity of any predicted behavioral disruption of bottlenose

dolphins in the context of the likely duration of exposure above Level B harassment thresholds. Specifically, the average modeled time per day spent at received levels above 160 dB rms (where 50 percent of the exposed population is considered taken) ranges from 4 to 11.7 minutes for 2D, 3D NAZ, and 3D WAZ surveys and up to 16.8 minutes for coil surveys (which comprise less than 10 percent of the total projected activity days) and the average time spent between 140 and 160 dB rms is 19.7 to 54.6 minutes. While exposures of the short durations noted above could potentially interrupt a dive or cause an individual to relocate to feed, such a short-duration interruption would be unlikely to have significant impacts on an individual's energy budget and, further, for this species, there are no specific known reasons (*i.e.*, the species ranges GOA-wide and there are no known BIAs for the stocks affected by this activity) to expect that there would not be adequate alternate feeding areas relatively nearby, especially considering the anticipated absence of survey activity in the eastern GOA. It is likely that the noise exposure considered herein would result in minimal significant disruption of foraging behavior and, therefore, the corresponding energetic effects would similarly be minimal.

As described earlier in this preamble, the northern coastal stock of bottlenose dolphin was particularly severely impacted by the DWH oil spill, and was additionally affected by a recent UME. Importantly, as described in Mitigation, NMFS is again requiring a seasonal time-area restriction on airgun survey activity within the coastal waters where this stock is likely to be found. The closure area is expected to protect coastal bottlenose dolphins and their habitat through the alleviation or minimization of a range of potential effects of airgun noise, both acute and chronic, that could otherwise accrue to impact the reproduction or survival of individuals in this area. The timing of the restriction provides protection during the times of year thought to be most important for bottlenose dolphin calving and nursing of young. Although some sound from airguns may still propagate into the area from surveys that may occur outside of the area, exposure of bottlenose dolphins to sound levels that would result in Level B harassment will be alleviated or reduced for animals within the closure area. Any exposure to noise that may increase stress levels and exacerbate health problems in bottlenose dolphins still recovering from the effects of the

DWH spill will be minimized during this important reproductive period. This mitigation results in a reduction in the scale of aggregate effects (which, among other things, suggests the comparative number of days across which individual bottlenose dolphins might be taken within a year) and associated risk assessment.

Of note, bottlenose dolphins cannot be identified to stock when visually observed in the field. Abundance estimates in NMFS' SARs are based strictly on the location where animals are observed, and available sightings data must be combined in order to develop habitat-based density models for bottlenose dolphins, as were used to inform our acoustic exposure modeling effort. Density estimates used in this rule are provided for bottlenose dolphins GOA-wide for shelf/coastal bottlenose dolphins and, separately, for oceanic dolphins (estimated take numbers provided in tables 7 and 8 are aggregated for the species GOA-wide). Based on NMFS' stock delineations, we assume that dolphins occurring within Zones 4–7 would be from the oceanic stock, while dolphins occurring within Zones 2–3 would be from the shelf stock and/or coastal stocks (the eastern coastal stock is assumed to occur only in Zone 1 and is therefore excluded from this analysis). Therefore, for the oceanic stock, we are able to draw stock-specific conclusions in this analysis. For coastal/shelf stocks, there is no additional information by which NMFS could appropriately apportion impacts other than equally/proportionally across the stocks, with the exception of predicting reduced impacts to the northern coastal stock as described above.

No mortality or Level A harassment of bottlenose dolphins is anticipated or authorized. While it is likely that the majority of individual dolphins may be impacted briefly on one or more days during a year of activity by one type of survey or another, based on the nature of the individual exposures and takes, as well as the aggregated scale of the impacts across the GOA, and in consideration of the mitigation discussed here, the impacts of the expected takes from these activities are not likely to impact the reproduction or survival of any individuals, much less adversely affect any GOA stocks of bottlenose dolphins through impacts on annual rates of recruitment or survival. Accordingly, we conclude the taking from the specified activity will have a negligible impact on GOA stocks of bottlenose dolphin, including the oceanic, continental shelf, and western and northern coastal stocks.

Other Stocks

In consideration of the similarities in the nature and scale of impacts, we consider the GOA stocks of the following species together in this section: rough-toothed dolphin, Clymene dolphin, Atlantic spotted dolphin, pantropical spotted dolphin, striped dolphin, spinner dolphin, Fraser's dolphin, Risso's dolphin, melon-headed whale, pygmy killer whale, false killer whale, killer whale, and short-finned pilot whale.

The risk assessment analysis, which evaluated the relative significance of the aggregated impacts of the survey activities across seven GOA zones in the context of the vulnerability of each species, concluded that the GOA-wide risk ratings for high and moderate effort scenarios ranged from very low to between low and moderate for these species.

We further considered the likely severity of any predicted behavioral disruption of the individuals of these species in the context of the likely duration of exposure above Level B harassment thresholds. Specifically, the average modeled time per day spent at received levels above 160 dB rms (where 50 percent of the exposed population is considered taken) ranges from 1.4 to 11.7 minutes for 2D, 3D NAZ, and 3D WAZ surveys and up to 25.7 minutes for coil surveys (which comprise less than 10 percent of the total projected activity days). The average time per day spent between 140 and 160 dB rms for individuals that are taken is from 8 to 58.1 minutes, with the one exception of killer whales exposed to noise from coil surveys, which average 73.6 minutes (though we note that the overall risk rating for the blackfish group, including killer whales, is low).

Odontocetes echolocate to find prey, and there are many different strategies for hunting. One common pattern for deeper-diving species is to conduct multiple repeated deep dives within a feeding bout, and multiple bouts within a day, to find and catch prey. While exposures of the shorter durations noted above could potentially interrupt a dive or cause an individual to relocate to feed, such a short-duration interruption would be unlikely to have significant impacts on an individual's energy budget and, further, for these species and this open-ocean area, there are no specific known reasons (*i.e.*, these species range GOA-wide beyond the continental slope (or, for Atlantic spotted dolphin, in coastal and shelf waters) and there are no known biologically important areas) to expect

that there would not be adequate alternate feeding areas relatively nearby, especially considering the anticipated absence of survey activity in the eastern GOA. For those species that are more shallow feeding species, it is likely that the noise exposure considered herein would result in minimal significant disruption of foraging behavior and, therefore, the corresponding energetic effects would similarly be minimal.

Of note, the Atlantic spotted dolphin is expected to benefit (via lessening of both number and severity of takes) from the coastal waters time-area restriction developed to benefit bottlenose dolphins, and several additional species can be expected to benefit from the absence of survey activity in important eastern GOA habitat.

No mortality or Level A harassment of these species is anticipated or authorized. It is likely that the majority of the individuals of these species will be impacted briefly on one or more days during a year of activity by one type of survey or another. Based on the nature of the individual exposures and takes, as well as the very low to low aggregated scale of the impacts across the GOA and considering the mitigation discussed here, the impacts of the expected takes from these activities are not likely to impact the reproduction or survival of any individuals, much less adversely affect the GOA stocks of any of these 13 species through impacts on annual rates of recruitment or survival. Accordingly, we conclude the taking from the specified activity will have a negligible impact on GOA stocks of these 13 species.

Determination

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 mitigation and related monitoring measures, NMFS finds that the total marine mammal take from the specified activities for the 5-year period of the regulations will have a negligible impact on all affected marine mammal species and stocks.

Small Numbers

The sections below provide an explanation of how NMFS interprets and applies the small numbers standard. Our analysis of our small numbers interpretation and application in the 2021 final rule was conducted under the agency deference standard then in effect under *Chevron, USA, Inc. v. NRDC, Inc.*, 467 U.S. 837 (1984). In 2024, the U.S. Supreme Court overturned *Chevron* and with it the requirement to afford

deference to reasonable agency interpretations of ambiguous statutory provisions, holding that courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority and determine the best reading of the statute. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400, 412–13 (2024). The Court acknowledged that careful attention to the judgment of the Executive Branch may help inform that inquiry. In view of the *Loper Bright* standard, we have re-examined our interpretation and application of small numbers.

What are small numbers?

The term “small numbers” appears in section 101(a)(5)(A) of the MMPA as follows:

(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specified geographical region, the Secretary shall allow, during periods of not more than 5 consecutive years each, the incidental, but not intentional, taking by citizens while engaging in that activity within that region of small numbers of marine mammals of a species or population stock if the Secretary, after notice (in the **Federal Register** and in newspapers of general circulation, and through appropriate electronic media, in the coastal areas that may be affected by such activity) and opportunity for public comment—

(I) finds that the total of such taking during each five-year (or less) period concerned will have a negligible impact on such species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses . . . and

(II) prescribes regulations setting forth—

(aa) permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses; and

(bb) requirements pertaining to the monitoring and reporting of such taking.

(Emphasis added.)

In addition to section 101(a)(5)(A), the MMPA as amended in 1994 includes a similar provision in section 101(a)(5)(D), which provides for the issuance of incidental take authorizations for small numbers of marine mammals without the need for regulations, effective for up to 1 year, where the taking is limited to harassment:

(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than 1 year, subject to such conditions as the Secretary may specify, the incidental,

but not intentional, taking by harassment of *small numbers* of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

(I) will have a negligible impact on such species or stock, and

(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses[.]

(Emphasis added.)

The MMPA does not define “small numbers.” NMFS’ and the U.S. Fish and Wildlife Service’s 1989 implementing regulations defined small numbers as a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock. This definition was invalidated in *Natural Resources Defense Council v. Evans*, 279 F.Supp.2d 1129 (N.D. Cal. 2003), based on the court’s determination that the regulatory definition of small numbers was improperly conflated with the regulatory definition of “negligible impact,” which rendered the small numbers standard superfluous. As the court observed, “the plain language indicates that small numbers is a separate requirement from negligible impact.” Since that time, NMFS has not applied the definition found in its regulations. Rather, consistent with Congress’ pronouncement that small numbers is not a concept that can be expressed in absolute terms (House Committee on Merchant Marine and Fisheries Report No. 97–228 (September 16, 1981)), NMFS makes its small numbers findings based on an analysis of whether the number of individuals authorized to be taken annually from a specified activity is small relative to the stock or population size. We note the definition of “small” in Webster’s New Collegiate Dictionary (1981) included “having little size, esp. as compared with other similar things.” See also www.merriam-webster.com/dictionary/small (defining “small” as “having comparatively little size”). These definitions comport with the small numbers interpretation developed by NMFS, which utilizes a proportional or relative approach. The Ninth Circuit has upheld a similar approach. See *Center for Biological Diversity v. Salazar*, 695 F.3d 893 (9th Cir. 2012). We believe this interpretation of small numbers is the best reading of the MMPA, consistent with *Loper Bright*.

While NMFS has utilized the proportional approach to “small numbers” since shortly after *Evans* was decided, until our 2018 proposed rule we had not indicated how NMFS would

draw the upper limit of small numbers and implement the concept in practice.

To maintain an interpretation of small numbers as a proportion of a species or stock that does not conflate with negligible impact, NMFS developed a simple approach that is transparent and operationally feasible. Our approach establishes equal bins corresponding to small, medium, and large proportions of the population abundance. NMFS then compares the number of individuals estimated and authorized to be taken against the best available abundance estimate for that species or stock.

It can be challenging to predict the numbers of individual marine mammals that will be taken by an activity. Many models calculate instances of take but are unable to account for repeated exposures of individual marine mammals, though the instances of take necessarily represent the upper bound of the number of individuals. In some of those cases, such as for this rule (see Estimated Take), we are able to generate a more refined estimate of the numbers of individuals predicted to be taken utilizing a combination of quantitative tools and qualitative information. When an acceptable estimate of the individual marine mammals taken is available,⁸ the small numbers determination is based directly upon whether these estimates exceed one-third of the stock abundance. In other words, consistent with past practice, when the estimated number of individual animals taken (which may or may not be assumed as equal to the total number of takes, depending on the available information) is up to, but not greater than, one-third of the most appropriate species or stock abundance, NMFS will determine that the numbers of marine mammals taken of a species or stock are small.

Another circumstance in which NMFS considers it appropriate to make a small numbers finding is in the case of a species or stock that may potentially be taken but is either rarely encountered or only expected to be taken on rare occasions. In that circumstance, one or two assumed encounters with a group of animals (meaning a group that is traveling together or aggregated, and thus exposed to a stressor at the same approximate time) should reasonably be considered small numbers, regardless of

consideration of the proportion of the stock, as infrequent or rare encounters resulting in take of one or two groups should be considered small relative to the range and distribution of any stock.

In summary, when quantitative take estimates of individual marine mammals are available or inferable through consideration of additional factors, and the number of animals taken is one-third or less of the best available abundance estimate for the species or stock, NMFS considers it to be of small numbers. NMFS may also appropriately find that one or two predicted group encounters will result in small numbers of take relative to the range and distribution of a species, regardless of the estimated proportion of the abundance.

Is the small numbers standard evaluated based on total take under incidental take regulations or within the context of an individual letter of authorization?

Neither the MMPA nor NMFS’ implementing regulations address whether the small numbers determination should be based upon the total annual taking for (1) all activities occurring under a specific incidental take regulation or (2) individual LOAs issued thereunder. The MMPA does not define small numbers or explain how to apply the term in either paragraph (A) or (D) of section 101(a)(5), including how to apply the term in a way that allows for consistency between those two very similar provisions in the statute. Whether to apply the small numbers finding to each individual LOA under regulations that cover multiple concurrent LOA holders was a matter of first impression for NMFS when it conducted rulemaking for the 2021 final rule.

Specifically, section 101(a)(5)(A)(i)(I) explicitly states that the negligible impact determination for a specified activity must take into account the total taking over the 5-year period, but the small numbers language is not tied explicitly to the same language. Rather, the small numbers provision appears in section 101(a)(5)(A)(i) as a limitation on what the Secretary may allow. The regulatory vehicle for authorizing (*i.e.*, “allowing”) the take of marine mammals is the LOA. In light of the ambiguities in the structure of the statute regarding application of the small numbers standard and our long-standing implementing regulations for administering section 101(a)(5)(A), including the issuance of LOAs to allow incidental take under an incidental take regulation (*see, e.g.*, 50 CFR 216.106), we have determined that, under the best

⁸ We note that although NMFS’ implementing regulations require applications for incidental take to include an estimate of the marine mammals to be taken, there is nothing in section 101(a)(5)(A) (or (D)) that requires NMFS to quantify or estimate numbers of marine mammals to be taken for purposes of evaluating whether the number is small. See *Center for Biological Diversity v. Salazar*, 695 F.3d 893 (9th Cir. 2012).

reading of the statute, the small numbers finding applies to the annual take authorized per individual LOA, and not to the total annual taking for all activities potentially occurring under the incidental take regulations.

While not determinative, this per-LOA approach harmonizes section 101(a)(5)(A) with the per-IHA application of small numbers in section 101(a)(5)(D) of the MMPA.⁹ The per-LOA approach also affords regulatory flexibility to utilize section 101(a)(5)(A) when there are benefits to doing so for the resource (marine mammals), the public, prospective applicants, and administrative efficiency:

- From a resource protection standpoint, it is better to conduct a comprehensive negligible impact analysis that considers all of the activities covered under the rule (versus considering them independently pursuant to individual IHAs) and ensures that the total combined taking from those activities will have a negligible impact on the affected marine mammal species or stocks and no unmitigable adverse impact on subsistence uses. Furthermore, mitigation and monitoring are more effective when considered across all activity and years covered under regulations.

- From an agency resource standpoint, it ultimately will save significant time and effort to cover multi-year activities under a rule instead of multiple incidental harassment authorizations (IHAs). While regulations require more analysis up front, additional public comment and internal review, and additional time to promulgate compared to a single IHA, they are effective for up to 5 years (for non-military readiness activities) and can cover multiple actors within a year. The process of issuing individual LOAs under incidental take regulations utilizes the analysis, public comment, and review that was conducted for the regulations, and takes significantly less time than it takes to issue independent IHAs.

- From an applicant standpoint, incidental take regulations offer more regulatory certainty than IHAs (5 years versus 1 year) and significant cost savings, both in time and environmental compliance analysis and documentation. This is especially true for situations like here, where multiple applicants will be applying for individual LOAs under regulations. In

the case of this rule, the certainty afforded by the promulgation of a regulatory framework (e.g., by using previously established take estimates, mitigation and monitoring requirements, and procedures for requesting and obtaining an LOA) is a significant benefit for prospective applicants.

NMFS' evaluation of past IHAs suggests that bundling together the activities covered by two or three IHAs that might be ideal subjects for a combined incidental take regulation (e.g., for ongoing maintenance construction activities, or seismic surveys in the Arctic by different entities) may exceed the taking of small numbers of a species if NMFS were to apply the small numbers standard across all taking contemplated by the regulation in a year. In other words, if the small numbers standard is applied to the total annual taking under a rule, NMFS may not be able to make the necessary small numbers finding, which would preclude the use of section 101(a)(5)(A) for multiple activities, thereby eliminating the opportunity to derive the resource and streamlining benefits outlined above. Also, application of the small numbers standard across the total annual taking covered by an incidental take regulation, inasmuch as prospective applicants can see that the total annual take may exceed one-third of species or stock abundance, would create an incentive for applicants to pursue individual IHAs (again, precluding the ability to gain the benefits outlined above).

Our conclusion that a "small numbers" finding is based on the estimated annual take in individual LOAs issued under a rule does not affect the negligible impact analysis for a rule, which is the biologically relevant inquiry and based on the total annual estimated taking for all activities the regulations will govern over the five-year period. Making the small numbers finding based on the estimated annual take in individual LOAs allows NMFS to take advantage of the associated administrative and environmental benefits of utilizing section 101(a)(5)(A) that would be precluded in many cases if small numbers were required to be applied to the total annual taking under the regulations. NMFS finds this method of making a small numbers determination to be the best reading of the relevant MMPA provisions.

Although this LOA-based application of small numbers may be argued as being less protective of marine mammals, NMFS disagrees. As noted previously, the small numbers standard

has less biological significance as compared to the substantive and contextually-specific analysis necessary to support the negligible impact determination. The negligible impact determination is still controlling, and the maximum total annual taking that may be authorized across all LOAs under an incidental take regulation still could not exceed the overall amount analyzed for the negligible impact determination. Thus, under this option, the negligible impact analysis for the rulemaking still would have to be conducted for the time period explicitly specified in the statute (*i.e.*, up to 5 years), but the small numbers analysis would attach to the instrument itself that authorizes the taking, *i.e.*, the LOA.

How will small numbers be evaluated under this GOA rule?

In this rule, up-to-date species information is available, and sophisticated models have been used to estimate take in a manner that will allow for quantitative comparison of the take of individuals versus the best available abundance estimates for the species or stocks. Specifically, while the modeling effort utilized in the rule enumerates the estimated instances of takes that will occur across days as the result of the operation of certain survey types in certain areas, the modeling report also includes the evaluation of a test scenario that allows for a reasonable modification of those generalized take estimates to better estimate the number of individuals that will be taken within one survey. LOA applicants using modeling results from the rule to inform their applications will be able to reasonably estimate the number of marine mammal individuals taken by their activities. LOA applications that do not use the modeling provided in the rule to estimate take for their activities will need to be reviewed, and applicants will be required to ensure that their estimates adequately inform the small numbers finding. If applicants use the modeling provided by this rule to estimate take, additional review will not be deemed necessary (unless other conditions necessitating review exist, as described in the Letters of Authorization section). If applicants do not use the modeling provided by the rule, however, NMFS may publish a notice in the **Federal Register** soliciting public comment, if the model or inputs differ substantively from those that have been reviewed by NMFS and the public previously. The estimated take of marine mammals for each species will then be compared against the best available scientific information on species or stock abundance estimate as

⁹ As the court observed in *Native Village of Chickaloon v. NMFS*, 947 F. Supp. 2d 1031, 1049 n.123 (D. Alaska 2013) "the same statutory standards apply" to incidental take authorization under both provisions.

determined by NMFS and estimates that do not exceed one-third of that estimate will be considered small numbers.

Adaptive Management

The regulations governing the take of marine mammals incidental to geophysical survey activities contain an adaptive management component. The comprehensive reporting requirements are designed to provide NMFS with monitoring data from the previous year to allow consideration of whether any changes are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the LOA-holders regarding practicability) on a regular (e.g., annual or biennial) basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggest that such modifications would have a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth herein. The adaptive management process and associated reporting requirements would serve as the basis for evaluating performance and compliance.

Under this rule, NMFS plans to continue to implement an annual adaptive management process. The foundation of the adaptive management process is the annual comprehensive reports produced by LOA-holders (or their representatives), as well as the results of any relevant research activities, including research supported voluntarily by the oil and gas industry and research supported by the Federal government. Data collection and reporting by individual LOA-holders occurs on an ongoing basis, per the terms of issued LOAs. In a given annual cycle, the comprehensive annual report will summarize and synthesize LOA-specific reports, with report development (supported through collaboration of individual LOA-holders or by their representatives) occurring for 90 days following the end of a given 1-year period. Review and revision of the report will occur within 90 days following receipt of the annual report. Any agreed-upon modifications will occur through the process for modifications and/or adaptive management described in the regulatory text following this preamble.

All reporting requirements have been complied with under the current ITRs to date. Annual reports compiled by industry trade associations in order to comply with the comprehensive reporting requirements, as well as the

LOA-specific reports upon which they are based, are available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-america>.

Monitoring Contribution Through Other Research

NMFS' MMPA implementing regulations require that applicants for incidental take authorizations describe the suggested means of coordinating research opportunities, plans, and activities relating to reducing incidental taking and evaluating its effects (50 CFR 216.104 (a)(14)). Such coordination can serve as an effective supplement to the monitoring and reporting required pursuant to issued LOAs and/or incidental take regulations. NMFS expects that relevant research efforts will inform the annual adaptive management process described above, and that levels and types of research efforts will change from year to year in response to identified needs and evolutions in knowledge, emerging trends in the economy and available funding, and available scientific and technological resources. NMFS refers the reader to the Joint Industry Program (JIP) website (<https://www.soundandmarinelife.org>), which hosts a database of available products funded partially or fully through the JIP, and to BOEM's Environmental Studies Program (ESP), which develops, funds, and manages scientific research to inform policy decisions regarding outer continental shelf resource development (<https://www.boem.gov/studies>).

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by these actions. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7 of the ESA generally requires Federal agencies to insure that their actions are not likely to jeopardize the continued existence of endangered or threatened species or adversely modify or destroy their designated critical habitat. Federal agencies must consult with NMFS for actions that may affect such species under NMFS' jurisdiction or critical habitat designated for such species. At the conclusion of consultation, the consulting agency provides an opinion stating whether the Federal agency's

action is likely to jeopardize the continued existence of ESA-listed species or destroy or adversely modify designated critical habitat.

NMFS issued a biological opinion (BiOp) in May 2025 for federally regulated oil and gas program activities in the GOA, including NMFS' issuance of the 2021 ITRs and subsequent LOAs (as well as all BOEM and Bureau of Safety and Environmental Enforcement (BSEE) approvals of activities associated with the Outer Continental Shelf (OCS) oil and gas program in the GOA), which superseded and replaced all prior BiOps on that action. On January 23, 2026, the U.S. District Court for the Western District of Louisiana found certain aspects of the 2025 BiOp to be unlawful and remanded it for NMFS to fix the identified errors. However, the court did not vacate the 2025 BiOp and the identified deficiencies were not related to NMFS' MMPA action here. On March 31, 2026, the Endangered Species Committee granted an exemption for all federally regulated oil and gas activities in the GOA pursuant to section 7(h) of the ESA. See <https://www.doi.gov/endangered-species-committee>. Section 7(h) enables the Committee to consider and grant an exemption from the requirements for ESA consultation. In this instance, the Secretary of War requested an exemption for reasons of national security under section 7(j) of the ESA. The March 31, 2026, exemption order encompasses the full suite of agency actions that BOEM and BSEE identified when initiating and pursuing ESA consultation with NMFS and the Fish and Wildlife Service, including NMFS' issuance of the existing ITRs and subsequent LOAs (as well as all BOEM and BSEE approvals of activities associated with the OCS oil and gas program in the GOA). Thus, consultation is not required for this rule. Even if consultation were required, this final rule does not contain changes to the take numbers or to the prescribed mitigation and related monitoring requirements considered in the May 2025 BiOp, and reinitiation of consultation would not be required.

National Environmental Policy Act

In 2017, BOEM produced a final PEIS to evaluate the direct, indirect, and cumulative impacts of geological and geophysical survey activities in the GOA, pursuant to requirements of NEPA. The PEIS is available online at: <https://www.boem.gov/Gulf-of-Mexico-Geological-and-Geophysical-Activities-Programmatic-EIS/>. NOAA, through NMFS, participated in preparation of the PEIS as a cooperating agency due to its legal jurisdiction and special

expertise in conservation and management of marine mammals, including its authority to authorize incidental take of marine mammals under the MMPA.

In 2020, NMFS prepared a ROD: (1) to adopt BOEM's Final PEIS to support NMFS' analysis associated with issuance of incidental take authorizations pursuant to section 101(a)(5)(A) or (D) of the MMPA and the regulations governing the taking and importing of marine mammals (50 CFR part 216); and (2) to announce and explain the basis for NMFS' decision to review and potentially issue incidental take authorizations under the MMPA on a case-by-case basis, if appropriate.

The 2017 NOAA NEPA Companion Manual required supplements to Environmental Impact Statements if (1) the agency made substantial changes in the proposed action that are relevant to environmental concerns or (2) there were significant new circumstances or information relevant to environmental issues and bearing on the proposed action or its impacts. For the 2024 final rule, NMFS considered these criteria and the criteria relied upon for the 2020 ROD to determine whether any new circumstances or information were "significant," thereby requiring supplementation of the 2017 PEIS. NMFS reevaluated its findings related to the MMPA negligible impact standard and the LPAI standard governing its regulations in light of the corrected take estimates and other relevant new information. Based on that evaluation, NMFS reaffirmed its negligible impact determinations and determined that the existing regulations prescribed the means of effecting the LPAI on the affected species or stocks and their habitat, and therefore made no changes to the regulations. NMFS considered updated take estimates that corrected the take estimate errors and incorporated other new information, *e.g.*, modeling of a more representative airgun array and updated marine mammal density information. NMFS also consulted scientific publications from 2021 through 2024, data that were collected by the agency and other entities after the PEIS was completed, field reports, reports produced under the BOEM-funded Gulf of Mexico Marine Assessment Program for Protected Species (GoMMAPPS) project, and other sources (*e.g.*, updated NMFS SARs). In addition, NMFS considered new circumstances and information related to updated information on Rice's whales in the action area (population abundance, mortality and sources of mortality, distribution and occurrence) and any new data, analysis, or

information on the effects of geophysical survey activity on marine mammals and relating to the effectiveness and practicability of measures to reduce the risk associated with impacts of such survey activity. Based on the review applying the 2017 supplementation standard and the 2020 ROD criteria, NMFS determined for its 2024 final rule that supplementation of the 2017 PEIS was not warranted.

In 2025, NOAA revised its NEPA procedures. As required by the 2025 procedures, environmental documents must be supplemented when (1) the agency makes substantial changes to the proposed activity or decision that are relevant to environmental concerns; or (2) the agency decides, in its discretion, that there are substantial new circumstances or information about the significance of the adverse effects that bear on the proposed activity or decision or its effects. Under this standard, NMFS has again considered whether there are any substantial new circumstances or information that bear on this action or its impacts. For NMFS' consideration of new circumstances and information, NMFS has consulted any new scientific information available since issuance of the 2024 final rule. Again, NMFS has not made any changes to the action relevant to environmental concerns, and has made no changes to the regulations. Based on the current review, NMFS has again determined that supplementation of the 2017 PEIS is not warranted.

Letters of Authorization

Under the incidental take regulations in effect for this specified activity, industry operators may apply for LOAs (50 CFR 217.186). LOAs may be issued for any time period that does not exceed the effective period of the regulations, provided that NMFS is able to make the relevant determinations (50 CFR 217.183). Because the specified activity does not provide actual specifics of the timing, location, and survey design for activities that would be the subject of issued LOAs, such requests must include, at minimum, the information described at 50 CFR 216.104(a)(1) and (2), and an affirmation of intent to adhere to the mitigation, monitoring, and reporting requirements described in the regulations. The level of effort proposed by an operator will be used to develop an LOA-specific take estimate based on the results of Weirathmueller *et al.* (2022). These results will be based on the appropriate source proxy (*i.e.*, either 90-in³ single airgun or 4,130-, 5,110-, or 8,000-in³ airgun array).

If applicants do not use the modeling provided by the rule, NMFS may

publish a notice in the **Federal Register** soliciting public comment, if the model or inputs differ substantively from those that have been reviewed by NMFS and the public previously. Additional public review is not needed unless the model or inputs differ substantively from those that have been reviewed by NMFS and the public previously.

Technologies continue to evolve to meet the technical, environmental, and economic challenges of oil and gas development. The use of technologies other than those described herein will be evaluated on a case-by-case basis and may require public review. Some seemingly new technologies proposed for use by operators are often extended applications of existing technologies and interface with the environment in essentially the same way as well-known or conventional technologies. NMFS will evaluate such technologies accordingly and as described in the notice of issuance for the 2021 final rule. Please see that document for further detail.

Waiver of Delay in Effective Date

The Assistant Administrator for Fisheries has determined that there is a sufficient basis under the Administrative Procedure Act (APA) to waive the 30-day delay in the effective date of the regulations contained in the final rule. Section 553 of the APA provides that the required publication or service of a substantive rule shall be made not less than 30 days before its effective date with certain exceptions, including (1) for a substantive rule that relieves a restriction or (2) when the agency finds and provides good cause for foregoing delayed effectiveness. See 5 U.S.C. 553(d)(1), (d)(3). Here, consistent with the APA, 5 U.S.C. 553(d)(1), the issuance of regulations under section 101(a)(5)(A) of the MMPA is a substantive rule that relieves the statutory prohibition on the taking of marine mammals, specifically, the incidental taking of marine mammals associated with the specified activities. Upon expiration of the current regulations and until these regulations are effective, survey operators are prohibited from taking marine mammals incidental to their specified activities.

The Assistant Administrator has also determined that there is good cause under the APA (5 U.S.C. 553(d)(3)) to waive the 30-day delay in the effective date of this final rule. No individual or entity, other than survey operators applying for LOAs to avail themselves of the take authorization afforded by this rule and regulations, are affected by the provisions of these regulations, and survey operators do not require 30 days

to prepare for implementation of the regulations. Survey operators have been conducting survey operations identical to those described in this final rule and implementing associated mitigation requirements identical to those described in this final rule, for 5 years. The regulated industry, through its trade association representative, has informed NMFS that it requests that this final rule take effect as soon as possible to minimize the time without the availability of regulations under which LOAs may be issued and avoid any potential disruption of planned survey activities. For these reasons, NMFS finds good cause to waive the 30-day delay in the effective date.

Classification

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this final rule is significant for purposes of Executive Order 12866.

Pursuant to the procedures established to implement Executive Order 12866, OMB determined that the 2021 Final Rule (the rule), "Regulations Governing Taking Marine Mammals Incidental to Geophysical Survey Activities in the Gulf of America," was economically significant under Executive Order 12866 section 3(f)(1). Accordingly, NMFS prepared a regulatory impact analysis (RIA) that evaluated and, to the extent feasible, quantified the likely costs and benefits of the rule. The RIA evaluated the impacts of the 2021 rule relative to two baselines, including a baseline that corresponded with BOEM's management of geophysical survey activities in the GOA prior to a 2013 litigation settlement agreement (pre-settlement baseline) and a baseline that reflected the settlement agreement-related mitigation measures for survey activities in the GOA that were in place at the time the analysis was conducted (*i.e.*, post-settlement agreement). As the terms of the litigation settlement agreement are no longer in effect, NMFS considers evaluation of the costs of the rule relative to this baseline inapplicable. However, in December 2024, BOEM completed a Biological Assessment (BA), "Focused Biological Assessment to Support Endangered Species Act Reinitiated Consultation of the Gulf of Mexico Oil and Gas Program," that specifies certain Conditions of Approval (COA) for geophysical survey activities that are largely redundant with mitigation requirements of the 2021 rule. NMFS considers it appropriate to assess the impacts of this rule relative to both the

pre-settlement baseline and a baseline that incorporates COA specified in BOEM's 2024 BA, thereby providing a range of plausible impacts of the rule.

Relative to the pre-settlement regulatory baseline, the RIA projected that annualized direct compliance costs of the rule would range from approximately \$31 million to \$90 million (2019\$), applying a 7 percent discount rate.¹⁰

Key drivers of direct costs of the rule relative to this baseline include the number and type of surveys conducted in the GOA and the duration of shutdowns. Due to uncertainty about the future level of survey activity and duration of shutdowns, the RIA provides low-end and high-end forecasts for these factors, by survey type, for the years 2021–2025. An additional key driver of costs is the frequency of marine mammal encounters resulting in shutdowns. A review of PSO reports for surveys completed since implementation of the rule revealed the following:

- The actual number of surveys conducted since 2021 is lower than the low-end forecast in the RIA. Low-end forecasts exceed actual survey counts for all types except one, and no surveys of the type with the highest projected costs have been conducted. This signals that cost projections in the RIA may be overstated relative to the pre-settlement baseline.
- The actual average duration of shutdowns has been lower than the low-end forecast for the types of surveys that have been conducted. This signals that cost projections in the RIA may be overstated relative to the pre-settlement baseline.
- The frequency of encounters with marine mammals resulting in shutdowns has been slightly higher than forecasted in the RIA. This signals that cost projections in the RIA may be understated relative to the pre-settlement baseline.

Direct compliance costs of the rule relative to a baseline incorporating non-discretionary COA specified in BOEM's 2024 BA are considerably lower than costs relative to the pre-settlement baseline due to significant overlap between mitigation requirements of the rule and COA contained in the BA. For example, both the rule and BA require constant use of PAM for deep penetration airgun surveys in water

depths greater than 100 meters, as well as the shutdown of such surveys upon PAM detection of baleen whales, sperm whales, beaked whales, and Kogia species. Both the rule and BA also require the shutdown of seismic airgun surveys when large dolphins are identified within a 500-meter exclusion zone for deep penetration surveys and a 100-meter exclusion zone for shallow penetration surveys. The 2021 RIA projected that these two measures together account for between 76 and 77 percent of total direct annualized compliance costs of the rule. In addition, both the rule and BA require the shutdown of deep penetration seismic airgun surveys due to PSO sightings of baleen whales, beaked whales, and Kogia species outside of the 500-meter exclusion zone and within a 1,500-meter extended distance shutdown zone. Unlike the rule, the BA does not specify that this requirement applies to sightings of sperm whales, unless a sperm whale is traveling with a calf or in a group of six or more. Given the considerable overlap between the rule and BA in application of this shutdown requirement, it is reasonable to assume that at least a portion of the costs of this measure relative to the pre-settlement baseline are baseline costs of the rule relative to the baseline incorporating COA of the BA. The 2021 RIA projected that costs attributable to this mitigation measure account for between 20 and 24 percent of total direct annualized costs of the rule.

Based on these findings, we have determined that the RIA estimates provide a reasonable approximation of direct compliance costs of the rule relative to the pre-settlement baseline, and that direct compliance costs of the rule are considerably lower relative to a baseline that incorporates COA specified in BOEM's 2024 BA.

Other Costs and Benefits of the Rule

In addition to the quantified direct costs of the rule, the RIA identifies seasonal closures of specific areas to survey activities as a potential source of indirect costs. BOEM does not include seasonal closures as COA in its 2024 BA. Indirect costs could be incurred by the oil and gas industry to the extent that the seasonal closures delay or reduce the ability of industry to collect data necessary to identify and recover oil and gas resources, thereby reducing the overall level of oil and gas production in the GOA. The RIA states that such delays or reductions in production could also impact dependent social welfare associated with changes in the timing and volume

¹⁰ Annualized direct compliance costs ranging from \$31 million to \$90 million reflect analysis assuming a pre-settlement regulatory baseline. The RIA estimated net cost savings of regulatory compliance ranging from \$21 million to \$212 million (2019\$, 7 percent discount rate) relative to a Settlement Agreement Baseline.

of surveys and oil and gas production activities.

The RIA also identifies potential direct and indirect benefits of the rule. First, oil and gas industry survey operators' reliance since 2021 on the MMPA compliance framework afforded by the rule suggests that these companies rely upon NMFS' incidental take authorizations to proceed with the actions analyzed herein. While a MMPA incidental take authorization is not a pre-condition for conducting these actions (as the survey operators are ultimately responsible for this decision), issuance of LOAs provides survey operators with two key benefits: (1) a legal exemption from the MMPA's general prohibition on the take of marine mammals (assuming survey operators comply with the terms and conditions of authorizations); and (2) regulatory certainty because survey operators will be fully cognizant of NMFS' expectations in regard to the steps needed to be taken to address risks to marine mammals and how to minimize legal exposure under the statute. Survey operators will also incur

costs to comply with certain mitigation and monitoring requirements, as required by the MMPA and described in detail in the preceding. Despite the additional costs of such measures, the costs related to MMPA compliance during survey operations are small compared with expenditures on other aspects of oil and gas industry operations, and direct compliance costs of the regulatory requirements are unlikely to result in material impacts to those operations.

In addition, cost savings are generated by the reduced administrative effort required to obtain an LOA under the framework established by a rule compared to what would be required to obtain an incidental harassment authorization absent the rule. Data are not available at this time to quantify these cost savings. Data are not available to determine the extent to which the rule has generated conservation benefits, and, even with these data, available literature does not allow for the monetization of such benefits.

To the extent that this rule would allow a number of surveys to move

forward, or move forward sooner, there may be effects on tourism, ecosystem services, and non-use valuations. NMFS describes each of these values below. To the extent that the proposed rule would allow additional take, each of these values may be decreased.

Tourism

Marine mammal populations generate economic activity in the GOA and, more broadly, in the U.S. For example, the U.S. leads the world in whale watcher participation, with an estimated 4.9 million trips taken in 2008, or 38 percent of global whale watching trips.

According to a 2009 report, the number of whale watchers in the GOA states increased to over 550,000 in 2008, nearly an order of magnitude increase over a 10-year time period (Table 14). Direct revenues from sales of whale watching tickets was \$14.1 million that year, and the overall regional spending related to whale watching was nearly \$45 million. An estimated 625 full-time equivalent jobs were directly involved in marine mammal recreation across all GOA states in 2008.

Table 14 -- Whale Watching Statistics in GOA States			
Year	Number of Whale Watchers	Direct Expenditure ¹ (Millions 2016\$)	Total Expenditure ² (Millions 2016\$)
1998	61,000	Not reported	Not reported
2008	550,653	\$14.10	\$44.70

¹Direct expenditure is defined here as expenditure on tickets and items directly related to the whale watching trip itself. It excludes costs such as accommodation, transport, and food not included in the trip ticket price.

²Total expenditure includes both direct and indirect expenditures.

Source: O'Connor *et al.*, 2009. Whale Watching Worldwide: Tourism numbers, expenditures and expanding economic benefits, a special report from the International Fund for Animal Welfare, Yarmouth, MA, USA, prepared by Economists at Large.

Florida is the leading state for cetacean-based tourism in the country. Bottlenose dolphin viewing constitutes the majority of Florida's marine mammal-related tourism with average ticket prices of approximately \$43 for boat-based trips and \$95 for swim-with tours. Elsewhere in the GOA, in Alabama and Texas, average ticket prices are \$11 to \$22. Commercial whale watching activity is minimal in Mississippi and Louisiana.

Ecosystem Services

Large whales provide ecosystem services, which are benefits that society receives from the environment. The services whales provide include contributing to sense of place,

education, research, and they play an important role in the ecosystem. Large whales are considered ecosystem engineers, given their potential for trophic influence on their ecosystems. Their presence can reduce the risk of trophic cascades, which have previously affected smaller species when whale populations suffered historic declines. For example, as large consumers, whales heavily impact food-web interactions and can promote primary productivity.

Non-Use Benefits

The protection and restoration of populations of endangered whales may also generate non-use benefits. Economic research has demonstrated

that society places economic value on environmental assets, whether or not those assets are ever directly exploited. For example, society places real (and potentially measurable) economic value on simply knowing that large whale populations are flourishing in their natural environment (often referred to as "existence value") and will be preserved for the enjoyment of future generations. Using survey research methods, economists have developed several studies of non-use values associated with protection of whales or other marine mammals (table 15).

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Table 15 -- Studies of Non-use Value Associated with Marine Mammals

Author	Title	Findings
Lew, D. K. (2023)	Aggregating social benefits of endangered species protection: the case of the Cook Inlet beluga whale	This study surveyed responses from 1,747 Alaska households. It estimated that the mean household WTP values for Cook Inlet beluga whale recovery ranged from \$221 to \$409. The preferred model estimate was \$395.
Schwarzmann <i>et al.</i> (2021)	Whale Watching in Channel Islands National Marine Sanctuary: A Stated Preference Study of Passengers' Willingness to Pay for Marine Life Improvements	Respondents' WTP values for large baleen whales ranged from \$181 to \$121 per household, depending on the amount of marine life improvements.
Lew (2015)	Willingness to Pay for Threatened and Endangered Marine Species: A Review of the Literature and Prospects for Policy Use	Comprehensive literature review on the methods and case studies on WTP for threatened and endangered marine species.
Wallmo and Lew (2012)	Public Willingness to Pay for Recovering and Downlisting Threatened and Endangered Marine Species	Per-household mean WTP annually over 10 years for increase in North Atlantic right whale populations estimated to be \$71.62 (for recovery) and \$38.79 (for down-listing to threatened status) (2010 dollars).
Giraud <i>et al.</i> (2002)	Economic Benefit of the Protection of the Steller Sea Lion	Estimated WTP for an expanded Steller sea lion protection program. The average WTP for the entire nation amounted to roughly \$61 per person.
Loomis and Larson (1994)	Total Economic Values of Increasing Gray Whale Populations: Results from a Contingent Valuation Survey of Visitors and Households	Mean WTP of U.S. households for an increase in gray whale populations estimated to be \$16.18 for a 50 percent increase and \$18.14 for a 100 percent increase.
Samples and Hollyer (1990)	Contingent Valuation of Wildlife Resources in the Presence of Substitutes and Complements	Respondents' average WTP (lump sum payment) to protect humpback whales in Hawaii ranged from \$125 to \$142 (1986 dollars).
Samples <i>et al.</i> (1986)	Information Disclosure and Endangered Species Valuation	Estimated individual WTP for protection of humpback whales of \$39.62 per year.
Day (1985), cited in Ramage (1990)	The Economic Value of Whalewatching at Stellwagen Bank. The Resources and Uses of Stellwagen Bank	Non-use value of the presence of whales in the Massachusetts Bays system estimated to be \$24 million.
Hageman (1985)	Valuing Marine Mammal Populations: Benefit Valuations in a Multi-Species Ecosystem	Per-household WTP for gray and blue whales, bottlenose dolphins, California sea otters, and northern elephant seals estimated to be \$23.95, \$17.73, \$20.75, and \$18.29 per year, respectively (1984 dollars).

BILLING CODE 3510-22-C**Executive Order 14192**

This final rule is an Executive Order 14192 deregulatory action. Though there are no monetized cost savings for the rule, the rule is expected to reduce burden on industry.

Regulatory Flexibility Act (RFA)

NMFS prepared a regulatory impact analysis (RIA), including a final regulatory flexibility analysis (FRFA), in support of the 2021 final rule. The FRFA described the economic effects of the 2021 final rule on small entities. In summary, the FRFA found the following: First, in the majority of cases

(88 percent), survey permit applicants are large businesses. Second, when the permit applicants are small businesses, the majority of the time (63 percent) they are oil and gas extractors (NAICS 2111). Third, together, these permits (for large businesses and small businesses with high annual revenues for which rule costs are a small fraction) account

for 96 percent of the survey permits. Fourth, while small entities in other industries occasionally apply for permits (four percent historically), these businesses are quite small, with average annual revenues in the millions or even less. Given their size, it is unlikely that these permit applicants bear survey costs; otherwise it would be reflected in their annual revenues (*i.e.*, their revenues on average would reflect that they recover their costs). Accordingly, NMFS expects it is most likely that survey costs are passed on to oil and gas extraction companies that commission the surveys or purchase the data. And fifth, overall, up to five small businesses (NAICS 2111) per year may experience increased costs of between 0.1 and 0.7 percent of average annual revenues. See 86 FR 5322, 5443 (January 19, 2021). A copy of the full FRFA is available as Appendix B to the RIA. No changes are made here that would affect the findings of the FRFA, and there are no new data that would meaningfully change the FRFA.

As a result, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. Because of this certification, no new regulatory flexibility analysis is required and none has been prepared. No comments were received that would change this determination.

Paperwork Reduction Act (PRA)

This rule contains collection-of-information requirements subject to the provisions of the PRA. These requirements have been approved by the Office of Management and Budget (OMB) under control number 0648–0151 (Applications and Reporting Requirements for the Incidental Take of Marine Mammals by Specified Activities under the Marine Mammal Protection Act) and include the applications for regulations, subsequent LOAs, and reports. The current information collection approved by OMB under control number 0648–0151 includes burden estimates for incidental take authorizations issued under the MMPA. The current numbers approved under 0648–0151 are as follows: 576 respondents, 576 responses, 70,236 burden hours, and \$2,892,557 in labor and miscellaneous costs. This current rulemaking is expected to result in the following burden estimates: 137 respondents, 391 responses, and 30,926

burden hours, \$1,422,281 in labor and miscellaneous costs. The burden hours in this rule fall within the existing burden estimates associated with this control number.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 217

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: April 14, 2026.

Samuel D. Rauch III,

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

For the reasons set forth in the preamble, NMFS amends 50 CFR part 217 as follows:

PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

- 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

- 2. Revise subpart S to read as follows:

Subpart S—Taking Marine Mammals Incidental to Geophysical Survey Activities in the Gulf of America

Sec.

- 217.180 Specified activity and specified geographical region.
- 217.181 Effective dates.
- 217.182 Permissible methods of taking.
- 217.183 Prohibitions.
- 217.184 Mitigation requirements.
- 217.185 Requirements for monitoring and reporting.
- 217.186 Letters of Authorization.
- 217.187 Renewals and modifications of Letters of Authorization.
- 217.188 Severability.
- 217.189 [Reserved]

Subpart S—Taking Marine Mammals Incidental to Geophysical Survey Activities in the Gulf of America

§ 217.180 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to oil and gas industry operators (Letter of Authorization (LOA)-holders), and those persons authorized to conduct activities on their behalf, for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this

section and that occurs incidental to geophysical survey activities.

(b) The taking of marine mammals by oil and gas industry operators may be authorized in an LOA only if it occurs within U.S. waters in the Gulf of America, outside the area previously subject to a Congressional leasing moratorium under the Gulf of Mexico Energy Security Act (GOMESA) (Pub. L. 109–432, section 104).

§ 217.181 Effective dates.

Regulations in this subpart are effective from April 20, 2026, through April 19, 2031.

§ 217.182 Permissible methods of taking.

Under LOAs issued pursuant to §§ 216.106 of this chapter and 217.186, LOA-holders may incidentally, but not intentionally, take marine mammals within the area described in § 217.180(b) by Level A and Level B harassment associated with geophysical survey activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

§ 217.183 Prohibitions.

Notwithstanding takings contemplated in §§ 217.180 and 217.182, and authorized by an LOA issued under §§ 216.106 of this chapter and 217.186, no person in connection with the activities described in § 217.180 may:

- (a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or an LOA issued under §§ 216.106 of this chapter and 217.186;
- (b) Take any marine mammal not specified in such LOAs;
- (c) Take any marine mammal specified in such LOAs in any manner other than as specified; or
- (d) Take a marine mammal specified in such LOAs if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal.

§ 217.184 Mitigation requirements.

When conducting the activities identified in § 217.180, the mitigation measures contained in any LOA issued under §§ 216.106 of this chapter and 217.186 must be implemented. These mitigation measures shall include but are not limited to:

- (a) *General conditions.* (1) A copy of any issued LOA must be in the possession of the LOA-holder, vessel operator, other relevant personnel, the lead protected species observer (PSO), and any other relevant designees operating under the authority of the LOA.

(2) The LOA-holder must instruct relevant vessel personnel with regard to the authority of the protected species monitoring team (PSO team), and must ensure that relevant vessel personnel and PSO team participate in a joint onboard briefing, led by the vessel operator and lead PSO, prior to beginning work to ensure that responsibilities, communication procedures, protected species monitoring protocols, operational procedures, and LOA requirements are clearly understood. This briefing must be repeated when relevant new personnel join the survey operations before work involving those personnel commences.

(3) The acoustic source must be deactivated when not acquiring data or preparing to acquire data, except as necessary for testing. Unnecessary use of the acoustic source must be avoided. For surveys using airgun arrays as the acoustic source, notified operational capacity (*i.e.*, total array volume) (not including redundant backup airguns) must not be exceeded during the survey, except where unavoidable for source testing and calibration purposes. All occasions where activated source volume exceeds notified operational capacity must be communicated to the PSO(s) on duty and fully documented. The lead PSO must be granted access to relevant instrumentation documenting acoustic source power and/or operational volume.

(4) PSOs must be used as specified in this paragraph (a)(4).

(i) LOA-holders must use independent, dedicated, qualified PSOs, meaning that the PSOs must be employed by a third-party observer provider, must have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of protected species and mitigation requirements (including brief alerts regarding maritime hazards), and must be qualified pursuant to § 217.185(a) (except as specified in paragraphs (d)(2)(iii) and (iv) of this section). Acoustic PSOs are required to complete specialized training for operating passive acoustic monitoring (PAM) systems and are encouraged to have familiarity with the vessel on which they will be working. PSOs may act as both acoustic and visual observers (but not simultaneously), so long as they demonstrate that their training and experience are sufficient to perform each task.

(ii) The LOA-holder must submit PSO resumes for NMFS review and approval prior to commencement of the survey (except as specified in paragraph

(d)(2)(iii) of this section). Resumes should include dates of training and any prior NMFS approval, as well as dates and description of last experience, and must be accompanied by information documenting successful completion of an acceptable training course. NMFS is allowed 1 week to approve PSOs from the time that the necessary information is received by NMFS, after which PSOs meeting the minimum requirements will automatically be considered approved.

(iii) At least one visual PSO and two acoustic PSOs (when required) aboard each acoustic source vessel must have a minimum of 90 days at-sea experience working in those roles, respectively, with no more than 18 months elapsed since the conclusion of the at-sea experience (except as specified in paragraph (d)(2)(iii) of this section). One visual PSO with such experience must be designated as the lead for the entire PSO team. The lead must coordinate duty schedules and roles for the PSO team and serve as the primary point of contact for the vessel operator (note that the responsibility of coordinating duty schedules and roles may instead be assigned to a shore-based, third-party monitoring coordinator). To the maximum extent practicable, the lead PSO must devise the duty schedule such that experienced PSOs are on duty with those PSOs with appropriate training but who have not yet gained relevant experience.

(b) *Deep penetration surveys.* (1) Deep penetration surveys are defined as surveys using airgun arrays with total volume greater than 1,500 in³.

(2) Visual monitoring must be conducted as specified in this paragraph (b)(2).

(i) During survey operations (*i.e.*, any day on which use of the acoustic source is planned to occur, and whenever the acoustic source is in the water, whether activated or not), a minimum of two PSOs must be on duty and conducting visual observations at all times during daylight hours (*i.e.*, from 30 minutes prior to sunrise through 30 minutes following sunset).

(ii) Visual monitoring must begin not less than 30 minutes prior to ramp-up and must continue until 1 hour after use of the acoustic source ceases or until 30 minutes past sunset.

(iii) Visual PSOs must coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts, and must conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.

(iv) Visual PSOs must immediately communicate all observations of marine

mammals to the on-duty acoustic PSO, including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination.

(v) Any observations of marine mammals by crew members aboard any vessel associated with the survey must be relayed to the PSO team.

(vi) During good conditions (*e.g.*, daylight hours; Beaufort sea state (BSS) 3 or less), visual PSOs must conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the acoustic source and between acquisition periods, to the maximum extent practicable.

(vii) Visual PSOs may be on watch for a maximum of 2 consecutive hours followed by a break of at least 1 hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period. NMFS may grant an exception for LOA applications that demonstrate such a “2 hours on/1 hour off” duty cycle is not practicable, in which case visual PSOs will be subject to a maximum of 4 consecutive hours on watch followed by a break of at least 2 hours between watches. Combined observational duties (visual and acoustic but not at the same time) must not exceed 12 hours per 24-hour period for any individual PSO.

(3) Acoustic monitoring must be conducted as specified in this paragraph (b)(3).

(i) All source vessels must use a towed PAM system at all times when operating in waters deeper than 100 m, which must be monitored by a minimum of one acoustic PSO beginning at least 30 minutes prior to ramp-up, at all times during use of the acoustic source, and until 1 hour after use of the acoustic source ceases. “PAM system” refers to calibrated hydrophone arrays with full system redundancy to detect, identify, and estimate distance and bearing to vocalizing cetaceans, coupled with appropriate software to aid monitoring and listening by a PAM operator skilled in bioacoustics analysis and computer system specifications capable of running appropriate software. The PAM system must have at least one calibrated hydrophone (per each deployed hydrophone type and/or set) sufficient for determining whether background noise levels on the towed PAM system are sufficiently low to meet performance expectations. Applicants must provide a PAM plan including description of the hardware and software proposed for use prior to proceeding with any survey where PAM is required.

(ii) Acoustic PSOs must immediately communicate all detections of marine mammals to visual PSOs (when visual PSOs are on duty), including any determination by the PSO regarding species identification, distance, and bearing, and the degree of confidence in the determination.

(iii) Acoustic PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 2 hours between watches, and may conduct a maximum of 12 hours of observation per 24-hour period. Combined observational duties (visual and acoustic but not at the same time) must not exceed 12 hours per 24-hour period for any individual PSO.

(iv) Survey activity may continue for 30 minutes when the PAM system malfunctions or is damaged, while the PAM operator diagnoses the issue. If the diagnosis indicates that the PAM system must be repaired to solve the problem, operations may continue for an additional 2 hours without acoustic monitoring during daylight hours only under the following conditions:

(A) Sea state is less than or equal to BSS 4;

(B) No marine mammals (excluding delphinids) detected solely by PAM in the applicable exclusion zone in the previous 2 hours;

(C) NMFS is notified via email as soon as practicable with the time and location in which operations began occurring without an active PAM system; and

(D) Operations with an active acoustic source, but without an operating PAM system, do not exceed a cumulative total of 4 hours in any 24-hour period.

(4) PSOs must establish and monitor applicable exclusion and buffer zones. These zones must be based upon the radial distance from the edges of the airgun array (rather than being based on the center of the array or around the vessel itself). During use of the acoustic source (*i.e.*, anytime the acoustic source is active, including ramp-up), occurrence of marine mammals within the relevant buffer zone (but outside the exclusion zone) should be communicated to the operator to prepare for the potential shutdown of the acoustic source.

(i) Two exclusion zones are defined, depending on the species and context. A standard exclusion zone encompassing the area at and below the sea surface out to a radius of 500 meters from the edges of the airgun array (0–500 m) is defined. For special circumstances (defined in paragraph (b)(9)(v) of this section), the exclusion zone encompasses an extended distance of 1,500 meters (0–1,500 m).

(ii) During pre-start clearance monitoring (*i.e.*, before ramp-up begins), the buffer zone acts as an extension of the exclusion zone in that observations of marine mammals within the buffer zone would also preclude airgun operations from beginning (*i.e.*, ramp-up). For all marine mammals (except where superseded by the extended 1,500-m exclusion zone), the buffer zone encompasses the area at and below the sea surface from the edge of the 0–500 meter exclusion zone out to a radius of 1,000 meters from the edges of the airgun array (500–1,000 m). The buffer zone is not applicable when the exclusion zone is greater than 500 meters, *i.e.*, the observational focal zone is not increased beyond 1,500 meters.

(5) A ramp-up procedure, involving a step-wise increase in the number of airguns firing and total active array volume until all operational airguns are activated and the full volume is achieved, is required at all times as part of the activation of the acoustic source. A 30-minute pre-start clearance observation period must occur prior to the start of ramp-up. The LOA-holder must adhere to the following pre-start clearance and ramp-up requirements:

(i) The operator must notify a designated PSO of the planned start of ramp-up as agreed upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up.

(ii) Ramp-ups must be scheduled so as to minimize the time spent with source activated prior to reaching the designated run-in.

(iii) A designated PSO must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed.

(iv) Ramp-up must not be initiated if any marine mammal is within the applicable exclusion or buffer zone. If a marine mammal is observed within the exclusion zone or the buffer zone during the 30-minute pre-start clearance period, ramp-up must not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (15 minutes for small delphinids and 30 minutes for all other species).

(v) Ramp-up must begin by activating a single airgun of the smallest volume in the array and shall continue in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration. Total duration must not be less than 20 minutes. The operator must provide information to

the PSO documenting that appropriate procedures were followed.

(vi) Ramp-up must cease and the source shut down upon observation of marine mammals within the applicable exclusion zone. Once ramp-up has begun, observations of marine mammals within the buffer zone do not require shutdown.

(vii) Ramp-up may occur at times of poor visibility, including nighttime, if appropriate acoustic monitoring has occurred with no detections of a marine mammal other than delphinids in the 30 minutes prior to beginning ramp-up. Acoustic source activation may only occur at night where operational planning cannot reasonably avoid such circumstances.

(viii) If the acoustic source is shut down for brief periods (*i.e.*, less than 30 minutes) for reasons other than implementation of prescribed mitigation (*e.g.*, mechanical difficulty), it may be activated again without ramp-up if PSOs have maintained constant visual and/or acoustic observation and no visual or acoustic detections of any marine mammal have occurred within the applicable exclusion zone. For any longer shutdown, pre-start clearance observation and ramp-up are required. For any shutdown at night or in periods of poor visibility (*e.g.*, BSS 4 or greater), ramp-up is required, but if the shutdown period was brief and constant observation maintained, pre-start clearance watch is not required.

(ix) Testing of the acoustic source involving all elements requires ramp-up. Testing limited to individual source elements or strings does not require ramp-up but does require the pre-start clearance observation period.

(6) Shutdowns must be implemented as specified in this paragraph (b)(6).

(i) Any PSO on duty has the authority to delay the start of survey operations or to call for shutdown of the acoustic source pursuant to the requirements of this subpart.

(ii) The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch.

(iii) When both visual and acoustic PSOs are on duty, all detections must be immediately communicated to the remainder of the on-duty PSO team for potential verification of visual observations by the acoustic PSO or of acoustic detections by visual PSOs.

(iv) When the airgun array is active (*i.e.*, anytime one or more airguns is active, including during ramp-up), and:

(A) A marine mammal appears within or enters the applicable exclusion zone; and/or

(B) A marine mammal (excluding delphinids) is detected acoustically and localized within the applicable exclusion zone, the acoustic source must be shut down. When shutdown is called for by a PSO, the acoustic source must be immediately deactivated and any dispute resolved only following deactivation.

(v) The extended 1,500-m exclusion zone must be applied upon detection (visual or acoustic) of a baleen whale, sperm whale, beaked whale, or *Kogia* spp. within the zone.

(vi) Shutdown requirements are waived for dolphins of the following genera: *Tursiops*, *Stenella*, *Steno*, and *Lagenodelphis*. If a delphinid is visually detected within the exclusion zone, no shutdown is required unless the PSO confirms the individual to be of a genus other than those listed above, in which case a shutdown is required. Acoustic detection of delphinids does not require shutdown.

(vii) If there is uncertainty regarding identification or localization, PSOs may use best professional judgment in making the decision to call for a shutdown.

(viii) Upon implementation of shutdown, the source may be reactivated after the marine mammal(s) has been observed exiting the applicable exclusion zone or following a 30-minute clearance period with no further detection of the marine mammal(s).

(c) *Shallow penetration surveys.* (1) Shallow penetration surveys are defined as surveys using airgun arrays with total volume equal to or less than 1,500 in³, single airguns, boomers, or equivalent sources.

(2) LOA-holders conducting shallow penetration surveys must follow the requirements defined for deep penetration surveys in paragraph (b) of this section, with the following exceptions:

(i) Acoustic monitoring is not required for shallow penetration surveys.

(ii) Ramp-up for small airgun arrays must follow the procedure described above for large airgun arrays, but may occur over an abbreviated period of time. Ramp-up is not required for surveys using only a single airgun. For non-airgun sources, power should be increased as feasible to effect a ramp-up.

(iii) Two exclusion zones are defined, depending on the species and context. A standard exclusion zone encompassing the area at and below the sea surface out to a radius of 100 meters from the edges of the airgun array (if

used) or from the acoustic source (0–100 m) is defined. For special circumstances (defined in paragraph (b)(6)(v) of this section), the exclusion zone encompasses an extended distance of 500 meters (0–500 m).

(iv) The buffer zone encompasses the area at and below the sea surface from the edge of the 0–100 meter exclusion zone out to a radius of 200 meters from the edges of the airgun array (if used) or from the acoustic source (100–200 meters). The buffer zone is not applicable when the exclusion zone is greater than 100 meters.

(d) *High-resolution geophysical (HRG) surveys.* (1) HRG surveys are defined as surveys using an electromechanical source that operates at frequencies less than 180 kHz, other than those defined at in paragraph (c)(1) of this section (e.g., side-scan sonar, multibeam echosounder, or chirp sub-bottom profiler).

(2) LOA-holders conducting HRG surveys must follow the requirements defined for shallow penetration surveys defined in paragraph (c) of this section, with the following exceptions:

(i) No shutdowns are required for HRG surveys. Pre-start clearance watch is required as defined in paragraph (c) of this section, i.e., for a period of 30 minutes and over a 200-m radius from the acoustic source.

(ii) During survey operations (e.g., any day on which use of the acoustic source is planned to occur, and whenever the acoustic source is in the water, whether activated or not), a minimum of one trained and experienced independent PSO must be on duty and conducting visual observations at all times during daylight hours (i.e., from 30 minutes prior to sunrise through 30 minutes following sunset) when operating in waters deeper than 100 m.

(iii) When operating in waters shallower than 100 m, LOA-holders must employ one trained visual PSO, who may be a crew member, only for purposes of conducting pre-start clearance monitoring. If PSOs are crew members, i.e., are not independent PSOs, the PSOs are not subject to NMFS' approval. In these circumstances, LOA requests must describe the training that will be provided to crew members filling the role of PSO.

(iv) PSOs are not required during survey operations in which the active acoustic source(s) are deployed on an autonomous underwater vehicle.

(e) *Time-area closure.* From January 1 through May 31, no use of airguns may occur shoreward of the 20-m isobath and between 90–84° W.

(f) *Entanglement avoidance.* To avoid the risk of entanglement, LOA-holders conducting surveys using ocean-bottom nodes or similar gear must:

(1) Use negatively buoyant coated wire-core tether cable;

(2) Retrieve all lines immediately following completion of the survey; and

(3) Attach acoustic pingers directly to the coated tether cable; acoustic releases should not be used.

(g) *Vessel strike avoidance.* LOA-holders must adhere to the following requirements:

(1) Vessel operators and crews must maintain a vigilant watch for all marine mammals and must slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammal. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel, which shall be defined according to the parameters stated in this subsection. Visual observers monitoring the vessel strike avoidance zone may be third-party observers (i.e., PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to distinguish marine mammals from other phenomena and broadly to identify a marine mammal as a baleen whale, sperm whale, or other marine mammal;

(2) Vessel speeds must be reduced to 10 kn or less when mother/calf pairs, pods, or large assemblages of marine mammals are observed near a vessel;

(3) All vessels must maintain a minimum separation distance of 500 m from baleen whales;

(4) All vessels must maintain a minimum separation distance of 100 m from sperm whales;

(5) All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an exception made for those animals that approach the vessel; and

(6) When marine mammals are sighted while a vessel is underway, the vessel must take action as necessary to avoid violating the relevant separation distance, e.g., attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area. If marine mammals are sighted within the relevant separation distance, the vessel must reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear or any vessel that is navigationally constrained.

(7) These requirements do not apply in any case where compliance would

create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

§ 217.185 Requirements for monitoring and reporting.

(a) *PSO qualifications.* (1) PSOs must successfully complete relevant, acceptable training, including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program.

(2) PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences, a minimum of 30 semester hours or equivalent in the biological sciences, and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver must be submitted to NMFS and shall include written justification. Requests will be granted or denied (with justification) by NMFS within 1 week of receipt of submitted information. Alternate experience that may be considered includes, but is not limited to:

- (i) Secondary education and/or experience comparable to PSO duties;
- (ii) Previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; or
- (iii) Previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

(b) *Equipment.* LOA-holders are required to:

(1) Provide PSOs with bigeye binoculars (e.g., 25 x 150; 2.7 view angle; individual ocular focus; height control) of appropriate quality solely for PSO use. These must be pedestal-mounted on the deck at the most appropriate vantage point that provides for optimal sea surface observation, PSO safety, and safe operation of the vessel.

(2) For each vessel required to use a PAM system, provide a PAM system that has been verified and tested by an experienced acoustic PSO who will be using it during the trip for which monitoring is required;

(3) Work with the selected third-party observer provider to ensure PSOs have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals. (Equipment specified in A. through G.

below may be provided by an individual PSO, the third-party observer provider, or the LOA-holder, but the LOA-holder is responsible for ensuring PSOs have the proper equipment required to perform the duties specified herein.) Such equipment, at a minimum, must include:

(i) Reticle binoculars (e.g., 7 x 50) of appropriate quality (at least one per PSO, plus backups);

(ii) Global Positioning Unit (GPS) (plus backup);

(iii) Digital camera with a telephoto lens (the camera or lens should also have an image stabilization system) that is at least 300 mm or equivalent on a full-frame single lens reflex (SLR) (plus backup);

(iv) Compass (plus backup);

(v) Radios for communication among vessel crew and PSOs (at least one per PSO, plus backups); and

(vi) Any other tools necessary to adequately perform necessary PSO tasks.

(c) *Data collection.* PSOs must use standardized electronic data forms. PSOs must record detailed information about any implementation of mitigation requirements, including the distance of marine mammals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up or activation of the acoustic source. If required mitigation was not implemented, PSOs must record a description of the circumstances. At a minimum, the following information should be recorded:

(1) Vessel names (source vessel and other vessels associated with survey), vessel size and type, maximum speed capability of vessel, port of origin, and call signs;

(2) PSO names and affiliations;

(3) Dates of departures and returns to port with port name;

(4) Dates of and participants in PSO briefings;

(5) Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;

(6) Vessel location (latitude/longitude) when survey effort began and ended and vessel location at beginning and end of visual PSO duty shifts;

(7) Vessel location at 30-second intervals (if software capability allows) or 5-minute intervals (if location must be manually recorded);

(8) Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;

(9) Environmental conditions while on visual survey (at beginning and end

of PSO shift and whenever conditions changed significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;

(10) Vessel location when environmental conditions change significantly;

(11) Factors that may have contributed to impaired observations during each PSO shift change or as needed as environmental conditions change (e.g., vessel traffic, equipment malfunctions);

(12) Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in an array, tow depth of an acoustic source, and any other notes of significance (i.e., pre-start clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.); and

(13) Upon visual observation of a marine mammal, the following information:

(i) Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);

(ii) PSO who sighted the animal and PSO location (including height above water) at time of sighting;

(iii) Time of sighting;

(iv) Vessel coordinates at time of sighting;

(v) Water depth;

(vi) Direction of vessel's travel (compass direction);

(vii) Speed of the vessel(s) from which the observation was made;

(viii) Direction of animal's travel relative to the vessel;

(ix) Pace of the animal;

(x) Estimated distance to the animal (and method of estimating distance) and its heading relative to vessel at initial sighting;

(xi) Identification of the animal (e.g., genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;

(xii) Estimated number of animals (high/low/best);

(xiii) Estimated number of animals by cohort (adults, juveniles, group composition, etc.);

(xiv) Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);

(xv) Detailed behavior observations (e.g., number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit

and detailed as possible; note any observed changes in behavior), including an assessment of behavioral responses to survey activity;

(xvi) Animal's closest point of approach (CPA) and/or closest distance from any element of the acoustic source;

(xvii) Platform activity at time of sighting (*e.g.*, deploying, recovering, testing, shooting, data acquisition, other); and

(xviii) Description of any actions implemented in response to the sighting (*e.g.*, delays, shutdown, ramp-up) and time and location of the action.

(14) Upon acoustic detection of a marine mammal using a PAM system, the following information:

(i) An acoustic encounter identification number, and whether the detection was linked with a visual sighting;

(ii) Date and time when first and last heard;

(iii) Types and nature of sounds heard (*e.g.*, clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal); and

(iv) Any additional information recorded such as water depth of the hydrophone array, bearing of the animal to the vessel (if determinable), species or taxonomic group (if determinable), spectrogram screenshot, and any other notable information.

(d) *Reporting.* (1) Annual reporting must be submitted as specified in this paragraph (d)(1).

(i) LOA-holders must submit a summary report to NMFS on all activities and monitoring results within 90 days of the completion of the survey or expiration of the LOA, whichever comes sooner, and must include all information described above under defined in paragraph (c) of this section. If an issued LOA is valid for greater than 1 year, the summary report must be submitted on an annual basis.

(ii) The report must describe activities conducted and sightings of marine mammals, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all marine mammal sightings (dates, times, locations, activities, associated survey activities, and information regarding locations where the acoustic source was used). In addition to the report, all raw observational data must be made available to NMFS.

(iii) For operations requiring the use of PAM, the report must include a validation document concerning the use of PAM, which should include necessary noise validation diagrams and demonstrate whether background noise

levels on the PAM deployment limited achievement of the planned detection goals. Copies of any vessel self-noise assessment reports must be included with the report.

(iv) The LOA-holder must provide geo-referenced time-stamped vessel tracklines for all time periods in which airguns (full array or single) were operating. Tracklines must include points recording any change in airgun status (*e.g.*, when the airguns began operating, when they were turned off). GIS files must be provided in ESRI shapefile format and include the UTC date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates must be referenced to the WGS84 geographic coordinate system.

(v) The draft report must be accompanied by a certification from the lead PSO as to the accuracy of the report, and the lead PSO may submit directly to NMFS a statement concerning implementation and effectiveness of the required mitigation and monitoring.

(vi) A final report must be submitted within 30 days following resolution of any comments on the draft report.

(2) Comprehensive reporting must be submitted as specified in this paragraph (d)(2). LOA-holders must contribute to the compilation and analysis of data for inclusion in an annual synthesis report addressing all data collected and reported through annual reporting in each calendar year. The synthesis period shall include all annual reports deemed to be final by NMFS in a given 1 year reporting period. The report must be submitted to NMFS within 90 days following the end of a given 1 year reporting period.

(e) *Reporting of injured or dead marine mammals.* (1) In the event that personnel involved in the survey activities discover an injured or dead marine mammal, the LOA-holder must report the incident to the Office of Protected Resources (OPR), NMFS and to the Southeast Regional Stranding Network as soon as feasible. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

(ii) Species identification (if known) or description of the animal(s) involved;

(iii) Condition of the animal(s) (including carcass condition if the animal is dead);

(iv) Observed behaviors of the animal(s), if alive;

(v) If available, photographs or video footage of the animal(s); and

(vi) General circumstances under which the animal was discovered.

(2) In the event of a ship strike of a marine mammal by any vessel involved in the survey activities, the LOA-holder must report the incident to OPR, NMFS and to the Southeast Regional Stranding Network as soon as feasible. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Species identification (if known) or description of the animal(s) involved;

(iii) Vessel's speed during and leading up to the incident;

(iv) Vessel's course/heading and what operations were being conducted (if applicable);

(v) Status of all sound sources in use;

(vi) Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;

(vii) Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;

(viii) Estimated size and length of animal that was struck;

(ix) Description of the behavior of the marine mammal immediately preceding and following the strike;

(x) If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;

(xi) Estimated fate of the animal (*e.g.*, dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and

(xii) To the extent practicable, photographs or video footage of the animal(s).

(3) For deep penetration surveys, in the event of a live stranding (or near-shore atypical milling) event within 50 km of the survey operations, where the NMFS stranding network is engaged in herding or other interventions to return animals to the water, the Director of OPR, NMFS (or designee) will advise the LOA-holder of the need to implement shutdown procedures for all active acoustic sources operating within 50 km of the stranding. Shutdown procedures for live stranding or milling marine mammals include the following:

(i) If at any time, the marine mammal(s) die or are euthanized, or if herding/intervention efforts are stopped, the Director of OPR, NMFS (or designee) will advise the LOA-holder that the shutdown around the animals' location is no longer needed.

(ii) Otherwise, shutdown procedures will remain in effect until the Director of OPR, NMFS (or designee) determines

and advises the LOA-holder that all live animals involved have left the area (either of their own volition or following an intervention).

(iii) If further observations of the marine mammals indicate the potential for re-stranding, additional coordination with the LOA-holder will be required to determine what measures are necessary to minimize that likelihood (*e.g.*, extending the shutdown or moving operations farther away) and to implement those measures as appropriate.

(4) If NMFS determines that the circumstances of any marine mammal stranding found in the vicinity of the activity suggest investigation of the association with survey activities is warranted, and an investigation into the stranding is being pursued, NMFS will submit a written request to the LOA-holder indicating that the following initial available information must be provided as soon as possible, but no later than 7 business days after the request for information. In the event that the investigation is still inconclusive, the investigation of the association of the survey activities is still warranted, and the investigation is still being pursued, NMFS may provide additional information requests, in writing, regarding the nature and location of survey operations prior to the time period above.

(i) Status of all sound source use in the 48 hours preceding the estimated time of stranding and within 50 km of the discovery/notification of the stranding by NMFS; and

(ii) If available, description of the behavior of any marine mammal(s) observed preceding (*i.e.*, within 48 hours and 50 km) and immediately after the discovery of the stranding.

§ 217.186 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to this subpart, prospective LOA-holders must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period not to exceed the expiration date of this subpart.

(c) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, the LOA-holder must apply for and obtain a modification of the LOA as described in § 217.187.

(d) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species or stock and its habitat; and

(3) Requirements for monitoring and reporting.

(e) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under this subpart and a determination that the amount of take authorized under the LOA is of no more than small numbers.

(f) For LOA issuance, where either:

(1) the conclusions put forth in an application (*e.g.*, take estimates) are based on analytical methods that differ substantively from those used in the development of the rule, or

(2) the proposed activity or anticipated impacts vary substantively in scope or nature from those analyzed for the rule, NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the differences, and solicit public comment before making a decision regarding issuance of the LOA.

(g) Notice of issuance or denial of an LOA shall be published in the **Federal Register** within 30 days of a determination.

§ 217.187 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 217.186 for the activity identified in § 217.180 shall be modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for this subpart (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under this subpart were implemented.

(b) For LOA modification requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that result in more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA

in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under § 216.106 of this chapter and § 217.186 for the activity identified in § 217.180 may be modified by NMFS under the following circumstances:

(1) NMFS may modify (including adding or removing measures) the existing mitigation, monitoring, or reporting measures (after consulting with the LOA-holder regarding the practicability of the modifications) if doing so is practicable and creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for this subpart;

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from monitoring from previous years;

(B) Results from other marine mammal and/or sound research or studies; and

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by this subpart or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in an LOA issued pursuant to §§ 216.106 of this chapter and 217.186, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

§ 217.188 Severability.

(a) The reference in § 217.186(e) relating to a small numbers determination for the issuance of LOAs is intended to be severable from the remaining provisions of this subpart.

(b) [Reserved]

§ 217.189 [Reserved]

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FEDERAL REGISTER

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Part III

The President

Notice of April 15, 2026—Continuation of the National Emergency and of the Emergency Authority Relating to the Regulation of the Anchorage and Movement of Russian-Affiliated Vessels to United States Ports

Presidential Documents

Title 3—

Notice of April 15, 2026

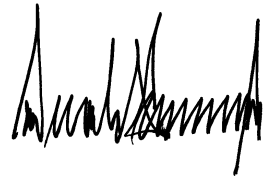
The President

Continuation of the National Emergency and of the Emergency Authority Relating to the Regulation of the Anchorage and Movement of Russian-Affiliated Vessels to United States Ports

On April 21, 2022, by Proclamation 10371, the President declared a national emergency by reason of a disturbance or threatened disturbance of international relations of the United States and authorized the Secretary of Homeland Security to regulate the anchorage and movement of Russian-affiliated vessels, pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and section 1 of title II of Public Law 65–24, ch. 30, June 15, 1917, as amended (Magnuson Act) (46 U.S.C. 70051).

The policies and actions of the Government of the Russian Federation continue to constitute a national emergency by reason of a disturbance or threatened disturbance of international relations of the United States. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 additional year the national emergency with respect to the Russian Federation and the emergency authority relating to the regulation of the anchorage and movement of Russian-affiliated vessels to United States ports set out in Proclamation 10371.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
April 15, 2026.

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