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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–15285; Project Identifier MCAI–2026–01161–T; Amendment 39–23531; AD 2026–24–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This AD was prompted by a report of engine stall events that occurred on ground in icing weather conditions (freezing fog) during engine acceleration to take-off thrust, or during the take-off phase. This AD requires revising the existing airplane flight manual (AFM) to provide the flightcrew with a prohibition to follow under certain freezing fog conditions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 14, 2026.

The FAA must receive comments on this AD by January 11, 2027.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–15285; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2026–15285.

FOR FURTHER INFORMATION CONTACT: Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3553; email: *takahisa.kobayashi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–15285; Project Identifier MCAI–2026–01161–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3553; email: *takahisa.kobayashi@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2026–53, dated October 21, 2026 (Transport Canada AD CF–2026–53) (also referred to as the MCAI), to correct an unsafe condition on all Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. The MCAI states that on Airbus Model A320 airplanes equipped with Pratt & Whitney Model PW1100G–JM engines, some operators reported engine stall events that occurred on ground in icing weather conditions during engine acceleration to take-off thrust, or during the take-off phase. Due to the design similarities between the Model PW1100G–JM and Pratt & Whitney Model PW1500G engines, it cannot be excluded that this condition could affect the Model PW1500G engine. This condition, if not addressed, could result in loss of thrust and possibly of dual engine shutdown during critical phases of flight.

The FAA is issuing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–15285.

Other Related Rulemaking

The FAA issued AD 2026–05–14, Amendment 39–23287 (91 FR 11443, March 10, 2026) (AD 2026–05–14), which applies to all Airbus SAS Model A319–171N and –173N airplanes, Model A320–271N, –272N, and –273N airplanes, and Model A321–271N, –271NX, –271NY, –272N, and –272NX airplanes. AD 2026–05–14 requires revising the existing AFM. The FAA issued AD 2026–05–14 to address dual engine surge in a critical flight phase.

FAA's Determination

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

AD Requirements

This AD requires revising the AFM to provide flightcrew with a prohibition to follow under certain freezing fog conditions.

Differences Between This AD and the MCAI

Transport Canada AD CF–2026–53 does not specify which section of the existing AFM to revise. The FAA has determined that restriction on take-off during ground freezing fog with visibility below 150 meters (500 feet) must be incorporated into the Ice and rain protection section of the Non-Normal Procedures section of the existing AFM.

Compliance With AFM Revisions

Section 91.9 prohibits any person from operating a civil aircraft without complying with the operating limitations specified in the AFM. FAA regulations also require operators to furnish pilots with any changes to the AFM (14 CFR 121.137) and pilots in command to be familiar with the AFM (14 CFR 91.505).

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because of engine stall events that occurred on ground in icing weather conditions (freezing fog) during engine acceleration to take-off thrust, or during the take-off phase. Engine stalls during take-off could result in loss of thrust and dual engine shutdown during critical phases of flight. To address this unsafe condition during cold weather operations, the actions required by this AD must be accomplished within 7 days, which is a shorter time period than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 228 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$0	$85	$19,380

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–24–07 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39–23531; Docket No. FAA–2026–15285; Project Identifier MCAI–2026–01161–T.

(a) Effective Date

This airworthiness directive (AD) is effective December 14, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Unsafe Condition

This AD was prompted by a report of engine stall events that occurred on ground in icing weather conditions (freezing fog) during engine acceleration to take-off thrust, or during the take-off phase. The FAA is issuing this AD to address engine stalls during take-off in ground freezing fog conditions. The unsafe condition, if not addressed, could result in loss of thrust and dual engine shutdown during critical phases of flight.

(f) Compliance

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

(g) Revision of Existing Airplane Flight Manual (AFM)

Within 7 days after the effective date of this AD, revise the Ice and rain protection section of the Non-Normal Procedures section of the existing AFM to include the information specified in figure 1 to paragraph (g) of this AD. This may be accomplished by inserting a copy of figure 1 to paragraph (g) of this AD into the existing AFM. Using an AFM revision that includes information identical to that in figure 1 to paragraph (g) of this AD is acceptable for compliance with the requirement of this paragraph.

Figure 1 to paragraph (g)—Freezing Fog Take-off Restriction

Takeoff is prohibited during ground freezing fog (FZFG) conditions and when the visibility is less than 150 m (500 ft).

(h) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(i) Additional Information

For more information about this AD, contact Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3553; email: *takahisa.kobayashi@faa.gov*.

(j) Material Incorporated by Reference

None.

Issued on November 23, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–24137 Filed 11–24–26; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 10060]

RIN 1545–BP66

Regulations Regarding Payment of Tax by Commercially Acceptable Means; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final rule; correction and correcting amendment.

SUMMARY: This document includes corrections to Treasury Decision 10060 published in the **Federal Register** on Monday, October 19, 2026. Treasury Decision 10060 contains final regulations regarding the payment of tax by commercially acceptable means.

DATES:

Effective date: These corrections are effective on November 27, 2026.

Applicability date: For date of applicability, *see* § 301.6311–2(g).

FOR FURTHER INFORMATION CONTACT: Crystal Jackson-Kaloz of the Office of Associate Chief Counsel (Procedure and Administration), (202) 317–5191 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 10060) subject to these corrections are issued under section 6311 of the Internal Revenue Code.

Correction of Publication

Accordingly, the final regulations (TD 10060) that are the subject of FR Doc. 2026–21267, published on Monday, October 19, 2026, are corrected on page 65980, in the first column, in the **DATES** caption, the third and fourth lines from

the top of the caption are corrected to read ''*Applicability date:* For date of applicability, *see* § 301.6311–2(g).''.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Correction to the Regulations

Accordingly, 26 CFR part 301 is corrected by making the following correcting amendment:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805.

§ 301.6311–2 [Amended]

■ **Par. 2.** Section 301.6311–2(d)(1) is amended by removing the language ''paragraph (e)(2) of this section'' and adding in its place the language ''paragraph (e)(3) of this section''.

Oluwafunmilayo A. Taylor,

Chief, Publications and Regulations Section, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2026–24135 Filed 11–25–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF JUSTICE

28 CFR Part 106

[JMD Docket No. 157; A.G. Order No. 7256–2026]

RIN 1105–AB71

Implementation of HAVANA Act of 2021; Correction

AGENCY: Department of Justice.

ACTION: Final rule; correction.

SUMMARY: The Department of Justice is correcting a final rule that published in the **Federal Register** of October 27, 2026, implementing parts of the HAVANA Act of 2021. Due to an editorial error, two instructions were inadvertently combined. This document corrects that error.

DATES: Effective November 27, 2026.

FOR FURTHER INFORMATION CONTACT: Gordon R. Jimison, Assistant General Counsel, Justice Management Division; email: *Gordon.R.Jimison@usdoj.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2026–21923, appearing on page 67476 in the **Federal Register** of October 27, 2026, 91 FR 67476, the following corrections are made:

§ 106.2 [Corrected]

■ 1. On page 67480 in the first column, correct instruction 2 to read as follows:

§ 106.2 [Amended]

■ 2. Amend § 106.2 by:
■ a. In paragraph (a)(1), removing the date ''January 1, 2016'' and adding in its place the date ''September 11, 2001''; and
■ b. In paragraph (b), removing the date ''January 1, 2016'' and adding in its place the date ''September 11, 2001''.

§ 106.5 [Corrected]

■ 2. On page 67480 in the first column, add instruction 3 to read as follows:

§ 106.5 [Amended]

■ 3. Amend § 106.5 in paragraph (d) by:
■ a. Removing the term ''Executive Assistant Director, Human Resources Branch'' and adding in its place the term ''Operations Director, Human Capital Branch''; and
■ b. Removing the term ''Deputy Assistant Attorney General, Human Resources and Administration'' and adding in its place the term ''Deputy Assistant Attorney General, Human Capital''.

Dated: November 24, 2026.

Rosemary Hart,

Deputy Assistant Attorney General.

[FR Doc. 2026–24141 Filed 11–25–26; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2026–1388]

RIN 1625–AA08

Special Local Regulation; Savannah River, Savannah, GA

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) for the navigable waters of the Savannah River from the Talmadge Bridge to Eastern Wharf. This action is necessary to provide for the safety of life on these navigable waters near Savannah, GA during the Savannah Lighted Boat Parade. This regulation prohibits persons and vessels from entering the regulated area unless specifically authorized by the Captain of the Port Savannah (COTP) or their designated representative.

DATES: This rule is effective from 6 p.m. to 10 p.m. on November 28, 2026.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2026–1388.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MST1 Adam Krukowski, Marine Safety Unit Savannah Waterways Management Division, U.S. Coast Guard; telephone 912–210–8714, or email *Adam.B.Krukowski@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
SLR Special Local Regulation
U.S.C. United States Code

II. Background and Authority

The Coast Guard received a request under 33 CFR 100.15 from the Savannah Waterfront Association, Limited for a Marine Event Permit to host a 2-mile Lighted Boat Parade on the Savannah River on November 28, 2026, in Savannah, GA. The boat parade will include approximately 30 participants.

The Captain of the Port Savannah (COTP) is issuing this special local regulation (SLR) under the authority in 46 U.S.C. 70041. The COTP has determined that potential hazards associated with the boat parade could pose a risk to participants or waterway users if the normal vessel traffic were to interfere with the event. Potential hazards include risks of injury or death from near or actual contact among participants and mariners traversing through the regulated area. The purpose of this rulemaking is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The Coast Guard received final details of this event late in the planning process, but we must establish this SLR by November 28, 2026, to protect personnel, vessels, and the marine environment. Therefore, we do not have enough time to solicit and respond to comments.

For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Discussion of the Rule

This rule establishes a temporary SLR from 6 p.m.to 10 p.m. on November 28, 2026. The special local regulation will cover all navigable waters from the Talmadge Bridge to Eastern Wharf on the Savannah River in Savannah, GA. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or their designated representative.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act's flexibility analysis provisions do not apply here.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of $100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a special local regulation. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

List of Subjects in 33 CFR Part 100

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add 100.T799–1388 to read as follows:

§ 100.T799–1388 Special Local Regulation; Savannah River, Savannah, GA.

(a) *Location.* This special local regulation applies to the following area: All waters of the Savannah River, from surface to bottom, encompassed by a line connecting the following points beginning at 32°05′15.404″ N, 81°05′57.813″ W, thence to 32°05′21.870″ N, 81°05′51.754″ W, thence to 32°04′49.637″ N, 81°04′24.787″ W, thence to 32°04′40.528″ N, 81°04′25.945″ W, and along the shoreline back to the beginning point. These coordinates are based on the World Geodetic System (WGS 84).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Savannah (COTP) in the enforcement of the regulated area. *Participant* means all persons and vessels registered with the event sponsor as a participant in the race.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the COTP or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (912) 210–8714. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 6 p.m. to 10 p.m. on November 28, 2026.

Dimitrios N. Wiener,

Commander, U.S. Coast Guard, Captain of the Port, Savannah.

[FR Doc. 2026–24144 Filed 11–25–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–1460]

RIN 1625–AA87

Security Zone; Ohio River, Cincinnati, OH

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for all navigable waters of the Ohio River, extending the entire width of the river, between mile markers (MM) 461 to MM 473. This security zone is needed to provide waterside security and protection of persons under the protection of the United States Secret Service during a visit to Cincinnati, OH. During the enforcement period, entry into, transiting, or anchoring in the security zone is prohibited unless specifically authorized by the Captain of the Port (COTP), Ohio Valley or a designated on-scene U.S. Coast Guard representative.

DATES: This rule is effective without actual notice from November 27, 2026, through November 30, 2026. For purposes of enforcement, actual notice will be used from 12:01 a.m. on November 22, 2026, through November 27, 2026.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2026–1460.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MST1 Jean Jimenez Sosa, Marine Safety Detachment Cincinnati, U.S. Coast Guard; telephone 206–815–7166, or email *Jean.C.JimenezSosa@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background and Authority

The Coast Guard received notification that persons under the protection of the United States Secret Service will be visiting the city of Cincinnati, OH on November 22, 2026, through November 30, 2026. The Captain of the Port (COTP), Ohio Valley has determined that a security zone on the Ohio River is needed to protect the visiting dignitaries and other persons during this visit. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70051 and 70124, which is needed to provide waterside security and protection of the persons under the protection of the United States Secret Service in the navigable waters within the security zone.

Because of the potential threats associated with this visit, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The Coast Guard was notified of this event on November 16, 2026, but we must establish this security zone by November 22, 2026, to protect personnel, vessels, and the marine environment. Therefore, we do not have enough time to solicit and respond to comments.

For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Discussion of the Rule

This rule establishes a security zone from 12:01 a.m. on November 22, 2026, through 11:59 p.m. on November 30, 2026. The security zone will cover the entire width of the Ohio River, between mile markers (MM) 461 to MM 473. No vessel or person will be permitted to enter the security zone without obtaining permission from the COTP or their designated representative. While this temporary regulation will be effective for nine days, the security zone will only be enforced during certain times when visiting dignitaries and security personnel are present within the regulated area. The COTP will issue broadcast notice to mariners to inform the public of the specific enforcement times.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act's flexibility analysis provisions do not apply here.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

The National Ombudsman resolves concerns of uneven or excessive federal regulatory enforcement. Reviews are confidential and do not waive the right to pursue administrative appeals or any other legal action. Contact 1–888–REG–FAIR (1–888–734–3247) or *Ombudsman@SBA.gov*.

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of $100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a security zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration

supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 165.T08–1460 to read as follows:

§ 165. T08–1460 Security Zone; Ohio River, Cincinnati, OH.

(a) *Location.* The following area is a security zone: All navigable waters of the Ohio River, extending the entire width of the river, between mile markers (MM) 461 to MM 473.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP), Ohio Valley in the enforcement of the security zone.

(c) *Regulations.* (1) Under the general security zone regulations in subpart D of this part, you may not enter the security zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at 1 800–253–7465. Those in the security zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section is effective from 12:01 a.m. on November 22, 2026, through 11:59 p.m. on November 30, 2026. The security zone regulation will be enforced when visiting dignitaries and security personnel are present within the location described in paragraph (a) of this section. The COTP will issue broadcast notice to mariners to inform the public of the specific enforcement times for this temporary regulation.

Randy L. Preston,

Captain, U.S. Coast Guard, Captain of the Port, Ohio Valley.

[FR Doc. 2026–24112 Filed 11–25–26; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 381

[Docket No. 26–CRB–0008–COLA PBR (2027)]

Cost of Living Adjustment to Public Broadcasters Compulsory License Royalty Rate

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule; cost of living adjustment.

SUMMARY: The Copyright Royalty Judges (''Judges'') announce a cost of living adjustment (''COLA'') to the royalty rate that noncommercial radio stations at certain colleges, universities, and other educational institutions that are not affiliated with National Public Radio must pay for the use in 2027 of published nondramatic musical compositions in the SESAC Performing Rights, LLC (''SESAC''), and Global Music Rights, LLC (''GMR''), repertories pursuant to the statutory license under the Copyright Act for noncommercial broadcasting.

DATES:

Effective date: November 27, 2026.

Applicability dates: These rates are applicable to the period January 1, 2027, through December 31, 2027.

FOR FURTHER INFORMATION CONTACT: Anita Brown, CRB Program Specialist, (202) 707–7658, *crb@loc.gov*.

SUPPLEMENTARY INFORMATION: Section 118 of the Copyright Act, title 17 of the United States Code, creates a statutory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting.

On June 28, 2023, the Judges adopted final regulations governing the rates and terms of copyright royalty payments under section 118 of the Copyright Act for the license period 2023–2027. *See* 88 FR 41827. Pursuant to these regulations, on or before December 1 of each year, the Judges shall publish in the **Federal Register** notice of the change in the cost of living and a revised schedule of the rates codified at § 381.5(c)(3) and (4) relating to compositions in the repertory of SESAC and GMR. The adjustment, fixed to the nearest dollar, shall be the greater of (1) the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) (''CPI–U'') ''during the period from the most recent index published prior to the previous notice to the most recent index published prior to December 1 of that year'' or (2) 1.5%. 37 CFR 381.10.

The change in the cost of living as determined by the CPI–U during the period from the most recent index published prior to the previous notice, *i.e.,* before November 28, 2025, to the most recent index published before December 1, 2026, is 3.9%.[1] In accordance with 37 CFR 381.10(b), the Judges announce that the COLA for calendar year 2027 shall be 3.9%. Application of the 3.9% COLA to the 2026 rates for the performance of published nondramatic musical compositions in the repertory of SESAC and GMR—$205 per station—results in an adjusted rate of $213 per station, rounded to the nearest dollar.

List of Subjects in 37 CFR Part 381

Copyright, Music, Radio, Rates, Television.

Final Regulations

In consideration of the foregoing, the Judges amend part 381 of title 37 of the Code of Federal Regulations as follows:

PART 381—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

■ 1. The authority citation for part 381 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

[1] The CPI–U announced on November 10, 2026, by the Bureau of Labor Statistics in its Consumer Price Index News Release—Consumer Price Index, (337.511) is available at *https://www.bls.gov/news.release/pdf/cpi.pdf* at Table 1 (last visited Nov. 23, 2026). The Copyright Royalty Judges note that the October 24, 2025, publication of the September 2025 CPI–U was the most recent CPI–U published by the Secretary of Labor prior to the previous notice of the COLA for 2026. The Bureau of Labor Statistics has explained ''BLS could not collect October 2025 reference period survey data due to a lapse in appropriations.'' See *https://www.bls.gov/bls/2025-lapse-revised-releasedates.htm* (last visited Nov. 23, 2026). The change in the cost of living during the period from the most recent index published prior to the previous notice to the most recent index published prior to December 1 of this year, *i.e.,* the change from September 2025 to October 2026, is 3.9% ((337.511–324.800)/324.800).

■ 2. Section 381.5 is amended by revising paragraphs (c)(3)(v) and (c)(4)(v) as follows:

§ 381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

* * * * *

(c) * * *

(3) * * *

(v) 2027: $213 per station.

* * * * *

(4) * * *

(v) 2027: $213 per station.

* * * * *

Dated: November 23, 2026.

Trevor Jefferson,

Chief Copyright Royalty Judge.

[FR Doc. 2026–24051 Filed 11–25–26; 8:45 am]

BILLING CODE 1410–72–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 385

[Docket No. 26–CRB–0009 COLA PR (2027)]

Cost of Living Adjustment to Royalty Rates and Terms for Making and Distributing Phonorecords

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule; cost of living adjustment.

SUMMARY: The Copyright Royalty Judges (''Judges'') announce a cost of living adjustment (''COLA'') in the royalty rates for the statutory license for making and distributing phonorecords of nondramatic musical works regarding physical phonorecords and Permanent Downloads.

DATES:

Effective date: November 27, 2026.

Applicability date: These rates and terms are applicable during the period from January 1, 2027, through December 31, 2027.

FOR FURTHER INFORMATION CONTACT: Anita Brown, CRB Program Specialist, (202) 707–7658, *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: Section 115 of the Copyright Act, title 17 of the United States Code, creates a statutory license for making and distributing phonorecords of nondramatic musical works. On December 16, 2022, the Judges adopted final regulations governing the rates and terms of copyright royalty payments under that license for the license period 2023–2027 for making and distributing phonorecords of nondramatic musical works. *See* 87 FR 76937 (December 16, 2022).

Pursuant to those regulations, at least 25 days before January 1 of each year, the Judges shall publish in the **Federal Register** notice of a COLA applicable to the royalty fees for making and distributing physical phonorecords and Permanent Downloads. *See* 37 CFR 385.11.

The adjustment in the royalty fee shall be based on a calculation of the percentage increase in the Consumer Price Index for All Urban Consumers (''CPI–U'') published in November 2022 (298.012) [1] (''base rate'') according to the following formulas: for the per-work rate, $(1 + (Cy—298.012)/298.012) \times 12¢$, rounded to the nearest tenth of a cent; for the per-minute rate, $(1 + (Cy—298.012)/298.012) \times 2.31¢$, rounded to the nearest hundredth of a cent; where Cy is the CPI–U published by the Secretary of Labor before December 1 of the preceding year. 37 CFR 385.11(a)(2). The CPI–U published by the Secretary of Labor from the most recent index published before December 1, 2026, is 337.511.[2] Applying the formulas in 37 CFR 385.11(a)(2) results in an increase in the rates for 2027.

The adjusted rates for 2027 are 13.6 cents for the per-work rate and 2.62 cents for the per-minute rate.

List of Subjects in 37 CFR Part 385

Copyright, Phonorecords, Recordings.

Final Regulations

In consideration of the foregoing, the Judges amend part 385 of title 37 of the Code of Federal Regulations as follows:

PART 385—RATES AND TERMS FOR USE OF NONDRAMATIC MUSICAL WORKS IN THE MAKING AND DISTRIBUTING OF PHYSICAL AND DIGITAL PHONORECORDS

■ 1. The authority citation for part 385 continues to read as follows:

Authority: 17 U.S.C. 115, 801(b)(1), 804(b)(4).

■ 2. Section 385.11 is amended by revising paragraph (a)(1) to read as follows:

§ 385.11 Royalty rates.

(a) * * *

(1) *2027 rate.* For the year 2027 for every physical phonorecord and Permanent Download the Licensee makes and distributes or authorizes to be made and distributed, the royalty rate payable for each work embodied in the phonorecord or Permanent Download shall be either 13.6 cents or 2.62 cents per minute of playing time or fraction thereof, whichever amount is larger.

* * * * *

Dated: November 24, 2026.

Trevor Jefferson,

Chief Copyright Royalty Judge.

[FR Doc. 2026–24124 Filed 11–25–26; 8:45 am]

BILLING CODE 1410–72–P

[1] The CPI–U published in November 2022 is available at *https://www.bls.gov/news.release/archives/cpi_11102022.htm* at Table 1 (last visited November 18, 2026).

[2] The CPI–U announced on November 10, 2026 by the Bureau of Labor Statistics in its Consumer Price Index News Release—Consumer Price Index, (337.511) is available at *https://www.bls.gov/news.release/pdf/cpi.pdf* at Table 1 (last visited Nov. 23, 2026).

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 386

[Docket No. 26–CRB–0007–COLA SA (2027)]

Cost of Living Adjustment to Satellite Carrier Compulsory License Royalty Rates

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Final rule; cost of living adjustment.

SUMMARY: The Copyright Royalty Judges (''Judges'') announce a cost of living adjustment (''COLA'') of 3.9% in the royalty rates satellite carriers pay for a compulsory license under the Copyright Act. The COLA is based on the change in the Consumer Price Index from October 2025 to September 2026.

DATES:

Effective date: November 27, 2026.

Applicability dates: These rates are applicable to the period January 1, 2027, through December 31, 2027.

FOR FURTHER INFORMATION CONTACT: Anita Brown, CRB Program Specialist, (202) 707–7658, *crb@loc.gov.*

SUPPLEMENTARY INFORMATION:

The satellite carrier compulsory license establishes a statutory copyright licensing scheme for the distant retransmission of television programming by satellite carriers. 17 U.S.C. 119. Congress created the license in 1988 and reauthorized the license for additional five-year periods until 2019 when it made the license permanent.[1]

[1] The most recent five-year reauthorization was pursuant to the STELA Reauthorization Act of 2014, Public Law 113–200. The license was made permanent by the Satellite Television Community Protection and Promotion Act of 2019, Public Law 116–94, div. P, title XI, § 1102(a), (c)(1), 133 Stat. 3201, 3203.

On August 31, 2010, the Judges adopted rates for the section 119 compulsory license for the 2010–2014 term. *See* 75 FR 53198. The rates were proposed by Copyright Owners and Satellite Carriers [2] and were unopposed. *Id.* Section 119(c)(2) of the Copyright Act provides that, effective January 1 of each year, the Judges shall adjust the royalty fee payable under section 119(b)(1)(B) ''to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) (''CPI–U'') published by the Secretary of Labor before December 1 of the preceding year.'' Section 119 also requires that ''[n]otification of the adjusted fees shall be published in the **Federal Register** at least 25 days before January 1.'' 17 U.S.C. 119(c)(2).

The change in the cost of living as determined by the CPI–U during the period from the most recent index published before December 1, 2025, to the most recent index published before December 1, 2026, is 3.9%.[3] Application of the 3.9% COLA to the current rate for the secondary transmission of broadcast stations by satellite carriers for private home viewing—37 cents per subscriber per month—results in a rate of 38 cents per subscriber per month (rounded to the nearest cent). *See* 37 CFR 386.2(b)(1). Application of the 3.9% COLA to the current rate for viewing in commercial establishments—76 cents per subscriber per month—results in a rate of 79 cents per subscriber per month (rounded to the nearest cent). *See* 37 CFR 386.2(b)(2).

List of Subjects in 37 CFR Part 386

Copyright, Satellite, Television.

[2] Program Suppliers and Joint Sports Claimants comprised the Copyright Owners while DIRECTV, Inc., DISH Network, LLC, and National Programming Service, LLC, comprised the Satellite Carriers.

[3] The CPI–U announced on November 10, 2026, by the Bureau of Labor Statistics in its Consumer Price Index News Release—Consumer Price Index, (337.511) is available at *https://www.bls.gov/news.release/pdf/cpi.pdf* at Table 1 (last visited Nov. 23, 2026). The Copyright Royalty Judges note that the October 24, 2025, publication of the September 2025 CPI–U was the most recent CPI–U published by the Secretary of Labor prior to the previous notice of the COLA for 2026. The Bureau of Labor statistics has explained ''BLS could not collect October 2025 reference period survey data due to a lapse in appropriations.'' See *https://www.bls.gov/bls/2025-lapse-revised-releasedates.htm* (last visited Nov. 23, 2026). The change in the cost of living during the period from the most recent index published prior to the previous notice to the most recent index published prior to December 1 of this year, *i.e.,* the change from September 2025 to October 2026, is 3.9% ((337.511–324.800)/324.800).

Final Regulations

In consideration of the foregoing, the Judges amend part 386 of title 37 of the Code of Federal Regulations as follows:

PART 386—ADJUSTMENT OF ROYALTY FEES FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS

■ 1. The authority citation for part 386 continues to read as follows:

Authority: 17 U.S.C. 119(c), 801(b)(1).

■ 2. Section 386.2 is amended by adding paragraphs (b)(1)(xviii) and (b)(2)(xviii) to read as follows:

§ 386.2 Royalty fee for secondary transmission by satellite carriers.

* * * * *

(b) * * *

(1) * * *

(xviii) 2027: 38 cents per subscriber per month.

(2) * * *

(xviii) 2027: 79 cents per subscriber per month.

Dated: November 24, 2026.

Trevor Jefferson,

Chief Copyright Royalty Judge.

[FR Doc. 2026–24125 Filed 11–25–26; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2025–1641; FRL–12972–02–R9]

Air Quality Plan; California; San Diego County Air Pollution Control District; Landfill Flares

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is taking final action to conditionally approve a revision to the San Diego County Air Pollution Control District (SDCAPCD or ''District'') portion of the California State implementation plan (SIP). This revision concerns emissions of oxides of nitrogen (NO_X) from landfill flares. We are conditionally approving a local rule to regulate these emission sources under the Clean Air Act (CAA or ''Act'').

DATES: This rule is effective December 28, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2025–1641. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Donnique Sherman, ARD–3, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; telephone number: (415) 947–4129; email address: *sherman.donnique@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this final rule, the use of ''we,'' ''us,'' or ''our'' is intended to refer to the EPA. We use multiple abbreviations and terms in this final rule. While this list may not be exhaustive, for ease of reading and for reference purposes, the EPA defines the following terms and acronyms here:

ASTM—Advancing Standards Transforming Markets
CAA—Clean Air Act
CARB—California Air Resources Board
CBI—confidential business information
CFR—Code of Federal Regulations
CTG—control techniques guideline
EPA—Environmental Protection Agency
NAAQS—national ambient air quality standards
NO_X—oxides of nitrogen
RACT—reasonably available control technology
SDCAPCD—San Diego County Air Pollution Control District
SIP—State Implementation Plan
TSD—technical support document
VOC—volatile organic compounds

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I. Executive Summary

A. What action is the EPA taking?

The EPA is conditionally approving the California Air Resources Board's (CARB's) April 3, 2023, SIP revision for SDCAPCD Rule 69.7, ''Landfill Gas Flares,'' as adopted on March 9, 2023 (''Rule 69.7''). Rule 69.7 establishes NO_X emission limitations and related requirements for enclosed landfill gas flares. Rule 69.7 applies to landfill gas flares at municipal solid waste landfills if the combined actual or potential emissions of NO_X meet or exceed the Federal major stationary source threshold. This conditional approval adds Rule 69.7 to the federally enforceable portion of the California SIP for San Diego County.

B. What is the legal authority and what are the requirements?

We are taking this action under CAA section 110. Pursuant to CAA section 110(a), States are required to submit SIP revisions to the EPA that provide for the implementation, maintenance, and enforcement of the national ambient air quality standards (NAAQS or ''standards''). CAA section 110(k) requires SIP revisions to meet certain procedural requirements and requires the EPA to approve or disapprove SIP submissions. CAA section 110(l) requires States to provide public notice and an opportunity for public hearing of SIP revisions prior to their submittal and prohibits the EPA from approving any SIP revisions that would interfere with attainment or maintenance of a NAAQS, reasonable further progress, or other applicable requirements of the CAA. If a SIP submittal meets all the applicable CAA requirements, then the EPA must approve the submittal under CAA section 110(k)(3). Because we have determined that Rule 69.7 is not fully approvable, we are finalizing this action under CAA section 110(k)(4). Section 110(k)(4) of the CAA allows the EPA to conditionally approve SIP revisions based on a commitment from the State to adopt and submit specific, enforceable measures to cure the identified deficiencies no later than one year after the date of conditional approval of the plan revision. CAA section 110(k)(4) further provides that a conditional approval must be ''treated as a disapproval'' if a State fails to comply with its commitment.

In evaluating the submittal, the EPA considered whether the emission limitations in Rule 69.7 meet statutory and regulatory requirements in CAA sections 110(a)(2)(A) and 40 CFR part 51, subpart K, respectively. CAA section 110(a)(2)(A) requires emission limitations in the SIP to be enforceable and 40 CFR part 51, subpart K requires SIPs to contain enforceable procedures for monitoring the status of compliance with the requirements in the control strategy.

II. Background

The SDCAPCD is the local air pollution control agency for San Diego County, California and is responsible for regulating stationary sources of air pollution within its boundaries. San Diego County is designated nonattainment for the 2008 and 2015 8-hour ozone NAAQS. The San Diego County ozone nonattainment area is classified as ''Severe'' nonattainment for the 2008 and 2015 ozone standards.[1] States with ozone nonattainment areas classified as ''Moderate'' or above must submit SIP provisions that require implementation of reasonably available control technology (RACT) for major stationary sources of volatile organic compounds (VOC) and NO_X, as well as all sources covered by an EPA Control Techniques Guideline (CTG) document.[2] Therefore, the District, which regulates a Severe ozone nonattainment area, is required to implement RACT for the applicable sources in San Diego County. On December 29, 2020, CARB submitted the District's RACT demonstration [3] (''2020 RACT demonstration'') for the 2008 and 2015 ozone NAAQS to meet this requirement.[4] In the 2020 RACT demonstration, the District committed to adopt a rule to control NO_X emissions from landfill gas flares. To fulfill that commitment, SDCAPCD adopted Rule 69.7.[5]

On May 7, 2026, the EPA proposed to conditionally approve Rule 69.7 into the California SIP.[6] The EPA did not propose to fully approve the rule because we determined that it contains a deficiency. However, the District and CARB committed to adopting and submitting specific rule revisions that are sufficient for addressing the deficiency and conditionally approving the SIP revision under CAA section 110(k)(4).

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
SDCAPCD	69.7	Landfill Gas Flares	03/09/23	04/03/23

Regarding the identified deficiency, Rule 69.7 allows operators to determine compliance using test methods that have not been reviewed and approved by the EPA. The rule provides specific test methods to be used to determine landfill gas composition but also provides the option to use the ''most current version'' of an Advanced Standards Transforming Markets (ASTM) test method.[7] This option is inconsistent with 40 CFR 51.212(c) that requires SIPs to contain enforceable test methods and requires alternative test methods to be reviewed and approved by the EPA. By providing the option to use a version of a test method other than the specific versions listed in the rule, the rule allows for the use of alternative test methods not reviewed and approved by the EPA. This provision undermines the enforceability of the submission under CAA section 110(a)(2)(A) and 40 CFR 51.212(c) and thus constitutes a SIP deficiency.

In a letter dated January 13, 2026, the District committed to addressing the deficiency and to transmitting the amended rule to CARB by Spring 2027. In a letter dated February 10, 2026,

[1] On June 2, 2021, the EPA reclassified the San Diego County ozone nonattainment area from ''Serious'' to Severe for the 2008 8-hour ozone standards and from ''Moderate'' to Severe for the 2015 8-hour ozone standards (86 FR 29522, June 2, 2021).

[2] CAA sections 182(b)(2) and 182(f).

[3] SDCAPCD, ''2020 Reasonably Available Control Technology Demonstration for the National Ambient Air Quality Standards for Ozone in San Diego County,'' October 2020.

[4] By letter dated August 23, 2024, CARB partially withdrew the 2020 RACT Demonstration. *See,* 89 FR 100377 (December 12, 2024). On May 14, 2026, CARB submitted an updated RACT Demonstration, which the EPA determined to be complete on June 30, 2026.

[5] The EPA will evaluate whether the rule meets RACT in an upcoming action on the District's RACT SIP submittal.

[6] 91 FR 24765 (May 7, 2026).

[7] Rule 69.7, section (h)(3). This provision specifies the use of EPA Method 25C or ASTM methods D3588–98(2017)e1 and D1945–14(2019). The listed ASTM methods are specific versions from 2017 and 2019, respectively.

CARB committed to submitting the amended Rule 69.7 to the EPA no later than June 30, 2027, or within one year of the effective date of the EPA's final action, whichever is soonest.

Section 110(k)(4) of the CAA allows the EPA to conditionally approve SIP revisions based on a commitment from the State to adopt and submit specific, enforceable measures to cure the identified deficiencies no later than one year after the date of conditional approval of the plan revision. The commitment letters from the District and CARB, dated January 13, 2026, and February 10, 2026, respectively, identify the deficiency and the specific actions each agency will take to resolve the deficiency. The letters also commit to action within one year of final action on the conditional approval.

The EPA's proposed action contains more information on the rule and our evaluation.

III. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one comment. The commenter supports the EPA's conditional approval of Rule 69.7. The commenter emphasizes that EPA should treat the one-year deadline for the District and CARB to submit revised rule language as a firm deadline and to disapprove the rule if the revisions are not submitted on time. The comment urges that effective monitoring and enforcement are essential to verify compliance and ensure the proposed rule delivers, ''its intended public health benefits.''

We acknowledge the comment and emphasize that if the District or CARB fail to submit the revision within the required timeframe, the EPA will take action to disapprove the rule, consistent with CAA section 110(k)(4).

IV. EPA Action

No comments were submitted that change our assessment of the rule as described in the EPA's proposed action. Therefore, as authorized in CAA section 110(k)(4), the EPA is conditionally approving this rule into the California SIP.

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 SDCAPCD Rule 69.7, ''Landfill Gas Flares,'' as adopted on March 9, 2023, which regulates NO_X emissions from landfill gas flares. The EPA has made, and will continue to make, these documents available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 26, 2027. 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* CAA section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: November 10, 2026.

Michael Martucci,

Acting Regional Administrator, Region IX.

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 F—California

■ 2. Amend § 52.220, paragraph (c), Table 28, under the table heading ''EPA-Approved San Diego County Air Pollution Control District Regulations'' by adding an entry for ''69.7'' after the entry for ''69.4'' to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

TABLE 28—EPA-APPROVED SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT REGULATIONS

District citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
Regulation IV—Prohibitions				
*	*	*	*	*
69.7	Landfill Gas Flares ...	March 9, 2023	11/27/2026, 91 FR [INSERT **FEDERAL REGISTER** PAGE WHERE THE DOCUMENT BEGINS].	See conditional approval in 40 CFR 52.248(p). Electronically submitted on April 3, 2023, as an attachment to a letter dated April 3, 2023.
*	*	*	*	*

* * * * *

■ 3. § 52.248 is amended by adding paragraph (p) to read as follows:

§ 52.248 Identification of plan—conditional approval.

* * * * *

(p) The EPA is conditionally approving a revision to the San Diego County Air Pollution Control District (SDCAPCD or ''District'') portion of the California State implementation plan (SIP). The conditional approval is based on commitments included in a letter from the SDCAPCD dated January 13, 2026 from Paula Forbis, Air Pollution Control Officer, District, to Ariel Fideldy, Branch Chief, Air Quality Planning Branch, California Air Resources Board (CARB) and Mike Martucci, Acting Regional Administrator, EPA Region IX, to adopt certain rule revisions and transmit them to CARB by Spring 2027, and commitments included in a letter from CARB dated February 10, 2026 from Matthew Lakin, Division Chief, Air Quality Planning and Science Division, CARB, to Mike Martucci, Acting Regional Administrator, EPA Region IX, to submit the amended rule to the EPA no later than June 30, 2027, or within one year of the effective date of the EPA's final action, whichever is soonest. If the District or CARB fail to meet their commitments within one year of the effective date of the final conditional approval, the EPA will take action to disapprove the rule.

[FR Doc. 2026–24092 Filed 11–25–26; 8:45 am]

BILLING CODE 6569–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 260305–0066, RTID 0648–XF882]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod, except for the Community Development Quota program (CDQ), in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the non-CDQ allocation of the 2026 Pacific cod total allowable catch (TAC) in the Bering Sea subarea of the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), November 25, 2026, through 2400 hours, A.l.t., December 31, 2026.

FOR FURTHER INFORMATION CONTACT: Andrew Olson, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared and recommended by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The non-CDQ allocation of the 2026 Pacific cod TAC in the Bering Sea subarea of the BSAI is 109,908 metric tons (mt) as established by the final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026). In accordance with § 679.20(d)(1)(i), the Regional Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the non-CDQ allocation of the 2026 Pacific cod TAC in the Bering Sea subarea of the BSAI will soon be or has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 109,077 mt and is setting aside the remaining 831 mt as incidental catch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be or has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod in the Bering Sea subarea of the BSAI, except for CDQ, to prevent exceeding this subarea's non-CDQ allocation of the Pacific cod TAC.

While this closure is effective, the maximum retainable amounts at 50 CFR 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to

the public interest, as it would prevent NMFS from responding to the most recent fisheries data on Pacific cod catch in a timely fashion and would delay the directed fishing closure of non-CDQ Pacific cod in the Bering Sea subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on non-CDQ Pacific cod catch in the Bering Sea subarea of the BSAI only became available as of November 23, 2026.

There is good cause under 5 U.S.C. 553(d)(3) to establish an effective date less than 30 days after date of publication. This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: November 23, 2026.

Shannon Bettridge,

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

[FR Doc. 2026–24105 Filed 11–24–26; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 91, No. 227
Friday, November 27, 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 AGRICULTURE

7 CFR Part 2, 780, 781, and 5100

[Docket No. USDA–2026–0001]

RIN 0560–AI70

Agricultural Foreign Investment Disclosure Act of 1978

AGENCY: Office of Homeland Security, U.S. Department of Agriculture.

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: On June 25, 2026, the United States Department of Agriculture (the Agency) published a proposed rule to update its regulations regarding the Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA) (91 FR 38315) and requested public comment by August 10, 2026. The Agency is reopening the comment period in response to a request from stakeholders to extend the comment period to allow additional time for interested parties to review the proposed revisions and submit comments.

DATES: The comment period for the proposed rule published on June 25, 2026 (91 FR 38315), is reopened. Written comments must be received on or before December 11, 2026.

ADDRESSES: You may submit comments, identified by Docket ID: USDA–2026–0001, in the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments. All comments will be posted without change and will be publicly available on *www.regulations.gov.* Comments previously submitted during the initial 45-day public comment period (from June 25, 2026, through August 10, 2026) need not be resubmitted, as these comments are already incorporated into the public record and will be considered in the final rule.

FOR FURTHER INFORMATION CONTACT: Mr. Matt Allen, Director, USDA Office of Homeland Security, 1400 Independence Avenue SW, 1457–S, Washington, DC 20250; (202) 690–2681.

SUPPLEMENTARY INFORMATION: The revisions under the proposed rule reflect Congressional directives to establish a streamlined process for electronic submission and retention of disclosures made under AFIDA, including the deployment of an internet database. The proposed rule would also revise reporting requirements and strengthen enforcement measures. Through the implementation of modernization measures and expanded scope and depth of reporting, this proposed rule will help ensure the AFIDA regulations address foreign investment and ownership of American agricultural land, particularly as it might present a national security risk. After publication of the proposed rule and closure of the original comment period, USDA personnel received or participated in communications concerning the proposed rule. These communications are documented in the docket found at *https://www.regulations.gov,* identified by the docket number USDA–2026–0001 or RIN 0560–AI70. Reopening the comment period provides additional time for stakeholders to review the proposed regulatory changes and submit written comments.

Stephen A. Vaden,

Deputy Secretary.

[FR Doc. 2026–24143 Filed 11–25–26; 8:45 am]

BILLING CODE 3412–BA–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–13833; Project Identifier MCAI–2026–00251–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A330–202, A330–243, A330–243F, A330–302, A330–323, A330–343, A330–841, and A330–941 airplanes. This proposed AD was prompted by an investigation that revealed a potential discrepant gap between the National Advisory Committee for Aeronautics (NACA) vent intake panel and horizontal tail plane skin. This proposed AD would require modification of the NACA vent intake panel installation on the horizonal tail plane. This proposed AD would also prohibit the installation of affected parts. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 11, 2027.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–13833; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2026–13833.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Anthony Decaro, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5374; email: *anthony.d.decaro@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–13833; Project Identifier MCAI–2026–00251–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Anthony Decaro, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5374; email: *anthony.d.decaro@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2026–0058, dated March 17, 2026 (EASA AD 2026–0058) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A330–202, A330–243, A330–243F, A330–302, A330–323, A330–343, A330–841, and A330–941 airplanes. The MCAI states that an investigation revealed a potential discrepant gap between NACA vent intake panel 346AB and horizontal tail plane skin. The consequence of this deviation is the lack of tightness and clamping in the access panel. This condition, if not corrected, could lead to a fuel leak through the access panel edge, possibly resulting in improper protection against lightning ignition risk, and increased risk of a fire.

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

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–13833.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2026–0058 specifies procedures for replacing each screw part number (P/N) NAS1153V9, installed on NACA vent intake panel 346AB, with screw P/N NAS1153V8. EASA AD 2026–0058 also prohibits the installation of any screw with P/N NAS1153V9 on NACA vent intake panel 346AB.

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2026–0058 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2026–0058 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2026–0058 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2026–0058 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2026–0058. Material required by EASA AD 2026–0058 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–13833; after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 43 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × $85 per hour = $340	$780	$1,120	$48,160

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2026–13833; Project Identifier MCAI–2026–00251–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 11, 2027.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A330–202, A330–243, A330–243F, A330–302, A330–323, A330–343, A330–841, and A330–941 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2026–0058, dated March 17, 2026 (EASA AD 2026–0058).

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by an investigation that revealed a potential discrepant gap between the National Advisory Committee for Aeronautics (NACA) vent intake panel and horizontal tail plane skin. The FAA is issuing this AD to address this potential discrepant gap. The unsafe condition, if not addressed, could lead to a fuel leak through the access panel edge, possibly resulting in improper protection against lightning ignition risk, and increased risk of a fire.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2026–0058.

(h) Exceptions to EASA AD 2026–0058

(1) Where EASA AD 2026–0058 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the ''Remarks'' section of EASA AD 2026–0058.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any material referenced in EASA AD 2026–0058 contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Anthony Decaro, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5374; email: *anthony.d.decaro@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2026–0058, dated March 17, 2026.

(ii) [Reserved]

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

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

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

Issued on November 23, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–24122 Filed 11–25–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–13834; Project Identifier AD–2026–00148–E]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain General Electric Company (GE) Model GE90–110B1 and GE90–115B engines. This proposed AD was prompted by a report of an aborted takeoff due to left engine failure caused by liberation of the interstage high-pressure turbine (HPT) rotor seal rim. This proposed AD would require determining the recalculated service life of the interstage HPT rotor seal and, depending on the results, replacing the interstage HPT rotor seal with a part eligible for installation. For certain engine populations, as an alternative to replacing the interstage HPT rotor seal, this proposed AD would require initial and repetitive ultrasonic inspections of the interstage HPT rotor seal for cracks and, depending on the results, removing the interstage HPT rotor seal from service. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 11, 2027.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–13834; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For GE material identified in this proposed AD, contact the General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ge.com;* website: *ge.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Molly Sturgis, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (562) 627–5373; email: *molly.a.sturgis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–13834; Project Identifier AD–2026–00148–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may revise this proposal because of those comments.

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

Confidential Business Information

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

Background

On October 19, 2019, a Boeing Model 777 airplane powered by GE Model GE90–115B engines experienced an engine failure that resulted in an aborted takeoff. A manufacturer investigation revealed that the engine failure was caused by rim liberation of the interstage HPT rotor seal. Additional root cause analysis revealed that the rim liberation was the result of high cycle fatigue cracks that initiated at the interstage seal web holes due to atypical intermittent operating conditions with short durations. As a result, the FAA issued Emergency AD 2019–21–51, Amendment 39–19798 (84 FR 64195, November 21, 2019) for certain GE GE90–115B model turbofan engines; Emergency AD 2020–01–55, Amendment 39–19838 (85 FR 8386, February 14, 2020) for certain GE GE90–110B1 and GE90–115B model turbofan engines; AD 2020–10–04, Amendment 39–21122 (85 FR 27909, May 12, 2020) for all GE GE90–110B1 and GE90–115B model turbofan engines with a certain interstage HPT rotor seal installed; and AD 2024–06–15, Amendment 39–22720 (89 FR 33215, April 29, 2024; corrected May 13, 2024 (89 FR 41304)) for certain GE Model GE90–110B1 and GE90–115B engines to remove affected parts from engines that had accumulated high flight cycles (FCs). Since the FAA issued those ADs, the affected engines have continued to accumulate FCs, and the manufacturer has published service material with revised instructions for calculating removal thresholds for the interstage HPT rotor seal. This condition, if not addressed, could result in release of high-energy debris, damage to the engine, damage to the airplane, and possible loss of the airplane.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design. The NPRM would not affect the ADs referenced above and all of those ADs remain in effect.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed GE GE90–100 Service Bulletin 72–0925 R00, dated November 21, 2025, which specifies procedures for determining the recalculated service life of the interstage HPT rotor seal, and removal thresholds for the interstage HPT rotor seal. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Proposed AD Requirements in This NPRM

This proposed AD would require determining the recalculated service life of the interstage HPT rotor seal and, depending on the results, replacing the interstage HPT rotor seal with a part eligible for installation. For certain engine populations, as an alternative to replacing the interstage HPT rotor seal, this proposed AD would require initial and repetitive ultrasonic inspections of the interstage HPT rotor seal for cracks and, depending on the results, removing the interstage HPT rotor seal from service.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 339 engines installed on airplanes of U.S. registry. The estimated cost listed in the table below for replacement of the interstage HPT rotor seal is for engines that are likely to be impacted by early part removals. The FAA estimates this number to be 10 percent of the entire fleet (34 engines).

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement of interstage HPT rotor seal (34 engines).	100 work-hours × $85 per hour = $8,500	$742,900	$751,400	$25,547,600
Ultrasonic inspection of interstage HPT rotor seal.	2 work-hours × $85 per hour = $170	$0	$170	$57,630

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. FAA–2026–13834; Project Identifier AD–2026–00148–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 11, 2027.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all General Electric Company (GE) Model GE90–110B1 and GE90–115B engines with an installed interstage high-pressure turbine (HPT) rotor seal having part number (P/N) 1865M18P04, 2047M23P01, 2087M22P02, 2087M22P03, 2448M33P01, 2502M00P01, 2502M00P02, 2505M72P01, or 2505M72P02.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a report of an aborted takeoff due to left engine failure caused by liberation of the interstage HPT rotor seal rim. The FAA is issuing this AD to prevent failure of the HPT. The unsafe condition, if not addressed, could result in release of high-energy debris, damage to the engine, damage to the airplane, and possible loss of the airplane.

(f) Compliance

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

(g) Definitions

For the purpose of this AD:

(1) A ''part eligible for installation'' is any serviceable interstage HPT rotor seal that has not been removed from service as a result of the actions required by paragraph (h) of this AD.

(2) A ''SM4L5 cycle'' is a unique operational characteristic that drives conditions that can lead to excitation and resonance of the interstage HPT rotor seal.

The elements of an SM4L5 cycle are short turnaround time between shutdown and start, short ground idle time during taxi (before shutdown), and hotter than nominal ambient conditions.

Note 1 to paragraph (g)(2): Guidance for calculation of an SM4L5 cycle may be found in Appendix C of GE GE90–100 Service Bulletin (SB) 72–0925 R00, dated November 21, 2025 (GE GE90–100 Service Bulletin 72–0925 R00).

(3) The ''1/SM4L5 accumulation rate'' is the part cycles since new (PCSN) divided by the SM4L5 count (Total) cycle.

(4) The ''fast SM4L5 population'' are interstage HPT rotor seals with a 1/SM4L5 accumulation rate that is less than or equal to 45.

(5) The ''medium SM4L5 population'' are interstage HPT rotor seals with a 1/SM4L5 accumulation rate that is greater than 45 and a 1/SM4L5 accumulation rate that is less than 160.

(6) The ''slow SM4L5 population'' are interstage HPT rotor seals with a 1/SM4L5 accumulation rate that is greater than or equal to 160. Parts with an SM4L5 count (Total) that is equal to 0 are classified in the slow SM4L5 population.

(7) The ''SM4L5 count (Baseline) cycles'' are the historical count of SM4L5 cycles accumulated by a specific interstage HPT rotor seal that is currently installed in an engine or previously operated in an engine calculated up to June 17, 2025.

(8) The ''SM4L5 count (Total) cycles'' are the combined count of SM4 and L5 cycles accumulated by an interstage HPT rotor seal during its entire operation, starting from 0 PCSN to the date of review. This includes all SM4L5 exposures from multiple engines with which the interstage HPT rotor seal was associated during its service life.

(h) Required Actions

(1) Within 30 days after the effective date of this AD, determine the SM4L5 count (Baseline), SM4L5 count (Total) cycles, 1/SM4L5 accumulation rate, and SM4L5 population (fast, medium, or slow) of the interstage HPT rotor seal in accordance with Step 3.A.(2) through (4) of the Accomplishment Instructions of GE GE90–100 SB 72–0925 R00.

(2) For fast and medium SM4L5 accumulation population interstage HPT rotor seals, perform the part removal in accordance with paragraph (h)(2)(i) of this AD or perform the inspections and part removal in accordance with paragraphs (h)(2)(ii) and (h)(2)(iii) of this AD.

(i) Before accumulating 150 SM4L5 count (Total) cycles or before accumulating 9,000 PCSN, whichever occurs first after the effective date of this AD, remove the interstage HPT rotor seal from service and replace with a part eligible for installation; or

(ii) Perform initial and repetitive ultrasonic inspections of the HPT rotor seal and remove any interstage HPT rotor seal with a non-serviceable ultrasonic inspection indication within the compliance times specified in, and in accordance with, Step 3.A.(8) of the Accomplishment Instructions of GE GE90–100 SB 72–0925 R00; and

(iii) Before accumulating 200 SM4L5 count (Total) cycles or before accumulating 9,000 PCSN, whichever occurs first after the effective date of this AD, remove the interstage HPT rotor seal from service and replace with a part eligible for installation.

(3) For slow SM4L5 accumulation population interstage HPT rotor seals or for interstage HPT rotor seals that are determined to be in the slow SM4L5 accumulation population after accumulating 9,000 PCSN, before accumulating 150 SM4L5 count (Total) cycles, remove the interstage HPT rotor seal from service and replace with a part eligible for installation.

(i) Terminating Action

Installation of an HPT rotor seal that does not have a P/N identified in paragraph (c) of this AD constitutes terminating action for all the requirements of paragraph (h) of this AD.

(j) No Reporting Requirement

Where GE GE90–100 SB 72–0925 R00 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(k) Alternative Methods of Compliance (AMOCs)

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

(l) Additional Information

For more information about this AD, contact Molly Sturgis, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (562) 627–5373; email: *molly.a.sturgis@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) GE GE90–100 Service Bulletin 72–0925 R00, dated February 3, 2026.

(ii) [Reserved]

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

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

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

Issued on November 24, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–24099 Filed 11–25–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–15286; Project Identifier MCAI–2026–00322–T]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. This proposed AD was prompted by a report of an issue with the heads-up display application (HDA) software in avionics software version 5.8 that could result in the HDA being unable to read errors in the graphical engine chip (GE5) local and frame buffer memory during power-up. This proposed AD would require installing avionics software version 5.9 or later approved software version. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 11, 2027.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–15286; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Transport Canada material identified in this proposed AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca.* You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation.* It is also available at *regulations.gov* under Docket No. FAA–2026–15286.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: William Reisenauer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; email: *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–15286; Project Identifier MCAI–2026–00322–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to William Reisenauer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; email: *9-avs-nyaco-cos@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2026–15, dated March 25, 2026 (Transport Canada AD CF–2026–15) (also referred to as the MCAI), to correct an unsafe condition for certain Bombardier, Inc. Model BD–700–1A10 and BD–700–1A11 airplanes. The MCAI states that there has been a report of an issue with the HDA software in avionics software version 5.8 that could result in the HDA being unable to read errors in the GE5 local and frame buffer memory during power-up. This could lead to the inability of the HDA to blank the heads-up display in the presence of faults within the GE5 memory. If not addressed, this condition could lead to the display of misleading primary flight information such as altitude, flight path vector on approach, air speed on takeoff, radio altitude, and lateral and vertical guidance.

The FAA is proposing this AD to address the unsafe condition on these products, which could result in spatial disorientation, loss of control, and flight into terrain.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–15286.

Material Incorporated by Reference Under 1 CFR Part 51

Transport Canada AD CF–2026–15 specifies procedures for installing avionics software version 5.9, integrated modular avionic applications (IMAA) part number 810–0311–1B0020, or later approved software version.

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in Transport Canada AD CF–2026–15 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate Transport Canada AD CF–2026–15 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF–2026–15 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Material required by Transport Canada AD CF–2026–15 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–15286 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 734 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
16 work-hours × $85 per hour = $1,360	$34,258	$35,618	*$26,143,612

*The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2026–15286; Project Identifier MCAI–2026–00322–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 11, 2027.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model BD–700–1A10 and BD–700–1A11airplanes, certificated in any category, as identified in Transport Canada AD CF–2026–15, dated March 25, 2026 (Transport Canada AD CF–2026–15).

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by a report of an issue with the heads-up display application (HDA) software in avionics software version 5.8 that could result in the HDA being unable to read errors in the graphical engine chip (GE5) local and frame buffer memory during power-up, which could lead to the inability of the HDA to blank the heads-up display in the presence of faults within the GE5 memory. The FAA is issuing this AD to address the inability of the HDA to blank the heads-up display in the presence of faults within the GE5 memory. The unsafe condition, if not addressed, could lead to the display of misleading primary flight information such as altitude, flight path vector on approach, air speed on takeoff, radio altitude, and lateral and vertical guidance, which could result in spatial disorientation, loss of control, and flight into terrain.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2026–15.

(h) Exception to Transport Canada AD CF–2026–15

Where Transport Canada AD CF–2026–15 refers to its effective date, this AD requires using the effective date of this AD.

(i) No Reporting Requirement

Although the material referenced in Transport Canada AD CF–2026–15 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or Transport Canada; or Bombardier, Inc.'s Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Additional Information

For more information about this AD, contact William Reisenauer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228 7300; email: *9-avs-nyaco-cos@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Transport Canada AD CF–2026–15, dated March 25, 2026.

(ii) [Reserved]

(3) For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca.* You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation.*

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

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

Issued on November 23, 2026.

Paul R. Bernado,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2026–24120 Filed 11–25–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Parts 141, 142, 143, and 163

RIN 1685–AA47

[Docket No. USCBP–2026–1058]

Heightened Import Disclosures for Supply Chain Visibility; Extension of Comment Period

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) will extend the comment period for an additional 45 days for interested parties to submit comments on the advance notice of proposed rulemaking (ANPRM) regarding supply chain visibility. The ANPRM was published in the **Federal Register** on September 2, 2026, with comments due on or before December 1, 2026. To allow for as much public participation as possible in the formulation of a Notice of Proposed Rulemaking, CBP is extending the comment period to January 15, 2027.

DATES: The comment period for the ANPRM published on September 2, 2026, at 91 FR 56408, is extended. Comments must be received on or before January 15, 2027.

ADDRESSES: You may submit comments, identified by docket number, through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments via docket number Docket No. USCBP–2026–1058.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents and submitted comments, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For questions regarding the identification of parties involved with imported goods and the collection of foreign export documentation, contact Brandon Lord, Executive Director, Trade Programs, Office of Trade, U.S. Customs and Border Protection, and Salvatore Ingrassia, Acting Executive Director, Cargo and Conveyance Security, Office of Field Operations, U.S. Customs and Border Protection, at (202) 325–4369 or by email at *supplychainvisibility@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rulemaking. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rulemaking. Comments that will provide the most assistance to CBP will reference a specific aspect of the proposed rulemaking, explain the reason for any recommendations, and include data, information, or authority that support such recommendations. *See* **ADDRESSES** above for information on how to submit comments.

II. Background

On September 2, 2026, CBP published in the **Federal Register** (91 FR 56408) an Advance Notice of Proposed Rulemaking (ANPRM) that solicited public comments on a variety of proposals related to new requirements enhancing CBP's visibility into the supply chains of goods imported into the United States. The ANPRM permitted the submission of comments on or before December 1, 2026.

Extension of Comment Period

With the goal of developing requirements that will allow CBP to more effectively detect and interdict illicit importations, especially those that are illegally transshipped to evade compliance with U.S. customs and trade laws, CBP believes that it is very important to have as much public participation as possible in the formulation of a future notice of proposed rulemaking. Additional time will allow importers, customs brokers, carriers, and other interested parties, including small businesses, to prepare thorough responses to the specific questions posed in the ANPRM and provide the supporting data and cost information CBP has requested.

Therefore, CBP has decided to allow additional time for the public to submit comments on the ANPRM. Accordingly, the comment period is extended to January 15, 2027.

Susan S. Thomas,

Executive Assistant Commissioner, Office of Trade, U.S. Customs and Border Protection.

[FR Doc. 2026–24149 Filed 11–25–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 228

RIN 0596–AD32

Locatable Minerals

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: The U.S. Department of Agriculture, Forest Service (Agency) is

reopening the comment period for the proposed rule, ''Locatable Minerals,'' which published in the **Federal Register** on February 20, 2026 (91 FR 8316). The proposed rule would revise regulations governing occupancy and use of National Forest System lands in connection with prospecting, exploration, development, mining, processing, and reclamation conducted under the mining laws. The Agency is reopening the comment period to allow the public additional time to review the proposed revisions and submit comments. The proposed regulatory text and supporting analyses, including the draft environmental impact statement and cost-benefit analysis are unchanged by this notice.

DATES: The comment period for the proposed rule published on February 20, 2026 (91 FR 8316), is reopened. Written comments must be received on or before December 11, 2026.

ADDRESSES: Comments, identified by RIN 0596–AD32, should be sent via one of the following methods:

- *Electronically (preferred):* Through the Federal eRulemaking Portal, *https://www.regulations.gov,* identified by docket number FS–2018–0052 or RIN 0596–AD32. Follow the instructions for sending comments; or
- *Mail:* Send written comments to USDA-Forest Service, Sidney Yates Building, 1400 Independence Avenue SW, 1SE—Mailstop Code: 1124, Attn: Director-LMG Staff, Washington, DC 20250.

Comments previously submitted during the initial 60-day public comment period (from February 20, 2026 through April 21, 2026) need not be resubmitted, as these comments are already incorporated into the public record and will be considered in the final rule. To view the proposed rule and supporting materials, interested parties may access the rulemaking docket found at *https://www.regulations.gov,* identified by the docket number FS–2018–0052 or RIN 0596–AD32 or visit the Forest Service's web page for the current revisions to the locatable minerals regulations at *https://www.fs.usda.gov/managing-land/natural-resources/geology/minerals/locatable-minerals/current-revisions.* Interested parties may submit comments during the reopened comment period through the methods described in this notice.

Comments should be confined to issues pertinent to the proposed rule, should explain the reasons for any recommended changes, and should reference the specific section and wording being addressed, where possible. All timely comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. Comments received during both the original and reopened comment periods may be viewed on the Federal eRulemaking Portal at *https://www.regulations.gov.* In the search box, enter 0596–AD32 and click the ''Search'' button. Note personal information provided such as name, telephone, and mailing address will be included in the record.

FOR FURTHER INFORMATION CONTACT: Kevin Knesek, Acting Director, Lands, Minerals, and Geology Management, at 208–871–6691 or by email at *kevin.s.knesek@usda.gov.* Individuals who use telecommunications 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: The proposed rule would update Forest Service regulations in 36 CFR part 228 to improve the efficiency and transparency of the Agency's administration of locatable mineral operations, while minimizing adverse impacts to surface resources and supporting Federal policy regarding secure and sustainable supplies of strategic and critical minerals. After publication of the proposed rule and closure of the original comment period, Forest Service and USDA personnel received or participated in communications concerning the proposed rule. These communications are documented in the docket found at *https://www.regulations.gov,* identified by the docket number FS–2018–0052 or RIN 0596–AD32. The Forest Service is reopening the comment period to provide interested parties with additional time to review the proposed regulatory changes and submit written comments. This action is intended to ensure that stakeholders have a meaningful opportunity to consider and respond to relevant information communicated after publication of the proposed rule, and to further promote transparency, public participation, and the development of a complete and well-informed rulemaking record.

Michael K. Boren,

Under Secretary, Natural Resources and Environment.

[FR Doc. 2026–24129 Filed 11–25–26; 8:45 am]

BILLING CODE 3411–15–P

POSTAL SERVICE

39 CFR Part 111

Exceptional Addressing Changes

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to amend *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) in various subsections to eliminate the use of exceptional addressing for Priority Mail, First-Class Mail and USPS Ground Advantage.

DATES: Submit comments on or before December 28, 2026.

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *ProductClassification@usps.gov,* with a subject line of ''Exceptional Addressing.'' Faxed comments are not accepted.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC, 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Drew Mitchum at (202) 268–7351 or Carla Hunter at (202) 268–4509.

SUPPLEMENTARY INFORMATION: All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Proposal

The Postal Service is proposing to remove the use of exceptional addressing for First Class Mail, USPS Ground Advantage—Commercial parcels, and Priority Mail.

Background

The Postal Service allows the use of the exceptional address format (''John Doe or Current Resident'' or ''John Doe or Current Occupant'') on First Class Mail, USPS Ground Advantage—Commercial parcels, and Priority Mail.

Currently, exceptional addressing is not being utilized as intended. The ''Current Resident' or ''Current Occupant'' addressing goes unnoticed, particularly when First-Class Mail is used and then processed through the

Postal Automated Redirection System (PARS), and marked as Undeliverable as Addressed (UAA), resulting in refunding the customer for mail not delivered as addressed (*i.e.,* ''Current Resident'' or ''Current Occupant'').

The Postal Service is proposing to implement this change effective February 14, 2027.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following described revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.*

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, the Postal Service proposes the following changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations* (see 39 CFR 111.1):

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

500 Additional Mailing Services

507 Mailer Services

1.0 Treatment of Mail

* * * * *

1.5 Treatment for Ancillary Services by Class of Mail

1.5.1 First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, and Priority Mail

Undeliverable-as-addressed First-Class Mail (including postcards), USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, and Priority Mail pieces are treated under Exhibit 1.5.1 with these additional conditions:

* * * * *

[Delete item b in its entirety and renumber item c through f as items b through e.]

* * * * *

600 Basic Standards for All Mailing Services

602 Addressing

3.0 Use of Alternative Addressing

* * * * *

3.1 General Information

* * * * *

3.1.2 Prohibited Use

Alternative addressing formats may not be used on:

[Revise the text of items a and b to read as follows:]

a. Priority Mail Express, Priority Mail, First-Class Mail, and USPS Ground Advantage, pieces.

b. Mail with any ancillary service endorsement under 507.1.1 through 507.1.8.

3.1.3 Treatment

[Revise the last sentence of 3.1.3 to read as follows:]

* * * Undeliverable mail with any alternative addressing format is disposed of as waste under 507.1.9.1.

* * * * *

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2026–24110 Filed 11–25–26; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2018–0042; FRL–13047–01–R3]

Air Plan Approval; Maryland; Interstate Transport Requirements for the 2010 1-Hour Sulfur Dioxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to approve portions of a Maryland state implementation plan (SIP) submission as adequate to meet certain Clean Air Act (CAA) interstate transport requirements for the 2010 primary sulfur dioxide (SO_2) national ambient air quality standard (NAAQS). Specifically, the EPA proposes to find that the SIP submission demonstrates that the Maryland SIP contains adequate provisions prohibiting emissions from Maryland sources from contributing significantly to nonattainment or interfering with maintenance of the 2010 SO_2 NAAQS in any other state. This action is being taken under the CAA.

DATES: Written comments must be received on or before December 28, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2018–0042 at *www.regulations.gov,* or via email to *gordon.mike@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Sarah McCabe, 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) 814–5786. Ms. McCabe can also be reached via electronic mail at *mccabe.sarah@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this proposed rule, the use of ''we,'' ''us,'' or ''our'' is intended to refer to the EPA. We use multiple abbreviations and terms in this proposed rule. While this list may not be exhaustive, for ease of reading and

for reference purposes, the EPA defines the following terms and acronyms here:

BART—Best Available Retrofit Technology
CAA—Clean Air Act SO_2—Sulfur Dioxide
CFR—Code of Federal Regulations
COMAR—Code of Maryland Regulations
DV—Design Value
EGU—Electric Generating Unit
EIS—Emissions Inventory System
EPA—Environmental Protection Agency
FR—Federal Register
HAA—Healthy Air Act
MDE—Maryland Department of the Environment
NAAQS—National Ambient Air Quality Standards
NEI—National Emissions Inventory
Pb—Lead
$PM_{2.5}$—Fine Particulate Matter
ppb—Parts per billion
PSD—Prevention of Significant Deterioration NSR—New Source Review
SIP—State Implementation Plan
tpy—Tons per year
TSD—Technical Support Document
WOE—Weight of Evidence

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I. Background

A. Infrastructure SIPs

On June 2, 2010, the EPA established a revised primary 1-hour SO_2 NAAQS with a level of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations.[1] CAA section 110(a)(1) requires all states to submit, within three years after promulgation of a new or revised NAAQS, SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS.[2] The EPA has historically referred to these SIPs as ''infrastructure SIPs.'' Specifically, section 110(a)(1) provides the procedural and timing requirements for SIP submissions. Section 110(a)(2) lists specific elements that all states must meet related to a newly established or revised NAAQS, such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS.

Section 110(a)(2)(D)(i) of the CAA requires SIPs to contain provisions to prohibit emissions that have certain adverse air quality effects on other States due to interstate transport of pollution. Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), require SIPs to contain adequate provisions that prohibit any source or other type of emissions activity in one State from contributing significantly to nonattainment of the NAAQS in any other State (Prong 1) and from interfering with maintenance of the NAAQS in any other State (Prong 2). These first two prongs are often referred to as the good neighbor provision. The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), require SIPs to contain adequate provisions that prohibit emissions activity in one State from interfering with measures required to prevent significant deterioration of air quality in another State (Prong 3) and from interfering with measures to protect visibility in another State (Prong 4). This submittal and action only address CAA section 110(a)(2)(D)(i)(I).

The EPA has long interpreted this language to enact a ''functional prohibition'' on certain emissions from upwind states, necessitating the EPA's independent assessment whether those emissions will occur or have been adequately controlled in the state where they originate.[3] We are addressing Prongs 1 and 2 in this proposed action. All other applicable infrastructure SIP requirements of the Maryland SIP submission are addressed in a separate rulemaking.[4]

B. 2010 1-Hour SO_2 NAAQS Designations Background

For this proposed action, the EPA considered information from the 2010 1-hour SO_2 NAAQS designations process, as discussed in more detail in section III.B of this document. Accordingly, a brief summary of the EPA's designations process for the 2010 1-hour SO_2 NAAQS is included here.[5]

After the promulgation of a new or revised NAAQS, the EPA must designate areas as ''nonattainment,'' ''attainment,'' or ''unclassifiable'' pursuant to CAA section 107(d)(1) and (2). The process for designating areas following promulgation of a new or revised NAAQS is contained in CAA section 107(d). The EPA promulgated the 2010 1-hour SO_2 NAAQS on June 22, 2010.[6] The EPA Administrator signed the first round[7] of designations (''Round 1'') for the 2010 1-hour SO_2 NAAQS on July 25, 2013,[8] designating 29 areas in 16 states as nonattainment.[9] The **Federal Register** rules for the Round 2 designations published on July 12, 2016[10] and on December 13, 2016.[11] [12] The Round 3 designations were published on January 9, 2018[13] and April 5, 2018.[14] [15] The Round 4

[1] *See* 75 FR 35520 (June 22, 2010).

[2] On December 10, 2024, the EPA revised the secondary NAAQS for SO_2 to an annual average, averaged over three consecutive years, with a level of 10 parts per billion (ppb). *See* 89 FR 105692 (December 27, 2024).

[3] *See Genon Rema LLC* v. *EPA,* 722 F.3d 513, 520–24 (3d Cir. 2013); *Appalachian Power Co.* v. *EPA,* 249 F.3d 1032, 1045–47 (D.C. Cir. 2001); *see also* 71 FR 25328, 25335 (Apr. 28, 2006) (explaining that the SIP/FIP process under section 110 and the petitioning process for direct Federal regulation under section 126 provide independent means of effectuating the same ''functional prohibition'' found in CAA section 110(a)(2)(D)(i)(I)).

[4] This action only addresses CAA section 110(a)(2)(D)(i)(I). The EPA took prior action on the other elements of CAA section 110(1) and (2) presented in this submittal. The EPA's first action is found in 81 FR 36343 (June 16, 2020), which approved all the elements outlined in 110(a)(1) and (2) except for Prongs 1 and 2 of the interstate transport provisions.

[5] While designations may provide useful information for purposes of analyzing transport, the EPA notes that the designations are not dispositive of whether upwind emissions are impacting areas in downwind States. The EPA has consistently taken the position that CAA section 110(a)(2)(D)(i)(I) requires elimination of significant contribution and interference with maintenance in other states, and this analysis is not limited to designated nonattainment areas. Nor must designations for nonattainment areas have first occurred before states or the EPA can act under CAA section 110(a)(2)(D)(i)(I). *See, e.g.,* Clean Air Interstate Rule, 70 FR 25162, 25265 (May 12, 2005); Cross State Air Pollution Rule, 76 FR 48208, 48211 (August 8, 2011); Final Response to Petition from New Jersey Regarding SO_2 Emissions From the Portland Generating Station, 76 FR 69052 (November 7, 2011) (finding facility in violation of the prohibitions of CAA section 110(a)(2)(D)(i)(I) with respect to the 2010 1-hour SO_2 NAAQS prior to issuance of designations for that standard).

[6] *See* 75 FR 35520 (June 22, 2010).

[7] The term ''round'' in this instance refers to which ''round of designations.''

[8] *See* 78 FR 47191 (August 5, 2013).

[9] The EPA and State documents and public comments related to the Round 1 final designations are available at *www.regulations.gov/*, Docket ID No. EPA–HQ–OAR–2012–0233, and on the EPA's website for SO_2 designations at *www.epa.gov/sulfur-dioxide-designations.*

[10] *See* 81 FR 45039 (July 12, 2016).

[11] *See* 81 FR 89870 (December 13, 2016).

[12] The EPA and State documents and public comments related to the Round 2 final designations are available at *www.regulations.gov/*, Docket ID No. EPA–HQ–OAR–2014–0464, and on the EPA's website for SO_2 designations at *www.epa.gov/sulfur-dioxide-designations.*

[13] *See* 83 FR 1098 (January 9, 2018).

[14] *See* 83 FR 14597 (April 5, 2018).

[15] The EPA and State documents and public comments related to Round 3 final designations are

Continued

designations [16] were published on March 26, 2021 [17] [18] and April 14, 2021.[19] [20]

For Maryland, the EPA designated the Anne Arundel County and Baltimore County area as nonattainment and Baltimore City as unclassifiable/attainment in Round 2 and designated most areas in the State as unclassifiable/attainment in Round 3 [21] except for Allegany County, which the EPA designated as attainment/unclassifiable in Round 4. There is one nonattainment area in Maryland for the 2010 1-hour SO_2 NAAQS following the EPA's fourth and final round of the designations process. While in-state designations themselves are not sufficient on their own for the EPA to draw conclusions about potential out-of-state impacts, the EPA draws upon information generated under the DRR and as part of the SO_2 designations process, as well as other available relevant information, that is useful in assessing whether Maryland's SIP meets the requirements of CAA section 110(a)(2)(D)(i)(I).

II. Relevant Factors Used To Evaluate 2010 1-Hour SO_2 Interstate Transport SIPs

Although SO_2 is emitted from similar point and nonpoint sources as is directly emitted fine particulate matter ($PM_{2.5}$) and the precursors to ozone and $PM_{2.5}$, the interstate transport of SO_2 is distinguishable from the transport of $PM_{2.5}$ or ozone. Emissions of $PM_{2.5}$ and ozone disperse over a wide area and can contribute to nonattainment or maintenance issues hundreds of miles from precursor-emitting sources or activities. SO_2 emissions usually do not undergo long-range transport in the atmosphere. The transport of SO_2 relative to the 2010 1-hour SO_2 NAAQS is more analogous to the transport of lead (Pb) relative to the Pb NAAQS in that emissions of SO_2 typically result in 1-hour pollutant impacts of greatest concern near the source of emissions. However, ambient 1-hour concentrations of SO_2 do not decrease as quickly with distance from the source as do 3-month average concentrations of Pb, because SO_2 gas is not removed by deposition as rapidly as are Pb particles. Emitted SO_2 has wider-ranging impacts than emitted Pb, but it does not have such wide-ranging (far downwind) impacts that treatment in a manner similar to ozone or $PM_{2.5}$ would be appropriate. Thus, the approaches that the EPA has adopted for ozone or $PM_{2.5}$ transport are too regionally focused, and the approach for Pb transport is too tightly circumscribed to the source, to be appropriate for assessing SO_2 transport. SO_2 transport is therefore a unique case and necessitates an approach that lies between these other approaches to assessing pollutant transport.

For this proposed rulemaking, and consistent with its prior SO_2 transport analyses, the EPA focused on a 50 kilometer (km)-wide zone around sources of interest because the physical properties of SO_2 result in relatively localized pollutant impacts near an emission source that drop off with distance. Accordingly, the EPA believes that significant impacts in a downwind State are unlikely at distances greater than 50 km from a source and thus, we are focusing our review on areas within 50 km of the State lines. This scale of analysis is consistent with the ''urban scale,'' which is the largest appropriate spatial scale for SO_2 monitors and is useful for assessing SO_2 transport and trends in area-wide air quality.[22]

As discussed in section III in this document, and in further detail in the technical support document (TSD) for this action, the EPA reviewed Maryland's SO_2 SIP submittal. The State's submission did not have sufficient information to fully assess whether Maryland was meeting the CAA good neighbor provision requirements for the 2010 SO_2 NAAQS. Therefore, we elected to review and assess other available information regarding SO_2 emissions and air quality for sources in Maryland to assist in our own evaluation. We independently analyzed such information to determine whether Maryland meets the interstate transport requirements described in the CAA.[23]

Consistent with our prior evaluations of other states' SO_2 transport obligations, we conducted a weight of evidence (WOE) analysis evaluating several sources of information, including current air quality data from monitors as well as available emissions and/or source modeling for sources in Maryland and in neighboring states within 50 km of the Maryland border. A WOE analysis can be applied to determine whether SO_2 emissions from a given State are contributing to nonattainment or maintenance issues in adjoining states. A WOE analysis that is based strictly on available data may not be sufficient in all instances for evaluating interstate SO_2 transport, and additional analysis may be necessary. Further, the term ''WOE'' does not establish the legal or technical basis for what constitutes significant contribution to nonattainment or interference with maintenance for the 2010 SO_2 NAAQS. Rather, WOE refers to the gathering and consideration of a wide range of information, on a case-by-case basis, to determine whether a statutory or regulatory standard is met.

In other SO_2 transport SIP actions, the EPA generally has been able to use a WOE analysis of available information to reach a conclusion that there are no SO_2 nonattainment or maintenance issues in the relevant areas of other

available at *www.regulations.gov/*, Docket ID No. EPA–HQ–OAR–2017–0003, and on the EPA's website for SO_2 designations at *www.epa.gov/sulfur-dioxide-designations*.

[16] The EPA and State documents and public comments related to Round 4 final designations are available at *www.regulations.gov/*, Docket ID No. EPA–HQ–OAR–2020–0037, and on the EPA's website for SO_2 designations at *www.epa.gov/sulfur-dioxide-designations.*

[17] *See* 86 FR 16055 (March 26, 2021).

[18] The Round 4 2010 1-hour SO_2 NAAQS designations action was signed by former EPA Administrator Andrew Wheeler on December 21, 2020, pursuant to a court-ordered deadline of December 31, 2020. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, former Acting Administrator Jane Nishida re-signed the same action on March 10, 2021, for publication in the **Federal Register**.

[19] *See* 86 FR 19576 (April 14, 2021).

[20] On August 21, 2015 (80 FR 51052), the EPA separately promulgated air quality characterization requirements for the 2010 1-hour SO_2 NAAQS in the Data Requirements Rule (DRR). The DRR requires state air agencies to characterize air quality, through air dispersion modeling or monitoring, in areas associated with sources that emitted in 2014 2,000 tons per year (tpy) or more of SO_2, or that have otherwise been listed under the DRR by the EPA or state air agencies. In lieu of modeling or monitoring, state air agencies, by specified dates, could elect to impose federally enforceable emissions limitations on those sources restricting their annual SO_2 emissions to less than 2,000 tpy, or provide documentation that the sources have been shut down. The EPA used the information generated by implementation of the DRR to help inform Round 4 designations for the 2010 1-hour SO_2 NAAQS.

[21] See *Technical Support Document: Chapter 18 Final Round 3 Area Designations for the 2010 1-Hour SO_2 Primary National Ambient Air Quality Standard for Maryland* in the docket at *www.regulations.gov* with Docket ID No. EPA–HQ–OAR–2017–0003 or *www.epa.gov/sulfur-dioxide-designations/final-technical-support-documents-area-designations-round-3*.

[22] For the definition of spatial scales for SO_2, see 40 CFR part 58, appendix D, section 4.4 (''Sulfur Dioxide (SO_2) Design Criteria''). For further discussion on how the EPA applies these definitions with respect to interstate transport of SO_2, see the EPA's proposed rulemaking on Connecticut's SO_2 transport SIP. *See* 82 FR 21351, 21352, 21354 (May 8, 2017).

[23] This proposed rulemaking is based on the information contained in the administrative record for this action and does not prejudge any future EPA action that may make other determinations regarding the air quality status in Maryland and downwind States. Any such future action, such as area designations under any NAAQS, would be based on relevant administrative records and the EPA's analyses of the information that become available at that time. Such information may include monitoring data and modeling analyses conducted by States, air agencies, and third-party stakeholders.

states, or that no sources in the upwind State are contributing to those issues. If the available evidence indicated, however, that an upwind source, sources, or emissions activities were contributing to an out-of-state SO_2 nonattainment or maintenance problem, then further analysis and a regulatory determination would be necessary concerning what amount of those emissions, if any, constituted ''significant contribution'' under Prong 1 or Prong 2 of the CAA good neighbor provision.

We find that there is sufficient information to make a determination that, under baseline conditions and likely future emissions scenarios, no Maryland sources are contributing to any out-of-state SO_2 nonattainment or maintenance concerns, therefore it is not necessary for purposes of this action to render a determination concerning what amount of emissions would be ''significant'' and therefore subject to prohibition under the CAA good neighbor provision.[24]

III. Summary of SIP Revision and EPA Analysis

A. State Submission

On August 17, 2016, Maryland, through the Maryland Department of the Environment (MDE), submitted a SIP revision to satisfy the infrastructure requirements of CAA section 110(a)(2) for the 2010 SO_2 NAAQS. In Maryland's August 17, 2016, SIP submittal, MDE discusses various State and Federal measures which it asserts prohibit Maryland sources from emitting SO_2 at levels which would contribute significantly to nonattainment or interfere with maintenance of the SO_2 NAAQS in another State, including: (1) the Healthy Air Act (HAA), which was enacted in 2006, as well as its implementing regulations at Code of Maryland Regulations (COMAR) 26.11.27 (adopted into Maryland's SIP in 2008),[25] which require reductions in total emissions of SO_2 from electric generating units (EGUs); (2) a July 11, 2013, consent decree between Holcim, Incorporated and the EPA which requires Holcim to replace units at its Hagerstown, Maryland facility and install controls with significant SO_2 reductions; [26] and (3) the State's Regional Haze SIP, approved by the EPA on July 6, 2012,[27] which reduces SO_2 from Maryland sources subject to Best Available Retrofit Technology (BART) requirements.

Maryland also considered four existing SO_2 nonattainment areas in Pennsylvania, West Virginia, and Ohio, as well as one area in Ohio that was not yet characterized at the time of Maryland's August 17, 2016, submittal but that Maryland considered a potential nonattainment area. Maryland determined that the distance from Maryland State borders to the existing nonattainment areas or to the potential nonattainment area was beyond the range of concern for transported SO_2 emissions. Likewise, Maryland considered a potential nonattainment area in the State that had not yet been characterized but determined that the distance (39 miles or approximately 63 km) from the large SO_2 sources in that area to a neighboring state was also beyond the range of concern for SO_2 transport.

B. The EPA's Evaluation Methodology

For this CAA section 110 (a)(2)(D)(i)(I) evaluation of the 2010 SO_2 NAAQS, the EPA conducted separate WOE analyses for Prongs 1 and 2 and evaluated available information such as air quality, emission sources, modeling and emission trends in Maryland and in the States that border Maryland.[28] To identify which sources and emissions activities in Maryland could potentially impact downwind air quality in other states with respect to the 2010 1-hour SO_2 NAAQS, the EPA used information in the EPA's National Emissions Inventory (NEI) [29] and Emissions Inventory System (EIS).[30] The NEI is a comprehensive and detailed estimate of air emissions for criteria pollutants, criteria pollutant precursors, and hazardous air pollutants from air emissions sources, updated every three years using information provided by the States and other information available to the EPA. For our analyses, we largely relied on data from the 2020 NEI, because it is the most recently available, complete, and quality assured dataset. However, in evaluating emissions trends, both state-wide and at the facility level, the EPA also considered data from prior NEI reports and more recent EIS queries, as part of the overall WOE analysis.

As shown in Table 1 in this document, the majority of SO_2 emissions in Maryland originate from point sources. In 2020, total SO_2 emissions from point sources in Maryland comprised approximately 92 percent of the total SO_2 emissions in the State. Non-point, on road, and non-road emissions sources are individually much smaller and also more dispersed throughout the State and are therefore unlikely to contribute to high ambient concentrations when compared to point source contributions. Due to source retirements since 2020,[31] there are only four point source facilities in Maryland with reported emissions greater than 100 tpy as of 2023: Holcim, Inc. Cement Plant, Raven Power Fort Smallwood [32] (Brandon Shores Generating Station and Herbert A. Wagner Generating Station), Wheelabrator Baltimore Municipal Waste Combustor, and AES Warrior Run Generating Station. Based on these data, the EPA focused its WOE analysis on SO_2 emissions from Maryland's larger point sources (*i.e.,* point sources emitting over 100 tpy of SO_2) that are located within 50 km of one or more of the State's borders.

TABLE 1—SUMMARY OF 2020 SO_2 EMISSIONS IN MARYLAND BY SOURCE CATEGORY

Category	2020 Emissions (tpy)	Percent of total SO_2 emissions
Point	4,272	92

[24] *Cf. Genon Rema* v. *EPA,* 722 F.3d 513 (3d Cir. 2013) (upholding EPA grant of CAA section 126(b) petition and establishment of direct Federal emissions control requirements on SO_2 source in Pennsylvania found to be significantly contributing to nonattainment and interfering with maintenance of the 2010 SO_2 NAAQS in New Jersey).

[25] *See* 73 FR 51599 (September 4, 2008).

[26] The consent decree required Holcim to: (1) convert its kiln to a preheater/precalciner kiln configuration; (2) install and continuously operate a Lime Injection System for the control of SO_2 emissions; (3) comply with an SO_2 30-day rolling average emission rate limit of 1.6 lbs/ton; and (4) comply with an SO_2 12-month rolling total emission tonnage limit of 655 tons.

[27] *See* 77 FR 39938 (July 6, 2012).

[28] In *North Carolina* v. *EPA,* 531 F.3d at 910–911 (D.C. Cir. 2008), the D.C. Circuit explained that the regulating authority must give Prong 2 ''independent significance'' from Prong 1 by evaluating the impact of upwind State emissions on downwind areas that, while currently in attainment, are at risk of future nonattainment.

[29] EPA's NEI is available and accessible to the public at *https://www.epa.gov/air-emissions-inventories/national-emissions-inventory.*

[30] The EIS is EPA's database used to receive and store emissions data and generate emissions inventories. The EIS Gateway is a web-based tool developed to provide only registered EPA, State, local and Tribal users with access to emission inventory data for sources in their jurisdiction.

[31] *See* EPA's TSD for a more detailed discussion.

[32] Raven Power Fort Smallwood is a subsidiary of Talen Energy.

TABLE 1—SUMMARY OF 2020 SO_2 EMISSIONS IN MARYLAND BY SOURCE CATEGORY—Continued

Category	2020 Emissions (tpy)	Percent of total SO_2 emissions
Nonpoint	194	4
On road	159	3
Nonroad	11	<1
SO_2 Emissions Total	4,636	100

As described in this section III, the EPA proposes that an assessment of Maryland's satisfaction of the Prongs 1 and 2 requirements under CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO_2 NAAQS may be reasonably based upon several factors. These factors include evaluation of the predicted downwind impacts projected in previous relevant modeling studies for the source and nearby areas, assessment of Maryland's SO_2 point source emissions of more than 100 tpy of SO_2 per facility that are located within approximately 50 km of another state, assessment of other states' point sources emitting more than 100 tpy of SO_2 located within approximately 50 km of Maryland, and assessment of Federal regulations and SIP-approved regulations affecting Maryland's SO_2 sources. The EPA's evaluation is informed by all available data at the time of this rulemaking.[33]

The EPA notes that if this information were insufficient to draw a reasonable conclusion concerning whether Maryland is ''significantly contributing'' or not, then it would not be possible to propose approval based only on this information. In other words, in general, the absence of information concerning whether interstate transport is occurring is not in itself sufficient justification for approving a CAA good neighbor SIP submission. For example, if there were inadequate monitoring or modeling information to characterize the effects of a large, near-border source of SO_2 emissions, it may be appropriate to conduct, or request the State to conduct, further analysis to better characterize the source and its effects, in order to determine whether the good neighbor provision is being met.[34] In this case, the information available to the EPA, as analyzed in the accompanying TSD and summarized below, is fully sufficient to conclude that Maryland is not and will not emit SO_2 pollution in violation of the good neighbor provision for the 2010 SO_2 NAAQS.

1. The EPA's Prong 1 Evaluation—Contribute Significantly to Nonattainment

Prong 1 of the CAA good neighbor provision requires states' plans to prohibit emissions that will contribute significantly to nonattainment of the NAAQS in another state. The EPA's evaluation [35] of whether Maryland has met its Prong 1 transport obligations was accomplished by considering all available information, including the following: SO_2 ambient air quality in Maryland and neighboring states; SO_2 emissions trends for Maryland; potential ambient impacts of SO_2 emissions from certain facilities [36] in Maryland on neighboring states; Maryland's SIP-approved regulations specific to SO_2 emissions and permit requirements; and other SIP-approved or federally enforceable regulations which may reduce SO_2 emissions either directly or indirectly.

Based on the EPA's analysis, we propose to determine that there are no SO_2 nonattainment issues in the relevant areas in other States bordering Maryland. Accordingly, the EPA proposes to determine that Maryland's SIP satisfies the requirements of Prong 1 of CAA section 110(a)(2)(D)(i)(I). This proposed determination is based on the following considerations:

- There are no monitors recording violations of the 2010 1-hour SO_2 NAAQS located in Maryland, including within 50 km of its border. Additionally, all monitors outside of Maryland within 50 km of the Maryland border have design values (DV) [37] that are below 10 ppb (much lower than the 75 ppb SO_2 NAAQS). Current DVs for Maryland's SO_2 monitors within 50 km of another State's border have remained below the 2010 1-hour SO_2 NAAQS from 2020–2023; similarly, SO_2 monitors in neighboring States (Delaware, District of Columbia, Virginia, and West Virginia) within 50 km of Maryland have 2024 DVs (2022–2024) below the 2010 1-hour SO_2 NAAQS;
- Downward SO_2 emissions trends in Maryland and its surrounding States (Pennsylvania, Washington DC, West Virginia, Virginia, Delaware);
- A source-specific analysis of every Maryland 100 tpy SO_2 source located within 50 km of the State border indicates that the sources do not contribute to nonattainment in other states. These analyses draw upon available emissions data, monitoring data, air quality modeling, controls, wind rose data, and other relevant information to assess the likelihood of air quality impacts from these sources to areas in surrounding states. A detailed discussion of each source-specific analysis is contained in section IV.B.1 of the TSD accompanying this action. Below is some of the principal evidence that confirms that emissions from Maryland do not contribute to nonattainment in other states.
- The wind rose data from the meteorological station east of Holcim, Inc. Cement Plant in Hagerstown, MD indicates winds primarily from the west and north-northwest, which would generally keep the facility's SO_2 emissions within the State of Maryland. Holcim SO_2 emissions have remained relatively steady between 300–400 tpy since the implementation of a 2013 Consent Decree which required Holcim to replace units at its Hagerstown, Maryland facility, install controls with significant SO_2 reductions, and comply with an SO_2 12-month rolling total emission tonnage limit of 655 tons. Additionally, there are no other large

[33] The EPA notes that the evaluation of other states' satisfaction of CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO_2 NAAQS can be informed by similar factors found in this proposed rulemaking but may not be identical to the approach taken in this or any future rulemaking for Maryland, depending on available information and state-specific circumstances.

[34] *See, e.g.,* 88 FR 41344 (June 26, 2023) Proposing approval of Tennessee SO_2 transport SIP submission based on updated modeling conducted to better characterize emissions from the Eastman Chemical facility.

[35] A detailed review of the EPA's evaluation of emissions, air monitoring data, other technical information, and rationale for proposed approval of this SIP revision as meeting CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO_2 NAAQS may be found in the TSD.

[36] The physical properties of SO_2 result in relatively localized pollutant impacts near the emissions source. Therefore, the EPA selected a spatial scale with dimensions up to 50 km from point sources.

[37] The design value is the 3-year average of the 99th percentile 1-hour daily maximums at a monitor. A control strategy should be designed to bring the value to attainment of the standard.

sources nearby on either side of the Maryland-Pennsylvania border. This indicates that emissions from Holcim, Inc. will not significantly contribute to nonattainment, or interfere with maintenance, of the 2010 SO_2 NAAQS in any other state.

- The shutdown of Verso Luke LLC's Luke Mill Facility in 2020. Additionally, the now retired monitors in the vicinity of the Luke Mill Facility in Allegany County, Maryland, and Mineral County, West Virginia recorded hourly values of less than 5 ppb during the period of June 2019–May 2020, while the monitors were still operating but after the Luke Mill Facility shutdown.[38]
- The EPA issued a clean data determination for the Baltimore-Anne Arundel SO_2 nonattainment area based on the EPA-prepared air dispersion modeling of 2019–2021 SO_2 emissions from Wheelabrator Baltimore Municipal Waste Combustor, CP Crane Generating Station, Wagner and Brandon Shores Generating Stations (87 FR 66086, November 2, 2022). In that same rule, SO_2 emission limitations for Brandon Shores, Wagner, and CP Crane were incorporated into the SIP.
- AES Warrior Run's emissions have been steady since 2008 and there are no other sources of SO_2 emissions that emit over 2 tpy within 50 km. Also, the predominant wind direction would either blow emissions from AES Warrior into Maryland, or South towards Mineral County, WV where a monitor approximately 30 km away has historically operated with values of less than 6 ppb. A comparison of emission limits and stack parameters to another coal-fired EGU indicates AES Warrior Run will not significantly contribute to nonattainment, or interfere with maintenance, of the 2010 SO_2 NAAQS in any other state.
- There are SIP-approved and Federal emissions control regulations within Maryland that will continue to ensure that SO_2 emissions will be effectively controlled for existing and new sources or modifications.

[38] The EPA originally proposed to disapprove the interstate transport portion of Maryland's SO_2 infrastructure SIP submission because that portion did not contain adequate provisions prohibiting SO_2 emissions from stationary sources in Maryland which were contributing significantly to nonattainment with, or interfering with maintenance of, the 2010 SO_2 NAAQS in another state. Specifically, EPA identified the Verso Luke Paper Mill as the source contributing to violations of the SO_2 NAAQS in West Virginia, based on ambient monitoring data from 2017 to 2019. *See* 85 FR 22381 (April 22, 2020). However, once Verso Luke LLC retired their permits for the Luke Mill Facility, the EPA withdrew the proposal to consider the new information. *See* June 30, 2020 (85 FR 39145).

Based on this evaluation, as more thoroughly discussed in our TSD for this action, the EPA proposes to find that sources within Maryland will not significantly contribute to nonattainment of the 2010 1-hour SO_2 NAAQS in any other state.

2. The EPA's Prong 2 Evaluation—Interference With Maintenance

Prong 2 of the CAA good neighbor provision requires State plans to prohibit emissions that will interfere with maintenance of a NAAQS in another state. The EPA's evaluation of whether Maryland has met its Prong 2 transport obligations was accomplished by considering all available information, with a focus on current air quality data, SO_2 emissions trends for Maryland and neighboring States, and how existing and future sources of SO_2 are addressed through existing SIP-approved and federally enforceable regulations. This evaluation builds upon the analysis conducted for significant contribution to nonattainment (Prong 1), which evaluated SO_2 ambient air quality in Maryland and neighboring states and potential ambient impacts of SO_2 emissions from certain facilities in Maryland on neighboring states.

Based on the EPA's analysis, we propose to find that SO_2 levels in neighboring states near the Maryland border indicate that those states would be able to maintain the SO_2 NAAQS. Accordingly, the EPA proposes to determine that Maryland's SIP satisfies the requirements of Prong 2 of CAA section 110(a)(2)(D)(i)(I). This determination is based on the following considerations:

- Current 2022–2024 DVs for SO_2 monitors in Maryland within 50 km of another state's border and in neighboring states (Pennsylvania, District of Columbia, Delaware, West Virginia, and Virginia) within 50 km of Maryland's border are well below the standard, indicating that these areas are all currently in attainment of the 2010 1-hour SO_2 NAAQS;
- State-wide emissions trends in Maryland and surrounding states indicate declining SO_2 emissions and consequently declining ambient air concentrations in the relevant areas;
- Source-specific analyses show that facility-level emissions generally are decreasing as a result of emissions unit shutdowns and control technology installation, indicating that emissions are not anticipated to increase relative to baseline emissions;
- Current Maryland statutes, SIP-approved measures, and Federal emissions control programs control SO_2 emissions from certain sources within Maryland; and
- Maryland's SIP-approved Prevention of Significant Deterioration (PSD), major New Source Review (NSR) regulations and minor source NSR permit programs address future new and modified SO_2 sources above major and minor permitting thresholds with the intent of ensuring that the SO_2 NAAQS will not be exceeded as a result of new facility construction or existing facility modification within the State or in surrounding states.[39]

Based on this evaluation, as more thoroughly discussed in our TSD for this action, the EPA proposes to find that sources within Maryland will not interfere with maintenance of the 2010 1-hour SO_2 NAAQS in any other state.

IV. Proposed Action

The EPA is proposing to approve the Prongs 1 and 2 portions of the infrastructure SIP submission submitted by the State of Maryland on August 17, 2016, addressing interstate transport for the 2010 1-hour SO_2 NAAQS. Based on the EPA's WOE analysis and as more thoroughly discussed in the TSD, the EPA proposes to determine that emissions from Maryland will not contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to the 2010 SO_2 NAAQS. We therefore propose to find that Maryland's SIP contains adequate provisions consistent with CAA section 110(a)(2)(D)(i)(I).

The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

[39] EPA notes that in the context of evaluating transport for other NAAQS pollutants, such as ozone, the effects of existing emissions control measures are taken into account in Step 1 and Step 2 of its 4-step framework through its nationwide analytical methodology that relies on photochemical grid modeling and source attribution techniques. Thus, in that context, once a state is identified as ''linked'' at Step 2, reliance on existing control measures is considered insufficient, since such measures have already been taken into account in the modeling. Here, without the benefit of such modeling, a state's existing control programs that have been approved into its SIP can have some relevance insofar as they provide confidence that sources subject to such requirements are not authorized to emit in excess of such requirements. However, without further, more detailed information concerning how these requirements function to constrain emissions at the particular existing (or potential new) sources of relevance to an SO_2 transport analysis, the EPA considers general information concerning a state's approved programs to be of only minimal relevance or utility.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

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

List of Subjects in 40 CFR Part 52

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

Amy Van Blarcom-Lackey,

Regional Administrator, Region III.

[FR Doc. 2026–24042 Filed 11–25–26; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2026–4555; FRL–13661–01–R8]

Air Plan Approval; Utah; Cache County Inspection and Maintenance Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Utah on February 28, 2025. The Utah submittal includes revisions to the State's Administrative Rule R307–110–36, concerning SIP Section X Vehicle Inspection and Maintenance (I/M) Program, Part F, Cache County. These revisions updated the rule effectiveness date, updated the definition of vehicle I/M program stations, added emergency vehicle exemptions, and added a part unavailability waiver to the Cache County, Utah I/M program.

DATES: Written comments must be received on or before December 28, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2026–4555, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *https://www.regulations.gov.* Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Gregory Lohrke, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129; telephone number: (303) 312–6396; email address: *lohrke.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

APA Administrative Procedure Act
BRHD Bear River Health Department
CAA Clean Air Act
CBI Confidential Business Information
CFR Code of Federal Regulations
EVFM Emergency Vehicle Field Modification
EPA U.S. Environmental Protection Agency
FR Federal Register
I/M Inspection and Maintenance
IBR Incorporation by Reference
NAA Nonattainment Area
NAAQS National Ambient Air Quality Standards
NOX Nitrogen Oxides
PM Particulate Matter
PM2.5 Fine Particulate Matter
SIP State Implementation Plan
UAQB Utah Air Quality Board
VOC Volatile Organic Compounds

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I. Executive Summary

A. What action is the EPA taking?

The EPA is proposing to approve Utah's February 28, 2025, SIP revision incorporating recent changes to the Cache County, Utah I/M program. This proposed approval is based on a finding that the revisions to the Cache County I/M program, and subsequent incorporation of those changes into the Utah SIP, would not interfere with any applicable requirement concerning maintenance of the 2006 24-hour particulate matter (PM) with an aerodynamic diameter less than or equal to 2.5 microns ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) or any other applicable requirement of the Clean Air Act (CAA).

B. What is the legal authority and what are the requirements?

Under section 109 of the CAA, the EPA has promulgated NAAQS for certain pollutants, including $PM_{2.5}$. When the EPA promulgates a new NAAQS, CAA section 107 specifies a process for the designation of each area within a State, generally as either an area attaining the standard or as a nonattainment area (NAA) not attaining the standard or contributing to the nonattainment of the standard in a nearby area. CAA section 110 requires that each State adopt and submit to the EPA for approval a plan to provide for implementation, enforcement, and maintenance of the NAAQS. This plan is referred to as an infrastructure SIP. CAA section 110 also contains SIP requirements that must be met by each plan for the EPA's approval. SIPs usually include control measures to address emissions of air pollutants subject to the NAAQS from various sources including stationary, area, and mobile sources. CAA section 110(l) requires that any further revision of a State's adopted and effective SIP shall not be approved by the EPA if the revision would interfere with any applicable requirement of the CAA.

II. Background

On October 17, 2006, the EPA revised the 24-hour $PM_{2.5}$ NAAQS, lowering the primary and secondary standards to 35 micrograms per cubic meter ($\mu g/m^3$).[1] On November 13, 2009, the EPA designated three areas in Utah as Moderate nonattainment for the 2006 24-hour $PM_{2.5}$ standard, including the Logan nonattainment area.[2] The Logan nonattainment area is composed of portions of Franklin County, in the State of Idaho, and Cache County, in the State of Utah.

Through Utah's development of an attainment demonstration for the 24-hour $PM_{2.5}$ NAAQS, the State identified an I/M program implemented by Cache County as a reasonable control measure to achieve ambient $PM_{2.5}$ reductions via the reduction of small-diameter particulate matter precursor emissions of oxides of nitrogen (NO_X) and volatile organic compounds (VOC). Idaho did not identify a vehicle I/M program as a reasonable control measure for the Idaho portion of the Logan nonattainment area, given that the Idaho portion of the area contains roughly only 10 percent of the designated area's population base and overall mobile source emissions.[3] The Cache County I/M program was developed and fully implemented on January 1, 2014, under the direction of Cache County's local public health agency, the Bear River Health Department (BRHD). The Governor of Utah submitted a SIP revision to the EPA on January 28, 2014, to add the Cache County I/M program to the SIP under section X, part F. This SIP revision was approved by the EPA on September 9, 2015.[4] The Cache County I/M program is not required by the CAA subparts outlining general provisions for SIPs or additional provisions for particulate matter SIPs. Therefore, the Cache County program was developed using Federal I/M program requirements as a general model for program design, but the program is not held strictly to the EPA's I/M program requirements found in the Code of Federal Regulations (CFR) in 40 CFR part 51, subpart S (hereafter, 40 CFR 51, subpart S) by the 2015 Cache County I/M program approval. For example, the Cache County program was not required to submit performance standard modeling to demonstrate equivalency to the I/M program performance standards for mandatory programs found in 40 CFR 51, subpart S.[5] After initial approval of the I/M program into the Utah SIP, the EPA evaluates proposed revisions to the Cache County I/M program pursuant to CAA section 110(l) requirements, evaluating whether the proposed program changes are part of a SIP revision that would result in the same emissions reduction benefits as compared to the status quo program.[6]

On November 23, 2018, the EPA approved the Cache County I/M program as an ''additional reasonable measure'' under CAA section 172(c)(6) and the EPA's $PM_{2.5}$ Implementation Rule for timely attainment of the 24-hour $PM_{2.5}$ standard.[7] [8] On May 19, 2021, the EPA approved redesignation of the Logan area to attainment status for the 2006 24-hour $PM_{2.5}$ NAAQS, the associated maintenance plan for the Utah portion of the Logan NAA, and related revisions to the SIP, including modifications of the Cache County I/M program.[9]

In a letter dated February 28, 2025, the Governor of Utah submitted a revision to section X, part F of the SIP. The revision reflects recent changes to the Cache County ordinances which define and implement the I/M program. Materials submitted with the Governor's letter constitute the State's showing that the SIP, as revised, accurately reflects the County's I/M program and does not reduce the stringency of the I/M program and that the program remains an additional reasonable measure of emissions reductions similar to the program as previously approved under CAA section 172(c)(6) and the $PM_{2.5}$ Implementation Rule for maintenance of the $PM_{2.5}$ NAAQS.[10] The EPA's review and evaluation of the submitted SIP revision and demonstration of compliance with CAA requirements is discussed in section III of this preamble.

III. The EPA's Evaluation of the State's Submittal

A. Utah's SIP Revision

When a Utah SIP is amended by the Utah Air Quality Board (UAQB), the amended sections must be incorporated into the Utah Air Quality Rules within the Utah Administrative Code. Utah incorporates SIP sections into the State's Rule R307–110. These rules are amended as needed to change the effective dates to match the UAQB approval date of various amendments to the Utah SIP. In this proposed action, the EPA is proposing to approve submitted revisions to Rule R307–110–36, which incorporates by reference (IBR) section X, Vehicle Inspection and Maintenance Program, part F, Cache County. Such IBR actions update incorporation of the State's general

[1] 71 FR 61144 (Oct. 17, 2006).

[2] 74 FR 58688 (Nov. 13, 2009).

[3] 78 FR 78315 (Dec. 26, 2013) and 82 FR 729 (Jan. 4, 2017).

[4] 80 FR 54237 (Sept. 9, 2015).

[5] *See* 40 CFR 51.352(e)(13).

[6] *Id.*

[7] 83 FR 59315 (Nov. 23, 2018).

[8] 81 FR 58010 (Aug. 24, 2016).

[9] 86 FR 27035 (May 19, 2021).

[10] 81 FR 58010 (Aug. 24, 2016).

summary and basis of Cache County's I/M program, the County's authorizing ordinance for an I/M program, and the most recently adopted version of the BRHD's regulations defining the Cache County I/M program into State regulations which are all contained within the Utah SIP at section X.F. The EPA's evaluation of this revision follows.

1. R307–110–36

Section R307–110–36 incorporates the amendments to Utah SIP section X, Vehicle Inspection and Maintenance Program, part F, Cache County, into State rules, thereby making them effective as a matter of State law. The revision to R307–110–36 discussed in this preamble is a ministerial provision, which only revises the effective date within the rule to February 5, 2025, and does not itself include any control measures. The EPA evaluated the Governor's February 28, 2025, submitted revision to R307–110–36 based on the substantive revisions to the materials incorporated under that rule, as described below.

2. Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County

Section X, part F of the Utah SIP addresses the requirements for the implementation of the Cache County I/M program under the direction of the BRHD. Section X, part F contains three main components for the Cache County I/M program: (1) An outline setting forth program applicability, the general description of the program, and the required timeframe for its full implementation; (2) Cache County Ordinance 2013–04 which provides County-level authority to implement an I/M program and delegates implementation and administration of the program to the BRHD under general provisions and guidelines defined by the County; and (3) the BRHD's Regulation No. 2013–1 which fully defines the I/M program requirements, standards, and procedures.

All substantive changes to the Cache County I/M program submitted to the EPA for review and approval with the Utah Governor's February 28, 2025, letter are found in the BRHD's Regulation No. 2013–1 as updated and adopted on July 1, 2024. The EPA's evaluation focuses on all substantive changes to Regulation No. 2013–1 as outlined and discussed below.

i. Change of Definition

In Regulation No. 2013–1, in the ''Definitions'' section, the BRHD amended the section by revising the definition of ''I/M Program Station'' by removing the word ''stationary'' as a necessary qualifier for I/M stations. All other requirements for inspection station qualification and licensure were left in the definition intact.

The removal of ''stationary'' from the definition for an I/M program station in Cache County was made to allow for ''mobile'' emissions testing (*i.e.,* emissions testing performed by a qualified and permitted tester away from fixed, physical testing locations or facilities). This change allows for more flexible program operations following a successful mobile testing pilot program in 2023.

The EPA's evaluation of this change to the regulatory definitions concludes that this revision is administrative in nature because it will not impact the emission reduction benefits of the Cache County I/M program. The ''mobile'' testing allowed by this change promotes motorist convenience and does not affect the subject vehicle population size, or the inspection station and inspector requirements the EPA has previously approved for the Cache County I/M program.

The EPA's evaluation is that this revision to Regulation No. 2013–1 is administrative in nature and does not change the stringency of the Cache County I/M program or the emission reduction benefits produced by the program.

ii. Emergency Vehicle Exemptions

In Regulation No. 2013–1, in the ''General Provisions'' section, the BRHD amended sub-section 6.4, which covers vehicles exempt from the I/M program, by adding an exemption for any in-use ''authorized emergency vehicle'' as defined by the Utah Code.[11] Under the Utah Code, ''authorized emergency vehicles'' are defined as fire department vehicles, police vehicles, ambulances, and any other publicly or privately owned vehicles specially designated by the Department of Public Safety as an emergency vehicle. Thus, these four categories of emergency vehicles are exempted from the I/M program requirements under this revision.

The EPA's evaluation of this revision focused on whether any emission reductions disbenefits were likely to result from the exemption or would interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS or any other applicable requirement of the CAA.

The model I/M program requirements under 40 CFR 51, subpart S state that SIP revisions granting exemptions to vehicles describe such special exemptions and give an estimate of the percentage and type of vehicles which will be granted special exemptions and account for the exemption within the program's quantitative emission reduction analysis.[12] Within the submittal, Utah includes an account of the number of vehicles affected by this exemption and the most recent estimate of total subject vehicles. In the SIP submittal, the State and Cache County indicated that this revision will exempt 102 emergency vehicles out of the 124,718 total vehicles registered in the county, or 0.08 percent of all registered vehicles. However, as noted previously in this document, the Cache County I/M program is not a mandatory program under the requirements of the CAA and was, therefore, not held strictly to the EPA's 40 CFR 51, subpart S requirements to quantify the change in emissions reduction benefits produced by the proposed exemption of emergency vehicles. The EPA, however, can qualitatively assess that an exemption of such a small proportion of the total vehicle fleet subject to I/M program testing would result in a nearly negligible change in emissions reductions, and an even more attenuated change in air quality benefits. Further, since it is best practice for maximum operational readiness that public safety agencies keep emergency vehicles properly maintained at all times (and not wait for periodic inspections to identify needed repairs), the EPA believes that there is little to no additional emission reduction benefit to be gained from conducting an inspection on a small number of emergency vehicles once every two years through the Cache County I/M program. The EPA discusses the qualitative impact of this exemption with respect to noninterference and approvability with more detail in section IV of this preamble, below.

The EPA's evaluation is that this revision to Regulation No. 2013–1 is consistent with Federal I/M program requirements and the exemption does not appreciably change the stringency of the Cache County I/M program or reduce the emissions reduction benefits produced by the program.

iii. Parts Unavailability Waiver

In Regulation No. 2013–1, the BRHD has amended the regulation by adding an Appendix G—''Waivers for Part Unavailability'' which establishes conditions for issuance of a testing certification waiver based on unavailability of an essential component due to discontinuation of the

[11] Utah Code Annotated 41–6a–102.

[12] 40 CFR 51.356(b).

manufacture of the component or for some other documented supply-chain issue. In order to qualify for the waiver, the unavailability of parts must be documented by the program and include certifications from two licensed and certified inspection stations. Part unavailability waivers under this added appendix are subject to other previously approved waiver conditions found elsewhere in the Cache County I/M program regulations. By the account of the State and Cache County's submittal, this revision may result in no more than 10 additional waivers per year. For reference, the BRHD reported to the EPA the issuance of zero waivers, for any reason, during the 2025 recordkeeping and reporting period.[13] Accordingly, the new waiver provision is not likely to result in an appreciable impact on the emissions reduction benefits of the I/M program.

The EPA's evaluation of this revision focused on whether this revision satisfies the applicable requirements of CAA section 175A for maintenance plans and the applicable requirements for $PM_{2.5}$ control measures in CAA section 172(c)(6) and the EPA's $PM_{2.5}$ Implementation Rule. The parts unavailability waiver provision is a minor revision to a SIP-approved control measure which is not expected to appreciably change the stringency of the I/M program or change emission reduction benefits. Accordingly, the EPA proposes that the revised program will still meet all applicable requirements of CAA section 172(c)(6) and the EPA's Implementation Rule. As noted previously, the Cache County I/M program is not a CAA-mandated program and is, therefore, not required to meet the Federal I/M rule in 40 CFR 51, subpart S. Still, the EPA notes that parts unavailability waivers are even permissible pursuant to 40 CFR 51.360 of the Federal I/M rule.

The EPA's evaluation is that this revision to Regulation No. 2013–1 is consistent with Federal I/M program requirements and the parts unavailability waiver does not appreciably change the stringency of the Cache County I/M program or reduce the emission reduction benefits produced by the program.

IV. Consideration of Section 110(l) of the Clean Air Act

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision interferes with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. The revisions to Utah SIP section X.F described in the previous section of this document provoke varied levels of consideration as relates to CAA section 110(l).

The revision to ''I/M Program Station'' to allow for ''mobile'' emissions testing does not change the stringency of program requirements for test standards, program audits or inspector, testing equipment certification, or any other program element relevant to the program's emissions reduction efficacy. Accordingly, the EPA is proposing that this revision is administrative in nature and will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

The revision to the I/M program to exempt emergency vehicles impacts a small portion of the vehicles on the road in Cache County subject to emissions testing. Specifically, Cache County vehicle registrations sum to 124,718 vehicles, of which only 102 are emergency vehicles subject to this exemption.[14] This amounts to 0.08 percent of the County's registered vehicles. Exempting these 102 vehicles from emissions testing is expected to result in a negligible increase in emissions of pollutants subject to the NAAQS. Additionally, it is reasonable to assume that such emergency vehicles are well-maintained and repaired immediately when necessary. Thus, requiring the small population of emergency vehicles to participate in the bi-annual onboard diagnostic system check that is required as part of Cache County's I/M program would provide little to no additional emissions reductions benefit and exemption of those vehicles from the checks is acceptable.

The State also provided in its CAA section 110(l) analysis a summary of the area's 3-year air quality design values for the 10 years prior to this SIP submittal.[15] [16] The most recent design value reported in the State's CAA section 110(l) demonstration is 30.6 μg/m^3 for the three years centered on 2024, well below the standard of 35 μg/m^3. The design values for the area do not suggest that the small-to-negligible disbenefit that would result from exempting emergency vehicles from the I/M program would interfere with maintenance of the NAAQS. The EPA concludes that any potential increases in emissions from this small number of emergency vehicles will not interfere with the attainment, reasonable further progress, or any other applicable requirements of the CAA.

The addition of a parts unavailability waiver to the Cache County I/M program provides operational flexibility and an adaptation to supply chain difficulties without conflicting with the EPA's I/M program requirements. The EPA expects the parts unavailability waiver would be applicable to only a relatively small portion of the vehicle fleet subject to the program and will not likely change the acceptable program waiver rate associated with maintenance of the 2006 24-hr $PM_{2.5}$ NAAQS. If the waiver rate for the Cache County program increases notably after implementation of the new waiver category, the County is obligated to document the trend in annual reporting to the EPA and will need to adjust I/M program requirements accordingly.[17] The EPA proposes that the parts unavailability waiver will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in a final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to R307–110–36 and Utah SIP section X.F, as discussed in Sections III. and IV. of this preamble. The EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

[13] *See* docket item: Cache CY2025 40 CFR 51.366(a)(2)(v).

[14] *See* docket item: ''CAA section 110(l) Demonstration''.

[15] *Id.*

[16] *See* 40 CFR Appendix N to Part 50 1.0(c) ''Design values (DVs)''.

[17] *See* Utah SIP, section X.A: General Requirements Vehicle Inspection and Maintenance Program, section 3. General Summary, Data analysis and reporting requirements.

• Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993);

• Is not 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.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: November 12, 2026.

Cyrus Western,

Regional Administrator, Region 8.

[FR Doc. 2026–24036 Filed 11–25–26; 8:45 am]

BILLING CODE 6569–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2026–4951; FRL–13509–01–R3]

Air Plan Approval; Virginia; Revision to Minor New Source Review Permit Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision (Revision A25) submitted by the Commonwealth of Virginia. This revision pertains to an amendment made in the Virginia Administrative Code (VAC) to include minor New Source Review (NSR) permit exemptions for bovine incinerators for agricultural use. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before December 28, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2026–4951 at *www.regulations.gov,* or via email to *He.Yongtian@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Casey Diaz, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2167. Ms. Diaz can also be reached via electronic mail at *diaz.casey@epa.gov.*

SUPPLEMENTARY INFORMATION: On September 8, 2025, the Commonwealth of Virginia, through the Virginia Department of Environmental Quality (VADEQ), submitted a revision to its SIP (Revision A25). Revision A25 seeks to amend minor NSR permit exemptions in the Virginia SIP section 9VAC5–80–1105 (''Permit exemptions''). Specifically, this amendment updates minor NSR permit exemptions for poultry or swine incinerators to also include bovine incinerators for agricultural use.

Acronym Table

CAA—Clean Air Act
CBI—Confidential Business Information
CFR—Code of Federal Regulations
EPA—Environmental Protection Agency
NAAQS—National Ambient Air Quality Standards
NSR—New Source Review
SIP—State Implementation Plan
VAC—Virginia Administrative Code
VADEQ—Virginia Department of Environmental Quality
VR—Virginia Regulations

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I. Background
II. Summary of SIP Revision and EPA Analysis
III. Proposed Action
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V. Statutory and Executive Order Reviews

I. Background

Because CAA section 110(a)(2)(C) requires that State and local minor NSR programs regulate minor sources and minor modifications ''as necessary to assure that [the NAAQS] are achieved,'' the statute provides State and local air agencies with discretion to establish their own applicability criteria for their minor NSR programs as needed to assure achievement of the NAAQS in their jurisdictions. CAA section 110(a)(2)(C) does not prescribe the use of permits or any other specific mechanism for authorizing the construction of minor sources and minor modifications. State and local air agencies are free to use permits in their minor NSR programs and frequently do so, but air agencies can also include other preconstruction authorization mechanisms in their minor NSR programs.

Virginia's minor NSR program has undergone several revisions since its

initial submission in 1972. On July 24, 1996 the EPA took final action to approve in part and disapprove in part a revision to the Virginia SIP relating to minor NSR permitting requirements.[1] The EPA disapproved revisions to the public participation requirements which were, at the time, codified at 9VAC5–80–120. Specifically, the EPA disapproved sections 120–08–01G.1 and .01G.4.b because they purported to exempt major modifications of less than 100 tons per year (tpy) from the prescribed public participation procedures, contrary to the requirements of 40 Code of Federal Regulations (CFR) 51.161. This left the previously approved SIP requirements of Virginia Regulations (VR) section 120–08–01C.4 in place to govern public participation. The EPA approved the remainder of the submittal into Virginia's SIP.

Subsequently, on April 21, 2000, the EPA took final action to approve a revision to the Virginia SIP which did not revise any of the substantive requirements, but included in the SIP Virginia's reorganized and recodified regulations from the VR–120–08–01 format to match the VAC format (*e.g.,* 9VAC5–80–10).[2]

On August 22, 2016, the EPA took direct final action to approve revisions to the Commonwealth of Virginia SIP.[3] These revisions pertained to preconstruction permitting requirements under Virginia's minor NSR program, as well as a complete recodification of those regulations.

II. Summary of SIP Revision and EPA Analysis

On September 8, 2025, VADEQ submitted Revision A25, a SIP revision amending minor NSR permit exemptions for poultry and swine incinerators in 9VAC 5–80–1105 (''Permit Exemptions'') to include bovine incinerators. The Virginia State Air Pollution Control Board adopted the revision on April 17, 2025, the revision was published in the Virginia Register of Regulations on June 30, 2025, and the revision became effective on July 30, 2025.[4]

Virginia's September 8, 2025 submittal contains revisions to section 9VAC5–80–1105 subsections B.15 and E.2. Subsection B.15 lists poultry, swine, or bovine incinerators located on a farm as facilities that shall be exempt from the provisions of Article 6, provided conditions in section 9VAC5–80–1105.B.15.a–g are met. Subsection B.15.g requires that records shall be maintained on site to demonstrate compliance with the conditions for this exemption, including the total amount of pathological waste incinerated and the fuel usage on a calendar year quarterly basis. Subsection E.2 further lists poultry, swine, and bovine incinerators as stationary sources of toxic pollutants exempt from the Federal hazardous air pollutant NSR program.

The revised provisions of 9VAC5–80–1105 meet the Federal requirements of 40 CFR 51.160 and 51.161 pertaining to legally enforceable procedures and public availability of information, and CAA section 110(a)(2)(C). The CAA and its implementing Federal regulations are less prescriptive regarding minimum requirements for minor NSR, so State and local air agencies generally have more flexibility in designing minor NSR programs in their EPA-approved SIPs. Minor NSR permits are almost exclusively issued by State and local air agencies.[5] Additionally, the revisions are in accordance with CAA section 110(l) because they will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable CAA requirement.

III. Proposed Action

The EPA is proposing to approve Revision A25, submitted on September 8, 2025 by VADEQ, as a revision to the Virginia SIP, because the submission meets the requirements of CAA section 110. Revision A25 adds bovine incinerators as facilities exempt from minor NSR permitting in 9 VAC 5–80–1105. The EPA is soliciting public comments on the matters discussed in this proposed rulemaking. These comments will be considered before taking final action.

IV. Incorporation by Reference

In this document, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the revisions to Virginia Administrative Code 9 VAC 5–80–1105 as described in section II of this document. 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).

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866;[6]
- Is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866;[7]
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act;[8]
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act;[9]
- 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;[10]
- Is not subject to Executive Order 13045because it approves a State program;[11]
- Is not a significant regulatory action subject to Executive Order 13211;[12] and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 because application of those requirements would be inconsistent with the Clean Air Act.[13]

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose

[1] 61 FR 38388 (July 24, 1996).
[2] 65 FR 21315 (April 21, 2000).
[3] 81 FR 56508 (August 22, 2016).
[4] VA.R. Doc. No. R25–8264.
[5] 89 FR 1150 (July 7, 2026).
[6] 58 FR 51735 (October 4, 1993).
[7] 90 FR 9065 (February 6, 2025).
[8] 44 U.S.C. 3501 *et seq.*
[9] 5 U.S.C. 601 *et seq.*
[10] 64 FR 43255 (August 10, 1999).
[11] 62 FR 19885 (April 23, 1997).
[12] 66 FR 28355 (May 22, 2001).
[13] 15 U.S.C. 272 note.

substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175.[14]

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements.

Amy Van Blarcom-Lackey,

Regional Administrator, Region III.

[FR Doc. 2026–24043 Filed 11–25–26; 8:45 am]

BILLING CODE 6569–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2024–0069; FRL–13714–01–R6]

Air Plan Approval; Texas; Attainment Plan for the Navarro County 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State Implementation Plan (SIP) revision that Texas submitted to the EPA on October 24, 2022, for the 2010 1-hour sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS) in the Navarro County SO_2 nonattainment area. This SIP (or ''attainment plan'') includes Texas' attainment demonstration provisions and emissions inventory for the nonattainment area, demonstration of reasonable further progress (RFP), implementation of reasonably available control measures (RACM) (including reasonably available control technology (RACT)), an approved nonattainment new source review (NNSR) program, enforceable emissions limitations and control measures, and adequate contingency measures for the affected area. The EPA is proposing to approve Texas' attainment plan for Navarro County and accompanying provisions for the enforceable control strategy for the Navarro area.

DATES: Comments must be received on or before December 28, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2024–0069 at *http://www.regulations.gov,* or via email to *lee.andrew.c@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact Andrew Lee via telephone at 214–665–6750, or via email at *lee.andrew.c@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this proposed action is available electronically at *https://www.regulations.gov.* While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Andrew Lee, EPA Region 6 Office, Ozone and Infrastructure Section, telephone number: 214–665–6750, email address: *lee.andrew.c@epa.gov.* We encourage the public to submit comments via *https://www.regulations.gov.* Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. List of Terms and Acronyms frequently used in this document:

AQS Air Quality System
CAA Clean Air Act
CBI Confidential Business Information
CFR Code of Federal Regulations
DRR Data Requirements Rule
EPA Environmental Protection Agency
lbs/hr Pounds per hour
NAA Nonattainment Area
NAAQS National Ambient Air Quality Standards
NEI National Emission Inventory
NNSR Nonattainment New Source Review
NSR New Source Review
ppb Parts per billion
PSD Prevention of Significant Deterioration
RACM Reasonably Available Control Measures
RACT Reasonably Available Control Technology
RFP Reasonable Further Progress
SIP State Implementation Plan
SO2 Sulfur Dioxide
STARS State of Texas Air Reporting System
TAC Texas Administrative Code
TCEQ Texas Commission on Environmental Quality
THSC Texas Health and Safety Code
tpy Tons per year
TWC Texas Water Code

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I. Executive Summary

A. What action is the EPA taking?

The Environmental Protection Agency (EPA) is proposing to approve Texas' October 24, 2022, State Implementation Plan (SIP) submittal demonstrating the plan for attainment of the 2010 1-hour sulfur dioxide (SO_2) primary national ambient air quality standard (NAAQS) for the Navarro County nonattainment area (Navarro NAA). As part of this proposed action, the EPA is also proposing to approve and incorporate by reference into the State's SIP, a portion of the October 24, 2022, Texas rulemaking SIP revision containing Texas' recently adopted provisions at Texas Administrative Code Title 30, Chapter 112: Control of Air Pollution from Sulfur Compounds, Subchapter G: Requirements in the Navarro County Nonattainment Area (30 TAC 112, subchapter G), that provide the enforceable control strategy for the Navarro NAA.

[14] 65 FR 67249 (November 9, 2000).

B. What is the legal authority and what are the requirements?

The EPA's regulations governing nonattainment area SIPs are set forth at 40 CFR part 51, with specific procedural requirements and control strategy requirements at subparts F and G, respectively. State attainment plans are approved by the EPA as meeting the minimum requirements of the Clean Air Act (CAA or Act) if they fully address the requirements of CAA sections 110, 172, 191 and 192, and the EPA's regulations at 40 CFR part 51. The EPA is proposing to find that Texas' attainment plan for the Navarro NAA meets these requirements.

II. Background

Under CAA section 109, the EPA has established primary and secondary NAAQS for certain air pollutants (referred to as ''criteria pollutants'') and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. On June 22, 2010, the EPA promulgated a new 1-hour primary SO_2 NAAQS of 75 parts per billion (ppb) at 40 CFR 50.17(a), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb, as determined in accordance with Appendix T of 40 CFR part 50.[1] Under CAA section 107(d)(1), the EPA is required to designate areas as ''nonattainment,'' ''attainment,'' or ''unclassifiable'' within two years of establishing a new or revised standard. The Navarro NAA for the 2010 SO_2 NAAQS was established effective April 30, 2021.[2] [3] This final designation triggered a requirement for Texas to submit, by October 30, 2022 (within 18 months per CAA section 191(a)), a SIP revision with a plan for how the Navarro NAA would attain the 2010 SO_2 NAAQS as expeditiously as practicable, but no later than April 30, 2026.

Texas submitted an attainment plan for the Navarro NAA on October 24, 2022. This notice describes the requirements that the attainment plan must meet under the CAA in order for the EPA to approve the provisions into the federally enforceable SIP, provides a review of the State's plan for attainment with respect to these requirements, and describes the EPA's proposed action on the attainment plan.

III. Requirements for SO_2 Attainment Plans

The nonattainment area SIP for SO_2 must meet the applicable requirements of CAA sections 110, 172, 191 and 192. The EPA's regulations governing nonattainment area SIPs are set forth at 40 CFR part 51, with specific procedural requirements and control strategy requirements at subparts F and G, respectively. Soon after Congress enacted the 1990 amendments to the CAA, the EPA issued guidance on SIPs in the document ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' (General Preamble).[4] Among other things, the General Preamble addressed requirements for SO_2 SIPs and fundamental principles for SIP control strategies.[5] On April 23, 2014, the EPA issued guidance and recommendations for meeting the statutory requirements in SIPs addressing the 2010 1-hour primary SO_2 NAAQS, in a document entitled ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions'' (hereafter referred to as ''2014 SO_2 Nonattainment Guidance'').[6] In this guidance, the EPA described the statutory requirements for the elements of a nonattainment area SIP as listed at CAA section 172(c), which include: an accurate emissions inventory of current emissions for all sources of SO_2 within the nonattainment area; an attainment demonstration; demonstration of RFP; RACM including RACT; enforceable emission limitations and control measures necessary to provide for attainment; nonattainment new source review (NNSR); and adequate contingency measures.

In general, the EPA's duties for reviewing State attainment plans are described in CAA sections 110(k) and 110(l). Pursuant to CAA section 110(k)(1), the EPA must first determine if a SIP submission meets certain minimum criteria for administrative completeness. Once a SIP submission has been determined to be complete, the EPA shall approve the submission as a whole if it meets all applicable requirements of the CAA. State attainment plans must satisfy the relevant statutory and regulatory criteria found in CAA sections 110, 172, 191 and 192, and the EPA's regulations at 40 CFR part 51 in order to be approved by the EPA.

Also, under CAA section 110(l), the EPA may not approve a SIP revision that would interfere with any applicable requirement concerning NAAQS attainment and RFP, or any other applicable requirement of the CAA. Further, under CAA section 193, no control requirement in effect before November 15, 1990 (or required to be adopted by an order, settlement, agreement, or plan in effect before November 15, 1990), in any area which is a nonattainment area for any air pollutant, may be modified in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.

CAA sections 172(c)(1) and 172(c)(6) direct States with areas designated as nonattainment to demonstrate that the submitted attainment plan and its emission limitations and control measures provide for attainment of the NAAQS. 40 CFR part 51, subpart G further delineates the control strategy requirements that SIPs must meet, and that all SIPs and control strategies reflect the four fundamental principles of quantification, enforceability, replicability, and accountability.[7] SO_2 attainment plans must consist of two components: (1) enforceable emission limits and other control measures that assure implementation of permanent, enforceable and necessary emission controls, and (2) a modeling analysis which meets the requirements of 40 CFR part 51, Appendix W (Appendix W) and demonstrates that necessary emission limits and control measures provide for timely attainment of the primary SO_2 NAAQS as expeditiously as practicable, but by no later than the attainment date for the affected area. In all cases, these emission limits and control measures must be accompanied by appropriate methods and conditions to determine compliance with the respective emission limits and control measures, and must be quantifiable (*i.e.,* a specific amount of emission reduction can be ascribed to the measures), fully enforceable (specifying clear,

[1] *See* 75 FR 35520 (June 22, 2010).

[2] *See* 86 FR 16055 (March 26, 2021). *See also* 40 CFR part 81, subpart C.

[3] On August 21, 2015 (80 FR 51052), EPA promulgated air quality characterization requirements for the 2010 1-hour SO_2 NAAQS in the Data Requirements Rule (DRR). The DRR requires State air agencies to characterize air quality, through air dispersion modeling or monitoring, in areas associated with sources that emitted in 2014 2,000 tons per year (tpy) or more of SO_2, or that have otherwise been listed under the DRR by EPA or state air agencies. EPA used the information generated by implementation of the DRR to help inform the 2021 designations (*See* 86 FR 16055, March 26, 2021) for the 2010 1-hour SO_2 NAAQS. The 2021 designations were based primarily on ambient monitoring data, including data from existing and new EPA-approved monitors that have collected data at least from January 2017 forward, pursuant to the DRR.

[4] *See* 57 FR 13498 (April 16, 1992)

[5] *Id.* at 57 FR 13545 through 13549; 57 FR 13567 through 13568.

[6] Available in the docket for this proposed action and at *https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.*

[7] *See* General Preamble; 57 FR 13498, April 16, 1992 at 57 FR 13567 through 13568.

unambiguous and measurable requirements for which compliance can be practicably determined), replicable (the procedures for determining compliance are sufficiently specific and non-subjective so that two independent entities applying the procedures would obtain the same result), and accountable (source-specific limits must be permanent and must reflect the assumptions used in the SIP demonstrations).

Preferred air quality models for use in regulatory applications are described in Addendum A of the EPA's Guideline on Air Quality Models (40 CFR part 51, Appendix W). In 2005, the EPA promulgated the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) [8] as the Agency's preferred near-field dispersion modeling for a wide range of regulatory applications addressing stationary sources (for example in estimating SO_2 concentrations) in all types of terrain based on extensive developmental and performance evaluations.[9] Supplemental guidance on modeling for purposes of demonstrating attainment of the SO_2 standard is provided in Appendix A to the 2014 SO_2 Nonattainment Guidance. Appendix A of the 2014 SO_2 Nonattainment Guidance provides extensive guidance on the modeling domain, the source inputs, assorted types of meteorological data, and background concentrations.

Attainment demonstrations for the 2010 1-hour primary SO_2 NAAQS must demonstrate future attainment of the NAAQS in the entire area designated as nonattainment (*i.e.,* not just at the violating monitor) by using air quality dispersion modeling (*see* Appendix W to 40 CFR part 51) to show that the mix of sources and enforceable control measures and emission rates in an identified area will not lead to a violation of the SO_2 NAAQS. For a short-term (*i.e.,* 1-hour) standard, the EPA finds that dispersion modeling, using allowable emissions and addressing stationary sources in the affected area (and sources located outside the nonattainment area which may affect attainment in the area, if applicable) is technically appropriate, efficient, and effective in demonstrating attainment in nonattainment areas, because it takes into consideration combinations of meteorological and emission source operating conditions that may contribute to peak ground-level concentrations of SO_2.

Resultant model-predicted concentrations for NAAQS demonstrations should always include ambient background concentrations added to explicitly modeled concentrations, should follow the form of the standard, and should be calculated as described in section 2.6.1.2 of the August 23, 2010, clarification memo on ''Applicability of Appendix W Modeling Guidance for the 1-hour SO_2 National Ambient Air Quality Standard'' (Modeling Guideline).[10]

IV. Summary of Texas' SIP Submission

On March 26, 2021, the EPA designated a portion of Navarro County, Texas as nonattainment for the 2010 1-hour primary SO_2 NAAQS, effective April 30, 2021.[11] During the 2017–2019 design value period, the nearby Richland Southeast 1220 Road monitor (AQS ID# 48–349–1081) violated the NAAQS with a monitored design value of 165 ppb. The primary major source of emissions in the area is the Arcosa Lightweight Streetman Plant (Streetman Plant) which manufactures lightweight aggregate for use in various industrial applications such as concrete and asphalt.

CAA section 191 directs States to submit SIPs for nonattainment areas to the EPA within 18 months of the effective date of the designation, *i.e.,* by no later than October 30, 2022, for the Navarro NAA. Under CAA section 192, these SIPs are required to demonstrate that their respective nonattainment areas will attain the NAAQS as expeditiously as practicable, but no later than 5 years from the effective date of designation, *i.e.,* April 30, 2026.

Texas held a public hearing concerning the Navarro County attainment demonstration on May 23, 2022. No members of the public attended the public hearing. Texas adopted the attainment demonstration on October 5, 2022. On October 24, 2022, Texas submitted the attainment plan for the Navarro NAA to the EPA. In addition to the attainment demonstration, Texas submitted the newly adopted sections of State regulations in 30 TAC 112, subchapter G. These regulations contain the enforceable control strategy which is incorporated into the attainment plan for the Navarro NAA.

V. Review of Modeled Attainment Plan

This section discusses the EPA's review and analysis of the modeled attainment plan, including model selection, meteorological data, emissions data, receptor grid, emissions limits, and background concentrations. A more detailed discussion is presented in a technical support document (TSD) contained in the public docket for this proposed approval of the Texas SIP revision.

A. Model Selection and General Model Inputs

As part of its SIP development process, Texas used the EPA's regulatory dispersion model, AERMOD, to determine the SO_2 emission reductions and stack modifications needed to bring the Navarro NAA into attainment. Texas relied upon AERMOD Version 21112 and the companion AERMOD User Guide documentation in developing the attainment demonstration for the Navarro NAA. Regulatory default options were specified in developing the attainment demonstration that are consistent with established practices for use of AERMOD in determining NAAQS compliance for SIP revisions. Included among those default options are stack tip downwash, buoyancy induced dispersion, default wind profile coefficients, default vertical potential temperature gradients, and final plume rise. The EPA finds these selections appropriate.

This attainment demonstration uses a modeling domain that reflects the geographic extent of the Navarro NAA. The most significant source, and only point source, addressed in the modeling for the area is the Streetman Plant facility. A review of industrial SO_2 sources within and near the nonattainment area indicates that this facility is the primary contributor to the monitored violations. At the highest concentrations modeled in the area by the attainment demonstration modeling submitted by TCEQ, the Streetman Plant contributed more than 99% in total to the modeled SO_2 concentrations. The way this source was modeled is discussed later in this section.

The Texas Commission on Environmental Quality (TCEQ) followed 40 CFR part 51 Appendix W, Guideline on Air Quality Models, and the EPA's 2014 SO_2 Attainment Demonstration Guidance in utilizing the AERMOD modeling system pre-processors to generate AERMOD-ready files for meteorology (via AERMET and AERMINUTE), and terrain and elevation (via AERMAP and AERSURFACE).

[8] American Meteorological Society (AMS)/EPA Regulatory Model. The modeling system includes the AERMOD model itself, along with the required preprocessors and their components.

[9] *See* 70 FR 68218 (Nov. 9, 2005).

[10] *See* Clarification Memo Appendix W Hourly SO_2 (August 23, 2010) in the docket for this proposed action.

[11] *See* 86 FR 16055 *See also* 40 CFR part 81, subpart C.

The Streetman Plant was required by TCEQ's chapter 112 Rule to construct a new stack to replace the existing kiln stack no later than January 1, 2025. The chapter 112 Rule specifies that the stack was to be built at a height at least 120 feet (36.6 meters), specifies the location of the stack and identifies the emission limit, minimum stack temperature and minimum stack exit gas velocity.

The EPA's Appendix W guidance indicates that States should evaluate whether physical structures may affect the dispersion of emissions from stack sources. Stacks that are constructed to heights lower than specified Good Engineering Practice (GEP) height [12] and within the ''zone of influence'' of a nearby structure have plumes that are potentially subject to the effects of downwash which would affect dispersion and modeled concentrations in the building wake, near to the source. TCEQ used site-specific building and stack data and modeled the stack at the Streetman Plant to comply with GEP stack height requirements. TCEQ used the EPA's Building Profile Input Program with PRIME algorithm (BPIPPRM) to generate direction-specific building parameters for modeling building wake effects. The location and height of the new stack, and the locations and heights of nearby structures, were processed in BPIPPRM (version 04274) to produce the building downwash parameters required by AERMOD. The actual release height of the stack was less than the GEP value. Therefore, the new stack at the Streetman plant was modeled at the actual release height and was analyzed for downwash effects of the plumes within AERMOD. The EPA is proposing to determine that TCEQ's application of the modeling guideline is appropriate for addressing stacks subject to downwash effects and that the new stack built at the Streetman Plant complies with GEP stack height requirements.

In the accompanying TSD, the EPA provides further explanation and review of Texas' meteorological fields, receptor grid, building downwash, model settings and other model inputs, as well as other details used to develop the modeling demonstration. The EPA finds that TCEQ's model selection, development of modeling input files and selection of general inputs for its model conform with the EPA's modeling requirements and guidance.

[12] 40 CFR 51.100(ii) defines GEP stack height limits.

B. Meteorological Data

The State's modeling utilized surface meteorological data obtained from then-most recent five years (2015 through2020) [13] of available surface meteorological data from Corsicana, Texas (Weather Bureau Army Navy (WBAN) No. 53912, 14 kilometers to the north-northwest of the Streetman Plant) and coincident upper air data from Shreveport, Louisiana (WBAN No. 13957, 247 km to the east-northeast of the Streetman Plant). The Corsicana, Texas station is the closest National Weather Service (NWS) site to the Streetman Plant, and the Shreveport, Louisiana station was chosen by Texas as best representative of meteorological conditions within the area of analysis due to proximity, similar terrain, and availability of recently collected data. The EPA recommends using the closest NWS sites for surface and upper air data if they are considered representative of the area being modeled. In this situation, the EPA concurs with the use of these two sites for this modeling as meeting the EPA's criteria as being nearby and representative. The EPA also finds that TCEQ adequately processed the data in accordance with the Modeling Guideline and the EPA's guidance to generate the necessary modeling data to be used in the AERMOD model runs. In the accompanying TSD, the EPA provides further details and analysis of our review of Texas' meteorological data and AERMET and AERMINUTE settings that were used for processing the meteorological data for use in AERMOD. The EPA is proposing to find the selection and processing of this data to be appropriate and in accordance with Appendix W and the 2014 SO_2 Nonattainment Guidance.

C. Emissions Data

As detailed in the SIP submission, Texas identified the Streetman Plant as the most significant source affecting the Navarro NAA, the sole major point source of SO_2. There are no other minor or major SO_2 point sources in the nonattainment area contributing to the monitored violations. Other impacts of SO_2 emissions from non-point sources, for example mobile source emissions, incineration, agricultural field burning, etc., were not explicitly modeled in AERMOD but instead represented via monitored background data.

[13] At the surface station, the fourth quarter of meteorological data did not meet EPA's data completeness requirements in 2018 and thus 2018 was excluded from the meteorological processing. As such, the next available year, 2015, was subsitituted.

Texas' SIP submittal describes an exploratory modeling run that the State conducted to identify the cause of the violations in the area and determine the most appropriate remedy. This modeling pointed to a single emissions source of SO_2 at the Streetman Plant: a kiln stack for a lightweight aggregate kiln, Emission Point Number (EPN) E3–1 (kiln stack). The State also evaluated the Guardian Industries' (located seven kilometers beyond the northern boundary of the nonattainment area with annual reported SO_2 emissions of 243 through 298 tpy) impact within the nonattainment area, and provided modeling results showing a small impact, and proposed to not explicitly model Guardian Industries' emissions. To address these violations, Texas chose to use modeling as a guide tool to arrive at the combination of emissions and stack parameters for a new stack and scrubber system that provided for attainment of the NAAQS. TCEQ ultimately decided on enforceable rules for these as discussed in the following paragraphs.

The SIP and attainment demonstration modeling, submitted by the State, incorporate the new scrubber stack and operating conditions as necessary to attain the NAAQS according to the specific parameters and limitations of the new subchapter G of TCEQ's 30 TAC 112. The new scrubber stack must have vertical unobstructed stack release and be operated at all times with minimum values for temperature (117 degrees Fahrenheit), exit velocity (42.5 meters/second), and exhaust release height (at least 36.576 meters tall). Texas' AERMOD modeling estimated concentrations based on application of the TCEQ rule-required parameters and scrubber stack SO_2 emissions limit of 222 pounds per hour (lbs/hour), which is substantially lower than the kiln stack's previous permitted limit of 1,000 lbs/hour. A continuous emissions monitoring system (CEMS) is also required on this kiln stack to verify emissions compliance. The State also considered potential emissions during periods of startup, shutdown, and malfunction (SSM) when developing its attainment demonstration. Due to the source only utilizing natural gas as a fuel during periods of SSM, the estimated potential to emit during these periods is estimated to always be less than the hourly emissions under normal operating conditions; therefore, SSM scenarios will not result in higher modeled values than routine conditions, and are required to also be monitored by CEMS at these times.

Additional details and evaluation of the other model inputs of Texas'

attainment demonstration modeling, *e.g.,* list of modeled sources and modeling parameters, are provided in the accompanying TSD.

D. Receptor Grid

Within AERMOD, air quality concentration results are calculated at discrete locations identified by the user; these locations are called receptors. TCEQ's modeling domain for this demonstration consisted of three nested receptor grids with high density receptor grids nearest the source and lesser density receptor grids further away from the Streetman Plant. The inner-most grid consists of a 7.0 km by 7.0 km square centered upon the Streetman Plant with a gridded receptor array at approximately 50-meter intervals. The middle grid extends from the 7.0 km nested, inner-most grid square to form a 14.4 km square with a gridded receptor array of 100-meter interval spacings. The outer-most grid extends from the 14.4 km middle grid square to the outermost edge of the nonattainment area with receptors spaced 500 meters apart. The EPA's 2014 SO_2 Nonattainment Guidance states that modeling for SO_2 attainment demonstrations must evaluate SO_2 concentrations across all areas within the nonattainment area ''that are considered ambient air (where the public generally has access).'' Receptors were excluded over the internal boundary of the Streetman Plant which is considered non-ambient air relative to its own emissions. Receptors were also added along the Streetman Plant property fence line at 25 meters spacing intervals, plus one additional receptor placed at the location of the Richland Southeast 1220 Road monitor. The EPA concurs that the receptor grid was adequate and also reviewed the documentation regarding areas determined to be non-ambient (not needing receptors). The TSD includes additional discussion of identification of receptors and areas considered non-ambient (restricted access), along with the EPA's related review and conclusions.

E. Emission Limits

As required by the Texas regulations found at 30 TAC 112, subchapter G, the SO_2 emissions of the scrubber stack shall not exceed 222 lbs/hr, the temperature of the exhaust gas exiting the stack may not fall below 117 degrees Fahrenheit, and the velocity of the exhaust gas exiting the stack may not drop below 42.5 feet/second. Additionally, the facility must install a CEMS on the Kiln Scrubber Stack to ensure that the scrubber stack is complying with the lbs/hr emission rate limit of the point source. The emission limits and source configuration requirements of 30 TAC 112, subchapter G, will become federally enforceable as a source-specific revision to the Texas SIP upon the EPA's final approval.

CAA section 172(c)(6) requires that the State's attainment plan include enforceable emission limitations, and such other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of the standard in the area by the applicable attainment date.[14] The revised SO_2 emission limit at the Streetman Plant is expressed as an hourly limit.

This SIP revision includes 30 TAC 112, subchapter G, which requires the Streetman Plant facility to monitor its release of SO_2 via CEMS to measure compliance at the source and ensure that the facility does not exceed its 222 lbs/hr emission limit. The CEMS will continuously monitor the SO_2 emissions in accordance with the requirements in 40 CFR 60.13, 40 CFR 60, Appendix B, Performance Specification 2 and 6, for SO_2, and Appendix F Quality Assurance Procedures. To demonstrate compliance, emissions data will be collected at least four times per hour, and then those four data points will be averaged to produce that hour's measured concentration. Hours when the unit is experiencing SSM conditions will also be monitored by CEMS to ensure compliance.

As discussed in the 2014 SO_2 Nonattainment Guidance, in general, the EPA expects the approvable compliance dates for control measures in the attainment demonstration to be as expeditious as practicable. Consistent with its approach for other pollutants, the EPA generally expects attainment plans to require sources to comply with the requirements of the attainment strategy at least one calendar year before the attainment date. By this means, the plans would be able to provide at least one calendar year of air quality monitoring data (and at least one calendar year of compliance information which, when modeled, would show attainment) before the applicable attainment deadline, indicating that the plan is in fact providing for attainment of the standard. The facility was required to implement all the requirements of the 30 TAC 112, subchapter G by no later than January 1, 2025, ahead of the April 30, 2026, attainment date.

The owner or operator of the facility must maintain records of the CEMS data for the exhaust gas sulfur content, temperature, and velocity from the scrubber stack for a minimum of five years and must demonstrate compliance with all applicable recordkeeping requirements of 30 TAC 112, subchapter G. Additionally, records documenting any hourly period that exceeds the emission limits or standards mandated by this rule must be maintained. Finally, copies of each performance test and relative accuracy audit and all associated records must be maintained.

As required in the Rule, all exceedances of the applicable emission limits and any failure of the required stacked parameters must be reported to TCEQ no later than March 31 of the subsequent year after violation. The report must include an explanation of the exceedance or failure, if the violation was due to an SSM event, and a description of any action taken to rectify the issue.

30 TAC 112, subchapter G also contains provisions describing how the owner or operator of the Streetman Plant may request (and the State may approve) an alternate means of control (AMOC) plan.[15] Such an AMOC plan could include revisions to SIP requirements applicable to the source, such as stack height, stack diameter, flue gas temperature, and flue gas velocity, that in combination are necessary to assure that the SO_2 emissions from the source are consistent with attainment and maintenance of the 2010 1-hour SO_2 primary NAAQS in the Navarro County SO_2 NAA. If approved, an AMOC plan would supersede any control requirements in 30 TAC 112, subchapter G that conflict with the AMOC plan.

If the requested AMOC plan includes an increase in the emission limit for a source subject to the control requirements in 30 TAC 112, subchapter G, then the AMOC plan must also include an equivalent decrease in the emission limit for one or more sources subject to the control requirements of this subchapter.[16] The Kiln Scrubber Stack (EPN E3–1) at the Streetman Plant is the only emission point with control requirements in the Navarro NAA at this time. The EPA notes it is highly unlikely that an increase in emissions will be requested under the AMOC provision since there are currently no other emissions points or sources

[14] *See* General Preamble; 57 FR 13498, April 16, 1992 at 57 FR 13567 through 13568.

[15] *See* 30 TAC 112.302(c)

[16] See 30 TAC 112.302(c)(3)(B)

subject to additional control to provide the necessary equivalent decrease.

As a required component of an AMOC application, the source must include a modeling demonstration that the proposed changes to the facility requirements result in no net off-property ground-level concentration increases at any of the modeled receptors that the EPA approved in the State's attainment plan modeling in excess of the lesser of a predefined equation, outlined in 30 TAC 112(c)(3)(C), or an applicable significant impact level for the 2010 1-hour SO_2 NAAQS. The AMOC provision requires that this modeling demonstration must satisfy the EPA's modeling requirements, including the air quality models, databases, other requirements specified in Appendix W to 40 CFR 51.1, and consistent with the modeling that the State provided to support approval of the attainment plan. The AMOC plan must establish control requirements, as well as monitoring, testing, recordkeeping, and reporting requirements, consistent with and no less stringent than the applicable requirements in 30 TAC112, subchapter G, as approved in this proposed action. These requirements must apply to all sources in the plan and make the proposed control requirements enforceable. These requirements of the AMOC provision are to ensure that any modifications are binding and enforceable and result in predictable outcomes should the State approve an AMOC plan for the facility.

In addition to the safeguards above to ensure equivalent emission reductions, the AMOC provision provides for public review and an opportunity for the EPA to review and disapprove the final decision on the plan by the TCEQ Executive Director. The AMOC provision states that a facility must continue to abide by its previous SIP approved limits until formal approval of an AMOC plan. The process for formal approval of an AMOC plan involves notice to the public and notice to the EPA of the AMOC application and an opportunity for public comment on the submitted AMOC plan at the State level. The Executive Director is required to respond to any significant comments and may modify, deny, or approve the AMOC plan. Within 45 days of final approval of the AMOC plan by the Executive Director or the Commission on appeal, the EPA may notify the commission of the EPA's disapproval of the final decision on the AMOC plan. Upon receipt of a timely EPA disapproval, the TCEQ shall void or revise and reissue the AMOC plan. In such a circumstance in which TCEQ would need to reissue an AMOC plan, the revised plan is subject to renewed EPA review and public comment. If the EPA does not disapprove within 45 days of the Executive Director's approval, it is treated as an acceptance by the EPA and the AMOC plan becomes effective. If an AMOC plan is approved, the owner or operator must comply with the emission limits, control requirements, monitoring, testing, reporting, or recordkeeping requirements of the approved AMOC plan.

The EPA is proposing to approve the AMOC provisions of 30 TAC 112, subchapter G. Potential future modifications to the current approved control strategy for the source through an AMOC are adequately bounded by the requirements described in the provision. For example, such a modification could affect specific requirements such as the stack height, flue gas velocity, or the specified numerical emission limitation at the source, but any such changes would be limited to those that would only result in specified amounts of increase in SO_2 emissions. In other words, the range of potential changes is adequately bounded. The requirement that the source provide modeling to establish that any future, potential modification to the current SIP control strategy subject to this action through an AMOC would not result in significant increases above those amounts also allows the EPA to evaluate the potential impacts of any such changes now, at the time that the Agency is proposing to approve the AMOC provision. In approving the AMOC provision, the EPA is authorizing revisions to the current control strategy within specified bounds that are consistent with continued attainment and maintenance of the 2010 1-hour SO_2 NAAQS in the area.

F. Background Concentrations

To satisfy EPA modeling requirements, the SIP's attainment demonstration must also incorporate ambient background concentrations into its modeling to account for SO_2 concentration levels that exist from other sources not specifically modeled, such that the overall attainment demonstration includes the combined impacts of facility-specific emission rates and monitored background concentrations that are selected to represent local airshed ambient concentrations without impacts of the modeled sources. Other sources not explicitly modeled in AERMOD, including those outside the nonattainment area that are contributors to ambient SO_2 loadings within the nonattainment area, are represented via background monitoring data. The 2014 SO_2 Nonattainment Guidance recommends developing a uniform monitored background concentration based on monitored design values for the latest three-year period, regardless of the years of meteorological data used in the modeling. The guidance further states that in cases of nonattainment areas designated based on a monitor's data showing a NAAQS violation, it may be necessary to use a different representative monitor outside of the nonattainment area, particularly where the monitor has a high number of observations impacted by modeled sources. Texas stated that the two closest monitors to the Streetman Plant are both impacted by the facility's emissions, thus, it is appropriate to identify a separate regional site monitor that is representative of the area's SO_2 concentrations. Texas identified the Midlothian OFW monitor as representative of background concentrations due to its similar local emissions characteristics and the stability of SO_2 concentrations measured at this monitor.

Once a suitable monitor is selected, Appendix W prescribes tiered approaches for incorporating that data as background concentration. Texas selected the ''first tier'' approach recommended by the August 23, 2010, clarification memo on ''Applicability of Appendix W Modeling Guidance for the 1-hour SO_2 National Ambient Air Quality Standard'' based on monitored design values. The First-Tier approach selects the highest yearly monitored design value period and adds that value to all model-predicted results. The highest design value for the Midlothian OFW monitored ranged from 5 to 6 ppb during the 2016–2020 time period. Texas, therefore, incorporated a background concentration of 6 ppb into the State's modeling; the EPA is proposing to find that this is an appropriate monitor and representative background values to represent background concentrations in the Navarro County modeling.

G. Summary of Modeling Results

The attainment demonstration, submitted by the State, indicated that the prior emissions limit for the Streetman Plant needed to be revised to achieve attainment. Texas determined that the impact of a new reduced maximum allowable emissions limit and new scrubber stack for the kiln at the Streetman Plant yielded a maximum predicted 5-year design value concentration of 73.8 ppb.

The EPA concludes that Texas' modeling is a suitable demonstration

and that its requirements in the 30 TAC 112, subchapter G for the Streetman Plant were properly addressed in the attainment plan. Texas' modeling demonstrated that the updated emissions limit for the Streetman Plant of 222 lbs/hr and the construction of a new scrubber stack with minimum stack parameters, as provided by 30 TAC 112, subchapter G, provide for attainment in the area. Furthermore, preliminary monitoring data for 2025 [17] supports the conclusion that the emission limits provided for by the attainment plan are effective for bringing the area into attainment. In 2025, the 99th percentile monitored value in the Navarro area is 16 ppb. This marks a significant drop in monitored concentrations, coinciding with the implementation of controls that were mandated to occur no later than January 1, 2025. EPA is proposing to determine that the attainment modeling demonstration comports with the technical guidance found in Appendix W and the 2014 SO_2 Nonattainment Guidance.

VI. Review of Other Plan Requirements

A. Emissions Inventory

CAA section 172(c)(3) requires that the State's attainment plan include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in the area, including such periodic revisions as the Administrator may determine necessary to assure that the requirements of the CAA are met. CAA section 172(c)(4) requires that the State's attainment plan expressly identify and quantify the emissions, if any, of any pollutant or pollutants which will be allowed, in accordance with CAA section 703(a)(1)(B), from the construction and operation of major new or modified stationary sources in the area. CAA section 172(c)(4) also requires the plan demonstrate that the quantified emissions are consistent with the achievement of reasonable further progress and will not interfere with attainment of the NAAQS by the attainment date.

The emissions inventory and source emission rate data for an area serve as the foundation for air quality modeling and other analyses that enable States to: (1) estimate the degree to which different sources within a nonattainment area contribute to violations within the affected area; and (2) assess the expected improvement in air quality within the nonattainment area due to the adoption and implementation of control measures. A nonattainment SIP must include a comprehensive, accurate, and current inventory of actual emissions from all sources of SO_2 in the nonattainment area as well as any sources located outside the nonattainment area which may affect attainment in the area.[18]

In its submittal, Texas included a current emissions inventory for the Navarro NAA for 2017 and forecasted future year projections, which can be found below in Table 1 of this document.

The State of Texas compiled a statewide emissions inventory for stationary sources in accordance with Texas regulations at 30 TAC § 101.10, CAA requirements, and EPA guidance. The submitted data is then reviewed for quality assurance purposes and stored in the State of Texas Air Reporting System (STARS) database. In its submittal, Texas confirmed that stationary point sources (*i.e.,* Streetman Plant) comprised over 99% of the SO_2 emissions in the Navarro NAA. Texas determined the forecasted 2026 emissions for the Streetman Plant through historical point source heat input and a future year emissions limit that accounts for the implementation of the enforceable emissions reductions as required by 30 TAC112, subchapter G, and consistent with the attainment demonstration for the area. The State determined that the nearby Guardian Industries facility, located 7 kilometers from the border of the nonattainment area, did not impact the concentration gradient created by the Streetman Plant.

A summary of the State's submitted emissions inventory is provided in Table 1:

TABLE 1—NAVARRO COUNTY NONATTAINMENT AREA EMISSION INVENTORY—SO_2 POINT SOURCE EMISSIONS, AREA, MOBILE, AND TOTAL SO_2 EMISSIONS

Category	2017 Actual emissions (tons/year)	2026 Projected emissions (tons/year)
Point—Streetman Plant	3493.10	972.36
Area—Non-Oil and Gas	0.46	0.79
Area—Oil and Gas	<0.01	<0.01
On-Road Mobile	0.24	0.23
Off-Road Mobile	0.05	0.05
Total	3493.85	973.43

The EPA agrees that the State's emissions inventories for point, nonpoint, and mobile sources are appropriate because they have been accumulated and reported in accordance with established methods and criteria. The EPA proposes to find that the base year emissions inventory is representative and satisfies the EI requirement.

B. Reasonably Available Control Measures and Reasonably Available Control Technology (RACM/RACT)

CAA section 172(c)(1) requires States to adopt and submit all RACM, including RACT, as needed to attain the standards as expeditiously as practicable. CAA section 172(c)(6) requires the SIP to contain enforceable emission limits and control measures necessary to provide for timely attainment of the standard. The plan relies on ambient SO_2 concentration reductions achieved by implementation of the limits adopted in 30 TAC 112, subchapter G for the Streetman Plant. The Streetman Plant is required to implement all the requirements of the chapter 112 Rule by no later than January 1, 2025, ahead of the area's attainment date of April 30, 2026.

Texas has provided modeling which demonstrates that these measures for the

[17] Preliminary monitoring data is data that has not been quality assured/quality controlled (QA/QC'd) by the State yet and is subject to the State's review and submittal to the EPA for review and finalization. This process is expected to be completed in 2026 for the 2025 preliminary data.

[18] *See* CAA section 172(c)(3) and EPA's 2014 SO_2 Nonattainment Guidance.

Streetman Plant provide for timely attainment of the NAAQS and thus meets the RACM and RACT requirements. The EPA proposes to find that the State satisfied the requirements in CAA section 172(c)(1) to adopt and submit all RACM, including RACT, as needed to attain the standard as expeditiously as practicable and in CAA section 172(c)(6) to include emission limits as necessary to attain.

C. Nonattainment New Source Review (NNSR)

CAA section 172(c)(5) requires that the State's attainment plan provisions shall require permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area, in accordance with CAA section 173. In its submittal, TCEQ provided a certification statement that Texas already has EPA-approved rules that address NNSR requirements. The EPA initially approved Texas' NNSR regulations for SO_2, effective on November 27, 1995.[19] TCEQ determined that because previously approved revisions to the Texas SIP already includes 30 TAC116.12 (Nonattainment and Prevention of Significant Deterioration Review Definitions) and 30 TAC 116.151 (New Major Source or Major Modification in Nonattainment Area Other Than Ozone), Texas has satisfied the NNSR SIP requirements for the Navarro nonattainment area. Further, TCEQ already certified that Texas has EPA-approved rules that cover NNSR requirements with the timely-submitted 2010 1-hour SO_2 NAAQS Infrastructure and Transport SIP Revision. Therefore, the EPA is proposing to conclude that the requirements of CAA section 172(c)(5) have been met and therefore proposes to approve this element of the State's SO_2 attainment plan.

D. Reasonable Further Progress (RFP)

CAA section 172 requires that attainment plans include provisions to address reasonable further progress (RFP). As discussed in EPA's 2014 SO_2 Nonattainment Guidance, this requirement is more practically relevant and important for NAAQS pollutants impacted by emissions from numerous and diverse sources, where the relationship between any individual source and overall air quality is not easily discernable, and where NAAQS attainment may require inventory-wide emissions reductions. The relationship between ambient SO_2 concentrations and SO_2 emission sources is more directly quantifiable as compared to other NAAQS pollutants, and there is frequently only one (or few) primary source of SO_2 emissions responsible for poor air quality in a nonattainment area. Consequently, full progress to attainment is achieved as soon as the one (or few) emission source is subject to an enforceable emission limitation. Therefore, for SO_2 SIPs, which address a small number of affected sources, requiring expeditious compliance with attainment emission limits is sufficient to address the RFP requirement. CAA section 192(a) requires that SO_2 attainment plans provide for future attainment of the NAAQS as expeditiously as practicable, but no later than 5 years from the effective date of the area's designation as nonattainment.

In its submittal, TCEQ provided its rationale for concluding that the plan met the requirement for RFP in accordance with EPA's 2014 SO_2 Nonattainment Guidance. According to TCEQ, the Navarro NAA contains a single source with well-defined emissions, such that emissions controls for this source should result in a ''swift and dramatic improvement in air quality.'' TCEQ further explained that enforceable emission limitations would be implemented for the source (Streetman Plant) in this area and, therefore, this compliance schedule fulfills the RFP requirement for the Navarro NAA. In its submittal, TCEQ set the compliance deadlines for the Streetman Plant to meet its emissions limits by January 1, 2025. Texas indicated that this plan requires that affected sources implement appropriate control measures as expeditiously as practicable in order to ensure attainment of the standard by the applicable attainment date. The State concluded that its plan provides for RFP in accordance with the approach to RFP described in EPA's 2014 SO_2 Nonattainment Guidance. Therefore, the EPA proposes to find that Texas' attainment plan meets the requirements for RFP as contained in CAA section 172(c)(2).

E. Contingency Measures

CAA section 172(c)(9) requires that the State's attainment plan include additional measures, called contingency measures, which will take effect if an area fails to meet RFP or fails to attain the NAAQS by the attainment date. The EPA's 2014 SO_2 Nonattainment Guidance describes special features of SO_2 attainment planning that influence the suitability of alternative means of addressing the requirement in CAA section 172(c)(9) for contingency measures for SO_2. That is, SO_2 control measures are based on what is directly and quantifiably necessary to attain the SO_2 NAAQS, and consequently, an area that implements such control measures would be unlikely to fail to attain the NAAQS. Therefore, EPA's longstanding approach is that an appropriate means of satisfying the contingency measures requirement for SO_2 NAAQS is for the State to have a comprehensive enforcement program that identifies sources of violations of the SO_2 NAAQS and for the State to undertake aggressive follow-up for compliance and enforcement.

For its contingency plan, Texas stated that the TCEQ's comprehensive program to: (1) identify sources of violations of the 2010 SO_2 NAAQS is satisfied through its monitoring network; and (2) follow-up for compliance and enforcement is satisfied through the TCEQ's enforcement programs authorized under the Texas Water Code and Texas Health and Safety Code. Additionally, Texas has the authority to issue orders pursuant to the Texas Clean Air Act and Texas Health and Safety Code for the purpose of supporting attainment and maintenance of the 2010 SO_2 NAAQS.

TCEQ additionally stated that upon the effective date of a determination by the EPA that the Navarro NAA failed to attain the 2010 SO_2 NAAQS or failed to meet RFP, that Streetman Plant would be required to conduct a full system audit of all SO_2 emissions units at the facility; the full system audit will also include a root cause analysis of the circumstances causing the failure to attain or failure to meet RFP. TCEQ staff would then analyze the full system audit report and recommend provisional SO_2 control strategies from Streetman Plant. TCEQ stated that any additional or adopted revised control strategy would be submitted as a SIP revision to the EPA.

As noted above, the EPA's 2014 SO_2 Nonattainment Guidance describes special features of SO_2 planning that influence the suitability of alternative means of addressing the requirement in CAA section 172(c)(9) for contingency measures for SO_2, such that in particular an appropriate means of satisfying this requirement is for the State to have a comprehensive enforcement program that identifies sources of violations of the SO_2 NAAQS and to undertake an aggressive follow-up for compliance and enforcement. Consistent with the 2014 SO_2 Nonattainment Guidance, Texas' attainment plan provides for satisfying the contingency measure requirement in this manner for the NAA. Consequently, the EPA is proposing to find that Texas' comprehensive enforcement program is an appropriate contingency measure for

[19] *See* 60 FR 49781 (Sept. 27, 1995).

this area and meets the requirement of CAA section 172(c)(9).

F. Conformity

Generally, as set forth in CAA section 176(c), conformity requires that actions by Federal agencies do not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant NAAQS. General conformity applies to Federal actions, other than certain highway and transportation projects, if the action takes place in a NAA or maintenance area (*i.e.,* an area that submitted a maintenance plan that meets the requirements of CAA section 175A and has been redesignated to attainment) for ozone, particulate matter, nitrogen dioxide, carbon monoxide, lead, or SO_2. The EPA's General Conformity Rule (40 CFR 93.150 to 93.165) establishes the criteria and procedures for determining if a Federal action conforms to the SIP. With respect to the 2010 SO_2 NAAQS, Federal agencies are expected to continue to estimate emissions for conformity analyses in the same manner as they estimated emissions for conformity analyses under the previous NAAQS for SO_2. The EPA's General Conformity Rule includes the basic requirement that a Federal agency's general conformity analysis be based on the latest and most accurate emission estimation techniques available (40 CFR 93.159(b)). When updated and improved emissions estimation techniques become available, the EPA expects the Federal agency to use these techniques. The EPA is proposing to find that the Navarro County SO_2 Attainment Plan SIP Revision meets these conformity requirements.

Transportation conformity determinations are not required in SO_2 nonattainment and maintenance areas. The EPA concluded in its 1993 transportation conformity rule that highway and transit vehicles are not significant sources of SO_2. Therefore, transportation plans, transportation improvement programs and projects are presumed to conform to applicable implementation plans for SO_2.[20]

VII. Proposed Action

The EPA is proposing to approve Texas' October 24, 2022, SIP revision for attaining the 2010 1-hour SO_2 NAAQS for the Navarro NAA. As part of this proposed action, the EPA is also proposing to approve and incorporate by reference into the State's SIP, a portion of the October 24, 2022, Texas rulemaking SIP revision containing Texas' recently adopted provisions at 30 TAC 112, subchapter G, that provide the enforceable control strategy for the Navarro area.

The SO_2 attainment plan includes Texas' attainment demonstration for the Navarro NAA. Texas explicitly modeled air quality based on the Streetman Plant's updated limit; through that modeling, Texas provided sufficient information that the revised limit at the Streetman Plant would allow the area to meet the standard. Therefore, the EPA is proposing to conclude that the modeling in Texas' plan adequately demonstrates that the control requirements that apply to relevant sources in and near the area, namely the revised 1-hour SO_2 limit for the Streetman Plant, provide for attainment in the area. In addition, available monitoring data also supports that implementation of these requirements is providing for attainment in the area.

The October 24, 2022 attainment plan also addresses requirements for emission inventories, RACT/RACM, RFP, and contingency measures. Texas has previously addressed requirements regarding NNSR. The EPA is proposing to determine that Texas' SO_2 attainment plan meets the applicable requirements of CAA sections 172, 191, and 192. The EPA is taking public comments for thirty days following the publication of this proposed action in the **Federal Register**. The EPA will take these comments into consideration in our final action.

VIII. Incorporation by Reference

In this proposed action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to the Texas regulations as described in section VII of this preamble, Proposed Action. We have made, and will continue to make, these documents generally available electronically through *http://www.regulations.gov* (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IX. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not 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.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur oxides.

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

[20] *See* 58 FR 3776, (Jan. 11, 1993).

Dated: November 19, 2026.

Walter Mason,

Regional Administrator, Region 6.

[FR Doc. 2026–24033 Filed 11–25–26; 8:45 am]

BILLING CODE 6569–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–HQ–OLEM–2026–2773; FRL–13316–01–OLEM]

RIN 2050–AH51

Reducing Complexity in Management of Leather Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revise the regulations defining solid wastes that are not hazardous wastes by adding a new exclusion. The proposed revision specifies that leather articles used as personal protective equipment are not hazardous wastes when discarded, if they meet the same standards applicable to the currently excluded waste scrap leather from various leather product manufacturing industries.

DATES: Comments must be received on or before January 26, 2027.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OLEM–2026–2773, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Land and Emergency Management, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. to 4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: William Nicholas, Office of Land and Emergency Management, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, telephone number: (202) 566–0445, email address: *nicholas.william@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2026–2773, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments. As required by the Administrative Procedure Act at 5 U.S.C. 553(b)(4), a plain language summary of the proposed rule is available on the docket at *https://www.regulations.gov.*

II. General Information

A. Does this action apply to me?

This action may affect industries that generate waste leather articles used as personal protective equipment. The personal protective equipment can be described to include gloves, boots, aprons, jackets, pants and coveralls, headwear, and related articles.

B. What action is the Agency taking?

EPA is proposing to revise its regulations in 40 CFR 261.4(b)(6) defining solid wastes that are not hazardous wastes. The proposed revision specifies that leather articles used as personal protective equipment are not hazardous waste when discarded, if they meet the same standards applicable to the currently excluded wastes from various leather product manufacturing industries (40 CFR 261.4(b)(6)). Specifically, EPA is proposing to exclude leather articles used as personal protective equipment, including gloves, boots, aprons, jackets, pants and coveralls, headwear, and other related articles at new paragraph § 261.4(b)(6)(I).

Section 261.4(b) identifies solid waste that the EPA has determined are not hazardous waste and therefore are excluded from regulation. Section 261.4(b)(6) addresses waste generated during the production of leather goods using trivalent chromium. EPA previously excluded wastes from leather tanning and finishing production activities from the definition of hazardous waste despite the presence of chromium, based on such wastes containing trivalent chromium exclusively (or nearly exclusively), having been generated from processes which use trivalent chromium exclusively (or nearly exclusively), and being typically and frequently managed in non-oxidizing environments. Given the relatively low toxicity of trivalent chromium, its low migratory potential, and the lack of indication of potential for oxidation under usual land disposal conditions, the Agency concluded that land disposal of these trivalent chromium-containing wastes in common landfill or impoundment situations would not pose a present or potential hazard to human health or the environment via soil migration to groundwater. (45 FR 72030). The EPA made this determination because the Agency determined it was necessary to recognize a distinction between tri- and hexavalent chromium-containing wastes when land disposed. (45 FR 72030)

To support the original exclusion, the EPA relied on data demonstrating these wastes contain nearly exclusively trivalent chromium, and the fact that the leather production industrial process generating the waste utilizes trivalent chromium because hides cannot be tanned successfully with hexavalent chromium. The tanning process either uses trivalent chromium as a tanning agent or, should trivalent chromium be unavailable, uses hexavalent chromium and reduces it to trivalent chromium so that the tanning process can be completed. In either case, the EPA concluded that there is a compelling commercial incentive to keep hexavalent chromium out of the process and hence out of the process wastes. EPA also concluded that the wastes

from these activities were ordinarily managed in non-oxidizing landfill environments. For these reasons, the Agency concluded that leather scrap wastes from these industries do not pose a hazard when discarded and excluded these wastes from the definition of hazardous waste. The EPA also excluded waste leather scrap from the shoe and other leather products manufacturing industries. The Agency found that these wastes are substantively identical to tannery wastes (being composed of the same trivalent chromium-tanned hides involved in the tanning process) and so contain trivalent chromium exclusively or nearly exclusively. These wastes also are ordinarily managed in landfills, and so are unlikely to be oxidized. (45 FR 72037)

The regulations excluding these wastes include conditions that the waste must meet. Specifically, the regulations state that the waste is not hazardous provided that (1) the chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and (2) the waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and (3) the waste is typically and frequently managed in non-oxidizing environments. 40 CFR 261.4(b)(6)(i)(A)–(C). If these conditions are met, manufacturers of leather goods can utilize trivalent chromium without the resultant waste produced during the processes being unnecessarily subjected to hazardous waste requirements. The regulations specifically exclude a number of wastes, including scrap leather, that are produced in the process of leather manufacturing and tanning. 40 CFR 261.4(b)(6)(ii)(A)–(H). Thus, such wastes are not hazardous if they can be documented to meet the requirements, are made using exclusively or almost exclusively trivalent chromium; do not fail the test for the toxicity characteristic for any other hazardous constituent; and do not exhibit any other characteristic.

Leather articles used as personal protective equipment are manufactured using the same leather as scrap leather from leather manufacturing, the latter of which, when discarded, is already excluded from hazardous waste requirements. However, these leather articles used as personal protective equipment may be hazardous waste if they fail the test for the toxicity characteristic for chromium at 5.0 mg/L. 40 CFR 261.24(b) or the equipment has been contaminated by other hazardous substances. Therefore, EPA is proposing to apply the same rationale to exclude from the definition of hazardous waste leather articles used as personal protective equipment, when discarded, provided the waste does not fail the test for the toxicity characteristic for any other hazardous constituent and does not exhibit any other characteristic. This proposed change avoids the inconsistency whereby an off-specification leather glove not suitable for use, such as one accidentally damaged by a box opener, could be discarded as non-hazardous waste by a leather product manufacturer, but a glove delivered to a customer and used as personal protection equipment would be considered hazardous when discarded by that customer. This proposed rule would clarify and apply consistent standards to these same leather wastes, reducing unnecessary complexity and ensuring regulatory certainty.

To date, the Agency has provided ongoing guidance to stakeholders that such leather articles, when discarded, likely satisfy the conditions for the exclusions. Furthermore, several states authorized to implement the hazardous waste program under RCRA have interpreted the existing exclusion to include leather personal protective equipment under § 261.4(b)(6)(i)(A)–(C) are met. EPA's proposed action would thus align with state interpretations. Examples of the Agency's guidance and state interpretations can be found in the docket for this proposed rulemaking.

For all these reasons, the EPA is proposing to add § 261.4(b)(6)(ii)(I) to exclude leather articles used as personal protective equipment from the definition of hazardous waste. EPA is requesting comment on this proposed change.

The EPA is not requesting comment on the original exclusion in this proposed rule and the Agency will consider any comments on the current regulation to be out of scope of this rulemaking. EPA is proposing this rule to harmonize the management of leather articles used as personal protective equipment with that of the leather used in their production, and has concluded that the original exclusion is appropriate for the management of these wastes.

C. What is the Agency's authority for taking this action?

The EPA is proposing revisions to the definition of hazardous waste regulations found at 40 CFR part 261 under the authority of sections 2002(a)(1) and 1004(5) of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. 6912(a)(1) and 6903(5). Section 2002(a)(1) of RCRA authorizes the EPA to promulgate regulations as are necessary to carry out its functions under the Act. The statutory definition of ''hazardous waste'' is stated in RCRA section 1004(5).

D. Applicability of the Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize a state hazardous waste program to operate in lieu of the federal program within the state. There are 49 authorized state hazardous waste programs. EPA directly implements the hazardous waste program in Iowa, in US territories, and in Indian Country. Following authorization, EPA maintains its enforcement authorities, although authorized states have primary enforcement responsibility for their authorized programs. The standards and requirements for state authorization are found in 40 CFR part 271.

Prior to the enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), an authorized state hazardous waste program operated entirely in lieu of the federal program in that state. The federal requirements no longer applied in the authorized state, and EPA could not issue permits for any facilities in that state. When new, more stringent or broader federal requirements were promulgated, the state was obligated to adopt equivalent authorities under state law within specified time frames. However, new requirements did not take effect in an authorized state until the state adopted such equivalent authorities, and these requirements did not become part of the authorized program enforceable by EPA until EPA authorized them.

In contrast, with the enactment of RCRA section 3006(g), which was added by HSWA, new federal requirements and prohibitions imposed pursuant to HSWA authority take effect in authorized states at the same time that they take effect in unauthorized states. EPA is directed by section 3006(g) to implement HSWA-based requirements and prohibitions in authorized states until EPA authorizes equivalent state authorities. While states must still adopt state-law equivalents to HSWA-based requirements and prohibitions to retain final authorization, until the states do so, and EPA authorizes the state-law equivalents, EPA implements and enforces these provisions in authorized states.

Authorized states are required to modify their programs when EPA promulgates federal requirements that are more stringent or broader in scope

than existing federal requirements. RCRA section 3009 allows the states to impose standards more stringent than those in the federal program (see also § 271.1). If EPA promulgates a federal requirement that is less stringent or narrower in scope than an existing requirement or of equivalent stringency, authorized states may, but are not required to, adopt a new equivalent requirement regardless of whether or not it is promulgated under HSWA authority.

E. Effect on State Authorization

This document proposes a change that, if finalized, would be less stringent than the current federal hazardous waste regulations. Thus, the 49 authorized states may, but would not be required to, adopt and seek authorization for these changes. In addition, this regulation would not be promulgated under the authority of HSWA to allow authorized states to consider this rule without requiring EPA to implement the rule until the state adopted it. Therefore, if finalized, it would be applicable on the effective date only in those states that do not have final authorization of their base RCRA programs, which at the present time is Iowa, and in all U.S. territories and Indian Country where EPA directly implements RCRA. Although authorized states would not be required to adopt these changes, the EPA believes that this rule has considerable merit and would encourage states to modify their programs.

F. What are the costs and benefits of this action?

The proposed exclusion from hazardous waste requirements for leather articles used as personal protective equipment will reduce waste management complexity for a variety of business sectors. This action codifies existing EPA guidance [1] and aligns varied interpretation by state programs of whether leather articles used as personal protective equipment qualify for the existing exclusion under 40 CFR 261.4(b)(6) when they meet the established criteria. The action does not substantively alter testing or disposal requirements, but provides more clarity about the regulatory status of both generators of these wastes and non-hazardous disposal facilities that receive these wastes. Because the action does not alter testing and compliance obligations for hazardous constituents other than chromium, affected industries and operations that generate large quantities of these wastes are unlikely to experience significant changes in testing or compliance costs. Modest efficiency gains for relevant industries and landfills may result from clarified testing protocols, but economic effects of these changes are not expected to be significant. See the corresponding Economic Assessment for this proposed rulemaking in the docket for more information.

[1] Clarifying letter from Matt Hale, Director of EPA's Office of Solid Waste, in response to South Carolina Department of Health and Environmental Control. Available at *https://rcrapublic.epa.gov/rcraonline/details.xhtml?rcra=14733.*

III. Statutory and Executive Order Reviews

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

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

This action is a significant regulatory action under section 3(f)(1) of Executive Order 12866. Accordingly, it was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an economic analysis of the potential costs and benefits associated with this action. This analysis, ''Economic Analysis: Reducing Complexity in Management of Leather Waste'' (Ref. [EPA–HQ–OLEM–2026–2773–0001]), is available in the docket.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is expected to be an Executive Order 14192 deregulatory action. This proposed rule is expected to provide burden reduction by reducing complexity for regulated entities by clarifying the regulatory status of leather PPE waste and providing modest efficiency gains for relevant industries and landfills that may result from clarified testing protocols.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action does not contain any information collection activities.

D. The Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule. By providing clarity about regulatory status of these wastes, small entities, such as metal working facilities, automotive repair operators, and firefighting operations, may see modest efficiency gains in the simplification of their testing protocols and limited potential reductions in disposal costs, but will not see significant economic effects. See the corresponding Economic Assessment for this proposed rulemaking in the docket for more information. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

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

F. Executive Order 13132: Federalism

This action does not have federalism implications. 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 does not have substantial direct effects 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. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory

action'' in section 2–202 of the Executive Order.

Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, EPA's Policy on Children's Health also does not apply.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. EPA has concluded this action is not likely to have significant adverse energy effects because it does not directly impose requirements on energy production, transmission, or usage. By reducing complexity in testing requirements and providing limited potential waste disposal cost savings, any non-adverse energy effect is expected to not be significant.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action does not involve technical standards.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Solid waste.

Lee Zeldin,

Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 261 as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

Subpart A—General

■ 2. Amend 261.4 by adding paragraph (b)(6)(ii)(I) to read as follows:

§ 261.4 Exclusions.

* * * * *

(b) * * *

(6) * * *

(ii) * * *

(I) Leather articles used as personal protective equipment, including gloves, boots, aprons, jackets, pants and coveralls, headwear, and related articles.

* * * * *

[FR Doc. 2026–24080 Filed 11–25–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2026–9934; FRL–13707–01–OCSPP]

RIN 2070–AB27

Significant New Use Rule on a Chemical Substance (P–24–195)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under the Toxic Substances Control Act (TSCA) for a chemical substance that was the subject of a premanufacture notice (PMN) and is also subject to an Order issued by EPA pursuant to TSCA. The SNUR requires persons to notify EPA at least 90 days before commencing the manufacture (defined by statute to include import) or processing of this chemical substance for an activity that is designated as a significant new use in the SNUR. The required notification initiates EPA's evaluation of the conditions of that use for that chemical substance. In addition, the manufacture or processing for the significant new use may not commence until EPA has conducted a review of the required notification; made an appropriate determination regarding that notification; and taken such actions as required by that determination.

DATES: Comments must be received on or before December 28, 2026.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2026–9934 online at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information: James Yan, New Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–2138; email address: *yan.james@epa.gov.*

For general information on SNURs: Iliriana Mushkolaj, New Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–6877; email address: *Mushkolaj.Iliriana@epa.gov.*

For general information on TSCA: The TSCA Assistance Information Service Hotline, Goodwill of the Finger Lakes, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (800) 471–7127 or (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What is the Agency's authority for taking this action?

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the factors in TSCA section 5(a)(2) (see also the discussion in Unit II.).

B. What action is the Agency taking?

EPA is proposing a SNUR for the chemical substance discussed in Unit III. This SNUR, if finalized as proposed, would require persons who intend to manufacture or process this chemical substance for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

C. Does this action apply to me?

1. General Applicability

This action applies to you if you manufacture, process, or use the chemical substance contained in this proposed rule. 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:

- Manufacturers or processors of the subject chemical substance (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

2. Applicability to Importers and Exporters

This action may also apply to certain entities through pre-existing import certification and export notification

requirements under TSCA (*https://www.epa.gov/tsca-import-export-requirements*).

Chemical importers are subject to TSCA section 13 (15 U.S.C. 2612), the requirements in 19 CFR 12.118 through 12.127, 19 CFR 127.28, and 40 CFR 707.20. Importers of chemical substances in bulk form, as part of a mixture, or as part of an article (if required by rule) must certify that the shipment of the chemical substance complies with all applicable rules and TSCA Orders under TSCA, including regulations issued under TSCA sections 5, 6, 7 and Title IV.

Pursuant to 40 CFR 721.20, any persons who export or intend to export a chemical substance that is the subject of this proposed rule on or after December 28, 2026 are subject to TSCA section 12(b) (15 U.S.C. 2611(b)) and must comply with the export notification requirements in 40 CFR part 707, subpart D.

D. What are the incremental economic impacts of this action?

EPA has evaluated the potential costs of establishing SNUN reporting requirements for potential manufacturers (including importers) and processors of the chemical substance subject to this proposed SNUR. This analysis, which is available in the docket, is briefly summarized here.

1. Estimated Costs for SNUN Submissions

If a SNUN is submitted, costs are an estimated $45,496 per SNUN submission for large business submitters and $14,976 for small business submitters. These estimates include the cost to prepare and submit the SNUN (including registration for EPA's Central Data Exchange (CDX)), and the payment of a user fee. Businesses that submit a SNUN would be subject to either a $37,000 user fee required by 40 CFR 700.45(c)(2)(ii) and (d), or, if they are a small business as defined at 13 CFR 121.201, a reduced user fee of $6,480 (40 CFR 700.45(c)(1)(ii) and (d)). The costs of submission for SNUNs will not be incurred by any company unless a company decides to pursue a significant new use as defined in this SNUR. Additionally, these estimates reflect the costs and fees as they are known at the time of this rulemaking.

2. Estimated Costs for Export Notifications

EPA has also evaluated the potential costs associated with the export notification requirements under TSCA section 12(b) and the implementing regulations at 40 CFR part 707, subpart D. For persons exporting a substance that is the subject of a SNUR, a one-time notice to EPA must be provided for the first export or intended export to a particular country. The total costs of export notification will vary by chemical, depending on the number of required notifications (*i.e.,* the number of countries to which the chemical is exported). While EPA is unable to make any estimate of the likely number of export notifications for the chemical substance covered by this SNUR, as stated in the accompanying economic analysis, the estimated cost of the export notification requirement on a per unit basis is approximately $106.

E. What should I consider as I prepare my comments for EPA?

1. Submitting CBI

Do not submit CBI to EPA through email or *https://www.regulations.gov.* If you wish to include CBI in your comment, please follow the applicable instructions at *https://www.epa.gov/dockets/commenting-epa-dockets#rules* and clearly mark the information that you claim to be CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR parts 2 and 703.

2. Tips for Preparing Your Comments

When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov//epa-dockets.*

II. Background

This unit provides general information about SNURs. For additional information about EPA's new chemical program go to *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

A. Significant New Use Determination Factors

TSCA section 5(a)(2) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In determining what would constitute a significant new use for the chemical substance that is the subject of this SNUR, EPA considered relevant information about the toxicity of the chemical substance, and potential human exposures and environmental releases that may be associated with the substance, in the context of the four bulleted TSCA section 5(a)(2) factors listed in this Unit and discussed in Unit III. This proposed SNUR is based on an Order issued to a certain company for a substance that was the subject of a PMN submission. This Order was issued under TSCA section 5(e)(1)(A), as required by the determinations made under TSCA section 5(a)(3)(B). The TSCA Order requires protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The proposed SNUR extends those protective measures to any person intending to manufacture, process, use, distribute in commerce, or dispose of the new chemical substance subject to the Order and identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying TSCA Order, consistent with TSCA section 5(f)(4).

B. Rationale and Objectives of the SNUR

1. Rationale

Under TSCA section 5(a)(1)(B), no person may manufacture a new chemical substance or manufacture or process a chemical substance for a significant new use until EPA makes a determination as described in TSCA section 5(a)(3) and takes any required action. The issuance of a SNUR is not a risk determination itself, only a notification requirement for ''significant new uses,'' so that the Agency has the opportunity to review the SNUN for the significant new use and make a TSCA section 5(a)(3) risk determination.

During review of the PMN submitted that identifies the chemical substance subject to this proposed SNUR, EPA concluded that regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. Based on the findings outlined in Unit III., a TSCA section 5(e) Order requiring the use of appropriate exposure controls and environmental release restrictions was negotiated with the PMN submitter. As a general matter, EPA believes it is necessary to follow a TSCA Order with a SNUR that identifies the absence of those protective measures as significant

new uses to ensure that all manufacturers and processors—not just the party subject to a TSCA Order—are held to the same standard.

2. Objectives

EPA is proposing this SNUR because the Agency has determined it is appropriate:

- To identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying TSCA Order, consistent with TSCA section 5(f)(4).
- To have an opportunity to review and evaluate data submitted in a SNUN before the submitter begins manufacturing or processing the listed chemical substance for the described significant new use.
- To be obligated to make a determination under TSCA section 5(a)(3) regarding the use described in the SNUN, under the conditions of use. The Agency will either determine under TSCA section 5(a)(3)(C) that the significant new use is not likely to present an unreasonable risk, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use, or make a determination under TSCA section 5(a)(3)(A) or (B) and take the required regulatory action associated with the determination, before manufacture or processing for the significant new use of the chemical substance can occur.

Issuance of a proposed SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available at *https://www.epa.gov/tsca-inventory*.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to SNURs, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Pursuant to 40 CFR 721.1(c), persons subject to SNURs must comply with the same requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1), the exemptions authorized by TSCA sections 5(h)(1), 5(h)(2), 5(h)(3), and 5(h)(5), and the regulations at 40 CFR part 720. In addition, provisions relating to user fees appear at 40 CFR part 700.

Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury under the conditions of use for the chemical substance or take such regulatory action as is associated with an alternative determination under TSCA section 5 before the manufacture (including import) or processing for the significant new use can commence. If EPA determines that the significant new use of the chemical substance is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

As discussed in Unit I.C.2., persons who export or intend to export a chemical substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b), and persons who import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements. See also *https://www.epa.gov/tsca-import-export-requirements.*

D. Applicability of the Proposed SNUR to Uses Occurring Before the Effective Date of the Final Rule

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substance subject to this proposed rule has undergone premanufacture review and received a determination under TSCA section 5(a)(3)(C). A TSCA Order has been issued for this chemical substance and the PMN submitter is required by the TSCA Order to submit a SNUN before undertaking activities that would be designated as significant new uses in this SNUR. Additionally, the identity of the chemical substance subject to this proposed rule has been claimed as confidential per 40 CFR 720.85, further reducing the likelihood that another party would manufacture or process the substance for an activity that would be designated as a significant new use. Based on this, the Agency believes that it is highly unlikely that any of the significant new uses identified in Unit III. are ongoing.

When the chemical substance identified in Unit III. is added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. Persons who begin manufacture or processing of the chemical substance for a significant new use identified on or after the designated cutoff date specified in Unit III.A. would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and EPA would have to take action under TSCA section 5 allowing manufacture or processing to proceed.

E. Important Information About SNUN Submissions

1. SNUN Submissions

SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E–PMN software is available electronically at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

2. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require development of any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, Order, or Consent Agreement under TSCA section 4, then TSCA section 5(b)(1)(A) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, TSCA Order, or Consent Agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. To assist with EPA's analysis of the SNUN, submitters are encouraged, but not required, to provide the potentially useful information as identified for the chemical substance in Unit III.C.

EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how

best the submitter can meet both the data needs and the objective of TSCA section 4(h). For more information on alternative test methods and strategies to reduce vertebrate animal testing, *visit https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/alternative-test-methods-and-strategies-reduce.*

The potentially useful information described in Unit III. may not be the only means of providing information to evaluate the chemical substance associated with the significant new uses. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA sections 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs that provide detailed information about human exposure and environmental release that may result from the significant new use of the chemical substance.

III. Chemical Substance Subject to This Proposed SNUR

A. What is the designated cutoff date for ongoing uses?

EPA designates November 27, 2026 as the cutoff date for determining whether the new use is ongoing. This designation is explained in more detail in Unit II.E.

B. What information is provided for the chemical substance?

For the chemical substance identified in Unit III.C., EPA provides the following information:

- PMN number (as well as the proposed CFR citation assigned in the regulatory text section of the proposed rule).
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service Registry Number (CASRN) or Accession Number (if assigned for confidential chemical identities).
- Basis for the SNUR (*e.g.,* effective date of and basis for the corresponding TSCA Order).
- Potentially useful information.

The regulatory text section of the proposed rule specifies the activities designated as significant new uses.

This proposed SNUR includes a PMN substance that is subject to an Order issued under TSCA section 5(e)(1)(A), as required by the determinations made under TSCA section 5(a)(3)(B). This TSCA Order requires protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The proposed SNUR identifies as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying TSCA Order, consistent with TSCA section 5(f)(4).

C. What chemical substance is subject to this proposed SNUR?

The substance subject to the proposed SNUR in this document is identified below with the proposed CFR citation:

P–24–195 (40 CFR 721.12340).

Chemical Name: Trimers of hexafluoropropene (generic).

CASRN: Not available.

Effective Date of TSCA Order: September 26, 2026.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use will be as a heat transfer fluid. Based on the physical/chemical properties of the PMN substance (as described in the New Chemical Program's PBT category at 64 FR 60194; November 1999) and test data on structurally similar substances, the PMN substance is a potentially persistent, bioaccumulative, and toxic (PBT) chemical. EPA estimates that the PMN substance will persist in the environment for more than six months and has unknown bioaccumulation potential. Based on test data on the PMN substance and comparison to analogous chemical substances, EPA predicts the PMN substance has high environmental hazard. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is potential for dermal exposure;
- Use of engineering and administrative control measures to prevent exposure;
- No domestic manufacture of the PMN substance (*i.e.,* import only);
- Processing, use, and disposal of the PMN substance only in a manner that does not result in inhalation exposure to the PMN substance;
- No processing for use or use of the PMN substance in a consumer product;
- Disposal of the PMN substance or waste streams containing the PMN substance must be by hazardous waste incineration in compliance with RCRA subtitle C;
- No release of the PMN substance, or any waste stream containing the PMN substance, to water; and
- Establishment of a hazard communication program, including environmental precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of bioaccumulation and aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

IV. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review

This action proposes to establish a SNUR for a new chemical substance that was the subject of a PMN. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866 (58 FR 51735, October 4, 1993).

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because significant new use rules for new chemicals under TSCA section 5 are exempted from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

According to the PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related

collection instrument or form, if applicable.

The information collection requirements related to SNURs have already been approved by OMB pursuant to PRA under OMB control number 2070–0038 (EPA ICR No. 1188). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per submission. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

EPA always welcomes your feedback on the burden estimates. When submitting comments on this proposed SNUR, include comments about the accuracy of the burden estimate, and any suggested methods for improving the collection instruments or instruction or minimizing respondent burden, including through the use of automated collection techniques.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, EPA has concluded that no small or large entities presently engage in such activities.

A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was 23 in FY2023, 7 in FY2024, and 10 in FY2025, and only a fraction of these submissions were from small businesses.

In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $37,000 to $6,480. This lower fee reduces the total reporting and recordkeeping cost of submitting a SNUN to about $14,967 per SNUN submission for qualifying small firms. Therefore, the potential economic impacts of complying with these proposed SNURs are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more (in 1995 dollars) in any one year as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by SNURs, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this SNUR. In addition, the estimated costs of this action to the private sector do not exceed $183 million or more in any one year (the 1995 dollars are adjusted to 2023 dollars for inflation using the GDP implicit price deflator). The estimated costs for this action are discussed in Unit I.D.

F. Executive Order 13132: Federalism

This action will not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it is not expected to have a substantial direct effect on 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. Accordingly, the requirements of Executive Order 13132 do not apply to this action.

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

This action will not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it is not expected to have substantial direct effects on Indian Tribes, significantly or uniquely affect the communities of Indian Tribal governments and does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 do not apply to this action.

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 it does not concern an environmental health or safety risk. Since this action does not concern a human health risk, EPA's 2026 Policy on Children's Health also does not apply. Although the establishment of this SNUR does not address an existing children's environmental health concern because the chemical uses involved are not ongoing uses, SNURs require that persons notify EPA at least 90 days before commencing manufacture (defined by statute to include import) or processing of the identified chemical substances for an activity that is designated as a significant new use by the SNUR. This notification allows EPA to assess the intended uses to identify potential risks and take appropriate actions before the activities commence.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve any technical standards subject to NTTAA section 12(d) (15 U.S.C. 272 note).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 20, 2026.

Mary Elissa Reaves,

Director, Office of Pollution Prevention and Toxics.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR chapter I as follows:

PART 721—SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Add § 721.12340 to subpart E to read as follows:

§ 721.12340 Trimers of hexafluoropropene (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as trimers of hexafluoropropene (PMN P–24–195) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(3)(iii), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (o). It is a significant new use to process or use the substance in any manner that results in inhalation exposure to the substance.

(iv) *Disposal.* It is a significant new use to dispose of the substance in any manner that results in inhalation exposure to the substance. It is a significant new use to dispose of the substance or waste streams containing the substance other than by hazardous waste incineration in compliance with Resource Conservation and Recovery Act subtitle C.

(v) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of Subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2026–24082 Filed 11–25–26; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2026–2476]

RIN 2127–AM69

Federal Motor Vehicle Safety Standards: Automatic Emergency Braking Systems for Light Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (Department or DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: NHTSA proposes to modify Federal Motor Vehicle Safety Standard No. 127; Automatic emergency braking systems for light vehicles. NHTSA proposes to delay the compliance date by two years so that manufacturers have more time to comply with the standard. NHTSA also proposes test procedures for testing the malfunction telltale and to clarify the test speed tolerance. The agency seeks comment on other potential modifications to the standard.

DATES: Comments must be received on or before January 26, 2027.

Proposed compliance date: Compliance would be required for all vehicles manufactured on or after September 1, 2031. Small-volume manufacturers, final-stage manufacturers, and alterers would be provided an additional year, with compliance required for all vehicles manufactured by such entities on or after September 1, 2032.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

Federal eRulemaking Portal: Go to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail or Hand Delivery: Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W58–213, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366–9826 or (202) 366–9317 before coming.

Fax: 202–493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its decision-making process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.* To facilitate comment tracking and response, the agency encourages commenters to provide their name, or the name of their organization; however, submission of names is optional. Regardless of whether commenters identify themselves, all timely comments will be considered.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov,* or the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Seiar Zia, Office of Crash Avoidance Standards (email: *seiar.zia@dot.go;* telephone: (202) 366–1810). For legal issues: Eli Wachtel, Office of the Chief Counsel (email: *eli.wachtel@dot.gov*). The mailing address for these officials is: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

A. Background and Summary of FMVSS No. 127

The Infrastructure Investment and Jobs Act (IIJA), enacted in November 2021,[1] mandated that the Secretary of Transportation promulgate a rule to establish minimum performance standards with respect to crash avoidance technology and to require that all passenger motor vehicles manufactured for sale in the United States be equipped with forward

[1] Public Law 117–58.

collision warning (FCW) and automatic emergency braking (AEB) systems that alert the driver if a collision is imminent and apply the brakes automatically if the driver fails to do so. In addition, under the authority of the National Traffic and Motor Vehicle Safety Act of 1966 (Safety Act),[2] the Secretary of Transportation is charged with establishing Federal Motor Vehicle Safety Standards (FMVSS) that are practicable, meet the need for motor vehicle safety, and are stated in objective terms. The authority to issue FMVSSs is delegated to NHTSA.[3]

NHTSA issued a Notice of Proposed Rulemaking (NPRM) on June 13, 2023, followed by a final rule on May 9, 2024, establishing a new FMVSS No. 127, ''Automatic Emergency Braking Systems for Light Vehicles.'' [4] FMVSS No. 127 requires all passenger cars, multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating (GVWR) less than 4,536 kg (10,000 lbs) manufactured on or after September 1, 2029 to be equipped with forward collision warning (FCW), automatic emergency braking (AEB), and pedestrian automatic emergency braking (PAEB) technology. On November 26, 2024, NHTSA issued a final rule in response to petitions for reconsideration that made clarifying amendments to the standard but largely denied the petitions.[5] The Alliance for Automotive Innovation (Alliance) subsequently filed a challenge to FMVSS No. 127 in the United States Court of Appeals for the District of Columbia Circuit on January 17, 2025.[6]

FMVSS No. 127 includes four requirements for AEB systems to warn of and brake for both lead vehicles and pedestrians. The AEB system must: (1) provide an FCW consisting of auditory and visual warning of an impending collision with a lead vehicle at any forward speed greater than 10 km/h (6.2 mph) and less than 145 km/h (90 mph) and an FCW of an impending collision with a pedestrian at any forward speed greater than 10 km/h (6.2 mph) and less than 73 km/h (45.3 mph), (2) apply the brakes automatically at any forward speed greater 10 km/h (6.2 mph) and less than 145 km/h (90 mph) when a collision with a lead vehicle is imminent and at any forward speed greater than 10 km/h (6.2 mph) and less than 73 km/h (45.3 mph) when a collision with a pedestrian is imminent; (3) prevent the vehicle from colliding with the lead vehicle or pedestrian test device when tested according to the test procedures described in the standard, which include pedestrian tests in both daylight and darkness, and pass two false positive tests; and (4) provide telltale notification if the system detects a malfunction, or if the system adjusts its performance such that it will not meet the requirements of the standard. Compliance is required starting September 1, 2029, with applicable vehicles manufactured by small-volume manufacturers, final-stage manufacturers, and alterers required to be certified to the standard by September 1, 2030.

FMVSS No. 127 addresses significant safety problems. AEB systems employ sensor technologies and sub-systems that work together to sense when the vehicle is in a crash imminent situation, provide a warning to the driver and apply the vehicle brakes automatically if the driver has not done so, and to apply more braking force to supplement the driver's braking, to avoid or mitigate a collision. These systems can reduce the frequency and severity of both lead vehicle rear-end and pedestrian collisions. As outlined in the 2024 final rule, in 2019, 60 percent of fatal rear-end crashes and 73 percent of crashes resulting in injuries were on roads with posted speed limits of 60 mph or below, and the vast majority of fatalities, injuries, and property damage associated with rear end crashes occur at speeds above 25 mph. Similarly, most of these crashes occurred without adverse atmospheric conditions: 72 percent of fatal crashes and 74 percent of crashes resulting in injuries occurred in clear conditions. Also, about 51 percent of fatal rear-end crashes and 74 percent of rear-end crashes resulting in injuries involving light vehicles occurred in daylight conditions. In addition, 65 percent of pedestrian fatalities and 67 percent of pedestrian injuries were the result of a strike by the front of a light vehicle. About half of pedestrian injuries and 77 percent of pedestrian fatalities occurred in dark lighting conditions.

FMVSS No. 127 establishes test scenarios for both lead vehicle and pedestrian AEB systems. Lead vehicle AEB is tested at speeds up to 100 km/h (62 mph) when manual braking is applied and up to 80 km/h (50 mph) when no manual braking is applied during the test. Lead vehicle testing is performed under three representative scenarios: lead vehicle stopped, lead vehicle moving, and lead vehicle decelerating. PAEB is tested only without manual braking and at speeds up to 65 km/h (40 mph). PAEB testing is performed under three representative scenarios: pedestrian crossing the road (including an obstructed pedestrian scenario), stationary pedestrian (in the path of the vehicle), and pedestrian moving along the vehicle path. Because most pedestrian fatalities occur in darkness, PAEB performance is required under both daylight and darkness lighting conditions.

The Final Regulatory Impact Analysis for FMVSS No. 127 concluded the rule would result in a reduction of 362 fatalities and 24,321 injuries annually. The total costs of the rule were estimated to be approximately $354 million annually, most of which was attributable to the installation of software. However, NHTSA estimated that approximately five percent of the light vehicle fleet would require hardware upgrades to existing FCW and AEB systems to meet FMVSS No. 127. The lifetime monetized net benefits of the rule were projected to be between $5.82 and $7.26 billion. As discussed in the remainder of the preamble, there is uncertainty as to whether rule-compliant AEB can be implemented throughout the fleet within the prescribed timeline, and, therefore, whether the projected fatality and injury reductions, and thus these projected benefits, would accrue as estimated in the 2024 final rule and accompanying Final Regulatory Impact Analysis.

B. Summary of This NPRM

This NPRM proposes a two-year delay in the compliance timeline for FMVSS No. 127. In the time since the finalization of FMVSS No. 127, NHTSA has continued to conduct both lead vehicle and pedestrian AEB testing as part of the New Car Assessment Program (NCAP) program, largely to the specifications in FMVSS No. 127. In addition, NHTSA has met with several stakeholders, some of whom have challenged whether the standard is practicable, meets the need for safety, and is stated in objective terms. This information is summarized in Section II of this proposed rule.

Based on the information received from stakeholders and developed by NHTSA through additional testing, NHTSA has determined that there is uncertainty in whether the fleet can comply with the standard within the current compliance timeline. There is also uncertainty around the pace of system development and deployment, and how the current compliance timeline might impact engineering and

[2] The Safety Act is codified at 49 U.S.C. Chapter 301.

[3] 49 CFR 1.93(a).

[4] 89 FR 39686 (May 9, 2024).

[5] 89 FR 93199 (Nov. 26, 2024).

[6] The United States Court of Appeals for the District of Columbia Circuit, Case No.: 25–1026. *https://www.autosinnovate.org/posts/testimony/Auto%20Innovators%20AEB%20Petition%20Filing.pdf,* accessed March 2026.

marketing decisions made years in advance of vehicle sales. As a result, NHTSA is concerned that the current timeline of FMVSS No. 127 may result in vehicles being unable to be self-certified as compliant by manufacturers, and therefore prohibited from sale. Consequently, NHTSA has determined that the current compliance date, September 1, 2029, may be impracticable for the fleet.

The agency also seeks comment on the practicability and stringency of several aspects of FMVSS No. 127. This standard is more stringent than AEB regulations developed by other countries, and uncertainty remains regarding how several aspects of the standard will impact AEB performance in the field and consumer response to that performance, both in the short and long term. This consideration applies to several aspects of the rule, but particularly to the ''no contact'' requirement, the required test speeds, and the lack of multiple test trials. NHTSA is concerned that AEB system design choices made to conform with FMVSS No. 127 specifications could adversely impact consumer acceptance and introduce the possibility of safety disbenefits centered around unexpected activation of AEB at high speeds. In Section IV of this NPRM, NHTSA seeks comment on potential changes to the standard that may mitigate the risk of consumer acceptance issues while maximizing the safety benefits from AEB systems. NHTSA emphasizes that data that might enable quantification of safety risks from false positive AEB activation and data and research on real-world performance of vehicles relative to the track test performance required by FMVSS No. 127 would be particularly helpful in enabling the agency to determine potential future regulatory amendments that may be warranted.

Finally, NHTSA solicits comment on the appropriateness of portions of the standard for vehicles equipped with automated driving systems (ADS).

C. Legal Authority

This NPRM is issued under the authority in the Safety Act. Pursuant to 49 U.S.C. Chapter 301, the Secretary of Transportation is charged with establishing motor vehicle safety standards that are practicable, meet the need for motor vehicle safety, and are stated in objective terms. ''Motor vehicle safety'' is defined in the Safety Act as ''the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in a crash and includes nonoperational safety of a motor vehicle.'' The phrase ''Motor vehicle safety standard'' means a minimum performance standard for motor vehicles or motor vehicle equipment. When prescribing such standards, the Secretary must consider all relevant, available motor vehicle safety information. The Secretary must also consider whether a standard is reasonable, practicable, and appropriate for the types of motor vehicles or motor vehicle equipment for which it is prescribed and the extent to which the standard will further the statutory purpose of reducing traffic accidents and associated deaths. The authority to issue FMVSS is delegated to NHTSA. FMVSS No. 127 also addresses a statutory mandate under IIJA, which directed the Secretary of Transportation to promulgate a rule requiring that all passenger motor vehicles for sale in the United States be equipped with a FCW system and an AEB system.[7]

The Safety Act requires that FMVSS be practicable, meet the need for motor vehicle safety, and be stated in objective terms. To meet the requirement that standards be ''practicable,'' NHTSA considers several factors, including technological and economic feasibility[8] and consumer acceptance.[9] Technological feasibility considerations counsel against standards for which ''many technical problems have been identified and no consensus exists for their resolution.'' [10] NHTSA recognizes that setting overly aggressive standards can lead to deployment of technology that has not been developed fully—and with degrees of fullness that can vary widely by manufacturer. Premature deployment of technologies, even with the best of intentions and in the expectation that the technology will advance within the given lead time, can lead to consumer acceptance concerns and potentially create safety risk. This is particularly true with technology that intervenes aggressively in the driving task—such as requiring operation at up to 145 km/h (90 mph) of a technology that has long had problems with false positive AEB activation. Economic feasibility considerations focus on whether the cost on industry to comply with the standard would be prohibitive. Technology-forcing regulations, such as the requirements established in the 2024 rule, create challenges like those present here because it is difficult for a regulator to predict the development and technology investments needed to achieve the standard.

In establishing FMVSS, NHTSA must also consider consumer acceptance. In particular, the U.S. Court of Appeals for the D.C. Circuit has noted that ''motor vehicle safety standards cannot be considered practicable unless we know . . . that motorists will avail themselves of the safety system. Without public cooperation, there can be no assurance that a safety system can meet the need for motor vehicle safety. And it would be difficult to term 'practicable' a system . . . that so annoyed motorists that they deactivated it.'' [11] Because of the importance of the AEB system to safety, FMVSS No. 127 does not permit installation of a manual control whose sole function is deactivation of the AEB system. Consumer acceptance, however, can impact purchase decisions. Because recent model year used vehicles can act as ready substitutes for a new vehicle, if an FMVSS forces adoption and application of technology that consumers reject, potential new car buyers may decide to delay any purchase or to purchase an older vehicle. This would have the effect of slowing down the adoption and use of new safety technology. NHTSA understands that if consumers do not accept a required safety technology, the technology will not deliver the safety benefits that NHTSA anticipates.[12] [13]

[7] IIJA, Public Law 117–58, Section 24208, codified as 49 U.S.C. 30129.

[8] *See, e.g., Paccar, Inc.* v. *Nat'l Highway Traffic Safety Admin.,* 573 F.2d 632, 634 n.5 (''Practicable' is defined to require consideration of all relevant factors, including technological ability to achieve the goal of a particular standard as well as consideration of economic factors.'') (citations omitted).

[9] *Pac. Legal Found.* v. *Dep't of Transp.,* 593 F.2d 1338, 1345 (D.C. Cir. 1979) (noting in reference to practicable and meet the need for safety, that ''the agency cannot fulfill its statutory responsibility unless it considers popular reaction'').

[10] *Simms* v. *Nat'l Highway Traffic Safety Admin.,* 45 F.3d 999, 1011 (6th Cir. 1995).

[11] *Pac. Legal Found.,* 593.F.2d at 1346 [internal quotation marks omitted].

[12] *See,* 82 FR 3854, 3920. Due to the nature of the technology, consumer acceptance was a key factor discussed in the 2017 NPRM on vehicle-to-vehicle (V2V) technology. NHTSA also conducted significant research into consumer acceptance and beliefs about V2V technology.

[13] In one of the several cases involving FMVSS No. 208, the D.C. Circuit accepted as a ''sufficient explanation'' for a change from a prior determination, the DOT Secretary's determination that their different estimate of public resistance to a technology was ''a matter of judgment.'' *Pac. Legal Found.,* 593.F.2d at 1346. The court noted that the Secretary could reasonably anticipate consumers to be more willing to accept airbags than automatic seatbelts and seatbelt interlocks because, in addition to research which indicated a lower deactivation rate for airbags than interlock systems, airbags are less intrusive and do not require independent action by passengers to activate. This logic was reinforced by the high use rate of non-interlock seat belts, as well as research on the rate of passive seat belt use, air bag deactivation rate, and research suggesting that increased deployment

Continued

As NHTSA acknowledged in responses to petitions for reconsideration on the final rule promulgating FMVSS No. 127, there is uncertainty regarding the real-world safety impacts of certain aspects of FMVSS No. 127 due to data limitations regarding false positives and low-speed impacts that limit the precision of some elements of the analysis or leave some aspects unquantified.[14] The obligation to resolve such uncertainties to the extent possible is an integral part of NHTSA's mandate under the Safety Act and the Administrative Procedure Act.[15] As always, NHTSA will consider the data available and apply our expert judgment about the unquantifiable aspects of the rule to select the option that is practicable, stated in objective terms, and meets the need for safety. To assist the agency in resolving the uncertainties to the extent possible and selecting the approaches that are practicable and meet the need for safety, NHTSA requests that, in providing their comments, stakeholders provide research or data to support their assertions that might enable the agency to quantify the safety or consumer acceptance impact of a particular change in a requirement or to quantify the implications of the compliance margins applied by manufacturers to meet specific requirements.

In issuing this proposal, NHTSA is obligated to ''examine the relevant data and articulate a satisfactory explanation for its action, including a 'rational connection between the facts found and the choice made.' '' [16] This proposal reflects a reevaluation of the existing record and consideration of additional information received by NHTSA since the issuance of FMVSS No. 127. Discussed below, this includes test results from recent model year vehicles using updated test procedures, as well as additional consumer complaint information regarding AEB and FCW systems. NHTSA staff have also met with several stakeholders.[17] NHTSA proposes that additional time is necessary to provide manufacturers adequate lead time to bring to market AEB systems that meet the requirements of FMVSS No. 127 practicably, and without introducing systems that adversely affect consumer acceptance or lead to potential for safety disbenefits.

II. Delay of Compliance Date

A. Information Developed and Obtained Since Finalization of FMVSS No. 127

1. Data on Vehicle Performance

In developing FMVSS No. 127, NHTSA conducted research and testing over several years. NHTSA began testing lead vehicle AEB systems in 2010 and began PAEB research in 2011.[18] The latest testing that informed the 2024 final rule was performed in 2023 on six vehicles and included scenarios and conditions from FMVSS No. 127, as well as testing of other parameters and conditions outside the requirements of FMVSS No. 127.[19] [20] When tested to the conditions in FMVSS No. 127, no vehicle avoided contact in all trials conducted—one of the standard's performance requirements. The 2023 Toyota Corolla Hybrid XLE avoided contact in each scenario on most occasions, but contact occurred on some trials.

Since the issuance of the final rule, NHTSA has been testing vehicles as part of NCAP. At the time of development of this NPRM, NHTSA has collected preliminary results for the following ten model year 2025 [21] vehicles: Chevrolet Equinox LT FWD, Ford Expedition Active 4x2, Hyundai Santa Fe Calligraphy 2.5T FWD, Jeep Grand Cherokee Laredo 4x4, Kia K4 GT-Line Turbo, Nissan Rogue SL FWD, Subaru Forester Premium Hybrid/SFE, Toyota 4Runner 4WD SR5, Volkswagen Tiguan S and Volvo XC40 B5 AWD Plus. The final results of these tests will be made available in the NCAP results docket for MY 2025 vehicles (final results may differ slightly from those stated in this NPRM). However, the relevant data is presented in this proposal.

There are four important limitations of this data. First, as with the vehicles tested for the 2024 final rule, the testing was not intended to be a representative or distributive sample of the fleet regarding class, size, price range, or performance. Therefore, as with the 2024 final rule, caution should be taken in interpreting any vehicle's performance as representative of the entire fleet or of a class of vehicles. Second, given that the requirements of FMVSS No. 127 are not currently in force, manufacturers may not have designed the AEB systems on the tested vehicles to the specifications of that regulation. Third, as with the vehicles tested for the 2024 final rule, the test results reflect only the vehicle tested, and may not indicate the AEB performance of other trim level configurations within the model line. Fourth, even if a vehicle is able to meet performance requirements at times, this alone would not satisfy the internal standards of most manufacturers to enable certification that the vehicle meets the requirements of the standard. Most manufacturers will establish criteria ensuring that all vehicles will meet requirements every time the vehicles are tested—generally providing a ''compliance margin'' to account for potential variations in testing. In developing this proposed rule, NHTSA made certain inferences based on this data, which is the best and most recent data available to the agency upon which it can base its decision making.[22]

The updated NCAP AEB and PAEB test parameters are substantively similar to those in FMVSS No. 127; however, there are some differences.[23] [24] Some of the most notable ones are:

1. All NCAP AEB tests are performed in 10 km/h (6.2 mph) increments at discrete speeds

of air bags would not reduce the use rate of seat belts.

[14] 89 FR 93199, 93204 and 93206–93207.

[15] 5 U.S.C. 551 *et seq.* and § 706.

[16] *Motor Vehicle Mfrs. Ass'n of U.S., Inc.* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29 (1983) (*State Farm*) (noting that a rule would normally be arbitrary and capricious if ''the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.'').

[17] Staff from NHTSA met with representatives of The Alliance on March 14, 2025, June 12, 2025, and January 20, 2026, Zendar, Inc. on March 19, 2025, Teledyne Technologies, Inc. on April 30, 2025, and American Honda Motor Co. (Honda) on April 30, 2025.

[18] 89 FR 39686 (May 9, 2024).

[19] The vehicles tested included the 2023 BMW iX, 2023 Ford F–150 Lightning, 2023 Hyundai Ioniq 5 Limited, 2024 Mazda CX–90 Turbo S, 2023 Nissan Pathfinder SL, and the 2023 Toyota Corolla Hybrid XLE.

[20] *https://www.regulations.gov/document/NHTSA-2023-0021-1068, https://www.regulations.gov/document/NHTSA-2023-0021-1066.*

[21] In addition to the vehicles discussed in the preamble of this NPRM, NHTSA continues to test additional vehicles as part of the NCAP program. Test reports for these vehicles are placed in a docket accessible through the NHTSA website, which can be found at *https://www.nhtsa.gov/ratings/resources-related-nhtsas-new-car-assessment-program#procedures--reports.*

[22] An example of an area where NHTSA may not be able to obtain conclusive data on AEB performance is related to vehicle weight. Due to the low sample and lack of information on the system design and version, NHTSA has tentatively determined that no relation can be inferred between performance and vehicle weight solely on the test data detailed in this notice. NHTSA seeks comment on how the variation in mass between trim configurations, such as engine and drive train configuration or different bed and cab configurations on pickup trucks, might contribute to AEB performance on a test track in more recent model years.

[23] The NCAP AEB and PAEB test protocols can be reviewed in detail in the docket accompanying the 2024 NCAP Final Decision Notice—Advanced Driver Assistance Systems and Roadmap (89 FR 95916) (NHTSA–2024–0077).

[24] *https://www.ecfr.gov/current/title-49/subtitle-B/chapter-V/part-571/subpart-B/section-571.127,* accessed November 16, 2026.

depending on the scenario, while FMVSS No. 127 provides ranges.

2. NCAP AEB testing in the lead vehicle stopped without manual brake application scenario is performed at speeds starting at 40 km/h (24.9 mph) and up to 80 km/h (49.7 mph). In FMVSS No. 127, testing for this scenario is performed within the speed range of 10 km/h (6.2 mph) to 80 km/h (49.7 mph).

3. NCAP PAEB testing is performed at speeds starting at 10 km/h (6.2 mph) and up to 60 km/h (37.3 mph) for all scenarios and involves more testing scenarios than FMVSS No. 127 (the results from testing these additional scenarios are not presented here). For the obstructed pedestrian crossing from the right with a 50 percent overlap, FMVSS No. 127 specifies testing only up to 50 km/h (31.1 mph), and for the stationary pedestrian on the right with a 25 percent overlap, FMVSS No. 127 specifies testing only up to 55 km/h (34.2 mph)—NCAP PAEB 60 km/h (37.3 mph) results are shown here. Further, FMVSS No. 127 specifies testing for pedestrian moving along path on the right at 25 percent overlap to be performed at speeds up to 65 km/h (40.4 mph), while no NCAP PAEB testing result exist for this speed and scenario.

4. NCAP PAEB testing is performed during the daylight and in darkness with only lower beam lighting conditions. FMVSS No. 127 PAEB testing is performed in daylight and in darkness with both lower beam and upper beam lighting conditions.

5. NCAP PAEB testing for the obstructed child pedestrian from the right with 50 percent overlap is more stringent than FMVSS No. 127 for the same scenario. In NCAP, the distance between the vehicle being tested and the obstructing vehicles, or test devices, can be as low as 0.9 m, but no more than 1.1 m. In FMVSS No. 127, the distance between the vehicle and the obstructing vehicles is 1.15 m or more.[25] [26]

a. Lead Vehicle AEB Testing Results

The results from the agency's 2025 NCAP lead vehicle AEB testing are shown by vehicle in Tables 1 through 10. The tables have a similar format to ''Table 1 to S7.1—Test Parameters When Approaching a Lead Vehicle'' in FMVSS No. 127 with the addition of two columns showing the test speeds with avoidance and the test speeds with contact.

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Table 1: 2025 Chevrolet Equinox Lead Vehicle AEB test results

Scenario	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Headway (m)	Lead vehicle Deceleration (g)	Manual Brake Application
Stopped Lead Vehicle	40, 50, 60, 70	80	-	-	No
	70, 80	90[1]	-	-	Yes
Slower-Moving Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70, 80, 90, 100	-	-	-	Yes
Decelerating Lead Vehicle	50, 80	-	12	0.3	No
	50, 80	-	40	0.3	No
	50[2]	-	12	0.5	No
	50	80	40	0.5	No
Decelerating Lead Vehicle	50, 80	-	12	0.3	Yes
	50, 80	-	40	0.3	Yes
	50, 80		12	0.5	Yes
	50, 80	-	40	0.5	Yes

[1] No tests performed above speed shown.

[2] Results for this scenario combination at 80 km/h not available.

[25] ''PEDESTRIAN AUTOMATIC EMERGENCY BRAKING AND FORWARD COLLISION WARNING SYSTEM CONFIRMATION TEST PROCEDURE''—NCAP docket NHTSA–2024–0077–0002.

[26] The specified location of the obstructing vehicles in relation to the subject vehicle is the main factor affecting the available action time for the AEB system in the pedestrian crossing road scenarios. A slight increase to the distance between the subject vehicle and the obstructing vehicles increases the available perception time for the AEB systems. See 88 FR 38632 at 38671 and 89 FR 93199 at 93213.

Table 2: 2025 Ford Expedition Lead Vehicle AEB test results

Scenario	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Headway (m)	Lead vehicle Deceleration (g)	Manual Brake Application
Stopped Lead Vehicle	-	40[1]	-	-	No
	70	80[1]	-	-	Yes
Slower-Moving Lead Vehicle	40, 50, 60, 70	80	-	-	No
	70, 80, 90	100	-	-	Yes
Decelerating Lead Vehicle Decelerating Lead Vehicle	80	50	12	0.3	No
	50	80	40	0.3	No
	80[2]	-	12	0.5	No
	50[3]	-	40	0.5	No
	50, 80	-	12	0.3	Yes
	50, 80	-	40	0.3	Yes
	50	80	12	0.5	Yes
	50	80	40	0.5	Yes

[1] No tests performed above speed shown.
[2] Results for this scenario combination at 50 km/h not available.
[3] Results for this scenario combination at 80 km/h not available.

Table 3: 2025 Hyundai Santa Fe Lead Vehicle AEB test results

Scenario	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Headway (m)	Lead vehicle Deceleration (g)	Manual Brake Application
Stopped Lead Vehicle	40, 50, 60, 70	80	-	-	No
	70, 80, 90, 100	-	-	-	Yes
Slower-Moving Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70, 80, 90, 100	-	-	-	Yes
Decelerating Lead Vehicle Decelerating Lead Vehicle	50	80	12	0.3	No
	50, 80	-	40	0.3	No
	50[1]	-	12	0.5	No
	50	80	40	0.5	No
	50, 80	-	12	0.3	Yes
	50, 80	-	40	0.3	Yes
	50, 80	-	12	0.5	Yes
	50	80	40	0.5	Yes

[1] Results for this scenario combination at 80 km/h not available.

Table 4: 2025 Jeep Grand Cherokee Lead Vehicle AEB test results

Scenario	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Headway (m)	Lead vehicle Deceleration (g)	Manual Brake Application
Stopped Lead Vehicle	40, 50, 60, 70	80	-	-	No
	-	70[1]	-	-	Yes
Slower-Moving Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70	80[1]	-	-	Yes
Decelerating Lead Vehicle Decelerating Lead Vehicle	50	80	12	0.3	No
	50	80	40	0.3	No
	50	80	12	0.5	No
	50[2]	-	40	0.5	No
	50	80	12	0.3	Yes
	50	80	40	0.3	Yes
	50[2]	-	12	0.5	Yes
	50[2]	-	40	0.5	Yes

[1] No tests performed above speed shown.
[2] Results for this scenario combination at 80 km/h not available.

Table 5: 2025 KIA K4 GT-Line Turbo Lead Vehicle AEB test results

Scenario	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Headway (m)	Lead vehicle Deceleration (g)	Manual Brake Application
Stopped Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70, 80, 90	100	-	-	Yes
Slower-Moving Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70, 80, 90, 100	-	-	-	Yes
Decelerating Lead Vehicle Decelerating Lead Vehicle	50	80	12	0.3	No
	-	50, 80	40	0.3	No
	50[1]	-	12	0.5	No
	-[2]	-	40	0.5	No
	50, 80	-	12	0.3	Yes
	50, 80	-	40	0.3	Yes
	50, 80	-	12	0.5	Yes
	50	80	40	0.5	Yes

[1] Results for this scenario combination at 80 km/h not available.
[2] Results for this scenario combination at 50 km/h and 80 km/h not available.

Table 6: 2025 Nissan Rogue SL FWD Lead Vehicle AEB test results

Scenario	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Headway (m)	Lead vehicle Deceleration (g)	Manual Brake Application
Stopped Lead Vehicle	40, 50, 60, 70	80	-	-	No
	70, 80[1]	-	-	-	Yes
Slower-Moving Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70, 80, 90, 100	-	-	-	Yes
Decelerating Lead Vehicle Decelerating Lead Vehicle	50[2]	-	12	0.3	No
	50	80	40	0.3	No
	50[2]	-	12	0.5	No
	50[2]	-	40	0.5	No
	50, 80	-	12	0.3	Yes
	50, 80	-	40	0.3	Yes
	50[2]	-	12	0.5	Yes
	50	80	40	0.5	Yes

[1] Results for this scenario above speed shown not available.
[2] Results for this scenario combination at 80 km/h not available.

Table 7: 2025 Subaru Forester Hybrid Lead Vehicle AEB test results

Scenario	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Headway (m)	Lead vehicle Deceleration (g)	Manual Brake Application
Stopped Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70, 80	90, 100	-	-	Yes
Slower-Moving Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70, 80, 90, 100	-	-	-	Yes
Decelerating Lead Vehicle Decelerating Lead Vehicle	50	80	12	0.3	No
	50, 80	-	40	0.3	No
	50	80	12	0.5	No
	50	80	40	0.5	No
	50, 80	-	12	0.3	Yes
	50, 80	-	40	0.3	Yes
	50, 80	-	12	0.5	Yes
	50	80	40	0.5	Yes

Table 8: 2025 Toyota 4Runner Lead Vehicle AEB test results

Scenario	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Headway (m)	Lead vehicle Deceleration (g)	Manual Brake Application
Stopped Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70, 80, 90, 100	-	-	-	Yes
Slower-Moving Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70, 80, 90, 100	-	-	-	Yes
Decelerating Lead Vehicle Decelerating Lead Vehicle	50	80	12	0.3	No
	50, 80	-	40	0.3	No
	50	80	12	0.5	No
	50	80	40	0.5	No
	50, 80	-	12	0.3	Yes
	50, 80	-	40	0.3	Yes
	50, 80	-	12	0.5	Yes
	50, 80	-	40	0.5	Yes

Table 9: 2025 Volkswagen Tiguan Lead Vehicle AEB test results

Scenario	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Headway (m)	Lead vehicle Deceleration (g)	Manual Brake Application
Stopped Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70, 80, 90, 100	-	-	-	Yes
Slower-Moving Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70, 80, 90, 100	-	-	-	Yes
Decelerating Lead Vehicle Decelerating Lead Vehicle	50, 80	-	12	0.3	No
	50, 80	-	40	0.3	No
	50, 80	-	12	0.5	No
	50, 80	-	40	0.5	No
	50, 80	-	12	0.3	Yes
	50, 80	-	40	0.3	Yes
	50, 80	-	12	0.5	Yes
	50, 80	-	40	0.5	Yes

Table 10: 2025 Volvo XC40 B5 AWD Plus Lead Vehicle AEB test results

Scenario	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Headway (m)	Lead vehicle Deceleration (g)	Manual Brake Application
Stopped Lead Vehicle	40, 50, 60, 70	80	-	-	No
	70	80[1]	-	-	Yes
Slower-Moving Lead Vehicle	40, 50, 60, 70, 80	-	-	-	No
	70, 80, 90, 100	-	-	-	Yes
Decelerating Lead Vehicle Decelerating Lead Vehicle	50[2]	-	12	0.3	No
	50	80	40	0.3	No
	50[2]	-	12	0.5	No
	50[2]	-	40	0.5	No
	50, 80	-	12	0.3	Yes
	50, 80	-	40	0.3	Yes
	50[2]	-	12	0.5	Yes
	50	80	40	0.5	Yes

[1] No tests performed above this speed.

[2] Results for this scenario combination at 80 km/h not available.

Although general performance improved from previous NHTSA testing, performance still varied across models within the fleet. One vehicle, the 2025 Volkswagen Tiguan, was able to avoid contact in all lead vehicle test scenarios (but not all PAEB test scenarios, as discussed in section II.A.1.b.) across all tested speeds, while all other vehicles had instances of contact. Except for four instances where contact occurred at lower test speeds (and no further tests were performed at higher speeds), when contact occurred, it was at the higher testing speeds or at the more stringent combination of parameters. Based on these results, the lead vehicle decelerating scenario remains challenging, with nine of the ten tested vehicles contacting the test device in at least one tested speed and combination of parameters. Even as overall performance when testing lead vehicle AEB has improved since previous NHTSA testing, gaps in performance across the fleet still exist.

Based on this testing, the agency has concluded tentatively that the pace of development is not proceeding as it had previously envisioned when it issued the 2024 final rule. NHTSA proposes to provide additional development time extending beyond 2029 to tune AEB systems to the requirements in FMVSS No. 127 and seeks comment on whether other changes to the FMVSS No. 127 requirements established in the 2024 rule would be appropriate.

b. Pedestrian AEB Testing Results

Results from the 2025 NCAP PAEB testing are shown by vehicle in Tables 11 through 20. The tables have a similar format to ''Table 2 to S8.1.1—Test Parameters When Approaching a Pedestrian'' in FMVSS No. 127 with the addition of two columns showing the test speeds with avoidance and the test speeds with contact.

Table 11: 2025 Chevrolet Equinox Pedestrian AEB test results

Scenario	Direction	Overlap (%)	Obstructed	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Lighting Condition
Pedestrian Crossing Road	Right	25	No	10, 20, 30, 40, 50	60	Daylight
	Right	50	No	10, 20, 30, 40, 50	60	Daylight
	Right	50	No	10, 20, 30, 40, 50	60	Lower Beams
	Left	50	No	10, 20, 30, 40, 50,60	-	Daylight
	Right	50	Yes	10, 20, 30, 40, 50	60[1]	Daylight
Stationary Pedestrian	Right	25	No	10, 20, 30, 40, 50	60[2]	Daylight
	Right	25	No	10, 20, 30, 40, 50	60[2]	Lower Beams
Pedestrian Moving Along the Path	Right	25	No	10, 20, 30, 40, 50, 60[3]	-	Daylight
	Right	25	No	None	10[4]	Lower Beams

[1] FMVSS No. 127 testing is performed up to 50 km/h for this scenario.
[2] FMVSS No. 127 testing is performed up to 55 km/h for this scenario.
[3] FMVSS No. 127 testing is performed up to 65 km/h for this scenario.
[4] No tests performed above speed shown.

Table 12: 2025 Ford Expedition Pedestrian AEB test results

Scenario	Direction	Overlap (%)	Obstructed	Test speeds with avoidance (km/h)	Test speeds with Contact (km/h)	Lighting Condition
Pedestrian Crossing Road	Right	25	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Lower Beams
	Left	50	No	10, 20, 30, 40, 50	60	Daylight
	Right	50	Yes	10, 20, 30, 40, 50	60[1]	Daylight
Stationary Pedestrian	Right	25	No	10, 20, 30, 40, 50, 60[2]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50, 60[2]	-	Lower Beams
Pedestrian Moving Along the Path	Right	25	No	10, 20, 30, 40, 50, 60[3]	-	Daylight
	Right	25	No	None	10[4]	Lower Beams

[1] FMVSS No. 127 testing is performed up to 50 km/h for this scenario.
[2] FMVSS No. 127 testing is performed up to 55 km/h for this scenario.
[3] FMVSS No. 127 testing is performed up to 65 km/h for this scenario.
[4] No tests performed above speed shown.

Table 13: 2025 Hyundai Santa Fe Pedestrian AEB test results

Scenario	Direction	Overlap (%)	Obstructed	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Lighting Condition
Pedestrian Crossing Road	Right	25	No	10, 20, 30, 40, 50	60	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Lower Beams
	Left	50	No	10, 20, 30, 40, 50	60	Daylight
	Right	50	Yes	10, 20, 30, 40	50[1,2]	Daylight
Stationary Pedestrian	Right	25	No	10, 20, 30, 40, 50, 60[3]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50	60[3]	Lower Beams
Pedestrian Moving Along the Path	Right	25	No	10, 20, 30, 40, 50, 60[4]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50, 60[4]	-	Lower Beams

[1] No tests performed above this speed.
[2] FMVSS No. 127 testing is performed up to 50 km/h for this scenario.
[3] FMVSS No. 127 testing is performed up to 55 km/h for this scenario.
[4] FMVSS No. 127 testing is performed up to 65 km/h for this scenario.

Table 14: 2025 Jeep Grand Cherokee Pedestrian AEB test results

Scenario	Direction	Overlap (%)	Obstructed	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Lighting Condition
Pedestrian Crossing Road	Right	25	No	30[1], 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40	50[2]	Lower Beams
	Left	50	No	20, 30, 40, 50	10, 60	Daylight
	Right	50	Yes	10, 20, 30	40[2,3]	Daylight
Stationary Pedestrian	Right	25	No	10, 20, 30, 40, 50, 60[3]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50, 60[3]	-	Lower Beams
Pedestrian Moving Along the Path	Right	25	No	10, 20, 30, 40, 50, 60[4]	-	Daylight
	Right	25	No	-	10[2,4]	Lower Beams

[1] Results at speeds bellow 30 km/h not available.
[2] No tests performed above speed shown.
[3] FMVSS No. 127 testing is performed up to 50 km/h for this scenario.
[4] FMVSS No. 127 testing is performed up to 55 km/h for this scenario.
[5] FMVSS No. 127 testing is performed up to 65 km/h for this scenario.

Table 15: 2025 KIA K4 GT-Line Turbo Pedestrian AEB test results

Scenario	Direction	Overlap (%)	Obstructed	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Lighting Condition
Pedestrian Crossing Road	Right	25	No	20, 30, 40, 50	10, 60	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40, 50	60	Lower Beams
	Left	50	No	-	40[1]	Daylight
	Right	50	Yes	10, 20, 30, 40	50[1,2]	Daylight
Stationary Pedestrian	Right	25	No	10, 20, 30, 40, 50, 60[3]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50, 60[3]	-	Lower Beams
Pedestrian Moving Along the Path	Right	25	No	10, 20, 30, 40, 50, 60[4]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50	60[4]	Lower Beams

[1] No tests performed above speed shown.
[2] FMVSS No. 127 testing is performed up to 50 km/h for this scenario.
[3] FMVSS No. 127 testing is performed up to 55 km/h for this scenario.
[4] FMVSS No. 127 testing is performed up to 65 km/h for this scenario.

Table 16: 2025 Nissan Rogue SL FWD Pedestrian AEB test results

Scenario	Direction	Overlap (%)	Obstructed	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Lighting Condition
Pedestrian Crossing Road	Right	25	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40, 50	60	Daylight
	Right	50	No	10, 20, 30, 40	50[1]	Lower Beams
	Left	50	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	Yes	10, 20, 30, 40, 50	60[2]	Daylight
Stationary Pedestrian	Right	25	No	10, 20, 30, 40, 50, 60[3]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50	60[3]	Lower Beams
Pedestrian Moving Along the Path	Right	25	No	10, 20, 30, 40, 50, 60[4]	-	Daylight
	Right	25	No	-	10[1,4]	Lower Beams

[1] No tests performed above speed shown.
[2] FMVSS No. 127 testing is performed up to 50 km/h for this scenario.
[3] FMVSS No. 127 testing is performed up to 55 km/h for this scenario.
[4] FMVSS No. 127 testing is performed up to 65 km/h for this scenario.

Table 17: 2025 Subaru Forester Hybrid Pedestrian AEB test results

Scenario	Direction	Overlap (%)	Obstructed	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Lighting Condition
Pedestrian Crossing Road	Right	25	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Lower Beams
	Left	50	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	Yes	10, 20, 30, 40, 50	60[1]	Daylight
Stationary Pedestrian	Right	25	No	10, 20, 30, 40, 50, 60[2]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50[2,3]	-	Lower Beams
Pedestrian Moving Along the Path	Right	25	No	10, 20, 30, 40, 50, 60[4]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50	60[4]	Lower Beams

[1] FMVSS No. 127 testing is performed up to 50 km/h for this scenario.
[2] FMVSS No. 127 testing is performed up to 55 km/h for this scenario.
[3] Results for this scenario above speed shown not available.
[4] FMVSS No. 127 testing is performed up to 65 km/h for this scenario.

Table 18: 2025 Toyota 4Runner Pedestrian AEB test results

Scenario	Direction	Overlap (%)	Obstructed	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Lighting Condition
Pedestrian Crossing Road	Right	25	No	10, 20, 30, 40	50[1]	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Lower Beams
	Left	50	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	Yes	10, 20, 30, 40, 50, 60[2]	-	Daylight
Stationary Pedestrian	Right	25	No	10, 20, 30, 40, 50, 60[3]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50	60[3]	Lower Beams
Pedestrian Moving Along the Path	Right	25	No	10, 20, 30, 40, 50, 60[4]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50, 60[4]	-	Lower Beams

[1] No tests performed above this speed.
[2] FMVSS No. 127 testing is performed up to 50 km/h for this scenario.
[3] FMVSS No. 127 testing is performed up to 55 km/h for this scenario.
[4] FMVSS No. 127 testing is performed up to 65 km/h for this scenario.

Table 19: 2025 Volkswagen Tiguan Pedestrian AEB test results

Scenario	Direction	Overlap (%)	Obstructed	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Lighting Condition
Pedestrian Crossing Road	Right	25	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Lower Beams
	Left	50	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	Yes	10, 20, 30, 40	50[1, 2]	Daylight
Stationary Pedestrian	Right	25	No	10, 20, 30, 40, 50, 60[3]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50	60[3]	Lower Beams
Pedestrian Moving Along the Path	Right	25	No	10, 20, 30, 40, 50, 60[4]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50, 60[4]	-	Lower Beams

[1] No tests performed above this speed.
[2] FMVSS No. 127 testing is performed up to 50 km/h for this scenario.
[3] FMVSS No. 127 testing is performed up to 55 km/h for this scenario.
[4] FMVSS No. 127 testing is performed up to 65 km/h for this scenario.

Table 20: 2025 Volvo XC40 B5 AWD Plus Pedestrian AEB test results

Scenario	Direction	Overlap (%)	Obstructed	Test speeds with avoidance (km/h)	Test speeds with contact (km/h)	Lighting Condition
Pedestrian Crossing Road	Right	25	No	10, 20, 30, 40, 50	60	Daylight
	Right	50	No	10, 20, 30, 40, 50, 60	-	Daylight
	Right	50	No	10, 20, 30, 40, 50	60	Lower Beams
	Left	50	No	10, 20, 30, 40	50[1]	Daylight
	Right	50	Yes	10	20[1,2]	Daylight
Stationary Pedestrian	Right	25	No	10, 20, 30, 40, 50, 60[3]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50, 60[3]	-	Lower Beams
Pedestrian Moving Along the Path	Right	25	No	10, 20, 30, 40, 50, 60[4]	-	Daylight
	Right	25	No	10, 20, 30, 40, 50, 60[4]	-	Lower Beams

[1] No tests performed above this speed.
[2] FMVSS No. 127 testing is performed up to 50 km/h for this scenario.
[3] FMVSS No. 127 testing is performed up to 55 km/h for this scenario.
[4] FMVSS No. 127 testing is performed up to 65 km/h for this scenario.

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Although pedestrian AEB system performance improved from previous NHTSA testing (especially for darkness PAEB testing), performance varied across models in the fleet, and no vehicle avoided collision at all NCAP test speeds. For the most challenging scenario, the obstructed pedestrian crossing from the right, five vehicles avoided contact up to 50 km/h (31.1 mph), the maximum test speed where FMVSS No. 127 is performed for this scenario. An additional three vehicles contacted the test target during the 50 km/h (31.1 mph) test but not at lower speed tests. The stringency of the obstructed pedestrian scenario is higher for NCAP than for FMVSS No. 127. This is because, in response to petitions for reconsideration on the 2024 Final Rule, NHTSA increased the distance between the subject vehicle and the obstructing vehicles, increasing the available perception time for the AEB systems.[27] On the other hand, two vehicles contacted at 20 km/h (12.4 mph) and 40 km/h (24.9 mph). These results suggest that the pace of development of AEB is not consistent throughout the fleet.

NHTSA observed improvement in AEB darkness performance in pedestrian test scenarios, where vehicles exhibited similar performance to the daylight testing in most scenarios. For the pedestrian moving along path scenario with lower beams, four vehicles avoided contact at all test speeds, while four other vehicles contacted at 10 km/h (6.2 mph)—with no tests conducted above this speed. These vehicles did avoid collision up to at least 50 km/h (31.1 mph) under the same lower beam condition for the stationary pedestrian scenario.

Similar to lead vehicle AEB, while overall performance when testing pedestrian AEB has improved since previous NHTSA testing, the current testing shows that gaps in performance across the fleet still exist.

As with lead vehicle AEB, based on this testing, the agency has concluded tentatively that the pace of development of PAEB systems is not proceeding as it had previously envisioned. As a result, NHTSA proposes additional development time extending beyond 2029 to tune PAEB systems to the requirements in FMVSS No. 127 and seeks comment on whether other changes to the FMVSS No. 127 requirements established in the 2024 rule would be appropriate.

[27] See 88 FR 38632 at 38671 and 89 FR 93199 at 93213.

2. Stakeholder Meetings

Manufacturers have consistently raised concerns to NHTSA, both during the prior rulemaking and since the publication of the final rule, that they believe the requirements of FMVSS No. 127 will motivate designs that cause systems to generate false positive or unwanted activations,[28] which will in turn harm consumer acceptance of AEB or result in an increase in rear-end collisions.[29] In comments to the 2023 NPRM and in petitions for reconsideration filed following the publication of the final rule, several manufacturers and industry representatives asserted that the stringency of the performance requirements will generate disbenefits arising from consumer acceptance issues, primarily due to increased false positives. In meetings between NHTSA and industry representatives since the finalization of FMVSS No. 127, some regulated entities have expressed significant concerns about the changes in system decision-making algorithms that they believe will need to be implemented to comply with the requirements.[30]

In a series of meetings with NHTSA staff held on March 14, 2025, June 12, 2025, and January 20, 2026, the Alliance raised the following concerns. First, they expressed the concern that an attempt to meet the requirements might result in unintended safety disbenefits due to a potential increase in rear end crashes resulting from false positives, which was unquantified in the prior rulemaking. In particular, they expressed concern that, as the fleet transitions to vehicles with compliant AEB, there may be rear-end collisions from vehicles on the roads without such AEB installed that are behind vehicles that engage in AEB-induced hard braking events. They also noted risks to unbelted occupants due to AEB-induced heavy braking events. They stated that these potential disbenefits were not quantified adequately in the analysis of the final rule. They also expressed concerns with the requirement that a vehicle pass every time a test is conducted, instead of passing a portion of multiple trials. They stated that a typical test procedure builds adequate compliance margins into the performance requirements so that variability is accounted for and that companies often attempt to achieve approximately 10 percent compliance margin in vehicle performance. The Alliance also expressed concern about the practicability of darkness PAEB testing. They noted that NHTSA is obligated to consider public acceptance and balance safety against practicability.

The Alliance expressed concerns about the objectivity of some of the requirements. In particular, the Alliance stated that tests must yield identical results and expressed concern that there is variability in the AEB test results cited in the final rule beyond what is typically understood as sufficiently repeatable. For instance, they stated that the best-performing vehicle in NHTSA's testing cited in the 2024 Final Rule passed only 60 percent of total trials run in one scenario. They noted that the compliance challenges increase as vehicle weight increases. They also stated that the lack of defined conditions under which the malfunction telltale must illuminate creates a requirement that is not stated in objective terms. They stated that the practicability and objectivity concerns summarized above were inherent in the requirements of the final rule and would not be resolved through additional lead time alone.

The Alliance reiterated statements they made during the prior rulemaking stating that NHTSA's cost-benefit analysis did not consider adequately the disbenefits of increased rear-end collisions, improved lighting needed for darkness PAEB performance, and the added cost of improved foundational braking equipment and sensor equipment.

The Alliance requested several amendments to the regulation based on these concerns. These included lower maximum test speeds for lead vehicle and pedestrian AEB for which no contact with the test device is permitted, adjustments to the darkness pedestrian testing, and incorporation of multiple trials. In addition, they requested that customers be allowed to deactivate systems with the systems reengaging on an ignition cycle, for specific use cases such as towing, offroad operation, and mounted equipment. Finally, the Alliance requested test procedures be incorporated into FMVSS No. 127 regarding the required malfunction telltale.

In its meeting with NHTSA staff, Honda expressed the concern that, to achieve compliance while utilizing a substantial compliance margin to address variability, systems may need to engage in what Honda describes as unintended braking, *i.e.,* braking that the driver would not choose to perform at that time, regardless of whether the scenario is a true or false positive. They explained that, according to their internal consumer complaint information, there is a large increase in consumer complaints for systems that initiate automatic braking at above 1.5 seconds time to collision, which may be the point at which drivers believe they remain in safe control of the situation. They explained that, when tested at speeds above 50 km/h (31.1 mph), braking will need to occur more than 1.5 seconds prior to contact to achieve a stop, which they believe will increase such complaints. They also indicated that, to avoid contact at high speeds, systems will need to initiate braking with maximum deceleration, which many drivers may experience as an unsafe or unwanted action. They also noted that early intense braking may frustrate drivers who are accustomed to retaining steering control as a method of avoiding collisions.

Honda also described concerns regarding testing PAEB. Specifically, they noted that, while nighttime pedestrian AEB should be retained, they are concerned about testing systems in darkness with upper beam headlamps deactivated. They suggested that vehicles equipped with automatic upper beams be allowed to have such systems enabled for darkness PAEB testing. They also suggested that low-speed contact with the pedestrian test device be allowed for tests conducted at higher starting test speeds. Honda emphasized that the test conditions for the obstructed pedestrian crossing road scenario may not allow sufficient time for AEB systems to perceive the mannequin prior to initiating braking. Honda specifically mentioned road surface temperature as a point of concern for this scenario.

[28] ''False positive'' refers to instances in which a system provides a warning or engages the brakes where there is no imminent crash scenario. In FMVSS No. 127, NHTSA established false positive tests that evaluate situations in which there is no object in the path of travel with which the vehicle would collide. When considering the impact of the frequency and intensity of AEB activations on consumer acceptance, it is useful to understand activations where there is no object with which a vehicle would collide as one form of a broader category of activations that may be unwanted by drivers. Other types of unwanted activations may occur and can impact consumer acceptance regardless of whether they are true or false positives. This discussion is not intended to inform determinations of whether such activations could constitute a defect.

[29] In the comments to the NPRM, Hyundai Motor Company (NHTSA–2023–0021–0791) and Honda (NHTSA–2023–0021–0484) both expressed concerns that performance requirements could lead to adverse consequences, such as false positive brake applications, which may increase consumer dissatisfaction with AEB technology. Similarly, in their responses to both the NPRM and the final rule (NHTSA–2023–0021–0844 and NHTSA–2023–0021–1071, respectively), the Alliance stated that the rule's no-contact performance requirement would increase false positives and potentially hinder public acceptance of AEB technology.

[30] Supra, note 17. Zendar and Teledyne Technologies did not express concerns with consumer acceptance.

On April 30, 2025, NHTSA staff met with representatives from Teledyne Technologies, Inc. (Teledyne). In that meeting, Teledyne representatives detailed results from Teledyne's pedestrian AEB testing conducted in September 2024 [31] utilizing a system that includes Teledyne's thermal camera sensor as part of a thermal fused system.

B. Basis for Delay

1. Pace of Development and Deployment

In addition to the range of performance observed in the MY 2025 vehicles tested, there is also uncertainty regarding the rate at which systems will improve and how that improvement will be distributed in the fleet. NHTSA recognizes that overly aggressive, technology-forcing standards can lead to consumer rejection or even negative safety consequences. When FMVSS No. 127 was finalized, NHTSA recognized both that the requirements of FMVSS No. 127 are challenging and the urgency of the safety problem. At the time the 2024 final rule was issued, NHTSA believed, given that some vehicles in the fleet had passed most test scenarios and one had passed at least one run in each scenario, despite not being designed to the requirements of the final rule, five years was adequate time for tuning of those best performing vehicles and for the remainder of the fleet to achieve similar performance.[32] Available results from current testing now indicate that, notwithstanding industry efforts, the overall performance of AEB systems has not progressed as rapidly, and as uniformly, as NHTSA had anticipated. NHTSA's 2025 testing shows that performance gaps across the fleet still exist for several test conditions required by FMVSS No. 127.

Given the current pace of development, NHTSA tentatively concludes that additional time is needed for deployment of compliant systems throughout the fleet. Implementing new vehicle performance across a manufacturer's full lineup typically takes several years. For example, Toyota's technology package, which includes AEB technology version 3.0, was first introduced in passenger vehicles in 2022.[33] However, even years after its initial introduction, some models are still equipped with the previous version.[34] [35] Similarly, Ford's technology package that includes AEB, version 2.0, first introduced into passenger vehicles in 2021, is being gradually rolled out across the rest of the vehicle fleet.[36] Upgrading an existing vehicle fleet to the newest version of an active safety system—let alone one that meets the requirements of FMVSS No. 127—is not a simple matter of plug and play. Because current testing suggests that deployment of FMVSS-compliant AEB will take more time than enabled by FMVSS No. 127, NHTSA proposes an extension to provide additional time for manufacturers to develop their AEB systems and deploy the latest AEB software technologies across their fleets, and adequate time for the agency to evaluate responses to questions in this document and, if warranted, take action based on that information.

In extending the lead time for compliance, NHTSA is also taking into consideration the need of manufacturers to make design, procurement, and marketing decisions several years in advance of the model year in which a vehicle will be sold. Manufacturers may also face uncertainty about whether the improvements they can achieve in that timeline will enable those vehicles to comply. As a result, manufacturers may choose to remove vehicles from their planned lineup as the effective date approaches. This market disruption would create its own disbenefits, including a restriction in consumer choice. Additional details regarding this consideration can be found in the Preliminary Regulatory Impact Analysis (PRIA) accompanying this notice.

2. Additional Data Development on Safety Disbenefits and Consumer Acceptance

NHTSA has determined tentatively that a delay will both reduce the risk of negative consumer acceptance outcomes and provide time for manufacturers to provide data to NHTSA on and to mitigate false and nuisance AEB activations. In meetings with NHTSA staff, the Alliance and Honda emphasized the potential for safety disbenefits and consumer acceptance concerns that an overly stringent rule might generate due to increased false positive activations in the field. To date, NHTSA does not have sufficient information to quantify the safety and consumer acceptance risk of this type of false positive or nuisance braking. There continues to be insufficient data to quantify the frequency and dynamics of false positive events in part because data sources currently available to NHTSA do not provide specificity about the causes and circumstances of automatic braking events or the internal system information, such as sensor data and decision-making architecture, that result in a braking event. Developers and manufacturers may have this information or internal research that can illuminate the analysis of false positive risk. If so, NHTSA requests that information be provided to the agency, in secure form, to inform this analysis. Data limitations also continue to restrict the precision of the estimates of the injury prevention benefits of certain elements of the standard, in particular the requirement to avoid contact with the test device, even at low speeds. AEB-related consumer satisfaction problems and safety concerns have been fairly common since the technology has launched, however, with 36 recalls issued affecting more than 600,000 vehicles in the past decade. To ignore the history of AEB-related problems would be shortsighted, especially where operation of AEB is required at up to 145 km/h (90.1 mph)—without contact prohibitions—and AEB performance is tested at up to 80 km/h (49.7 mph) subject to a no contact requirement. Vehicles with test track AEB performance at or near the level required by FMVSS No. 127 have been in the fleet for a short time, and providing additional time for NHTSA and manufacturers to review their performance may yield important information and insights into false positive frequency and severity and the resulting safety implications and consumer reaction.

NHTSA remains concerned that false activation events may introduce hard braking situations when such activations are not warranted, potentially causing rear-end crashes. The false activation tests codified in FMVSS No. 127 establish only a baseline for system functionality. They are by no means comprehensive, nor sufficient to eliminate susceptibility to false activations. Rather, the tests are a means to establish minimum performance.

Stakeholders suggested that the concerns may arise due to the compliance margins incorporated by manufacturers to be confident that certain aspects of the regulation will be

[31] Test information available at *https://flir.netx.net/file/asset/68396/original/attachment* (last accessed March 2026).

[32] 89 FR 39686, 39764.

[33] The All-New, All-Electric Toyota bZ4X, *https://pressroom.toyota.com/revealed-the-all-new-all-electric-toyota-bz4x/,* accessed November 16, 2026.

[34] 2026 Tundra, *https://www.toyota.com/tundra/features/mpg_other_price/8372/8386/8424,* accessed November 16, 2026.

[35] 2026 Toyota Sequoia Owner's Manual, Toyota Safety Sense 2.5, *https://www.toyotamanuals.org/2026-toyota-sequoia/,* accessed November 16, 2026.

[36] Guide To Ford's Advanced Driver Assistance Systems (ADAS), *https://www.billbrownford.net/resources/guide-ford-advanced-driver-assistance-systems-adas/,* accessed November 16, 2026.

met on every trial, which could result in disbenefits in the field. NHTSA is aware the manufacturers certifying that their vehicles comply with the FMVSS often exceed the minimum performance required by an FMVSS to ensure that, on any given test, the vehicle will comply with certainty given the potential for differences in the test set up or conditions. When manufacturers develop systems subject to new regulations, they tend to incorporate larger margins of compliance to account for unknown factors relating to the lack of experience certifying to the regulation.[37] These margins are adjusted during development and life cycle of the product [38] as manufacturers develop and come to understand their vehicles' performance and the requirements. When developing or amending an FMVSS, NHTSA may consider the compliance margin and how the degree of variability in certain vehicle systems might impact the size of that margin.[39]

Although compliance margins are not required by the standards, they can improve safety beyond the minimum performance requirements required by the standard. Generally, a larger compliance margin will have little or no negative impact on safety and in many cases will increase safety. However, with standards that require technology that intervenes actively in the driving task, such as FMVSS No. 127, NHTSA understands that consumer acceptance may be affected adversely by unintuitive, unexpected, and assertive intervention—especially when activating sooner than would appear necessary to the driver, or activate prior to a driver's intended lane change to avoid decelerating or stopped traffic. If large AEB compliance margins result in more frequent, or more intense, alerts and automatic braking activations than necessary, this may negatively impact consumers' opinions of the safety system—even leading them to believe the system is unsafe—which could impact their willingness to purchase vehicles with the technology.

NHTSA is also concerned that manufacturers may have insufficient time before the current compliance date to resolve certain engineering challenges that result in test failures. One such challenge is variability attributable to the vehicle systems. If a manufacturer chooses to address this variability by adjusting its compliance margin via a substantial increase in sensitivity, this could, in turn, cause too frequent or too intense activations in the field, which may cause safety disbenefits or reduce consumer acceptance of the system.

Consumer acceptance of how a given feature operates is a design consideration for manufacturers. Current information available to NHTSA generally suggests that manufacturers have designed AEB systems that consumers accept. In a 2019 subscriber survey by Consumer Reports, referenced in the 2023 NPRM, 81 percent of vehicle owners reported that they were satisfied with AEB technology, 54 percent said that it had helped them avoid a crash, and 61 percent stated that they trusted the system to work every time.[40] However, these systems were not designed to meet FMVSS No. 127. NHTSA is concerned that, in the near term, vehicles designed to meet FMVSS No. 127 may experience more frequent and more intense brake applications that occur further away from a potential obstacle, which may negatively impact consumer acceptance. This may be especially true if a driver intends to steer around an identified obstacle, and the system activates braking prior to a driver's beginning to steer.

Consumer complaint information suggests, however, that, at least for some vehicle AEB systems, acceptance is not universal. To better understand consumer acceptance of more recently deployed AEB systems, NHTSA looked at the number of consumer complaints relating to AEB activation. The Office of Defects Investigation (ODI) within NHTSA is responsible for conducting defect investigations and administering safety recalls. ODI also processes and manages consumer complaints. These complaints are received either through the Vehicle Safety Hotline or through filling out an on-line Vehicle Owner's Questionnaire.[41] This information is used by ODI, with other complaints and information, to determine if a safety-related defect trend exists, identify potential non-compliance, identify potential odometer fraud, and identify areas for safety messaging. These complaints can help to identify emerging safety issues and problems that drivers are experiencing. NHTSA may also review complaints in considering whether FMVSS amendments may be appropriate.

NHTSA reviewed complaints related to AEB received by the agency through December 31, 2024 for model year 2023 and model year 2024 vehicles.[42] Table 21 shows the ten most prevalent component complaints, as well as the total number of other complaints (other component complaints, unknown component, and 110 duplicates). AEB and FCW complaints (''Forward Collision Avoidance (AEB and Warning Only)'' in the table) are the third most common complaint.

[37] Eckert, Claudia et al. (2020), ''Design Margins in Industrial Practice,'' Design Science, vol. 6, e30. *https://doi.org/10.1017/dsj.2020.19* (accessed November 2026).

[38] *Id.*

[39] *See, e.g.,* 40 FR 24915, 24916 (considering the manufacturing variability in some braking components in proposing amendments to FMVSS No. 121), and 74 FR 37122, 37131 (discussing a ten percent margin of compliance for the average stopping distance as a useful analytical and discussion tool when considering what stopping distance requirements are appropriate and practicable).

[40] Consumer Reports, (Aug. 5, 2019), Guide to automatic emergency braking: How AEB can put the brakes on car collisions, *https://www.consumerreports.org/cars/car-safety/automatic-emergency-braking-guide-a1780056935/,* accessed November, 2026.

[41] *https://www.nhtsa.gov/report-a-safety-problem#index,* accessed May 30, 2025.

[42] *https://static.nhtsa.gov/odi/ffdd/cmpl/COMPLAINTS_RECEIVED_2020-2024.zip,* accessed April 24, 2025. The NHTSA Office of Defects Investigation vehicle owner's complaint data can be accessed by navigating *https://www.nhtsa.gov/nhtsa-datasets-and-apis* to the ''Complaints'' sections and selecting the ''Download Data'' submenu. Each data file contains data for a cycle of five years, except the latest data file which is still at the beginning of the cycle (cycles start at years ending in 0 and 5). Data sorted to show only complaints relating to MY 2023 and MY 2024 vehicles.

Table 21: Consumer Complaints for MY 2023 and MY 2024 Vehicles, by Number of Complaints

	Component	Number of Complaints
1	Electrical System	3318
2	Steering	1979
3	Forward Collision Avoidance (AEB and Warning Only)	1954
4	Service Brakes	1936
5	Engine	1910
6	Power Train	1531
7	Visibility	1431
8	Vehicle Speed Control	1038
9	Fuel	937
10	Forward Collision Avoidance (Other Components)	912
	Other	7670
	Total	**24616**

This data, which provides some insight into how consumers are experiencing currently available systems, may reflect complaints both of over or under-activation of AEB and FCW systems. It suggests that consumer acceptance of the technology is not universal and is an ongoing design consideration. FMVSS No. 127 leaves the tuning of alert and brake application timing up to the manufacturer. NHTSA recognizes that fine tuning AEB systems to meet both the performance requirements of the standard and to avoid driver frustration is a challenge. Data collection from multiple drivers over many miles of driving experiences takes time, and while broad parameters can be established across a manufacturer's fleet, some fine tuning may be necessary for specific models or trim lines. Given that some manufacturers who have experience designing these systems have expressed significant concerns about the impacts on consumer acceptance, NHTSA proposes to provide additional lead time to allow more development time for manufacturers to address these concerns and to allow for additional research into their frequency and impact. NHTSA also seeks comment on other potential modifications to the standard.

C. Proposed Extension to September 1, 2031

A delay in compliance may reduce the risk of consumer nonacceptance of AEB by providing manufacturers more time to design systems and provide the agency and stakeholders with additional time with which to monitor the field performance of vehicles at or near conformance with FMVSS No. 127 to determine if they result in increased false positive incidents, consumer complaint issues, or safety disbenefits. NHTSA proposes to delay the compliance date by two years. Under the current FMVSS No. 127, all passenger vehicles manufactured on or after September 1, 2029 are required to meet all requirements, except for those vehicles produced by small-volume manufacturers, final-stage manufacturers, and alterers, who are provided an additional year to comply with the rule. Under this proposal, new motor vehicles subject to the standard would be required to be equipped with AEB systems beginning September 1, 2031, with vehicles produced by small-volume manufacturers, final-stage manufacturers, and alterers, provided an additional year beyond that date.

In comments received on the 2023 NPRM, manufacturers, suppliers, and industry advocacy groups suggested several options for the appropriate amount of lead time. The Alliance, Mitsubishi, Honda, and Nissan suggested a compliance date starting seven years or more after the issuance of a final rule for large volume manufacturers, and the Alliance suggested an additional four years for small volume manufacturers. The Alliance also suggested an alternative compliance schedule that begins five years after the issuance of a final rule but noted that this would not address the outstanding technical issues and unintended consequences that they outlined in their comments. Volkswagen Group of America (Volkswagen) and Porsche Cars North America suggested a phased-in compliance process where a certain percentage of the fleet would be required to comply over a period of several years until 100 percent of the fleet was required to comply with the final rule.[43]

NHTSA proposes two years as an appropriate amount of additional lead time for several reasons. Primarily, the agency has determined tentatively that this amount of delay would result in no loss of safety benefits. This is discussed in more detail in Section V. It would also align the lead time with that requested by manufacturers in comments on the 2023 NPRM (seven years from the initial final rule publication). NHTSA seeks comment on whether two years is the appropriate amount of additional lead time.

Finally, NHTSA's existing test data does not appear to indicate that the challenges with compliance are specific to a certain segment of the fleet. Therefore, NHTSA has determined tentatively that a delay is appropriate fleet-wide and is not proposing a phase-in or to limit the delay by class or weight. NHTSA seeks comments on this proposal.

III. Other Proposed Amendments

A. Test Procedure for the Malfunction Telltale

The Alliance requested test procedures be incorporated into FMVSS No. 127 regarding the required malfunction telltale. NHTSA rejected

[43] Volkswagen suggested an additional two (2) years before beginning with the FMVSS No. 127 compliance timeline (*see* NHTSA–2023–0021–0947), and Porsche suggested an additional three (3) years, resulting in a total of seven years from the rule's publication, by incorporating a phase-in following the standard's timeline (*see* NHTSA–2023–0021–0868).

similar requests made in petitions for reconsideration and in comments on the 2023 NPRM, on several grounds.[44] NHTSA has discretion to promulgate test procedures beyond what minimally would be necessary for an FMVSS, and NHTSA proposes to do so in this circumstance to increase compliance certainty for manufacturers. NHTSA is considering whether these procedures should be specified in the FMVSS or in the laboratory compliance test procedure. This proposal, if finalized, is not intended to adjust the required performance.

NHTSA proposes two test procedures that involve testing the malfunction detection telltale under conditions of an electrical fault. In developing this aspect of the proposal, NHTSA reviewed international standards and existing FMVSS malfunction detection approaches. The United Nations Economic Commission for Europe (UNECE) Regulation No. 152 contains a single test that involves simulating an AEB malfunction by disrupting electrical connections in a similar manner to the malfunction testing in FMVSS No. 126, Electronic stability control systems for light vehicles. The proposed performance tests would confirm that the subject vehicle detects, identifies, and provides the vehicle operator with a telltale notification within 15 seconds of either vehicle start up, or an in-use malfunction.

To achieve this, NHTSA proposes to simulate a malfunction by disconnecting the power source to any AEB component or disconnecting any electrical connection between AEB components (the electrical connections for the telltale would not be disconnected). For the first performance test, the electrical connection would be disconnected prior to vehicle start up, and the malfunction telltale would be confirmed to be present while the vehicle is driven at a speed above 10 km/h (6.2 mph) for at least two minutes. The vehicle would then be turned off and after a period of five minutes it would be turned back on, driven at a speed above 10 km/h (6.2 mph) for at least two minutes to confirm the malfunction telltale notification is still present. Then, the vehicle is restored to normal operation, driven at a speed above 10 km/h (6.2 mph) for at least two minutes to confirm that after 15 seconds the telltale notification is off. The second performance test is similar, except that the malfunction is induced while the vehicle is on.

[44] 89 FR 93199, 93211–93212; 89 FR 39686, 39735–39736.

NHTSA seeks comment on this procedure overall, with particular interest on the proposed times: on/off time for vehicle and if 15 seconds is the appropriate duration prior to determining if telltale is present or not present. NHTSA also seeks comment on how and whether an appropriate test procedure should be established for evaluating malfunction detection under conditions other than electrical failure. AEB-specific testing, such as obstructed sensor tests, are not well represented in literature or industry consensus standards. For example, one potential obstructed test could include a shroud or cover with variable sized grating to obstruct a sensor enough to either induce or not induce a telltale for obstruction, then perform a compliance test consistent with either S7, S8, or S9 to determine if the subject vehicle without an active malfunction telltale can meet the requirements of this standard. On the other hand, NHTSA has previously stated that the range of possible malfunctions is sufficiently broad that an approach involving specifying various instances of malfunction may not adequately resolve the safety problem because it would omit many possible malfunctions from the requirement. Are there test approaches that resolve this concern?

B. Clarification of the Test Speed Tolerance

The agency is proposing modifications to FMVSS No. 127 that would clarify the minimum and maximum subject vehicle test speeds for which manufacturers are required to certify performance. Currently, FMVSS No. 127 provides ranges of speeds that the agency could select when doing compliance testing (all of which a manufacturer must certify performance). It then provides a tolerance of 1.6 km/h (1.0 mph) around the selected speed. NHTSA's intention was that, for any specified range of subject vehicle speeds, the maximum testing speed—including any applicable tolerance—would not meet or exceed the upper limit of the range, and the minimum testing speed—also including any applicable tolerance—would not meet or fall below the lower limit of the range. However, this was not stated in the regulatory text or preamble. This may have inadvertently expressed a wider set of testable speeds than NHTSA intended.

Therefore, NHTSA is proposing to clarify that NHTSA will not conduct tests at subject vehicle speeds that exceed the maximum or fall below the minimum speed of the specified range available to the agency for selection. For example, when conducting a stopped lead vehicle test without manual braking, if NHTSA selects 79 km/h (49.1 mph) as the testing speed—which is within the 10 km/h (6.2 mph) to 80 km/h range (49.7 mph)—and the resulting speed during testing is 80 km/h (49.7 mph) or more, the test would not be valid. Similarly, if NHTSA were to do the same test at 11 km/h (6.8 mph) and the resulting speed during testing would be 10 km/h (6.2 mph) or less the test would not be valid. By making clear the exact range of testable speeds, this proposed modification would provide regulatory certainty for manufacturers and enable manufacturers to design in compliance margins with precision. NHTSA seeks comment on this proposed change.

IV. Request for Comment on Other Amendments to FMVSS No. 127

NHTSA seeks comment on other aspects of FMVSS No. 127 that could be adjusted to address stakeholder concerns without sacrificing safety. In the following sections, NHTSA has identified areas in which it is specifically interested in receiving comment. However, comments need not be limited to the items specifically stated and NHTSA is interested in comments on any potential amendments to FMVSS No. 127.

Although narrative responses have some benefit, to best assist the agency in resolving the uncertainties to the extent possible and selecting the approaches that are practicable and meet the need for safety, NHTSA requests that, in providing comments, stakeholders provide research or data that might enable the agency to quantify the safety impact of a particular requirement (including the impact of a change from a requirement of the 2024 final rule) or to quantify the safety implications from the compliance margins tied to specific requirements. NHTSA also seeks relevant material on the costs of complying with FMVSS No. 127, both as currently written and with respect to any suggested amendments. NHTSA seeks comment on how FMVSS No. 127 and any potential changes may implicate international harmonization.

NHTSA also recognizes that potential changes to requirements in FMVSS No. 127 could be temporary (to provide additional time for development to the full requirement) or permanent. For any change supported, NHTSA requests that stakeholders indicate whether the change should be temporary (and for how long) or permanent.

A. Low-Speed Contact

Manufacturers raised concerns about the requirement that the subject vehicle avoid contact with the test device during a test. NHTSA seeks comment on the merits of allowing contact at speeds at which serious injury or death in the field is unlikely when testing AEB or PAEB, either for a temporary period or permanently. In addition, NHTSA seeks injury risk data that may enable the agency to quantify the safety impact of allowing contact at these speeds. Commenters should endeavour to explain whether any issue raised would also be resolved by other relief contemplated in this notice, such as multiple trials.

NHTSA also specifically requests additional information regarding acceptable and reasonable contact speeds. For example, in its comment on the 2023 NPRM, Hyundai America Technical Center, Inc. (HATCI) stated that the speeds specified in 49 CFR part 581, bumper standard, which has a maximum impact speed of 4.0 km/h (2.5 mph) do not cause damage to the vehicle or test device and are highly unlikely to cause injuries to vehicle occupants. Would this contact speed accommodate concerns that might motivate design choices that increase the risk of consumer dissatisfaction or safety disbenefits, if such a change is made in combination with a multiple trials scheme? If not, what is the minimum contact speed that can do so? Would compliance margins on brake application mean that most vehicles would avoid contact even if mild contact were permitted? If so, in what scenarios and up to what test and impact speeds would this be the case?

In addition, NHTSA seeks comment on whether allowing low speed contact in FMVSS No. 127 testing will impact real world safety performance of AEB systems when operating at speeds above those tested under the standard. In particular, when operating at higher speeds on the road, will vehicles that contact test devices at low speeds during testing impact other road users at higher speeds than vehicles that avoid contact during testing? In real world scenarios, does allowing low speed contact increase the impact speed, and resulting injury risk, linearly as a function of impact delta V plus contact speed, or would the expectation be that the injury risk would be proportional to only the contact speed allowance?

B. Test Speed Selection

NHTSA seeks comment on methods to further clarify the set of tests conducted by the agency to evaluate performance under FMVSS No. 127. One approach NHTSA is considering is limiting the maximum number of test speeds NHTSA could choose for a subject vehicle, such that the vehicle would be tested at a given set of speeds within the ranges already established. For instance, prior to testing a vehicle, NHTSA would choose up to thirteen speeds within each of the existing ranges for each test scenario. NHTSA would not be obligated to conduct the maximum number of tests or select only discrete speeds. NHTSA seeks comment on the appropriate number of selections to specify.

C. Multiple Trials

NHTSA seeks comment on allowing multiple trials to satisfy some or all test track requirements of FMVSS No. 127. NHTSA is concerned that, for systems that can achieve compliance, vehicle variability at the margin of system performance may be a factor that motivates a manufacturer to increase its compliance margin. However, the size of the compliance margin is a determination made by the manufacturer and not set by regulation. Therefore, NHTSA seeks comments on whether a multiple trials approach, either temporarily or permanently, may reduce the risks of overly aggressive AEB interventions as raised by manufacturers (which focused on false positives and consumer reaction) without sacrificing safety. NHTSA also seeks comment on whether the compliance margins utilized in AEB systems might result in systems that would perform equally in the real world to the levels envisioned in the 2024 FRIA accompanying the final rule, even if the regulation does not require compliance with every test run. The following discussion is provided to assist stakeholders in providing comment.

NHTSA's 2023 testing indicates that test run variability exists that affects manufacturers' ability to meet FMVSS No. 127 without further design changes.[45] At the margin of AEB system performance, vehicles often avoided contact at lower speeds but did not consistently avoid contact at higher test speeds (though they often reduced vehicle speed prior to contact). Of the six vehicles tested, one vehicle (2023 BMW iX xDrive50) experienced contact on some trials at several tested speeds. With four of the other five vehicles, no contact occurred until the margin of their respective AEB system performance ranges. The sixth vehicle (2023 Toyota Corolla Hybrid) avoided contact in all lead vehicle stopped and lead vehicle moving trials, which may indicate that the tests did not reach the margins of the vehicle's lead vehicle stopped and lead vehicle moving AEB performance, but experienced contact in decelerating lead vehicle tests. Similarly, in the latest testing, observed contact occurred primarily at the upper testing speeds. Also, in two instances in PAEB testing where vehicles contacted the test device at 10 km/h (6.2 mph), additional testing was performed at higher speeds (2025 KIA K4 GT-Line Turbo and 2025 Jeep Grand Cherokee). These vehicles were able to avoid contact up to 50 km/h (31.1 mph) but contacted at 60 km/h (37.3 mph). Though this testing did not conduct repeated trials of the same scenario and speed, the results indicate that the variability observed at the margins of performance in the 2023 testing data is still present.[46]

In its meetings with NHTSA staff, the Alliance stated that testing was not sufficiently repeatable because tested vehicles passed only a percentage of identical tests in some scenarios. However, the fact that a vehicle may pass only a percentage of identical test runs is not necessarily an indication that a test procedure is insufficiently repeatable or reproducible. There are two broad categories of factors that may result in variable test results across multiple trials of the same test scenario and speed when conducting AEB testing (run-to-run variability). First, there are variations attributable to test conditions and procedures. These include factors like weather, road surface, and human test driver performance. The test conditions in S6 of FMVSS No. 127 are intended to account for these issues in a test setting. Second, there are factors attributable to the vehicle or its AEB system, such as camera frame rates, perception timing, detection confidence, decision making timing, system latency, brake performance, and tire specification. These factors may contribute to variability observed in test data at the margins of the performance that will be required by FMVSS No. 127, and many could be improved given additional time for development. The source of variability is meaningful in determining whether a test is sufficiently repeatable and in determining what changes may be appropriate to address it.

[45] *https://www.regulations.gov/document/NHTSA-2023-0021-1066.*

[46] See results for 2025 Jeep Grand Cherokee pedestrian AEB—crossing from the left scenario and 2025 KIA K4 GT-Line Turbo pedestrian AEB—crossing from the right with 25 percent overlap scenario.

In November 2024, NHTSA denied in part petitions for reconsideration seeking multiple test trials.[47] NHTSA disagreed with the comparisons petitioners made between FMVSS No. 127 and FMVSS No. 135, which utilizes multiple trials for some tests to ensure valid test runs. NHTSA emphasized that FMVSS No. 135 utilized multiple trials as a test method to account for variability attributable to the ability of the human test driver to maximize the braking capabilities of the vehicle.[48] In contrast, the procedures in FMVSS No. 127 rely on either no brake pedal input or automated brake pedal input depending on scenario. NHTSA also found that the other sources of test variability raised by petitioners were addressed by the conditions in S6 of FMVSS No. 127 or were unpersuasive as a basis for multiple trials because they do not contribute to run-to-run variability.[49] However, based on manufacturer statements and additional testing that NHTSA conducted, NHTSA seeks comment on the value of multiple trials to provide additional compliance margin and whether this can be done without sacrificing safety benefits. The agency also requests input on whether such a scheme should be temporary, including the specific number of years it should remain in effect, or permanent, along with any supporting data and engineering analysis.

Potential Approaches to Multiple Test Runs

NHTSA is aware of several potential approaches to incorporating multiple trials into FMVSS No. 127, including the following:

- FMVSS No. 135, which affords six trial runs and evaluates the best run.
- NCAP's prior testing protocol, which utilizes five out of seven passing runs.[50] [51]
- Options proffered in comment and petitions for reconsideration. Petitioners highlighted several approaches, including passing five out of seven runs, passing three out of five runs, and passing one out of six runs.[52] In comments on the 2023 NPRM, many entities supported allowing repeated test trials.[53] Several entities suggested a five out of seven passing threshold. Rivian Automotive recommended running between three and five tests and averaging the speed reduction achieved with a passing grade being given to vehicles that average greater than a 50 percent speed reduction. The Alliance and Porsche also recommended that a vehicle could pass after three consecutive successful tests. The Automotive Safety Council and ZF North America recommended that repeated trial testing be used at speeds of 25 mph and higher.[54]
- UNECE R152.[55] Under R152, a test at a given speed is conducted twice, and if the vehicle fails to meet the required performance on one of the two test runs, a third test is conducted. However, R152 also includes provisions that require the subject vehicle to fail only a specified percent of the test trials conducted for any avoidance type (10 percent of the total number of test runs for lead vehicle AEB and for pedestrian AEB). Although the performance standard is less stringent than with FMVSS No. 127, the net effect is to make the system robustness in R152 significantly more stringent than a two out of three testing scheme. For PAEB, under UNECE R152, if 13 tests are completed, only one failure is permitted.
- One out of one plus. Under this approach, for any combination of subject vehicle speed, lead vehicle speed, headway, and lead vehicle deceleration, a single test run will be conducted initially. If the subject vehicle does not avoid contact with the test device, two additional test runs, using the same selected parameters, will be conducted. To pass, the subject vehicle must avoid contact with the test device in the second and third test runs.

NHTSA seeks comment on these approaches or on other multiple-trial approaches that would be appropriate for testing AEB systems. NHTSA also seeks comment on whether certain schemes would be more appropriate for some scenarios, or speed ranges, than for others, and whether multiple trial testing should be limited to tests conducted at or above specified speeds.

Evaluation of Potential Schemes

As it reviews and compares possible approaches to allowing for multiple trials, NHTSA may seek to quantify both the costs of implementing different schemes and the implications for the field performance of AEB systems that meet the minimum standard relative to systems that meet the current FMVSS No. 127 requirements. NHTSA recognizes that each additional trial can diminish the impact of both vehicle variability (*e.g.,* object detection and recognition, image filtering and processing cycles, brake system application timing, FCW alert timing) and environmental variability (*e.g.,* temperature fluctuations, wind, glare, road friction changes) on the outcome of the overall test sequence. This can affect how manufacturers set their compliance margins. On the other hand, increasing the number of test runs performed and the number of failed tests permitted impacts the overall cost of testing because each individual test run increases time and expense. In addition, the more times a vehicle contacts a test device, the higher the likelihood of damage to the vehicle or test equipment, which increases cost and may affect the validity of further testing. NHTSA seeks comment on these or other cost factors that should be considered when evaluating multiple-trial approaches.

NHTSA also seeks comment on appropriate statistical methods, such as binominal analysis, for evaluating the expected on-road safety performance of vehicles tested under and meeting the standards of alternative multiple trial schemes. Specifically, NHTSA seeks analyses enabling the agency to estimate the marginal increase in the probability of passing a cumulative set of trials compared against the probability of passing any individual trial that is produced by each additional allowed failed run, which can be compared to the marginal increase in the cost of testing and any impact on real-world safety performance. In addition, please provide any study results regarding alternative approaches that could provide additional space for compliance margin at a minimal cost while preserving the safety benefits expected by FMVSS No. 127.

[47] 89 FR 93199 (Nov. 26, 2024).

[48] FMVSS No. 135 affords a test driver multiple opportunities to stop within the required stopping distances for certain test scenarios. This functions to accommodate the repeatability concerns created by using human test drivers.

[49] 89 FR 93199, 93208–93209.

[50] National Highway Traffic Safety Administration (Oct. 2015), Crash Imminent Brake System Performance Evaluation for the New Car Assessment Program, Docket No. NHTSA–2015–0006–0025.

[51] National Highway Traffic Safety Administration (Oct. 2015), Dynamic Brake Support Performance Evaluation Confirmation Test for the New Car Assessment Program, Docket No. NHTSA–2015–0006–0026.

[52] 89 FR 93199, 93207. See also Petitions for Reconsideration submitted by the Alliance (Docket No. NHTSA–2023–0021–1071), Toyota Motor North America (Toyota) (Docket No. NHTSA–2023–0021–1074), and Volkswagen (Docket No. NHTSA–2023–0021–1073).

[53] 89 FR 39686, 39731. These comments also largely requested that the standard use a 'speed reduction' method to determine passing rather than collision avoidance. NHTSA understands that commenters may not have suggested these same passing rates be used in a collision avoidance requirement. NHTSA is referencing these comments as a source for possible approaches but is not suggesting that commenters continue to support the same options for the current proposal.

[54] *Id.*

[55] United Nations Economic Commission for Europe Regulation No. 152, Addendum 151, Revision 2, June 15, 2023, *https://unece.org/sites/default/files/2024-04/R152r2E.pdf,* (accessed November 16, 2026).

D. Road Surface Temperature

In its meeting with NHTSA staff, Honda mentioned road surface temperature as a point of concern for compliance testing, especially with regard to the obstructed pedestrian test scenario. NHTSA seeks comment on the need to include specifications that would limit the road surface temperature during testing, and whether such a specification would ease the testing burden or increase compliance certainty.

FMVSS No. 127 specifies that testing is to be done at an ambient temperature between 0 °C and 40 °C and a peak friction coefficient (PFC) of 1.02. The PFC of 1.02 specified in FMVSS No. 127 is a limit and not dependent on the track temperature. Although the PFC limit specified in FMVSS No. 127 sufficiently describes the road surface characteristics for a manufacturer to know their vehicle's braking performance, NHTSA seeks comment on whether incorporating a temperature specification would increase compliance certainty when manufacturers self-certify. Specifically, NHTSA seeks comment on incorporating a range for the road surface temperature between 5 °C and 55 °C consistent with the ''Dry Test Track Surface'' for ''All-Season & All-Terrain'' in Table 3 of SAE J2909.[56]

E. Test Conditions for the Obstructed Pedestrian Scenario

NHTSA seeks comment on two possible adjustments to the obstructed pedestrian crossing road scenario: increasing the distance between the subject vehicle and the obstructing vehicle testing devices (VTDs) and adjusting the actual overlap tolerance. Based on information provided in the petitions for reconsideration on the 2024 final rule, the agency adjusted the distance between the subject vehicle and the VTDs for the obstructed pedestrian crossing road scenario in a previous amendment.[57] Based on the information received in its meeting with Honda, NHTSA is concerned that this scenario is still more challenging than the agency intends.

The specified location of the VTDs in relation to the subject vehicle is the main factor affecting the available action time for the AEB system in the pedestrian crossing road scenarios.[58] A slight increase in the distance between the subject vehicle and the VTDs has the potential to increase the available perception time for the AEB systems. An adjustment of 0.05 m to the distance travelled by the PTM from the edge of the VTD to the overlap may increase the available time for perception by up to 10 percent approximately.[59] However, any increase must be balanced with the test's representativeness of real-world conditions. This scenario is intended to emulate residential driving with on the road parking and the potential for children pedestrians to enter the path of the vehicle. A subject vehicle distance that is too far from the obstructing vehicle would not be representative. An alternative approach to increasing the available perception time, without increasing the distance between the subject vehicle and the VTDs, is reducing the overlap tolerance. The overlap is the location on the subject vehicle where the vehicle would collide with the pedestrian surrogate in the absence of any brake activation. FMVSS No. 127 specifies a tolerance of ±0.15 m for the overlap when testing. A narrower tolerance for the overlap, such as ±0.10 m, may also provide approximately 10 percent additional perception time.

NHTSA seeks comment on increasing the distance between the subject vehicle and VTDs for the obstructed pedestrian crossing the road scenario by 0.05 m and adjusting the overlap tolerance from ±0.15 m to ±0.10 m. Would one or both these changes adequately resolve concerns raised by manufacturers without rendering the test unrepresentative? Would any additional changes to this test be necessary to resolve those concerns?

F. Other Test Scenario Adjustments

In their petition for reconsideration, the Alliance highlighted concerns regarding the distance between the subject vehicle and vehicle testing devices (VTDs) (headway) and speeds for the decelerating lead vehicle test. Toyota and Volkswagen also highlighted concerns regarding high maximum test speeds and no contact for other scenarios. NHTSA seeks comment on adjustments to test scenarios, such as increasing headway, adjusting the overlap tolerances, and other positional changes that may allow for more practicable tests while preserving fidelity to the real world.

G. Darkness Pedestrian AEB Testing

Pedestrian fatalities in darkness are a substantial safety problem. Out of the 4,069 pedestrian fatalities in 2019 resulting from being struck by the front of a light vehicle, about 77 percent occurred in dark conditions and about 50 percent of all pedestrian fatalities occurred at posted speeds of 40 mph (64 km/h) or less. Forty percent of all pedestrian injuries, regardless of how a pedestrian is struck, occur in dark conditions, and 57 percent of them occur at posted speeds of 40 mph (64 km/h) or less.

In comments to the NPRM, petitions for reconsideration of the final rule, and statements made in meetings with NHTSA, many industry stakeholders, including vehicle manufacturers and equipment manufacturers, opposed the PAEB darkness test conditions entirely or opposed the specification that the test be run with only lower beams active. Except for the pedestrian moving along path scenario, the tested 2025 vehicles exhibited similar PAEB performance when tested in darkness with lower beam or during daylight. For the pedestrian moving along path scenario with lower beams, four vehicles avoided contact at all test speeds, while four other vehicles of the ten tested contacted at 10 km/h (6.2 mph)—no tests conducted above this speed. The four vehicles that contacted at 10 km/h (6.2 mph) for the pedestrian moving along path scenario avoided collision up to at least 50 km/h (31.1 mph) under the same lower beam condition for the stationary pedestrian scenario. NHTSA's 2025 testing did not examine the difference between upper and lower beam performance, though the comparison to daylight testing provides some insight into how systems perform with additional illumination.

The agency seeks comments regarding the requirements and testing of pedestrian AEB in darkness. What, if any, conclusions can be drawn from the 2025 testing with regard to performance between daylight and darkness testing and testing with upper beams active compared to only lower beams? In addition, what practicability concerns impact testing AEB performance with only lower beams active in darkness conditions? Are these concerns specific to certain test scenarios or speeds, and are they expected to persist or to be resolved as systems develop given additional lead time? In addition, the agency seeks comments on the practicality and impact to safety of allowing vehicles equipped with advanced lighting features (such as automatic beam switching and adaptive driving beams) to meet the lower beam requirements with the advanced lighting features active.

[56] SAE International (2018), *Light Vehicle Dry & Wet Stopping Distance Test Procedure* (SAE J2909).

[57] 89 FR 93199 (Nov. 26, 2024).

[58] 88 FR 38632 at 38671, 89 FR 93199 at 93213.

[59] 89 FR 93199 at 93213. The calculation is based on numbers provided by the Alliance in its petition for reconsideration and with a maximum subject vehicle speed during test of 50 km/h (31.1 mph).

H. Equipment Requirement

FMVSS No. 127 includes an equipment requirement that light vehicles have an AEB system that applies the brakes automatically at any forward speed that is greater than 10 km/h (6.2 mph) and less than 145 km/h (90.1 mph) when a collision with a lead vehicle is imminent, and at any forward speed greater than 10 km/h (6.2 mph) and less than 73 km/h (45.3 mph) when a collision with a pedestrian is imminent. It also includes a performance test requirement that, when tested according to the procedures in the rule, the subject vehicle provides a forward collision warning and applies the service brakes automatically when a collision with a lead vehicle or pedestrian is imminent such that the subject vehicle does not collide with the lead vehicle or the pedestrian. These provisions were not modified appreciably in NHTSA's response to petitions for reconsideration.

The agency declined to include performance tests associated with this equipment requirement, as the equipment requirement is designed to prevent systems from deactivating under normal driving conditions above 100 km/h (62 mph), such as those on major highways with a posted speed limit of 104.6 km/h (65 mph) or higher. NHTSA seeks comment on the appropriateness of the current minimum and maximum activation speeds for both AEB and PAEB. Is there safety data that points to a revision of either the maximum or minimum activation speeds? Is there human factors data indicative of expected opportunity (in distance and/or time) to steer around an obstacle as opposed to brake activation? Is there data showing the prevalence of unintended activation in certain circumstances, such as stopped traffic immediately in front of a freeway offramp the driver intends to take? If the maximum activation speed is lowered, what would an appropriate threshold be for system to stop being required to activate? If the equipment requirement was removed for speeds above the maximum vehicle test speed, how could the agency ensure system availability and operation in conditions where speed may vary around the maximum tested speed?

NHTSA also seeks data on increased rear-end crash risks from following vehicles presented by maximum or near-maximum braking between 113 km/h (70 mph) and 145 km/h (90 mph), and in response to braking forces necessary to meet the no-contact requirements at the top speed of 100 km/h (62 mph), which applies only if there is some braking input by the driver. On this topic, research or data highlighting the aggressiveness of following distances at such speed would be particularly helpful, as well as information enabling the agency to separate the safety risk posed by automated application of the braking system and a driver performing the same maneuver in a crash imminent scenario presented by this range. This will assist the agency in weighing the crash risk of a rear end crash by the subject vehicle into the vehicle in front of it and a following vehicle without AEB against the risk associated with a rear-end crash precipitated by the subject vehicle braking automatically and being collided in the rear by a following vehicle (and potentially being pushed into the vehicle in front of it).

I. Manual Deactivation

FMVSS No. 127 allows AEB to be deactivated automatically ''during low-range four-wheel drive configurations, when the driver selects ''tow mode,'' or when another vehicle system is activated that will have a negative ancillary impact on AEB operation.'' In meetings with NHTSA staff, the Alliance suggested allowing AEB to be deactivated manually in a manner similar to the procedures in UNECE R 152. NHTSA seeks comment on the safety impact of allowing a manual deactivation control. In particular, are there situations in which automatic deactivation would not occur but in which a deactivated system would provide more safety benefits than those provided by an active AEB system?

J. Forward Collision Warning Visual and Auditory Signal Requirements

In the final rule responding to petitions for reconsideration, NHTSA made several changes to the requirements for the visual and auditory signals. For the visual signal, NHTSA made clarifying changes regarding the elliptical area in which the signal must be located. For the auditory signal, NHTSA incorporated additional details regarding the conditions under which the signal must meet the requirements, specified the location of the sound measurement device, and revised the language describing the baseline sound level against which the FCW auditory signal intensity is compared. NHTSA seeks comment on the current specifications and whether manufacturers continue to face challenges in applying this language or testing their systems.

K. Considerations for Vehicles Equipped With Automated Driving Systems

NHTSA solicits comment on the appropriateness of portions of the standard for vehicles equipped with automated driving systems (ADS). Do ADS developers or manufacturers of ADS-equipped vehicles have observations of the appropriateness of the test procedures for vehicles with ADS, including vehicles designed without manual controls? The agency also seeks comment on the appropriateness of certain modalities for forward collision warnings (FCW) for ADS-equipped vehicles. Will an FCW alert be useful for a vehicle not designed to hold occupants? Would occupants in a passenger vehicle need to receive an auditory or visual FCW alert even if unable to operate vehicle controls?

V. Summary of Estimated Impacts

A. Proposed Rule

NHTSA prepared a Preliminary Regulatory Impact Analysis (PRIA) that presents the incremental benefits and costs associated with this proposed rule.[60] NHTSA qualitatively analyzed the impacts of modifying the compliance date of FMVSS No. 127 to September 1, 2031.

When assessing the impacts of this proposed rule, NHTSA took into account a baseline that reflects the requirements of FMVSS No. 127 and the current lead time, while also taking into account new information not available at the time that the FRIA was developed in support of the 2024 final rule. However, as NHTSA is unable to quantify the benefits and costs under the baseline, it is unable to quantify the impacts under this proposed rule and, instead, discusses those qualitatively and evaluates the outcomes across the plausible scenarios.

It is possible that for some models, manufacturers may not face any uncertainty in meeting the requirements under the current lead time. To minimize costs and gain a competitive advantage among safety conscious consumers, those manufacturers will continue to equip their vehicles with rule complaint AEB systems under this proposed rule. Therefore, given no change in their behavior under this proposed rule, there would be no incremental safety benefits or costs realized by those vehicles that could meet the requirements under the current lead time.

[60] The Preliminary Impact Analysis of this proposed rule is available in the docket associated with this rulemaking.

As the effective date grows closer, those manufacturers that cannot meet the requirements for their fleet would need to pull vehicles from the market abruptly, resulting in a market disruption with cascading effects impacting not only the manufacturer, but also suppliers, dealers, and consumers. The extension in lead time granted under this proposed rule would avoid the disbenefits resulting from a disruption in the light vehicle market, which include negative impacts on competition in the light vehicle market, losses in sales and revenue for manufacturers, restrictions in consumer choice, and potential losses in safety from delaying new or improved safety features from entering the on-the-road fleet.

Given the negative impacts resulting from the inability to sell noncompliant vehicles, manufacturers who could not meet the requirements of FMVSS No. 127 on all vehicles would implement rule-compliant AEB as soon as possible. In considering how these manufacturers would operate under this proposed rule, NHTSA considered cost impacts associated with delaying the implementation of rule-compliant AEB beyond the necessary time to develop, test, and validate their systems during the extension in lead time. To minimize costs and maintain competitiveness in the market, these manufacturers have an incentive to equip their vehicles with rule-compliant AEB as soon as possible. Therefore, the timing in which these manufacturers would implement rule-compliant AEB in their new vehicles is based on feasibility. Because the extension in lead time would not impact how these manufacturers would operate, this proposed rule would have no incremental impact on safety benefits or costs.

Overall, manufacturers must have enough time to develop their systems in a manner that meets the performance requirements of FMVSS No. 127, while ensuring consumer acceptance of AEB technologies and not generating disbenefits by producing negative safety outcomes. Although NHTSA is unable to quantify impacts under the baseline, the proposed rule would not result in incremental impacts on safety benefits or costs, as the timing in which manufacturers would implement rule compliant AEB systems on those vehicles would be based on afeasibility. In addition, the regulatory relief provided by this proposed rule would avoid a disruption in the light vehicle market that would result in negative impacts to manufacturers, consumers, and overall safety outcomes for society.

VI. Regulatory Notices and Analyses

Executive Orders 12866 and 13563

NHTSA has considered the impact of this rulemaking action under Executive Orders 12866, 13563, and 14192. This rulemaking is considered significant under Executive Order (E.O.) 12866 and was reviewed by the Office of Management and Budget under that E.O. NHTSA has prepared a PRIA that assesses the cost and benefits of this proposed rule. The benefits, costs, and other impacts of this NPRM are discussed in the prior section.

Executive Order 14192

This proposed rule, if finalized, would be an E.O. 14192 deregulatory action. As discussed in the prior section, by extending the compliance date for the light duty AEB requirements established by NHTSA in a 2024 rulemaking by two years, the rule would reduce the risk that manufacturers would need to remove non-compliant models from the market, thus maintaining consumer choice.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601, *et seq.,* as amended), whenever an agency is required to publish a proposed rule for prior notice and an opportunity for comment, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small not-for-profit organizations, and small governmental jurisdictions). An analysis is not required if the head of the agency certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.[61] I certify that this NPRM would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is provided below.

The PRIA discusses the economic impact of the proposed rule on small vehicle manufacturers, of which NHTSA is aware of 12.[62] NHTSA believes that this proposed rule would not have a significant economic impact on these manufacturers. Much of the work developing and manufacturing AEB system components would be conducted by suppliers. Although the final certification would be made by the manufacturer, the proposed rule would provide an additional two years for all manufacturers to comply. Small-volume manufacturers would have an additional year to comply beyond this extended timeframe. This approach is similar to the approach we have taken in other rulemakings in recognition of manufacturing differences between larger and smaller manufacturers. As AEB systems that meet FMVSS No. 127 are deployed on the market, AEB suppliers would likely supply larger vehicle manufacturers first, before small manufacturers. This NPRM recognizes this and proposes to provide smaller manufacturers flexibility, so they have time to obtain the equipment and work with the suppliers after the demands of the larger manufacturers are met.

This proposal may also affect final stage manufacturers, many of whom would be small businesses. It is NHTSA's understanding that final stage manufacturers rarely make modifications to a vehicle's braking system and instead rely upon the pass-through certification provided by a first-stage manufacturers. As with small-volume manufacturers, final stage manufacturers would be provided with one additional year to comply with any requirement.

Additional information concerning the potential impacts of this proposal on small business is presented in the PRIA accompanying this proposal.

Civil Justice Reform

With respect to the review of the promulgation of a new regulation, section 3(b) of E.O. 12988, ''Civil Justice Reform'' (61 FR 4729, Feb. 7, 1996), requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

NHTSA has reviewed this NPRM and determined that it conforms to the applicable standards in section 3(b)(2) of this E.O. The preemptive effect of this rulemaking is discussed in the section discussing E.O. 13132 (Federalism). NHTSA believes that the proposed rule specifies clearly the changes NHTSA would make to the FMVSS No. 127 published in 2024 and that the rule provides a clear legal standard for manufacturers to follow. The proposed amendments would not be retroactive.

[61] This authority has been delegated to the NHTSA Administrator at 49 CFR 1.81(a)(18).

[62] See accompanying PRIA in the docket associated with this rulemaking.

NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

National Environmental Policy Act (NEPA)

Pursuant to 49 CFR 1.81, the Secretary has delegated the ''functions'' under NEPA to the Administrators ''as they relate to the matters within the primary responsibility of each Operating Administration.'' NHTSA has determined that this proposed rule is categorically excluded pursuant to 23 CFR 771.118(c)(4). Categorical exclusions are actions identified in an agency's NEPA procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). *See* DOT Order 5610.1D, section 9. In analyzing the applicability of a categorical exclusion (CE), the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* at section 9(b). Each Operating Administration (OA) within the Department may apply CEs established in another OA's procedures. *Id.* at section 9(f). To do so, the OA ''must evaluate the action for extraordinary circumstances identified in the OA procedures in which the CE is established to determine if a normally excluded action may have a significant impact and coordinate with the originating OA to ensure that the CE is being applied correctly.'' *Id.* This proposed rule, which would amend the compliance dates and certain test procedures and tolerances in FMVSS No. 127, is categorically excluded pursuant to 23 CFR 771.118(c)(4): ''Planning and administrative activities not involving or leading directly to construction, such as: Training, technical assistance and research; promulgation of rules, regulations, directives, or program guidance; approval of project concepts; engineering; and operating assistance to transit authorities to continue existing service or increase service to meet routine demand.'' NHTSA has coordinated with the FTA to ensure that this CE is being applied correctly. NHTSA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Executive Order 13132 (Federalism)

NHTSA has examined this NPRM pursuant to E.O. 13132 (64 FR 43255, Aug. 10, 1999) and concludes that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. NHTSA has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The rulemaking would 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.''

NHTSA rules can preempt in two ways. First, the Safety Act contains an express preemption provision: When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which ''[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.'' 49 U.S.C. 30103(e). Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved.

NHTSA rules can also preempt State law if complying with the FMVSS would render the motor vehicle manufacturers liable under State tort law. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See *Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000).

Pursuant to E.O. 13132 and E.O. 12988, NHTSA has considered whether this proposed rule could or should preempt State common law causes of action. NHTSA's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation. To this end, NHTSA has examined the nature (*e.g.,* the language and structure of the regulatory text) and objectives of this NPRM and finds that this proposed rule, like many NHTSA rules, prescribes only a minimum safety standard. As such, NHTSA does not intend that this proposed rule preempt State tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by this proposed rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard proposed to be adopted here. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

Paperwork Reduction Act (PRA)

Under the PRA of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There are no ''collection[s] of information'' (as defined at 5 CFR 1320.3(c)) in this proposed rule.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), all Federal agencies and departments must use technical standards developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the ISO and SAE International. The NTTAA directs Federal agencies to provide Congress, through OMB, explanations when a Federal agency decides not to use available and applicable voluntary consensus standards.

This preamble contains descriptions of UNECE Regulation No. 152 and its specifications regarding the number of trials performed for AEB testing as well as the malfunction telltale test procedure. This proposed rule is substantially similar to UNECE Regulation No. 152 regarding the malfunction telltale test. This proposed rule also seeks comment on several

items relevant to alignment with UNECE Regulation No. 152.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditures by States, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation with base year of 1995) in any one year. Adjusting this amount by the Consumer Price Index for All-Urban Consumers (CPI–U) for the year 2026 relative to 1995 results in $214 million. This proposed rule is not likely to result in expenditures by State, local, or Tribal governments of more than $214 million in any one year. Furthermore, it is not estimated to result in the expenditures by motor vehicle manufacturers of more than $206 million in any one year. Nevertheless, the prior section of this NPRM contains a summary of the costs and benefits of this proposed rule, and the PRIA discusses the costs and benefits of this proposed rule in detail.

Executive Order 13609 (Promoting International Regulatory Cooperation)

The policy statement in section 1 of E.O. 13609 states, in part, that the regulatory approaches taken by foreign governments may differ from those taken by U.S. regulatory agencies to address similar issues and that, in some cases, the differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally. The E.O. states that, in meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation and that international regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements. NHTSA requests public comment on the ''regulatory approaches taken by foreign governments'' concerning the subject matter of this rulemaking.

Regulation Identifier Number

The Department assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RINs contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Rule Summary

This NPRM proposes to delay the compliance date for FMVSS No. 127 by two years, incorporate test procedures for the malfunction telltale, and clarify the test speed tolerance. It also seeks comments on several topics. As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=2127-AM69.*

VII. Public Participation

How long do I have to submit comments?

Please see the **DATES** section at the beginning of this document.

How do I prepare and submit comments?

- Your comments must be written in English.
- To ensure that your comments are correctly filed in the Docket, please include the Docket Number shown at the beginning of this document in your comments.
- Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.
- If you are submitting comments electronically as a PDF (Adobe) File, NHTSA asks that the documents be submitted using the Optical Character Recognition (OCR) process, thus allowing NHTSA to search and copy certain portions of your submissions. Comments may be submitted to the docket electronically by logging onto the Docket Management System website at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- You may also submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Please note that pursuant to the Data Quality Act, for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/information-regulatory-affairs/information-policy/.* DOT's guidelines may be accessed at *http://www.transportation.gov/dot-information-dissemination-quality-guidelines.*

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

You should submit a redacted ''public version'' of your comment (including redacted versions of any additional documents or attachments) to the docket using any of the methods identified under **ADDRESSES**. This ''public version'' of your comment should contain only the portions for which no claim of confidential treatment is made and from which those portions for which confidential treatment is claimed has been redacted. See below for further instructions on how to do this.

You also need to submit a request for confidential treatment directly to the Office of Chief Counsel. Requests for confidential treatment are governed by 49 CFR part 512. Your request must set forth the information specified in part 512. This includes the materials for which confidentiality is being requested (as explained in more detail below); supporting information, pursuant to § 512.8; and a certificate, pursuant to § 512.4(b) and part 512, appendix A.

You are required to submit to the Office of Chief Counsel one unredacted ''confidential version'' of the information for which you are seeking confidential treatment. Pursuant to § 512.6, the words ''ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION'' or ''CONFIDENTIAL BUSINESS INFORMATION CONTAINED WITHIN BRACKETS'' (as applicable) must appear at the top of each page containing information claimed to be confidential. In the latter situation, where not all information on the page is claimed to be confidential, identify each item of information for which confidentiality is requested within brackets: ''[ ].''

You are also required to submit to the Office of Chief Counsel one redacted ''public version'' of the information for which you are seeking confidential treatment. Pursuant to § 512.5(a)(2), the redacted ''public version'' should include redactions of any information for which you are seeking confidential

treatment (*i.e.,* the only information that should be unredacted is information for which you are not seeking confidential treatment).

NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the agency under part 512. Please do not send a hardcopy of a request for confidential treatment to NHTSA's headquarters. The request should be sent to Dan Rabinovitz in the Office of the Chief Counsel at *Daniel.Rabinovitz@dot.gov.* You may either submit your request via email or request a secure file transfer link. Manufacturers or any companies that already have a Confidential Business Information (CBI) Portal account or an Enterprise Account with NHTSA should use the CBI Portal for their submission. If you submit a CBI request, please also email a courtesy copy of the request to Eli Wachtel, Office of the Chief Counsel at email: *eli.wachtel@dot.gov.*

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing the final rule, we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the internet. To read the comments on the internet, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

Please note that, even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

VIII. Regulatory Text

List of Subjects in 49 CFR Part 571

Motor vehicles, Motor vehicle safety, Rubber and rubber products.

For the reasons stated in the preamble, NHTSA proposes to amend 49 CFR part 571 as set forth below:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95.

■ 2. Section 571.127 is amended by:
■ a. Revising S5(a) and (b), S7.3.2(d), S7.4.2(d), S7.5.2(b)(3), S8.3.4(c), S8.4.2(c), and S8.5.2(c).
■ b. Adding S11.

The revisions read as follows:

§ 571.127 Standard No. 127; Automatic emergency braking systems for light vehicles.

* * * * *

S5. *Requirements.*

(a) Except as provided in S5(b), vehicles manufactured on or after September 1, 2031, must meet the requirements of this standard.

(b) The requirements of S5(a) do not apply to small-volume manufacturers, final-stage manufacturers, and alterers until one year after the dates specified in S5(a).

* * * * *

S7.3.2 *Test conduct prior to forward collision warning onset.*

* * * * *

(d) Beginning when the headway corresponds to L_0, the subject vehicle speed is maintained within 1.6 km/h of the test speed with minimal and smooth accelerator pedal inputs. The subject vehicle speed will not exceed the applicable maximum value or fall below the applicable minimum value in S7.3.1.

* * * * *

S7.4.2 *Test conduct prior to forward collision warning onset.*

* * * * *

(d) Beginning when the headway corresponds to L_0, the subject vehicle and lead vehicle speed is maintained within 1.6 km/h of the test speed with minimal and smooth accelerator pedal inputs. The subject vehicle speed will not exceed the applicable maximum value or fall below the applicable minimum value in S7.4.1.

* * * * *

S7.5.2 *Test conduct prior to forward collision warning onset.*

* * * * *

(b) * * *

(3) The subject vehicle's speed is maintained within 1.6 km/h of the test speed with minimal and smooth accelerator pedal inputs prior to forward collision warning onset. The subject vehicle speed will not exceed the applicable maximum value or fall below the applicable minimum value in S7.5.1.

* * * * *

S8.3.4 *Test conduct prior to forward collision warning or subject vehicle braking onset.*

* * * * *

(c) Beginning when the headway corresponds to L_0, the subject vehicle speed is maintained within 1.6 km/h of the test speed with minimal and smooth accelerator pedal inputs. The subject vehicle speed will not exceed the applicable maximum value or fall below the applicable minimum value in S8.3.1(g), S8.3.2(g), or S8.3.3(h).

* * * * *

S8.4.2 *Test conduct prior to forward collision warning or subject vehicle braking onset.*

* * * * *

(c) Beginning when the headway corresponds to L_0, the subject vehicle speed is maintained within 1.6 km/h of the test speed with minimal and smooth accelerator pedal inputs. The subject vehicle speed will not exceed the applicable maximum value or fall below the applicable minimum value in S8.4.1(e).

* * * * *

S8.5.2 *Test conduct prior to forward collision warning or subject vehicle braking onset.*

* * * * *

(c) Beginning when the headway corresponds to L_0, the subject vehicle speed is maintained within 1.6 km/h of the test speed with minimal and smooth accelerator pedal inputs. The subject vehicle speed will not exceed the applicable maximum value or fall below the applicable minimum value in S8.5.1(f).

* * * * *

S11 *Testing the malfunction detection.*

S11.1 *Testing the malfunction detection at vehicle start.*

S11.1.1 One or more AEB malfunction(s) are simulated by disconnecting the power source to any AEB component or disconnecting any electrical connection between AEB components (with the vehicle power off). When simulating an AEB malfunction, the electrical connections for the telltale are not to be disconnected.

S11.1.2 With the vehicle initially stationary, the propulsion system is activated. The vehicle is placed in any forward gear and driven for at least two minutes. After 15 seconds, it is confirmed that a telltale notification as specified in S5.4 is provided.

S11.1.3 The vehicle is stopped and turned off. After a five-minute period,

the vehicle is turned on and the propulsion system is activated. It is confirmed that the telltale notification is provided as long as the propulsion system is running or until the fault is corrected.

S11.1.4 The vehicle is turned off. The AEB system is restored to normal operation, and the vehicle is turned on and the propulsion system is activated. The vehicle is placed in any forward gear and driven for at least two minutes. After 15 seconds of the vehicle achieving a speed of 10 km/h (6.2 mph), it is confirmed that the telltale notification is off.

S11.2 *Testing the malfunction detection during operation.*

S11.2.1 With the vehicle initially stationary, the propulsion system is activated. The vehicle is placed in any forward gear and driven to obtain a vehicle speed of at least 10 km/h (6.2 mph). The vehicle is driven for at least two minutes.

S11.2.2 The vehicle is stopped (with the vehicle power on). With the vehicle's propulsion system active, one or more AEB malfunction(s) are simulated by disconnecting the power source to any AEB component or disconnecting any electrical connection between AEB components. When simulating an AEB malfunction, the electrical connections for the telltale are not to be disconnected. The vehicle is placed in any forward gear and driven for at least two minutes. After 15 seconds, it is confirmed that a telltale notification as specified in S5.4 is provided.

S11.2.3 The vehicle is stopped and turned off. After a five-minute period, the vehicle is turned on and the propulsion system is activated. It is confirmed that the telltale notification is provided as long as the propulsion system is running or until the fault is corrected.

S11.2.4 The vehicle is turned off. The AEB system is restored to normal operation, and the vehicle is turned on and the propulsion system is activated. The vehicle is placed in any forward gear and driven for at least two minutes. After 15 seconds of the vehicle achieving a speed of 10 km/h (6.2 mph), it is confirmed that the telltale notification is off.

* * * * *

Issued under authority delegated in 49 CFR Part 1.95.

Jonathan Morrison,

Administrator.

[FR Doc. 2026–24140 Filed 11–25–26; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2026–0892; FXES1111090FEDR–267–FF09E21000]

RIN 1018–BI19

Endangered and Threatened Wildlife and Plants; Threatened Species Status With Section 4(d) Rule for Ciliate-Leaf Tickseed

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the ciliate-leaf tickseed (*Coreopsis integrifolia*), a plant species from Florida, Georgia, and South Carolina as a threatened species with protective regulations under section 4(d) of the Endangered Species Act of 1973, as amended (Act). This determination also serves as our 12-month finding on a petition to list the ciliate-leaf tickseed. 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 Plants and extend the Act's protections to the species.

DATES: Comments will be accepted on or before January 26, 2027. 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, at the address shown in **FOR FURTHER INFORMATION CONTACT** by January 11, 2027.

To ensure your comment is received and considered, you must submit it using one of the methods identified in the **ADDRESSES** section of this document. Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered.

ADDRESSES: *Comment submission:* All submissions must include the docket number (FWS–R4–ES–2026–0892) of 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–R4–ES–2026–0892, 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.'' Please ensure that you have found the correct document before submitting your comments.

(2) U.S. mail Public Comments Processing, Attn: Docket No. FWS–R4–ES–2026–0892, Policy and Regulations Branch, U.S. Fish and Wildlife Service, MS: PRB (JAO/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 on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (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* at Docket No. FWS–R4–ES–2026–0892.

FOR FURTHER INFORMATION CONTACT: Peter Maholland, Field Supervisor, Georgia Ecological Services Field Office; 706–535–2099; *peter_maholland@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–R4–ES–2026–0892 on *https://www.regulations.gov* for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act (16 U.S.C. 1531 *et seq.*), a species warrants listing if it meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range) or a threatened species (likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range). If we

determine that a species warrants listing, we must list the species promptly and designate the species' critical habitat to the maximum extent prudent and determinable. We have determined that the ciliate-leaf tickseed meets the definition of a threatened species; therefore, we are proposing to list it as such. Listing a species as an endangered or threatened species can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*).

What this document does. We propose the listing of the ciliate-leaf tickseed as a threatened species with a rule pursuant to section 4(d) of the Act.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species because of any of five 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 have determined that the ciliate-leaf tickseed meets the Act's definition of a threatened species due to the following threats: the loss or reductions of plants, stems, flowering, seed production, and dispersal from ongoing and expected effects of rights-of-way maintenance (Factor A); and the expected loss of plants and occupied habitat from future urban development (Factor A) and inundation and saltwater intrusion of wetland habitats from sea level rise (SLR) (Factor E). These threats are all exacerbated by the ongoing and expected effects of agriculture, recreation, invasive species, and drought (Factors A and E).

Section 4(a)(3) of the Act requires that the Secretary of the Interior (Secretary), to the maximum extent prudent and determinable, concurrently with listing designate critical habitat for the species. Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protections; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 4(b)(2) of the Act states that the Secretary must make the designation on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impacts of specifying any particular area as critical habitat.

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, 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 nutrition, reproduction, or pollination;

(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 modification or destruction, 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) Information to assist us with issuing protective regulations under section 4(d) of the Act (''4(d) rule'') that may be necessary and advisable to provide for the conservation of the ciliate-leaf tickseed. In particular, we seek information concerning:

(a) The extent to which we should include any of the Act's section 9 prohibitions in the 4(d) rule;

(b) Whether we should consider any additional or different exceptions from the prohibitions in the 4(d) rule;

(c) Impacts (conservation and economic) associated with implementing the 4(d) rule;

(d) How frequently and in what geographical areas are activities that we propose to regulate under the 4(d) rule (*e.g.,* sale, import, export) currently occurring;

(e) Whether there are other laws currently in place beyond what we describe in the economic considerations document that regulate the activities or ''take'' prohibited in the proposed 4(d) rule;

(f) Any entities likely to request section 10(a)(1)(A) permits for conducting activities that we propose to continue to prohibit;

(g) Data available on the time and economic costs of obtaining section 10(a)(1)(A) permits in accordance with 50 CFR 17.72;

(h) Any other entities not addressed in this proposed rule that may be affected by the 4(d) rule; and

(i) Comments and suggestions regarding additional guidance and methods that we could provide or use, respectively, to streamline the implementation of this proposed 4(d) rule.

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**.

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, we may conclude that the species is endangered instead of threatened, or we may conclude that the species does not warrant listing as either an endangered species or a threatened species. In addition, we may change the parameters of the prohibitions or the exceptions to those prohibitions in the protective regulations issued under section 4(d) of the Act if we conclude it is appropriate in light of comments and new information received. For example, we may expand the prohibitions if we conclude that the protective regulation as a whole, including those additional prohibitions, is necessary and advisable to provide for the conservation of the species. Conversely, we may establish additional or different exceptions to the prohibitions in the final rule if we conclude that the activities would facilitate or are compatible with the conservation and recovery of the species. 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** and local newspapers at least 15 days before the hearing. 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 April 20, 2010, the Service was petitioned to list 404 aquatic species, including the ciliate-leaf tickseed, in the Southeastern United States under the Act (Center for Biological Diversity 2010, entire). In response to the petition, the Service completed a partial 90-day finding on September 27, 2011 (76 FR 59836), in which we announced our finding that the petition contained substantial information indicating that listing may be warranted for the ciliate-leaf tickseed. This document constitutes our 12-month warranted petition finding and our proposed listing rule for the ciliate-leaf tickseed.

Peer Review

A species status assessment (SSA) team prepared an SSA report for the ciliate-leaf tickseed. 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 Service (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 ciliate-leaf tickseed SSA report. We sent the SSA report to four independent peer reviewers and received four responses. The peer reviews can be found at *https://www.regulations.gov* under Docket No. FWS–R4–ES–2026–0892. 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 four 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. As a result of conducting the peer review prior to this proposed rule, we have already incorporated all applicable comments in version 1.0 of the SSA report, which is the foundation for the rule.

The peer reviewers provided additional information, clarifications, and recommendations pertaining to our analysis of the ciliate-leaf tickseed's current and future condition. We either incorporated or clarified substantive comments in version 1.0 of the SSA report or address them below. In addition to substantive comments on the SSA report, we received several comments requesting the inclusion of additional biological information about the ciliate-leaf tickseed. Those comments were incorporated in the SSA report where applicable and are not summarized here.

(1) Comment: One reviewer questioned the timing and importance of periodic flooding to the ciliate-leaf tickseed, and whether we took into account the climate change models used for the evaluation of species representation.

Our response: The best scientific and commercial data available on the ciliate-leaf tickseed indicate that periodic flooding is an important factor in maintaining saturated soils and open forest canopy conditions needed by the ciliate-leaf tickseed (see Background, below), but do not indicate whether the timing or seasonality of flooding is important. We assume that the ciliate-leaf tickseed is adapted to the historical and natural flooding regimes of the wetlands, rivers, and streams within its range in the Southeastern United States and that impacts to the species from floods would be greatest in the fall months during flowering and seed set (see *Sea Level Rise and Drought,* below). We have information that indicates annual precipitation and fall flood events are projected to increase in the future within the species' range (Neupane et al. 2018, pp. 2237, 2240). However, our representation evaluation and the models we used to evaluate future resiliency did not evaluate changes to flood regimes and potential impacts to the ciliate-leaf tickseed (see *Current Condition* and *Future Condition,* below). The ciliate-leaf tickseed is adapted to flood events and likely has some tolerance to varying flood regimes. We note that the reviewer did not identify or provide specific climate models or supporting information for us to consider.

(2) Comment: One reviewer suggested that we consider the spatial extent and distribution of stems within populations in our evaluation of catastrophic events (redundancy) because a population with one patch of stems may be more vulnerable to catastrophic events than a population with multiple stem patches. The reviewer also suggested that we consider the number of flowering stems within populations in our evaluation of population resiliency because populations with a larger fraction of flowering stems may have greater resiliency than those with more overall stems.

Our response: As recommended by the reviewer, we initially considered the patchy distribution of stems and the incidence of flowering within populations as ciliate-leaf tickseed population resiliency metrics. However, this information has not been collected for most ciliate-leaf tickseed populations, limiting its utility for evaluating resiliency consistently across populations. Instead, we incorporated stem abundance in our resiliency evaluation because this information was available; it is important to the species' resiliency; and we could evaluate it consistently across all 50 extant ciliate-leaf tickseed populations. To clarify, we evaluate the risk of catastrophic loss (redundancy) at the species level by considering the distribution of populations across the landscape, among other things, and not at the population level as the reviewer suggested (see *Analytical Framework* and *Species Needs,* below).

(3) Comment: One reviewer suggested that the ciliate-leaf tickseed's current condition may have overall low redundancy, not the overall moderate redundancy identified in the SSA report, because the majority of ciliate-leaf tickseed populations (30) have low resiliency and less than a third of populations in representation unit 2 (RU2) have moderate and high resiliency.

Our response: In our evaluation of the ciliate-leaf tickseed's current redundancy, we considered the number of populations with moderate or high resiliency and their distribution across the landscape when evaluating the species' risk of catastrophic loss (see *Analytical Framework* and *Species Needs,* below). However, we did not change the species' level of redundancy to low, as suggested by the reviewer, for the following reasons: the populations with moderate or high resiliency are widely distributed across the species' range to reduce the risk of catastrophic loss; the inherent risk of catastrophic loss is low for this species; and the additional 28 populations with low resiliency across the species' range (26 in RU2) still provide redundancy to the species although they contribute less to the ciliate-leaf tickseed's overall viability. Therefore, we consider the ciliate-leaf tickseed's current level of redundancy to be moderate (see *Current Condition,* below).

(4) Comment: One reviewer stated that they would expect some synergistic effect of SLR, urban development, and drought to the ciliate-leaf tickseed if those threats co-occur in ciliate-leaf tickseed populations.

Our response: The reviewer did not provide what the potential synergistic effect of these stressors would be; however, we considered the cumulative effect of SLR, urban development, and drought on ciliate-leaf tickseed populations and whether these stressors may act synergistically to the ciliate-leaf tickseed. We discussed the potential for a synergistic effect from these and other stressors to accelerate a decline in population resiliency in the SSA report (Service 2024, pp. 23–24). Since the negative effects of SLR are lethal to ciliate-leaf tickseed populations, we consider the projected extirpation of populations in our evaluation to assess the ciliate-leaf tickseed's future condition under three plausible future scenarios (see *Future Condition,* below) sufficient to address potential synergistic 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 the identified threats and conservation actions on the species (see *Analytical Framework,* below).

(5) Comment: One reviewer agreed with our analysis that invasive plants are not a current threat to the ciliate-leaf tickseed. However, the reviewer considers invasive plants to be a future threat to the ciliate-leaf tickseed in Florida given their experience with other watersheds and native and rare plants that have mostly been displaced by invasive plants such as heavenly bamboo (*Nandina domestica*) and Japanese climbing fern (*Lygodium japonicum*).

Our response: We agree with the reviewer that invasive plants are a potential future threat to the ciliate-leaf tickseed. However, the best information available for the species does not indicate that invasive plants will become a major influencing factor to the ciliate-leaf tickseed in the future mainly because the majority of ciliate-leaf tickseed populations occur in rights-of-way that are managed to minimize the invasion and spread of invasive plants.

I. Proposed Listing Determination

Background

Species Description and Habitat Information

A thorough review of the taxonomy, life history, and ecology of the ciliate-leaf tickseed (hereafter, ''tickseed'') is presented in the SSA report (Service 2024, pp. 5–14, 24–46). The tickseed is a perennial plant in the sunflower family (*Asteraceae*) and is endemic to the Coastal Plain wetlands of Florida, Georgia, and South Carolina at elevations ranging between 12 to 292 feet (ft) (3.7 to 89.5 meters (m)). The species was first described in 1811; its current range is similar to its known historical range (Poiret 1811, p. 353; Chafin 2019, pp. 39–41; Service 2024, pp. 7–14).

The tickseed is a naturally occurring tetraploid species, meaning it has four sets of chromosomes most likely derived from the same species (autopolyploidy) (Smith 1976, p. 201; Cosner and Crawford 1994, p. 355). The only study of the tickseed's genetic diversity found the species has a relatively high level of genetic diversity within the *Coreopsis* genus, similar to what would be expected for a widely distributed plant species (Cosner and Crawford 1994, entire). Populations with the highest levels of genetic diversity occur along the Chipola River in Florida (Cosner and Crawford 1994, p. 351). The fact that the species is a tetraploid likely contributes to its high level of genetic diversity. Almost half of the genetic diversity occurred between populations (instead of within them) and spatially distant populations tended to be the most genetically distant (Cosner and Crawford 1994, p. 354). The high degree of population differentiation may indicate low levels of gene flow between populations (Cosner and Crawford 1994, p. 354). While informative, the study was limited to a small portion of the species' current range in Florida and southwestern Georgia and may not be representative of the species' rangewide genetic diversity (Cosner and Crawford 1994, pp. 353–355). The potential for hybridization with other co-occurring *Coreopsis* species is low since most are diploid species (two sets of chromosomes), and the tickseed would only produce viable offspring with other tetraploid species (Smith 1976, p. 201).

Tickseed plants are approximately 16 to 28 inches (in) (40 to 70 centimeters (cm)) tall and grow from a network of rhizomes (underground stems). Leaves are oval, up to 2.75 in (7 cm) long, and slightly hairy with ciliate hairs along the leaf margins that inspired the ciliate-leaf part of the common name (Chafin 2019, p. 39). Adult plants flower in the fall months and produce showy flower heads (inflorescences) with yellow ray flowers and tiny, purple disk flowers. Stems may have up to five flower heads, but a single terminal flower head is most common (Chafin 2019, p. 39; Service 2023a, p. 4). Based on the biology of a closely related species, *Coreopsis lanceolata,* tickseed flower heads have the potential to produce up to 100 or more seeds each (Banovetz 1992, p. 25). Fruits have scalloped wings, two bristles on the tip, and are

0.5 cm (0.2 in) long, flattened and seed-like (Chafin 2019, p. 39).

The tickseed has four life stages: seeds, seedlings, vegetative plants, and reproductive plants (Service 2024, pp. 6–11). Tickseed plants reproduce vegetatively by clonal growth (rhizomes) and sexually by flower, fruit, and seed production. Plants typically occur in patches presumably formed by clonal growth and appear to be long-lived. Tickseed populations comprise one or more patches and it is not possible to distinguish individuals (genets) within patches or seedlings from new clonal growth of adult plants in the field. The generation time (how fast individuals in a population are replaced) of tickseed and other clonal plants is difficult to determine, but the average age at first breeding can serve as a proxy for many species even though it may be an underestimate for clonal plants (Compagnoni et al. 2021, p. 2; Klimešová et al. 2021, p. 1240; Jonasson et al. 2022, p. 49). Since plants may flower in their first 1 to 2 years, we estimate a 5-to-10-year generation time for the tickseed.

Based on field observations and expert opinion, flowering occurs every year within populations, with approximately 80 to 90 percent of stems flowering in a given year (Service 2023a, pp. 3–4). Within the species' range, flowering occurs from June to November, with seed production following in October through December (Service 2023a, p. 7; Service 2024, pp. 18–20). In general, tickseed stems die back after flowering and enter a period of dormancy beginning in November and lasting until February. However, plants in the southernmost portion of the range (Florida) may not become dormant in milder climates. Seed germination likely occurs from February to April at the beginning of the growing season for adults.

Based on an assessment of native *Coreopsis* species, we assume most of the viable seeds produced in a given year will germinate after exposure to light and are capable of becoming flowering adults within the first year after maturation (Norcini and Aldrich 2008, p. 1879; Service 2023a, pp. 2–3; Service 2024, p. 20). Based on *C. lanceolata,* it is likely that viable seeds that do not germinate in the first year persist in the seed bank for several years (Banovetz 1992, p. 37). We have no information on the amount and frequency of tickseed seedling recruitment within populations.

The tickseed requires pollinators for seed production because plants are self-incompatible, meaning that pollen from different individuals (genets) is needed to produce viable seeds, similar to other *Coreopsis* species (Cosner 1988, p. 31; Siqueira 2003, p. iii). The number of viable seeds produced by each flower can be very low and, in some populations, may be reduced by a lack of cross pollination and self-incompatibility (Service 2023a, p. 4). If plant patches or populations have stems (ramets) composed of one individual (genet), they will not produce seeds unless pollinators provide pollen from a different individual in a nearby patch or population. The benefit of clonal growth is that an individual (genet) can live for a long time and persist through climate conditions that are unfavorable for seedling establishment (Eriksson 1994, entire; Eriksson 1996, pp. 248, 251–253; Mitton and Grant 1996, p. 28). The disadvantage of clonal growth (ramets) is that it contributes nothing to a population's genetic diversity or effective size and does not reduce extinction risk (Tepedino 2012, entire). The advantage of sexual reproduction (genets) is that it does increase a population's genetic diversity, effective size, and reduces the risk of extinction (Tepedino 2012, entire). Therefore, the tickseed's propensity for clonal growth may inaccurately represent the amount of population-level genetic diversity (Tepedino 2012, entire).

Based on field observations and surrogate *Coreopsis* species, the primary pollinators are likely a diverse assemblage of generalist bees (Buckley 2011, pp. 45–51; Chafin 2020, p. 1; Ulyshen 2024, pp. 1–3; Service 2024, pp. 20–21). Forests, forest edges, and low-density residential areas generally provide suitable foraging habitat for generalist bees whereas wetlands, marshes, and areas that receive regular pesticide use (pine plantations, some agricultural crops) are generally less suitable with fewer pollinators (Janvier et al. 2022 Ulyshen 2024, pp. 1–3).

The tickseed requires fresh water and saturated soils; the species is often associated with limestone soils but is not restricted to them. The tickseed occupies a variety of wetland features including: the banks, floodplains, and silt bars of blackwater streams; forested low bluffs adjacent to floodplains; edges of swamp forests; rocky limestone riverbanks; marl forests; and pine flatwoods. The species does not appear to tolerate salt water or brackish water (Service 2024, p. 20). The tickseed occurs in mid-successional wetland habitats (*i.e.,* wetlands sufficiently free of woody vegetation and competing understory vegetation to provide space, open midstory conditions, and full to partial sunlight to allow for germination, growth, and reproduction) (Service 2024, pp. 11–14). Mid-successional habitat conditions are maintained by regular seasonal peak flows or periodic disturbance regimes from floods, fire, and storms that the tickseed appears to tolerate and are consistent with the habitat's natural, historical disturbance regime. Plants have multiple adaptations to the natural disturbance regime of wetland habitats—they have a strong ability to persist in place through clonal growth and disperse across land and along waterways; seeds with their barbed seedcoats can hitchhike on mammals, and seeds and stems likely disperse downstream along waterways (Service 2023a, p. 2; Service 2024, pp. 11–12, 24).

However, intense or frequent, or permanent disturbances can cause negative individual- or population-level effects, particularly in the fall months during the flowering and seed production life stages of the plant (Service 2024, pp. 12, 15–18). Severe impacts to flowering and seed production occur in intensively managed habitats such as road rights-of-way (ROWs) that are mowed or sprayed with herbicides multiple times a year. The tickseed's ability to disperse and recolonize in highly modified habitats with altered hydrology is likely considerably reduced.

Range, Distribution, Abundance, and Trends of the Tickseed

The current range of the tickseed spans three states in the Southeastern United States (Florida, Georgia, and South Carolina) (Service 2024, pp. 7–8). There are 50 extant (currently occupied) tickseed populations, referred to as analytical units (AUs) in the SSA report. In the SSA report, we delineated populations based on NatureServe criteria for water and land dispersal distances, which are grouped by plant locations connected by suitable habitat and generally less than 6.2 miles (mi) (10 kilometers (km)) and 1.2 mi (2 km) from each other along waterways and over land, respectively (NatureServe 2020, pp. 5–13; Service 2024, pp. 24–25). We know of 53 tickseed populations, and we consider 50 of those to be extant (currently occupied). Three populations, one in each of the three States, are considered historical (may no longer be extant) based on lack of detection in recent surveys and have not been observed in more than 20 years. Two of the historical populations were in road ROWs and at least one (in Florida) may be extirpated due to road ROW management impacts (Rosner-Katz 2023, entire). We did not include the three historical populations in our

analysis of the tickseed's current and future condition in the SSA report.

The species' current range is similar to its known historical range (Poiret 1811, p. 353; Chafin 2019, pp. 39–41; Service 2024, pp. 5–8). Across its range, tickseed is found in three level-III ecoregions (Middle Atlantic Coastal Plain, Southern Coastal Plain, and Southeastern Plains; hereafter referred to as representative units (RUs) 1, 2, and 3, respectively) (Service 2024, pp. 7–8, 24–36). RU1 contains 6 populations in South Carolina, RU2 contains 37 populations in Georgia and Florida, and RU3 contains 7 populations in Georgia and Florida (Service 2024, pp. 24–36, appendix C).

As mentioned above, the tickseed is a clonal species and we cannot distinguish individuals (genets) or seedlings from clonally produced stems (ramets) within populations; therefore, we only provide an estimate of stem abundance within each population in the SSA report. Stem abundance ranges from 1 to 400,000 stems within the 50 extant populations (Service 2024, pp. 7–8). We are not able to evaluate population trends because we lack regular survey and monitoring information.

The tickseed occurs on private (43 populations), State (6 populations), and Federal (1 population) lands. There are 10 extant populations (20 percent) in natural habitat (outside of ROWs) and 40 populations (80 percent) in ROWs, mainly in wet roadside ditches within paved road ROWs (34 populations) and a handful (6 populations) in wet ditches or wetlands within utility or dirt road ROWs with lower management frequency and disturbance intensity than paved road ROWs (Service 2024, pp. 15–18, 25–28, appendices A, B). There are 6 tickseed populations that have some habitat protections on Federal or State lands and occur in ROWs (Service 2024, pp. 22–23, appendix B) and are subject to ROW operation and maintenance (23 CFR 1.23; 23 CFR 710.405) and habitat protections otherwise afforded to the species on these lands. Management of road ROWs varies among Federal, State, local and other entities depending on the road type and jurisdiction; utilities manage their ROWs. Where the tickseed occurs, ROWs on private and State lands are owned by state or local governments.

The tickseed is generally not afforded protections or conservation measures in ROWs; however, State DOTs can designate environmentally sensitive areas in road ROWs they manage and apply seasonal restrictions and special management practices to conserve species of concern such as tickseed (Georgia Department of Transportation (GDOT) 2023, p. 3; Service 2024, pp. 22–23).

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 U.S. Fish and Wildlife 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 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 the tickseed's 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 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–R4–ES–2026–0892 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.

The following is a summary of the SSA and the best information available that have informed this decision. The majority of tickseed populations were revisited or discovered in 2022 and 2023 (Service 2024, pp. 7, 24).

Individual Needs

Tickseed individuals need access to fresh water; adequate soil moisture and soil saturation year-round; suitable soils; and access to full or partial sunlight to establish, grow, and flower (Service 2023a, pp. 1–6; Service 2024, pp. 11–14). Soils in occupied areas range from fine, sandy loams to deep muck, but are consistently saturated, uncompacted, and often high in calcium content. While the species' specific soil requirements are unknown, the tickseed is often associated with but is not restricted to limestone soils (Chafin 2019, p. 39). An open canopy (partial to no shade from woody vegetation above) is needed to provide full or partial sunlight to plants (Service 2023, pp. 1–5). Bees and other appropriate pollinators are needed for seed production (Service 2024, pp. 10–13; Ulyshen et al. 2023, entire; Ulyshen 2024, pp. 1–3).

Individuals need certain habitat factors, including: mild climate conditions (no hard frost); mid-stage successional wetland habitats; and some kind of periodic disturbance (flooding, mowing, fire, etc.) to maintain the habitat's successional stage and partial to open canopy (see Background, above; Service 2023a, p. 4; Service 2024, pp. 7–13).

Population Needs

To have adequate resiliency, tickseed populations need recruitment, survivorship, and reproduction at rates able to sustain populations and withstand stochastic events. Individuals must be replaced through either sexual or asexual reproduction, and offspring must survive to reproductive age. Over the long term, tickseed populations require cross pollination, sexual reproduction, and sufficient seedling establishment to maintain genetic diversity (Service 2024, pp. 11–14).

At the population level, the tickseed has all the same habitat requirements as individual plants, but they must be present at a scale that can support a large number of stems, multiple stem patches, and an area to expand and provide for connectivity between stem patches. Larger populations are more likely to attract pollinators required for cross pollination, which is needed to maintain population-level genetic diversity. The need for cross-pollination requires surrounding habitat to be suitable to support adequate populations of pollinator species (see Background, above).

While the number of individuals or amount of habitat needed for tickseed populations to have adequate resiliency is unknown, we assume that tickseed populations have high resiliency if they contain a large number of stems, occur in natural habitats (not in ROWs), are connected by suitable habitat conditions with adequate hydrology and the appropriate successional stage and disturbance regime (Service 2024, pp. 8–14). We assume that the tickseed is not adapted to disturbance in ROWs that exceeds its natural disturbance regime and the impact to population resiliency is associated with the frequency and severity of annual and seasonal disturbance in ROWs (see Road Rights-of-Way, below).

Species Needs

To maintain viability, the tickseed should have a sufficient number of populations with high or moderate resiliency that are well distributed and represent the ecological settings where it is found throughout its geographic range. Suitable habitat must be available, and the number and distribution of populations with adequate resiliency must be sufficient for the species to withstand catastrophic events. Redundancy improves with increasing numbers of populations with adequate resiliency and their connectivity across the range. Representation improves with increased genetic diversity or more diverse environmental conditions within and among populations. The tickseed occupies three RUs (ecoregions) and may have high genetic variability and low levels of connectivity (gene flow) between populations (see Background, above; Cosner and Crawford 1994, p. 354; Service 2024, pp. 5–6, 31–36). Morphological variability across the range has not been documented.

In summary, individual tickseed plants require mid-successional wetlands with saturated soils, limited shade for light, moisture, and growth, and pollinators for seed production.

Populations must have sufficient size and resiliency to withstand stochastic events; they also must have sufficient seed production, an adequate amount of suitable habitat, a pollinator community, and connectivity with other populations. For species viability, the tickseed must have populations with adequate resiliency that are well distributed across its range and sufficient genetic or ecological diversity to adapt to changing conditions. The SSA report provides additional detail on the species' individual-, population-, and species-level needs (Service 2024, pp. 7–14, 29–36).

Influencing Factors (Threats/Stressors/Risk Factors)

In the SSA report, we evaluated influencing factors and other actions that can positively or negatively affect the tickseed at the individual, population, or species levels, either currently or into the future (Service 2024, pp. 15–24). In this proposed rule, we discuss in detail only those influencing factors that could meaningfully impact the status of the species. Road ROWs, utility ROWs, urban development, agriculture, recreation, invasive species, and SLR and drought are all factors that influence or could influence the tickseed's viability. Those factors that are not known to meaningfully impact the status of the species, such as disease, predation, overutilization, fire, and water management are not discussed here but are evaluated in the SSA report (Service 2024, pp. 11–22).

Road Rights-of-Way

Seventy-four percent (37 populations) of the 50 known extant tickseed populations are in maintained road ROWs (Service 2024, pp. 15–17). Of these, all but one population are entirely within the road ROW. One of the three historical populations was in a road ROW (in Florida) and may be extirpated due to road ROW management impacts (Rosner-Katz 2023, entire). Tickseed populations in road ROWs were likely present in the habitat prior to road construction and the road ROWs directly encroached on the habitat and caused habitat degradation and fragmentation and hydrologic alteration from the road and ROW management.

Road ROW management and construction activities include regular vegetation management (mowing, application of herbicides, removal of brush and trees), and periodic construction including resurfacing, widening, and the repair or replacement of bridges or culverts (Service 2023a, pp. 9–11). Road ROW vegetation management practices may result in mixed impacts—both negative and positive—on the tickseed (Service 2024, pp. 15–17, appendix A). Positive impacts include stimulating clonal growth resulting in more stems (ramets). Negative impacts include plant damage, mortality, the loss of a tickseed population, the loss of seed production, and the possible introduction of invasive plants. Fall mowing during flowering and seed production results in the loss of most or all sexual reproduction as well as the species' dispersal ability and exerts the strongest negative effects to the tickseed's pollinators (Service 2023a, pp. 4, 8; Service 2024, pp. 10–11; Ulyshen et al. 2023, entire; Ulyshen 2024, pp. 1–3). We assume that road ROWs across the tickseed's range are mowed two to three times a year due to safety concerns (*e.g.,* driver sight distance), based on the mowing schedule of the Georgia Department of Transportation (GDOT) (Veeramachaneni 2024, entire). While we do not know the tickseed's ability to sexually reproduce under various mowing schedules, we assume that the tickseed is not adapted to sexually reproduce when disturbance in ROWs exceeds its natural disturbance regime; negative impacts increase with mowing frequency, and fall mowing results in the strongest negative impacts to plants and populations within ROWs. Thus, these negative impacts are compounded over time in road ROWs that are mowed multiple times every year, strongly impacting the species' ability to sexually reproduce. We acknowledge the species can still vegetatively reproduce by clonal growth under various mowing schedules in ROWs; however, sexual reproduction allows a population to increase genetic diversity, effective size, and reduces the risk of extinction that is necessary for long-term population health (see Background; Tepedino 2012, entire).

Herbicides are used primarily to control woody vegetation within the ROW and potentially have negative effects on tickseed plants if they are foliar sprayed indiscriminately; these chemicals are often formulated to control woody vegetation but are likely not safe for the tickseed and other wildflowers (PennState Extension 2016, pp. 7, 10, 15–16; Service 2023a, p. 9).

Mowing or mechanical removal of competing vegetation can be beneficial to tickseed when it mimics the natural disturbance processes, such as seasonal peak flows and periodic floods, fire, and storms, that maintain open canopy conditions to support the species' light needs (see Background, above). Mowing also stimulates clonal growth and generally results in more stems within a patch or population. However, as discussed above, clonal growth is not sufficient to maintain long-term population health.

In addition to regular road ROW management activities, tickseed plants may also be impacted by periodic road construction including resurfacing, widening, or the repair or replacement of bridges or culverts. The heavy equipment used in construction can crush plants and compact soil both in staging areas and along the route to be repaved, or tickseed plants, populations, and habitat may be directly lost. There is also the potential for the introduction of pollutants or invasive plants through either the equipment used or any fill dirt needed for the project, as well as additional hydrologic alteration from bridge and culvert removal or replacement.

Despite potential compatibility with vegetation management practices, conversion of tickseed habitat to road ROWs has been extensive and continues to limit and/or degrade habitat in tickseed populations. We incorporated the current levels and effects of this stressor in our evaluation of current and future resiliency (Service 2024, pp. 25–46).

Utility Rights-of-Way

Three out of 50 (6 percent) extant tickseed populations, and 1 historical population, are located in utility ROWs associated with powerlines and pipelines (Service 2024, pp. 15–19). The three extant populations are within a gas pipeline ROW in Georgia, and one historical population is in a powerline ROW in South Carolina. Several other populations occur in areas managed for both road and utility ROWs.

Similar to road ROWs, the tickseed was likely present prior to utility construction, and the utility ROWs directly encroached on the habitat or have caused habitat degradation and fragmentation and hydrologic alteration. Utility ROWs are subject to the same vegetation management practices as roadsides (mowing, herbicide application, and removal of brush and trees), though often with a lower frequency and disturbance intensity than road ROWs. Various utility companies manage the tickseed utility ROWs and may implement different maintenance schedules. In general, gas pipelines are mowed once annually; powerlines are mowed every 6 years, and herbicide is applied restrictively to remove woody vegetation every 2 years. Mowing and herbicide use may occur at any time during the growing season (Ozier 2024, entire).

Utility ROWs are also subject to repair and replacement projects and may be co-located with other ROWs. As stated above (see Road Rights-of-Way), utility ROW management practices maintain the open habitat required by tickseed, but they can also result in plant damage or loss, soil compaction, hydrologic alteration, and the possible introduction of invasive plants. We assume that utility ROW maintenance activities result in an overall negative impact to tickseed; however, impacts are not as severe as those in road ROWs because of the lower frequency and disturbance intensity. We incorporated the current levels and effects of this stressor in our evaluation of current and future resiliency (Service 2024, pp. 25–46).

Urban Development

There are 5 tickseed populations located on private lands in natural habitats (not ROWs) and 37 populations in road ROWs, representing 84 percent of tickseed populations that may be subject to urban development (Service 2024, pp. 15–22, appendix B). Urban development includes residential and commercial development, but the primary stressor to the tickseed related to urban development is future widening of existing roads and ROWs. The planning and development of new roads and road widening are associated with expanding residential and commercial development; as the human population grows, roadways may be expanded or improved to accommodate the increase in traffic (Cervero 2003, p. 146; Service 2024, p. 18).

We are not aware of any populations lost to urban development and urban development is currently not a significant influence on the tickseed's viability. Residential and commercial development are not directly impacting tickseed populations and only slight increases in this type of development are projected in the tickseed's wetland habitat in the future (Service 2024, pp. 17–19, 24–46). However, we expect urban development to indirectly impact the tickseed in the future from road widening needed to accommodate county urban growth projections, particularly in the growing metro area of Jacksonville, Florida, and surrounding counties in Florida and Georgia. Road widening projects have the potential to result in the loss of tickseed plants and populations growing in the affected ROW; other negative impacts of urban development are similar to those described above (see Road Rights-of-Way).

An example of the infrastructure improvement projects needed to support the urban development in the growing metro area of Jacksonville, Florida, is the proposed road widening project along Georgia State Route 40 in Camden County, Georgia (GDOT 2022, entire). We expect this one proposed project will negatively impact three tickseed populations located within the Georgia State Route 40 road ROW (Service 2024, pp. 17–19). In addition to road widening and maintenance, we expect more bridge and culvert replacement projects where the tickseed occurs in road ROWs.

See additional discussion of urban development under *Future Condition,* below. We incorporated the current levels and effects of this stressor in our evaluation of current resiliency, and we projected increases in this stressor in our evaluation of future resiliency (Service 2024, pp. 25–46).

Agriculture

Agriculture, including silviculture, occur within the tickseed's range and may have reduced the amount of tickseed suitable habitat, although we have no documented extirpations of tickseed populations as a result of this stressor (Florida Natural Areas Inventory (FNAI) 2023, p. 44; Service 2023a, p. 9). Five tickseed populations (9 percent) are directly adjacent to agricultural lands and the negative effects of agricultural practices to these populations from heavy equipment has been documented in tickseed habitat and can result in plant damage and mortality, a high degree of soil disturbance, and the possible introduction of invasive plants (Apoorva and Kundlas 2024, entire).

Mowing, herbicide use, and extensive hydrologic alteration through impoundments, diversion of runoff, or pumping for irrigation may also occur in agricultural areas (Service 2023a, p. 9; Apoorva and Kundlas 2024, entire) with similar negative and positive effects to the tickseed (see Road Rights-of-Way, above). Pesticides may also be used to control agricultural pests and have the potential to negatively impact the pollinators tickseeds need for sexual reproduction. However, for pollinator-dependent crops (*e.g.,* cotton), management must be pollinator-friendly for at least a portion of the growing season and that can be beneficial for tickseed seed production (Pires et al. 2014, entire; Service 2023a, p. 9).

We incorporated the current levels and effects of this stressor in our evaluation of current resiliency, and we projected increases in this stressor in our evaluation of future resiliency (Service 2024, pp. 25–46).

Recreation

Four tickseed populations (8 percent) have experienced some recreational use along trails, boat landings, bridges, or roads in some areas. Activities such as hiking, biking, horseback riding, and off-highway vehicle (OHV) use can result in plant damage, lower reproduction, and soil compaction (Service 2023a, p. 10; Service 2024, pp. 19–20). One population in Florida may have fewer stems from the impacts of recreational use or maintenance of a boat ramp (FNAI 2023, p. 12). Some recreational use, particularly horseback riding, has the potential to introduce invasive plants in tickseed populations. Any of these impacts can reduce the abundance of stems and seeds produced in a population. We incorporated the current levels and effects of this stressor in our evaluation of current and future resiliency (Service 2024, pp. 25–46).

Invasive Species

Invasive plants and feral hogs (*Sus scrofa*) affect some tickseed populations. Invasive plants such as Asian spiderwort (*Murdannia keisak*), Chinese tallow (*Triadica sebifera*), and Japanese climbing fern (*Lygodium japonicum*) are reported within four tickseed populations (8 percent) (Service 2024, p. 20). Currently, their abundance within tickseed populations is low. However, there is the potential for invasive plants to increase in the future, particularly from previously described threats such as road and utility ROWs, urban development, agriculture, and recreation. In the Southeastern region of the United States, invasive plants are considered one of highest risks to rare plants (Radcliffe et al. 2023, p. 28).

Feral hogs are present in one tickseed population in South Carolina and resulted in substantial damage to tickseed plants from their rooting behavior (Bradley 2018, p. 32; Service 2024, p. 19). Feral hog rooting can vary depending on the location and habitat, ranging from light disturbance to large excavations (FeralHog 2019, entire). Rooting impacts can reduce the abundance of stems and seeds produced in a population. We incorporated the current levels and effects of this stressor in our evaluation of current and future resiliency (Service 2024, pp. 25–46).

Sea Level Rise and Drought

In the Southeastern United States, several models have projected an overall increase in annual precipitation, temperature, and fall flood events, with variable rainfall characterized by heavy downpours and droughts becoming more common (Neupane et al. 2018, pp.

2240, 2237; Burkett and Kusler 2000, p. 314; National Oceanic and Atmospheric Administration (NOAA) National Centers for Environmental Information 2022a, b, c, entire). Warming is expected to be greatest in the summer and is predicted to increase drought frequency (Carter et al. 2018, p. 775). Wetlands most likely to be affected by SLR include low-elevation coastal wetlands; all tickseed populations occur in these types of wetlands (Burkett and Kusler 2000, pp. 313, 315). Low-elevation coastal wetlands have the potential to become inundated with salt water either temporarily or permanently depending on the timeframe and projected SLR (Carter et al. 2018, p. 775). Under natural hydrologic conditions, the salinity gradient in coastal wetlands, tidal rivers, and estuaries can be expected to move inland in response to SLR over time; however, inland migration may not be possible or may be severely restricted in rivers, streams, and wetlands with barriers such as dikes and levees (Burkett and Kusler 2000, pp. 313, 315).

Specific impacts of SLR on the tickseed are not well understood; however, we expect saltwater intrusion and inundation from SLR to be most impactful to the species. Freshwater availability and hydrologic function will likely play an important role in maintaining suitable habitat conditions for the tickseed. Saltwater intrusion will likely displace plant species such as tickseed that are not tolerant of increased salinity (Carter et al. 2018, p. 775). The effects of SLR are expected to occur later in time than future urban development (see *Future Condition,* below). Tickseed populations along the Coastal Plain in eastern Florida, Georgia, and South Carolina are particularly vulnerable to SLR given their low elevation, proximity to brackish water, and lack of major barriers to saltwater intrusion (St. Marys River Management Committee 2003, pp. a–j, 1–5; South Carolina DNR 2005, p. 1; South Carolina DNR 2020, entire; City of New Smyrna Beach 2024, entire; Dams of the World 2025, pp. 2, 7). The tickseed populations in western Florida are less vulnerable to SLR given their higher elevation despite the lack of barriers to saltwater intrusion along the Chipola River, a free-flowing river following the removal of the Dead Lake Dam in 1987 (Hill et al. 1994, entire).

At this time, SLR has not been a detectable factor in reducing the tickseed's viability because saltwater intrusion has not occurred in the habitats where the species is present. Consequently, for the current condition analysis in the SSA report, it is considered a minor influencing factor. However, SLR is projected to increase in the future (see *Future Condition,* below). Therefore, we incorporated the projected increases in this stressor in our evaluation of future resiliency (Service 2024, pp. 37–46).

The availability of saturated soils required by the tickseed may be reduced under drought conditions. The tickseed's clonal growth strategy may buffer the negative effects of flooding and drought if connected stems can distribute water and nutrients across an environmental gradient (Wang et al. 2020, entire). The clonal growth pattern is also beneficial to reduce erosion during flood events (Gong et al. 2023, entire). Drought is projected to increase in the future (see *Future Condition,* below). Therefore, we incorporated the projected increases in this stressor in our evaluation of future resiliency (Service 2024, pp. 37–46). The best scientific and commercial data available indicate the species appears to tolerate hurricanes (FNAI 2023, pp. 19, 24; Service 2023a, p. 9); therefore, we did not carry hurricanes forward in our analysis.

Conservation Efforts and Regulatory Mechanisms

There are no conservation efforts currently being implemented specifically to benefit the tickseed. There are 10 extant populations located in natural habitat (outside of ROWs) and 6 located in road or utility ROWs with lower frequency and disturbance intensity of management (*e.g.,* recreational dirt roads or gas pipelines) (Service 2024, pp. 17–28, appendix B). Five of these 16 populations are located on protected lands in Florida (Choctawhatchee Water Management Area, Ralph E. Simmons State Forest); Georgia (Clayhole Swamp Wildlife Management Area); and South Carolina (Edisto Wildlife Management Area, Ernest F. Hollings ACE Basin National Wildlife Refuge). Two populations are partially protected on State lands (Upper Chipola River Water Management Area in Florida and Givhans Ferry State Park in South Carolina). The remaining nine populations are on private lands and are not formally protected. Therefore, we did not report the landownership of the populations in ROWs with higher frequency and disturbance intensity of management (defined as high-risk ROW, see *Current Condition* and *Future Condition,* below).

There are Federal regulatory mechanisms on the Ernest F. Hollings ACE Basin National Wildlife Refuge that provide tickseed protections from collection, disturbance, and removal (50 CFR 27.21 and 27.51). There are State regulatory mechanisms in Florida and Georgia where the tickseed is a State-listed species (Service 2024, pp. 21–22). In Florida, the tickseed is an endangered species protected under Florida Statute 581.185 and the Preservation of Native Flora of Florida Act (5B–40), which provides protection from removal on public lands and private lands without written permission by landowner and a permit by the Department of Agriculture and Consumer Services; and protections for the sale, offering for transporting, carrying, or conveying of a protected species (Preservation of native flora of Florida 2021 Florida Statutes Title XXXV Chapter 581 Section 185). In Georgia, the tickseed is a threatened species protected under the Georgia Wildflower Preservation Act (Georgia Code 12–6–170) that affords protections on public lands from cutting, digging, pulling, or removing unless authorized by the Georgia Department of Natural Resources and private lands without written permission by landowner; and protections for the sale, transporting, carrying, or conveying of a protected species without tag or permit and harvest on public lands (Wildflower Preservation Act of 1973 Georgia Code Title 12 Chapter 6 Article 3 section 12–6–170). There are no State regulatory mechanisms in South Carolina. The tickseed is currently protected under the Lacey Act (16 U.S.C. 3372). Violation of relevant Federal laws, treaties, regulations, and State laws (*e.g.,* Florida, Georgia) is also a violation of the Lacey Act.

Georgia and South Carolina State Wildlife Action Plans (SWAPs) identify the tickseed as a priority species of conservation concern, but SWAPs do not require States to implement conservation actions or guarantee funding (Georgia Department of Natural Resources (DNR) 2015, p. 165; South Carolina DNR 2015, pp. 2–10). The benefit for tickseed as a priority species in the SWAPs is that partners prioritize and coordinate on conservation actions for the species as evidenced by the current rescue and salvage efforts by the Georgia Plant Conservation Alliance at three tickseed populations in a road ROW on Highway 40 in Georgia prior to a planned road widening project (see Urban Development, above; Radcliffe et al. 2023, entire).

Indirect protections for the tickseed may be afforded by voluntary agriculture best management practices (BMPs) in all three states that include maintaining vegetated buffers along riparian areas and wetlands to reduce nutrient runoff and sedimentation from

adjacent agricultural practices. Published BMPs in Florida, Georgia, and South Carolina recommend a minimum riparian buffer for perennial streams and wetlands of 33 to 300 ft (10 to 91 m) in Florida; 39 to 98 ft (12 to 30 m) in Georgia, and 39 to 79 ft (12 to 24 m) in South Carolina (Florida Forest Service 2008, p. 43; Florida Department of Agricultural and Consumer Services 2015, p. 52; Georgia Soil and Water Conservation Commission 2013, p. 98; Georgia Forestry Commission 2019, p. 9; South Carolina Forestry Commission 2024, p. 10).

Cumulative Effects

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. Road and utility ROWs, urban development, agriculture, recreation, invasive species, and SLR and drought are all factors that influence or could influence the species' viability. These factors also have the potential to act cumulatively to impact tickseed viability and their cumulative impacts were considered in our characterization of the species' current and future condition in the SSA report. 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

In our SSA report, we evaluate current condition by examining current levels of resiliency in the 50 extant tickseed populations and the tickseed's redundancy and representation. Here, we summarize our evaluation of the current condition for resiliency, redundancy, and representation. Additional detail regarding our analysis is provided in the SSA report (Service 2024, pp. 24–37).

Resiliency

We describe the resiliency for each of the 50 populations in terms of the demographic (stem abundance) and habitat factors (ecological setting and suitable habitat needed by the tickseed for which information is available (Service 2024, pp. 24–36). We developed a categorical model to estimate resiliency for the range of demographic and habitat conditions in each population. In a categorical model, we first identify demographic or habitat factors that contribute to the species' resiliency; typically, these factors align with the individual resource needs and population-level needs we identified in the SSA analysis. We then defined threshold values for each identified demographic or habitat factor that represent high, moderate, or low levels of that factor. Finally, we evaluate whether the current levels of each demographic or habitat factor in a population fall within the predetermined thresholds for a high, moderate, or low score for the category; we then average these scores for each category to develop an overall current resiliency score for each population. For some populations (5), we reduced the overall resiliency score by one point where stressors such as recreation and feral hogs are present and negatively impacting resiliency.

For the tickseed, our categorical model assessed the resiliency of each population by evaluating (1) stem abundance; (2) the ecological setting and disturbance regime, a proxy for habitat condition that evaluates land use and disturbance levels including road and utility ROWs; and (3) the percentage of suitable habitat within a population that approximates the availability of pollinator habitat and hydrologic function within populations (see table 1). We selected these demographic and habitat factors based on their importance to the species' resiliency and because we could evaluate them relatively consistently across all 50 populations.

TABLE 1—CURRENT CONDITION RESILIENCY METRICS FOR TICKSEED POPULATIONS

Resiliency condition category (score)	Abundance of stems (2X)	Ecological setting (1X)	Percent suitable habitat in the population area (1X)
High (3)	Greater than 5,000	Natural habitat with a natural low-risk disturbance regime.	Greater than 75%.
Moderate (2)	500–5,000	ROW with a moderate-risk disturbance regime (utility ROW, dirt roads).	Between 75–50%.
Low (1)	Less than 500 stems	ROW with a high-risk disturbance regime (paved roads).	Less than 50%.

Resiliency categories, thresholds, and scores were established based on the best information available and professional opinions of species experts. Stem abundance information is based on field observations and estimates provided by State natural heritage programs. Ecological setting (natural habitat, ROW) and disturbance levels are based on spatial analysis, field reports, State natural heritage program data, and correspondence with GDOT and utility companies. Suitable habitat and suitable landcover types for the tickseed and its pollinators are based on data provided by the 2021 National Landcover Cover Dataset in conjunction with the LANDFIRE 2022 Existing Vegetation Type dataset (LANDFIRE 2022, entire; Dewitz and U.S. Geological Survey (USGS) 2023, entire), correspondence with pollinator experts, and peer reviewed information (Janvier et al. 2022, entire; Ulyshen 2024, entire). Presence of stressors that reduced the overall resiliency score (feral hog damage, recreation) are based on field observations and State natural heritage programs data.

We applied equal weight (1x) to the two habitat factors (the ecological setting and disturbance regime, and the percentage of suitable habitat) and applied double weight (2x) to the demographic factor (stem abundance) because of its equal importance to population resiliency as the two habitat factors. We calculated an overall resiliency score using the three factors and subtracted one point to account for population-level impacts from other stressors, where applicable.

The populations with higher overall resiliency are at less risk from potential stochastic events, such as climatic variation, than populations with lower overall resiliency. Our SSA report provides additional detail regarding the

methodology we used to evaluate resiliency for each of the 50 populations (Service 2024, pp. 25–28).

There are 50 tickseed populations, and when measured against the metrics outlined in our categorical model, 10 percent of them (5) have high resiliency, 30 percent (15) have moderate resiliency, and 60 percent (30) have low resiliency (see table 2, below; Service 2024, pp. 29–31). The 20 populations with high and moderate resiliency generally have moderate or high stem abundance, a high or moderate percentage of suitable habitat, and a range of scores for ecological setting conditions (see table 2, below). The 20 populations with high or moderate resiliency are at less risk from potential stochastic events, such as climatic variation, than populations with low resiliency. The 20 populations with high or moderate resiliency are distributed across the species' range (present in all 3 RUs); of these, 12 populations are in ROWs (table 2).

The 30 populations with low resiliency are distributed across the species' range; however, the majority are concentrated in RU2. Most low resiliency populations (28) are in ROWs and have a combination of low to moderate stem abundance and low scores for percent suitable habitat and ecological setting conditions. The two low resiliency populations not in ROWs have low abundance and stressors (recreation) that reduce their overall resiliency score. Low resiliency populations in ROWs may be at higher risk of extirpation from the negative impacts of ROW management (direct loss of plants and reduced sexual reproduction). Since the species is clonal, it is possible that some of the low resiliency populations may be made up almost entirely of one individual (genet). However, eight of the low resiliency populations in RU2 with moderate stem abundance (approximately 500 or more stems) provide connectivity between high and moderate resiliency populations and may contribute to redundancy at the RU and species levels (Service 2024, p. 35).

TABLE 2—CURRENT CONDITION RESILIENCY SUMMARY FOR TICKSEED POPULATIONS

Resiliency condition category	Extant populations	Populations in ROW	Populations not in ROW
High	5 (10%)	1 (2%)	4 (8%)
Moderate	15 (30%)	11 (22%)	4 (8%)
Low	30 (60%)	28 (56%)	2 (4%)
Range-wide total	50 (100%)	40 (80%)	10 (20%)

Redundancy

Redundancy describes the number and distribution of populations, such that the greater the number and the wider the distribution of the populations, the better tickseed can withstand catastrophic events. For tickseed, we describe redundancy in terms of the number and distribution of populations with high and moderate resiliency across the species' current range. The plausibility of catastrophic events also influences species' redundancy; if catastrophic events are unlikely within the range of the species, catastrophic risk is inherently lower. We identified prolonged drought conditions as a plausible catastrophic event that may affect one or more populations simultaneously. In the future, severe storms that may result in sudden or prolonged inundation of saltwater is a plausible catastrophic event that may affect one or more populations simultaneously.

The tickseed's redundancy is characterized by 20 populations with high or moderate resiliency distributed across its range; populations are separated by distances up to 60 mi (97 km) along the Coastal Plain of Florida, Georgia, and South Carolina, and distances of approximately 160 mi (258 km) for the more isolated populations in RU3 in the panhandle of Florida and southwestern Georgia. Populations assessed to have high or moderate resiliency are present in all three States and all three RUs. Four of the five high resiliency populations occur in RU2, the fifth occurs in RU3. All three RUs contain at least four moderate resiliency populations. Thus, the 20 moderate-to-high resiliency populations and their distribution help spread the risk of catastrophic loss over a larger geographic area and contribute to the species' ability to withstand catastrophic events. Additionally, eight low resiliency populations with moderate stem counts (*e.g.,* approximately 500 or more stems) contribute to overall redundancy (Service 2024, p. 35). We determined three populations are historical and may no longer be extant; two historical populations were in ROWs and the one in RU2 may be extirpated because of road ROW management practices (Rosner-Katz 2023, entire; Service 2024, p. 16). Based on these considerations, the tickseed currently has moderate levels of redundancy.

Representation

The tickseed exhibits some ecological and genetic diversity that supports the species adaptive capacity to both near- and long-term changes in its environment. Ecological diversity is characterized by the three level-III ecoregions (Middle Atlantic Coastal Plain, Southeastern Plains, and Southern Coastal Plain), and different wetland habitats the tickseed occupies across its range (see Background, above). While there is very little morphological variability across the range, high genetic diversity was documented in populations located in RU3 (Southeastern Plains). Based on these considerations, and the fact that each RU has multiple populations with moderate or high resiliency, the tickseed currently has moderate levels of representation.

Future Condition

In our SSA report, we forecasted the resiliency of tickseed populations and the species' redundancy and representation to end-of-century (2100) using a range of plausible future scenarios. For our analysis of tickseed's future conditions, we constructed three future scenarios focused on changes in influencing factors (threats/stressors). We consider the driving factors of tickseed's viability to be two separate, but interconnected influences—the effects of anthropogenic activity related to loss of habitat from stressors that include urban development, and the effects of SLR and drought influencing the hydrologic condition and amount of fresh water available in the species' habitat. We relied on urban development, SLR, and drought projections out to 2100, the timeframe for which they were available. We evaluated future condition at three different timesteps—2040, 2070, and 2100. We selected these influences based on their importance to the

species' resiliency and because we could evaluate them relatively consistently across all 50 extant populations. We are not aware of current or planned conservation efforts for the species, so we did not include any in the analysis. By examining a range of plausible future scenarios, we conclude that the actual future condition will likely fall somewhere within these projected scenarios. Detailed descriptions of each scenario are available in the SSA report (Service 2024, pp. 37–40).

The three scenarios are meant to account for uncertainty by covering a breadth of future conditions that could plausibly occur within the tickseed's range. The 75-year timeframe is a time period for which we can reasonably project future conditions based on the best available models across the species' range, and assess the tickseed's response to those conditions (Sweet et al. 2022, pp. 20–27; IPCC 2023, pp. 68–69).

Methods for Scenarios A, B, and C

We consider urban development as a surrogate for anthropogenic activities that include residential and commercial development as well as impacts from road construction (*e.g.,* widening, bridge replacements) and ROW management. For urban development, we evaluated the projected loss in each population area using the FUTURES urban growth model that predicts the likelihood an area will urbanize out to 2100 (Petrasova et al. 2023, entire). In Scenarios A and B, we evaluated low and high rates of development, respectively, at the population level; in Scenario C, we evaluated the high development rate at a broader, county level (Service 2024, pp. 39–41). We evaluated county-level growth projections because future growth surrounding population centers may lead to additional road maintenance and widening near tickseed populations that may not be evident at the population level. This analysis does not assume that future development will occur uniformly throughout the county or exclusively at the edges of existing urban centers. Rather, the county-level analysis was used to capture the potential for growth and associated infrastructure development to occur outside the areas represented by individual population-level projections. We considered the urban development effects that occurred prior to the effects of SLR as part of our cumulative effects analysis (Service 2024, pp. 38–40, appendix H). A county-level analysis is relevant to road ROW widening, construction and management because county governments plan and fund road projects, in part, based on growth projections (Evans 2021, entire; Florida Construction News 2024, entire; South Carolina DOT 2024, entire).

For SLR, we used future climate models in combination with forecasted changes in SLR and projected drought conditions out to 2100. For SLR, we calculated the amount and percent of projected SLR within populations using the NOAA Sea Level Rise Marsh Migration model (Office for Coastal Management 2024, entire). In Scenarios A and B, we evaluated the model's intermediate and high SLR scenarios, respectively. The SLR scenarios are paired with two different carbon emission scenarios developed by the Intergovernmental Panel on Climate Change (IPCC)—a stabilization emission scenario (B2) using Representative Concentration Pathway (RCP) 4.5 for the intermediate SLR scenario, and a rising greenhouse gas emissions scenario (A1B) using RCP8.5 for the high SLR scenario (IPCC 2000, pp. 28, 30–35, 40, 45–47, 70–73, 114; Sweet et al. 2022, entire). In accordance with E.O. 13563 (''Restoring Gold Standard Science''), we consider our future scenarios to bookend the range of plausible outcomes for the tickseed; we do not preferentially select one future scenario or one RCP emission scenario in our evaluation of the tickseed's status.

For drought, we evaluated the frequency of future drought conditions within each RU by comparing the projected maximum number of consecutive dry days and the number of dry days per year to the historical baseline (1970–1999). We evaluated future drought conditions under RCP4.5 and RCP8.5. Based on the results, tickseed habitat will likely experience minor changes in drought frequency from the historical baseline that are not likely to impact the hydrologic condition or freshwater availability in the species' habitat (Service 2024, pp. 40–43, appendix F). Therefore, we did not incorporate the potential effects of drought into our three future condition scenarios. The scenarios we evaluated for the tickseed, bookending the range of plausible outcomes, are as follows and discussed in more detail in the SSA report (Service 2024, pp. 37–40):

- *Scenario A:* projected low rates of urban development at the population level; and intermediate SLR, emissions follow RCP4.5.
- *Scenario B:* projected high rates of urban development at the population level; and high SLR, emissions follow RCP8.5.
- *Scenario C:* projected high rates of urban development at the county level; and high SLR, emissions follow RCP8.5.

To calculate the tickseed's future condition, we used the results of our current condition analysis as the baseline. We did not have reliable projections for the other influencing factors (invasive species, recreation, agriculture and the demographic factor (stem abundance) to include in the three future scenarios. Instead, we relied on the future projections of the increasing effects from urban development and SLR to provide an indirect assessment of stem abundance. We also added two more condition categories to our future condition evaluation, very low resiliency and extirpated; populations in either category do not contribute to species' overall viability. Populations with very low resiliency are less able to withstand stochastic events than those in low condition due to fewer number of stems, percent suitable habitat, hydrologic function, and pollinator availability. Populations in the extirpated category are those unlikely to withstand a stochastic event and may be considered functionally extirpated although they may contain some stems and suitable habitat. We describe our ruleset for each scenario below. Refer to the SSA report for full descriptions of the future scenarios (Service 2024, pp. 37–40).

Scenarios A and B

The ruleset for Scenarios A and B is as follows:

If the combined percent population area loss from SLR and urban development is projected to be:

- Between 25 and 50 percent, we reduced the current condition category by one resiliency category (*e.g.,* moderate to low, low to very low) to calculate the future condition category.
- Between 50 and 75 percent, we reduced the current condition category by two resiliency categories (*e.g.,* moderate to very low) or to very low for populations in low current condition (low to very low).
- Greater than 75 percent, we assumed the population will be extirpated regardless of the current condition category.

Scenario C

The ruleset for Scenario C is as follows:

- We applied the same ruleset of population area loss for SLR at the population level as Scenarios A and B, above; and
- For populations with an ecological setting habitat factor of high-risk ROW in current condition (includes populations in paved road ROWs), if county-level urban development is projected in one or more future

timesteps out to 2100, then we reduced the overall population resiliency condition by one category (*e.g.,* moderate to low, low to very low).

Results of Scenarios A, B, and C

Under Scenario A, intermediate SLR is expected to increase over time in two RUs (RU1 and RU2) along the east coast of Florida, Georgia, and South Carolina. The low rate of urban development at the population level is expected to be insignificant and alone does not affect population resiliency scores. By 2100, SLR results in the extirpation of two populations, one in South Carolina (RU1) and one in Georgia (RU2); associated population area loss of more than 25 percent impacts another seven populations in RU1 and RU2 (Service 2024, pp. 41–46, appendix I). Resiliency decreases in eight populations—two high resiliency populations (in RU2) will drop to moderate resiliency and extirpated; three moderate resiliency populations (in RU1 and RU2) will drop to low resiliency, very low resiliency, and extirpated; and three low resiliency populations (in RU2) will drop to very low resiliency (see table 3, below; Service 2024, appendix D). Population resiliency is not expected to change for populations in the panhandle of Florida and southwestern Georgia (RU3) because populations are located in natural habitats outside of ROWs and in counties that have no projected urban growth or SLR.

Overall, the number of high and moderate resiliency populations drops from 20 (current condition) to 15 by 2100, and these populations are projected to be at a lower risk from potential stochastic events than the 33 populations with low or very low resiliency. Declines in resiliency are expected along the east coast (in RU1 and RU2) over time, primarily due to intermediate SLR, whereas resiliency is not expected to decline in RU3. With fewer moderate and high resiliency populations, redundancy is expected to decline; however, the species' distribution across the range remains similar to current conditions and we expect multiple moderate or high resiliency populations to be present in each RU. The number of low resiliency populations in RU2 with moderate stem abundance that provide connectivity and may contribute to redundancy drops from eight (current condition) to five. Representation remains moderate and similar to current conditions in terms of moderate or high resiliency populations within represented ecoregions.

Under Scenario B, high SLR is expected to increase over time in two RUs (RU1 and RU2) along the east coast of Florida, Georgia, and South Carolina resulting in greater impacts than Scenario A. The high rate of urban development at the population level is expected to be minor and alone does not affect population resiliency scores. By 2100, SLR results in the extirpation of seven populations—two in South Carolina (RU1), and five in Georgia (RU2); associated population area loss of more than 25 percent impacts another nine populations in RU1 and RU2 (Service 2024, pp. 41–46, appendix I). Resiliency decreases in 16 populations—2 high resiliency populations (RU2) will drop to low resiliency and extirpated; 5 moderate resiliency populations (RU1 and RU2) will drop to low resiliency and extirpated; and 9 low resiliency populations (RU2) will drop to very low resiliency and extirpated (see table 3, below; Service 2024, appendix D). Population resiliency is not expected to change for populations in the panhandle of Florida and southwestern Georgia (RU3) as explained in Scenario A.

Overall, the number of high and moderate resiliency populations drops from 20 (current condition) to 13 by 2100, and these populations are projected to be at a lower risk from potential stochastic events than the 30 populations with low or very low resiliency. Declines in resiliency are expected along the east coast (in RU1 and RU2) over time, primarily due to high SLR, whereas resiliency is not expected to decline in RU3. With fewer moderate or high resiliency populations, redundancy is expected to decline; however, the species' distribution across the range remains similar to current conditions and we expect multiple moderate or high resiliency populations to be present in each RU. The number of low resiliency populations in RU2 with moderate stem abundance that provide connectivity and may contribute to redundancy drops from eight (current condition) to three. Representation remains moderate and similar to current conditions in terms of moderate or high resiliency populations within represented ecoregions. The difference between Scenarios A and B is the result of greater SLR impacts between the intermediate and high SLR projections.

Under Scenario C, high SLR is expected to increase over time in two RUs (RU1 and RU2) along the east coast of Florida, Georgia, and South Carolina. Urban development at the county level is expected to increase in RU1 and RU2, particularly in counties near Jacksonville, Florida (in RU2) (see Urban Development, above). The combined effect of high SLR and urban development results in greater impacts than Scenarios A and B. By 2100, SLR results in the extirpation of seven populations—two in South Carolina (RU1), and five in Georgia (RU2), as in Scenario B (Service 2024, pp. 41–46, appendix I). Resiliency decreases in 36 populations—2 high resiliency populations (RU2) will drop to low resiliency and extirpated; 7 moderate resiliency populations (RU1 and RU2) will drop to low resiliency and extirpated; and 27 low resiliency populations (RU2) will drop to very low resiliency and extirpated (see table 3, below; Service 2024, appendix D). Population resiliency is not expected to change for populations in the panhandle of Florida and southwestern Georgia (RU3), as explained in Scenario A.

Overall, the number of high and moderate resiliency populations drops from 20 (current condition) to 11 by 2100, and these populations are projected to be at less risk from potential stochastic events, than the 32 populations with low or very low resiliency. Declines in resiliency are expected along the east coast (in RU1 and RU2) over time, due to the combined effect of high SLR and urban development, whereas resiliency is not expected to decline in RU3. With fewer moderate and high resiliency populations, almost half the number from current condition (20) by 2100, redundancy declines, and we consider the species to have low redundancy. The number of low resiliency populations in RU2 with moderate stem abundance that provide connectivity and may contribute to redundancy drops from eight (current condition) to one. With fewer moderate and high resiliency populations and a reduced distribution in RU1 and RU2, species' representation is expected to decline from the current moderate level to low. The difference between Scenarios B and C is the result of greater urban development impacts to tickseed populations in high-risk ROWs (paved road ROWs) in counties with future growth. We expect declines in resiliency for all tickseed high-risk ROW populations, primarily due to the risk of road widening, but also bridge and culvert replacements and ongoing road maintenance activities.

TABLE 3—SUMMARY OF TICKSEED RESILIENCY FOR THE CURRENT CONDITION AND THREE FUTURE SCENARIOS

RU	Condition category	Current	A 2100	B 2100	C 2100
1	High	0	0	0	0
	Moderate	4	2	2	1
	Low	2	2	2	2
	Very Low	0	1	0	1
	Extirpated	0	1	2	2
Total Extant		6	5	4	4
2	High	4	2	2	2
	Moderate	7	6	4	3
	Low	26	24	19	4
	Very Low	0	4	7	23
	Extirpated	0	1	5	5
Total Extant		37	36	32	32
3	High	1	1	1	1
	Moderate	4	4	4	4
	Low	2	2	2	2
	Very Low	0	0	0	0
	Extirpated	0	0	0	0
Total Extant		7	7	7	7

In all three future scenarios, the number of moderate and high resiliency populations in RU1 and RU2 are projected to decline from current conditions. Declines in resiliency were driven by SLR in Scenarios A and B and the combination of SLR and urban development in Scenario C. In Scenario C, the loss of high and moderate resiliency populations and extirpations within RU1 and RU2 indicates a further decline in the species' adaptive capacity (representation) and redundancy. Therefore, the tickseed is at an increased risk of extirpation from catastrophic events. In addition, when populations are extirpated, the species' distribution and connectivity between populations is reduced, further limiting potential gene flow between populations. The resiliency of populations in RU3 is projected to be stable and not change from current condition under the three scenarios because populations are located in natural habitats outside of ROWs and in counties that have no projected urban growth or SLR.

Determination of Status Background

Section 4 of the Act (16 U.S.C. 1533) and our 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 (*i.e.,* endangered or threatened) and two components (*i.e.,* 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 Policy provides more detail about litigation before 2014 regarding the phrase (76 FR 76987, December 9, 2011). The 2014 SPR Policy included four 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. Dep't. 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 making a listing determination for a species that 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 making a listing determination for a species whose 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 are evaluating. 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 the Ciliate-Leaf Tickseed's Status

We propose listing the tickseed as a threatened species because it is not in danger of extinction throughout all or a significant portion of its range, but it is likely to become in danger of extinction within the foreseeable future *throughout a significant portion 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. Conversely, if the extinction risk varies across its range such that the species' regulatory status may be different in a portion of its range, we determine a species' classification based upon its regulatory status throughout a significant portion of its range. Either way, we need to begin by determining the scale that is biologically appropriate for a classification determination for that species. For many species, we can divide its range in an infinite number of ways. As described in *Current Condition,* for the tickseed, we divided the range into three representation units (RU1, RU2, and RU3). We determined that, by itself, any single population is too small to be considered biologically appropriate to evaluate extinction risk for the tickseed. We grouped populations into the three RUs that provide distinct geographic areas of the range each with a similar ecological setting and containing a concentrated grouping of populations. In summary, RUs are the units that provide the appropriate scale to assess extinction risk for the tickseed.

We then evaluated whether the tickseed has a similar risk of extinction within the foreseeable future *in all areas* across its range by assessing its extinction risk within each RU. Our review indicated that the tickseed's extinction risk varies across its range such that its regulatory status may be different in a portion of the range; therefore, we evaluated whether it may be threatened based upon the ''throughout a significant portion of its range'' component. In undertaking this analysis, 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: road and utility ROWs, urban development, agriculture, recreation, invasive species, and SLR and drought, including cumulative effects.

We identified and evaluated a portion of the range where the tickseed *may* be threatened that includes RU1 and RU2. The tickseed is not likely to become in

danger of extinction within the foreseeable future in the remaining RU (RU3); therefore, we are not including that RU in the portion that we are evaluating for the threatened classification.

First, we explain our reasoning that the tickseed is not likely to become in danger of extinction within the foreseeable future throughout the remainder of the range in RU3. RU3, in the panhandle of Florida and southwestern Georgia, is not impacted by elevated levels of SLR or urban development currently and is not expected to be impacted in the future under our three scenarios. RU3 contains seven extant populations in mostly natural habitat conditions—five populations have adequate resiliency and are sufficiently distributed such that there is a low risk of extinction due to a catastrophic event, and sufficient representation to adapt to ongoing and novel threats, and there are no projected changes to the species within RU3 in the future. Overall, there are no threats acting within RU3 with such magnitude to increase the risk of extinction to the point where the species is likely to become in danger of extinction within the foreseeable future. In summary, we find that the tickseed is not likely to become in danger of extinction within the foreseeable future in RU3, but it *may* be likely to become in danger of extinction within the foreseeable future in a portion of the range—in RU1 and RU2.

For this portion of the range where the tickseed *may* be threatened, we first addressed the tickseed's status. In undertaking this analysis of whether the tickseed is threatened throughout a portion 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 within the foreseeable future under the Act's section 4(a)(1) factors. The statutory difference between an endangered species and a threatened species is the timeframe in which the species becomes in danger of extinction; an endangered species is in danger of extinction while a threatened species is not in danger of extinction but is likely to become so within the foreseeable future. As discussed above, we examined the following threats: road and utility ROWs, urban development, agriculture, recreation, invasive species, SLR and drought, including cumulative effects.

The tickseed needs to maintain healthy populations with high or moderate resiliency across its range to reduce the risk of extinction. The species has experienced minor reductions in resiliency and redundancy in the past but currently has 20 populations with high (5) or moderate (15) resiliency across its range, and we expect its viability to remain stable in the near term. Across RU1 and RU2, tickseed currently has 43 populations distributed across portions of three states and two ecoregions. Of these, 4 populations have high resiliency, 11 populations have moderate resiliency, and 28 populations have low resiliency. The 15 moderate to high resiliency populations are broadly distributed across RU1 and RU2. The eight populations with low resiliency in RU2 with moderate stem abundance contribute additional redundancy for tickseed's overall viability.

RU1 and RU2 each contain multiple populations with high or moderate resiliency distributed across a large, ecologically diverse area. In RU1, four of the six populations have moderate resiliency and are distributed across the Middle Atlantic Coastal Plain ecoregion. In RU2, there are 11 moderate and high resiliency populations that are distributed across a large area of the Southern Coastal Plain. The other 26 populations in RU2 with low resiliency provide connectivity between moderate or high resiliency populations and the 8 low resiliency populations with moderate stem counts (approximately 500 or more stems) in RU2 contribute additional redundancy to the species. As a result, tickseed currently has sufficient resiliency, redundancy, and representation within each RU to withstand stochastic and catastrophic events and maintain adaptability to environmental change. Although threats (including road and utility ROWs, urban development, agriculture, and recreation) are currently acting on tickseed and many of those threats are expected to continue into the future, we did not find that tickseed is currently in danger of extinction within either RU.

While there have been slight declines from the historical number of populations, the tickseed still has multiple, healthy populations with moderate or high resiliency, and, in the near term, the species' viability is expected to be maintained. While some threats are ongoing (including road and utility ROWs, agriculture, recreation, invasive species), the effects to the tickseed are not currently at a magnitude that put the species at risk of extinction in the near term. However, we expect that the effects of SLR and urban development, individually and cumulatively, will reduce resiliency, redundancy, and representation within RU1 and RU2, this portion of the range where the tickseed *may* be threatened within the foreseeable future. The best information available indicates that threats are expected to increase and are not anticipated to be adequately mitigated, thus we expect declines in the number of moderate or high resiliency populations in RU1 and RU2, resulting in an increasing risk of extinction over time. Population resiliency is expected to decline as tickseed plants and population areas are lost to urban development and SLR in combination with the effects from road and utility ROW management that will result in the loss or reduction of tickseed plants, stems, flowering, seed production, and dispersal. These threats are all exacerbated from land use and management practices, recreation, and invasive species in some populations, resulting in tickseed plant and population area loss in RU1 and RU2.

In the foreseeable future, as threats such as SLR and urban development continue to reduce the quality and quantity of the tickseed's habitat, we expect the tickseed to become in danger of extinction. Across all of our future scenario projections, fewer populations will have high and medium resiliency, with increases in the number and distribution of populations with low, very low, or no resiliency (extirpation). Additionally, the number of low resiliency populations with moderate stem abundance that may contribute to redundancy declines. With increasing threats in the future, tickseed population areas will become smaller, more isolated, and more fragmented, and plants will be less able to sexually reproduce, disperse, and recolonize, so we project overall declines in the resiliency, redundancy, and representation of tickseed in both RU1 and RU2 by 2100.

According to our assessment of plausible future scenarios in the SSA report, the tickseed is likely to become an endangered species within the foreseeable future throughout a significant portion of its range, in RU1 and RU2. Our future scenarios help address future uncertainty by describing plausible outcomes for the primary risk factors to the tickseed out to 2100. Seventy-five years encompasses multiple generations of the tickseed and a time period when stressors are reasonably expected to change, and we can make reasonably reliable projections about the threats and tickseed's response to those threats.

Within the foreseeable future, the tickseed faces significant threats in RU1 and RU2 from SLR and urban

development in combination with ROW effects that will likely increase in the future. We expect more of the tickseed's population area to be inundated with salt or brackish water as SLR increases in RU1 and RU2 that impacts the species' access to fresh water. We expect more urban development, particularly in RU2 near the Jacksonville, Florida, metro area, as well as road widening and maintenance, and bridge and culvert replacement projects where the tickseed occurs in high-risk ROWs in RU1 and RU2. Ten of the 15 moderate or high resiliency populations in RU1 and RU2 occur in ROWs and are at risk from future urban development effects. As a result, we expect reductions in freshwater availability, and additional reductions in acreage and hydrologic function needed by the tickseed to support plant populations, successful seed production, dispersal and recolonization processes, and pollinators. While the current level of gene flow between populations is unknown, we expect populations to become more isolated as population acreage loss and fragmentation occurs, with subsequent declines in the resiliency of the remaining populations as well as the species' redundancy and representation. As a result, we expect the tickseed to become more vulnerable to stochastic and catastrophic events and environmental change.

After evaluating the threats to the tickseed and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we find that urban development (Factor A) and effects from SLR (Factor E) in combination with impacts from road and utility ROW maintenance (Factor A) are the primary threats affecting the species' viability within the foreseeable future. Therefore, we find that the tickseed is not in danger of extinction but is likely to become in danger of extinction within the foreseeable future throughout a portion of its range.

We next addressed whether that portion is ''significant.'' For the purposes of this analysis when considering whether a portion is ''significant,'' we considered its conservation value for the species. Overall, the portion composed of RU1 and RU2 makes up a large proportion of the tickseed's range and contains roughly 67 percent (15,239.5 of 22,583 acres (6,167.5 of 9,139.2 hectares)) of the tickseed's total population area and 86 percent (43 of 50) of extant populations. The portion also contains unique habitat for the species, encompassing all of the species' eastern coastal populations, two Level III ecoregions (Middle Atlantic Coastal Plain and Southern Coastal Plain), including the core of the tickseed's range (RU2) that has a high density of populations relative to its geographic size. Therefore, we consider this portion to be a significant portion of the range. Accordingly, having determined that the tickseed is likely to become in danger of extinction within the foreseeable future within the RU1 and RU2 portion and that the portion is a significant portion of the range, we find the tickseed meets the definition of a threatened species. This does not conflict with the courts' holdings in *Desert Survivors* and *CBD* v. *Jewell,* because, in reaching this conclusion, we did not apply the aspects of the 2014 SPR Policy, including the definition of ''significant'' that those court decisions held to be invalid.

In accordance with the court's holding in *Everson,* when we find a species warrants listing as a threatened species, we must also consider whether the species is in danger of extinction throughout a significant portion of its range. We determined that the tickseed is not in danger of extinction throughout a significant portion of its range. To reach this determination, we first assessed whether we can divide the species' range at a biologically appropriate scale. As discussed above, RUs are the units that provide the appropriate scale to assess extinction risk for the tickseed.

We then evaluated whether the tickseed has a similar near-term risk of extinction *in all areas* across its range by assessing the tickseed's extinction risk within each RU. Our review indicated that the tickseed's near-term extinction risk is similar in all areas across its range; therefore, we evaluated whether it may be endangered based upon the ''throughout all of its range'' component. In undertaking this analysis, 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.

As discussed above, we found that tickseed currently maintains a similar range and distribution as it did historically. The tickseed currently has 50 extant populations distributed across portions of three States and three RUs (1, 2, and 3) and we assume the loss of three historical populations, one in each RU. While we lack historical stem abundance estimates, it is likely that the species experienced declines in stem abundance due to habitat loss and alteration because 74 percent (37 populations) of the 50 extant tickseed populations are in maintained road ROWs. While some threats are ongoing (including road and utility ROWs, agriculture, recreation, invasive species), the effects to the tickseed are not currently at a magnitude that put the species in near-term risk of extinction within each RU. The two small RUs—RU1 and RU3—have 6 and 7 extant populations, respectively, compared to the large RU2 with 37 populations. While there are fewer extant populations in both RU1 and RU3, the majority are moderate or high resiliency populations (four and five, respectively) that are well distributed across each RU. The high or moderate resiliency populations typically display a combination of favorable habitat (based on habitat condition, disturbance regime, and hydrologic function) and demographic factors (based on stem abundance) that enable them to adequately withstand environmental and demographic stochasticity. As we mention above, populations in RU3 occur in mostly natural habitat conditions, and despite more impacts to population areas in RU1, the species maintains a sufficient number of moderate or high resiliency populations in RU1, similar to RU3. The tickseed's biological characteristics, particularly its clonal growth habit, its somewhat flexible light requirement of open to partially shaded canopy conditions, and tolerance of natural disturbance regimes confer some tolerance to moderate its response to altered habitat conditions and disturbance regimes from various current stressors. As a result, RU1 and RU3 have sufficient resiliency, redundancy, and representation across their respective six and seven populations to withstand stochastic and catastrophic events and adapt to changes such that tickseed is not in danger of extinction in either RU. RU2 contains the majority of tickseed populations and has the highest density of populations in the species' range. RU2 contains 11 moderate or high resiliency populations that are well-distributed across the RU and among the 26 populations in low resiliency to reduce the risk of catastrophic loss. As a result, RU2 has sufficient resiliency, redundancy, and representation such that tickseed is not in danger of extinction in this RU.

Given the species' needs are being met in many locations and the tickseed has multiple moderate or high resiliency populations in each RU, in the near term, the species will continue to maintain across its range. The tickseed's current condition, the number and distribution of multiple moderate or

high resiliency populations, the low risk of catastrophic loss, and sufficient levels of representation and redundancy in each RU despite road ROWs and other current stressors and factors affecting the species do not warrant endangered status in any of the RUs. After evaluating threats to the species and assessing the cumulative effect of the threats under section 4(a)(1) factors, we conclude that the risk factors acting on the tickseed and its habitat, either singly or in combination, are not of sufficient imminence, scope, or magnitude to indicate the species is in danger of extinction now in any of the RUs. In summary, we determine that the tickseed is not in danger of extinction in any areas across its range (*i.e.,* in no RU). Thus, there is no portion of the range where the tickseed may be endangered.

Determination of Status

Based on the best scientific and commercial data available, we determine that the tickseed meets the Act's definition of a threatened species because it is likely to become in danger of extinction within the foreseeable future throughout a significant portion of its range. Therefore, we propose to list the tickseed as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

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.

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. Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Under section 4(f)(1)(B)(ii), recovery plans must, to the maximum extent practicable, include objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of section 4 of the Act, that the species be removed from the Lists of Endangered and Threatened Wildlife and Plants.

Recovery plans provide a roadmap for us and our partners on methods of enhancing conservation and minimizing threats to listed species, as well as measurable criteria against which to evaluate progress towards recovery and assess the species' likely future condition. However, they are not regulatory documents and do not substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of a species, or to delist a species, is ultimately based on an analysis of the best scientific and commercial data available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan.

The recovery planning process begins with development of a recovery outline made available to the public soon after a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions while a recovery plan is being developed. Recovery teams (composed of species and other experts, including those from Federal and State agencies, Tribes, the academic community, or nongovernmental organizations) may be established to develop or implement recovery plans. The recovery outline, draft recovery plan, final recovery plan, and any revisions will be available on our website as they are completed (*https://www.fws.gov/program/endangered-species*) or from our Georgia Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their ranges may occur primarily or solely on non-Federal lands. Recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

If this species is listed, funding for recovery actions may be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Florida, Georgia, and South Carolina would be eligible for Federal funds to implement management actions that promote the protection or recovery of the tickseed. Information on our grant programs that are available to aid species recovery can be found at: *https://www.fws.gov/service/financial-assistance.*

Although the tickseed is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

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. Each Federal agency shall review its action at the earliest possible time to determine whether it may affect listed species or critical habitat. If a determination is made that the action may affect listed species or critical habitat, formal consultation is required (50 CFR 402.14(a)), unless the Service concurs in writing that the action is not likely to adversely affect listed species or critical habitat. At the end of a formal consultation, the Service issues a biological opinion, containing its determination of whether the Federal action is likely to result in jeopardy or adverse modification.

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 proposed to be listed under the Act or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. Although the conference procedures are required only when an action is likely to result in jeopardy or adverse modification, action agencies may voluntarily confer with the Service on actions that may affect species proposed for listing or critical habitat proposed to be designated. In the event that the subject species is listed or the relevant critical habitat is designated, a conference opinion may be adopted as a biological opinion and serve as compliance with section 7(a)(2) of the Act.

Examples of discretionary actions for the tickseed that may be subject to conference and consultation procedures under section 7 are management of Federal lands administered by the Service (Ernest F. Hollings ACE Basin National Wildlife Refuge), as well as actions that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*)) or actions funded by Federal agencies such as the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency. Federal actions not affecting listed species or critical habitat—and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation. Federal agencies should coordinate with the Georgia Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**) with any specific questions on section 7 consultation and conference requirements.

Section 9 of the Act provides a specific list of prohibitions for endangered species but does not provide these same prohibitions for threatened species. Instead, pursuant to section 4(d) of the Act, for any species listed as a threatened species, the Secretary must issue protective regulations that are ''necessary and advisable to provide for the conservation of such species'' (these are referred to as ''4(d) rules''). Additional measures for the tickseed are described below (see Protective Regulations Under Section 4(d) of the Act, below).

We may issue permits to carry out otherwise prohibited activities involving threatened plants under certain circumstances. Service regulations governing permits for threatened plants are codified at 50 CFR 17.72, and general Service permitting regulations are codified at 50 CFR part 13. With regard to threatened plants, a permit may be issued for scientific purposes or for enhancing the propagation or survival of the species. The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

II. Protective Regulations Under Section 4(d) of the Act

Background

As discussed in Available Conservation Measures, section 9 of the Act provides a specific list of prohibitions for endangered species but does not provide these same prohibitions for threatened species. Instead, pursuant to section 4(d) of the Act, for any species listed as a threatened species, the Secretary must issue protective regulations that are ''necessary and advisable to provide for the conservation of such species'' (these are referred to as ''4(d) rules''). Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary shall issue such regulations as they deem necessary and advisable to provide for the conservation of species listed as threatened species. Conservation is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of the Act states that the Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants. With these two sentences in section 4(d), Congress delegated broad authority to the Secretary to determine what protections would be necessary and advisable to provide for the conservation of threatened species, and even broader authority to put in place any of the section 9 prohibitions for a given species.

Courts have recognized the extent of the Secretary's discretion under section 4(d) to develop regulations that are appropriate for the conservation of threatened species. For example, courts have upheld, as a valid exercise of agency authority, rules developed under section 4(d) that included limited prohibitions against takings (see *Alsea Valley Alliance* v. *Lautenbacher,* 2007 WL 2344927 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* 2002 WL 511479 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to [them] with regard to the permitted activities for those species. [They] may, for example, permit taking, but not importation of such species, or [they] may choose to forbid both taking and importation but allow the transportation of such species'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Under our section 4(d) authorities, we put in place protections intended to both prevent a threatened species from becoming an endangered species and to promote its recovery. Section 4(d) rules explain what is prohibited for a threatened species, thus making the activity unlawful without a permit or authorization under the Act for the prohibited activity unless otherwise excepted in the 4(d) rule and may also include affirmative requirements. Section 4(d) rules are therefore directly related to what actions may require permits in the future. As discussed in Available Conservation Measures, permits may be issued for purposes described in our threatened species permitting regulations at 50 CFR 17.72, including for recovery actions, conservation benefit agreements (previously referred to as candidate conservation agreements with assurances and safe harbor agreements), or habitat conservation plans. We may also except otherwise prohibited activities through a 4(d) rule itself, in which case threatened species permits would not be required for those activities. For example, there are two categories of exceptions that we frequently include in 4(d) rules, and these are for otherwise prohibited acts or forms or amounts of ''take'' that are: (1) unavoidable while conducting beneficial actions for the species, or (2) considered inconsequential (de minimis) to the conservation of the species. For otherwise prohibited take or activities that require permits under section 10 of the Act, programmatic approaches—such as general conservation plans and template habitat conservation plans—may be available as another way for project proponents to comply with prohibitions or requirements applicable to one or more species while reducing the time that would otherwise be associated with developing individual permit applications. In addition, the Service and project proponents can reduce the

need for such permits by developing standardized conservation measures that avoid the risk of ''take.''

The provisions of this species' proposed protective regulations under section 4(d) of the Act are one of many tools that we would use to promote the conservation of the tickseed. The proposed protective regulations would apply only if and when we make final the listing of the tickseed as a threatened species and finalize the 4(d) rule. Nothing in 4(d) rules changes in any way the recovery planning provisions of section 4(f) of the Act or the consultation requirements under section 7 of the Act. As mentioned above under Available Conservation Measures, section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, even before the listing of any species or the designation of its critical habitat is finalized, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action that is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. These requirements are the same for a threatened species regardless of what is included in its 4(d) rule.

Section 4(d) rules do not alter section 7 obligations, including the criteria for informal or formal consultations or the analytical process used for biological opinions or concurrence letters. Section 7 consultation is required for Federal actions that ''may affect'' a listed species regardless of whether take caused by the activity is prohibited or excepted by a 4(d) rule. For example, as with an endangered species, if a Federal agency determines that an action is ''not likely to adversely affect'' a threatened species, this will require the Service's written concurrence (50 CFR 402.13(c)). Similarly, if a Federal agency determines that an action is ''likely to adversely affect'' a threatened species, the action will require formal consultation with the Service and the formulation of a biological opinion (50 CFR 402.14(a)).

At the end of a formal consultation, the Service issues a biological opinion, containing its determination as to whether the Federal action is likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat (a ''jeopardy'' biological opinion) (50 CFR 402.14(h)). If the Service determines in its biological opinion the action is likely to jeopardize listed species or destroy or adversely modify critical habitat, it shall include reasonable and prudent alternatives, if any exist, it believes would avoid the likelihood of jeopardy or destruction or adverse modification (50 CFR 402.14(h)). In accordance with 50 CFR 402.14(i), when there is a ''no jeopardy'' biological opinion but ''take'' of a listed species is reasonably certain to occur, the Service is required to issue an incidental take statement that specifies those reasonable and prudent measures (RPMs) the Service considers necessary or appropriate to minimize the impact of the incidental take and terms and conditions (TCs) that must be complied with to implement those measures. These requirements exist regardless of what is included in a 4(d) rule. However, we recognize that whether or not take associated with certain activities is prohibited by a 4(d) rule may be relevant to our consideration of the extent of RPMs we may consider necessary or appropriate. In most situations, we would not consider RPMs necessary or appropriate to minimize the impact of take that is not prohibited or that is excepted by a 4(d) rule. Regardless, the RPMs/TCs cannot alter the basic design, location, scope, duration, or timing of the action and may involve only minor changes (50 CFR 402.14(i)(2)). They should not prevent the action subject to consultation from proceeding as essentially proposed (89 FR 24268).

Because consultation obligations and processes are unaffected by 4(d) rules, we may consider developing tools to streamline future intra-Service and interagency consultations for actions that result in forms of take that are not prohibited by the 4(d) rule (but that still require consultation). These tools may include consultation guidance, online consultation processes via the Service's digital project planning tool (Information for Planning and Consultation; *https://ipac.ecosphere.fws.gov/*), template language for biological opinions, or programmatic consultations.

Provisions of the Proposed 4(d) Rule

Exercising the Secretary's authority under section 4(d) of the Act, we have developed a proposed rule that is designed to address the tickseed's conservation needs. Section 4(d) requires the Secretary to issue such regulations as they deem necessary and advisable to provide for the conservation of each threatened species and authorizes the Secretary to include among those protective regulations any of the prohibitions that section 9(a)(2) of the Act prescribes for endangered species (*In re: Polar Bear Endangered Species Act Listing and 4(d) Rule Litigation,* 818 F. Supp. 2d 214, 228 (D.D.C. 2011) (*citing Sweet Home Chapter of Cmtys. for a Great Or.* v. *Babbitt,* 1 F.3d 1, 8 (D.C. Cir. 1993), *rev'd on other grounds,* 515 U.S. 687 (1995))). Our necessary and advisable determination includes consideration of conservation and economic impacts (see 91 FR 45723, July 21, 2026; *Kansas Natural Resources Coalition, et al.* v. *USFWS, et al.* 780 F. Supp. 3d 650 (W.D. Tex. 2025) (hereafter ''*Kansas*'')). We explain below why we find that, if finalized, the prohibitions and exceptions in this proposed rule as a whole satisfy the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of the tickseed.

As discussed previously in Summary of Biological Status and Threats, we have concluded that the tickseed is likely to become in danger of extinction within the foreseeable future primarily due to urban development and SLR in combination with the ongoing effects from road and utility ROW management. The protective regulations we are proposing for tickseed incorporate prohibitions from section 9(a)(2) to address the threats to the species. We propose to include the following prohibitions of section 9(a)(2) of the Act, and implementing regulations codified at 50 CFR 17.61, which 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: (1) import into, or export from, the United States; (2) remove and reduce to possession from areas under Federal jurisdiction; maliciously damage or destroy on any such area; or remove, cut, dig up, or damage or destroy on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law; (3) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity; or (4) sell or offer for sale in interstate or foreign commerce. These proposed protective regulations include these prohibitions for the tickseed because the tickseed is likely to become endangered within the foreseeable future and putting these

prohibitions in place is intended to slow its rate of decline, and decrease synergistic, negative effects from other ongoing or future threats.

As discussed previously in Summary of Biological Status and Threats, we have concluded that the tickseed is likely to become in danger of extinction within the foreseeable future primarily due to urban development and SLR in combination with the ongoing effects from road and utility ROW management. Regulating activities on lands under Federal jurisdiction (*e.g.,* Ernest F. Hollings ACE Basin National Wildlife Refuge) and on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law through our application of 50 CFR 17.61(c)(1) would help reduce the severity of the urban development and road and utility ROW management threats on Federal and State lands. As discussed above, the tickseed is an endangered species protected under Florida statute 581.185 and the Preservation of Native Flora of Florida Act (5B–40), that confers some protections from collection without a permit or written permission and in Georgia, the tickseed is a threatened species protected under the Georgia Wildflower Preservation Act (Georgia Code 12–6–170) that affords protections on public lands from cutting, digging, pulling, or removing unless authorized by the Georgia Department of Natural Resources. As mentioned above, violation of relevant Federal laws, treaties, regulations, and State laws (*e.g.,* Florida, Georgia) is also a violation of the Lacey Act (16 U.S.C. 3372). The proposed 4(d) rule will make any known violation of these laws when removing, cutting, digging up, or damaging or destroying the species a violation of the Act.

In addition, we propose to regulate import, export, and interstate or foreign commerce of the tickseed (50 CFR 17.61 (b), (d), and (e)). While collection and associated commerce of the species is not known to pose a threat to the species, regulating these activities will reduce the potential for this becoming a threat in the future.

The proposed 4(d) rule would also provide for the conservation of the species by allowing exceptions that are intended to incentivize conservation actions or actions that are not expected to rise to the level that would have a negative impact (*i.e.,* would have only de minimis impacts) on the species' conservation.

Exceptions to the prohibitions include those set forth in 50 CFR 17.71(b). To further the conservation of the species, any employee or agent of the Service, any other Federal land management agency, federally recognized Tribe, or a State conservation agency, who is designated by their agency or Tribe for such purposes, may, when acting in the course of official duties, remove and reduce to possession threatened plants from areas under Federal jurisdiction without a permit if such action is necessary to: (i) Care for a damaged or diseased specimen; (ii) dispose of a dead specimen; or (iii) salvage a dead specimen that may be useful for scientific study. Any removal and reduction to possession must be reported in writing to the Office of Law Enforcement, via contact methods listed at *https://www.fws.gov,* within 5 calendar days. The specimen may only be retained, disposed of, or salvaged under directions from the Office of Law Enforcement.

We recognize the special and unique relationship that we have with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist us in implementing all aspects of the Act. In this regard, section 6 of the Act provides that we must cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State conservation agency that is a party to a cooperative agreement with us in accordance with section 6(c) of the Act, who is designated by their agency for such purposes, will be able to conduct activities designed to conserve the tickseed that may result in otherwise prohibited activities without additional authorization.

In addition, any employee or agent of the Service, who is designated by their agency for such purposes, may, when acting in the course of official duties, remove and reduce to possession from areas under Federal jurisdiction members of the tickseed.

Finally, we may under certain circumstances issue permits to carry out one or more otherwise-prohibited activities, including those described above. The regulations that govern permits for threatened plants state that the Director may issue a permit authorizing any activity otherwise prohibited with regard to threatened species. A permit may be issued for the following purposes: for scientific purposes, to enhance propagation or survival, for economic hardship, for botanical or horticultural exhibition, for educational purposes, or for other purposes consistent with the purposes and policy of the Act (50 CFR 17.72). As mentioned above, the permitting requirements for threatened species are less than those for endangered species. Additional statutory exemptions from the prohibitions are found in sections 9 and 10 of the Act.

The 4(d) rule provides for the conservation of the tickseed because it would regulate activities that pose a threat to the species or that may become a threat in the future. However, it also provides flexibilities in management and permitting requirements for several activities that are expected to have negligible impacts to the tickseed, as discussed above.

We considered the economic impacts of the implementation of the 4(d) rule. We determined there would likely be limited change to the regulated community as a result of this rule. We do not envision many instances for the need for a permit for prohibited activities under the 4(d) rule. Some number of individuals are anticipated to request permits for recovery actions associated with surveys or research activities that involve removing and reducing to possession tickseed from areas under Federal jurisdiction (currently only Ernest F. Hollings ACE Basin National Wildlife Refuge). However, permits are already required for collecting plants on national wildlife refuges. Where there is a Federal nexus, the 4(d) rule does not change any obligations under section 7 of the Act. Please see our July 9, 2026, ''Consideration of Economic Impacts for the 4(d) Rule for the Ciliate-leaf Tickseed'' on *https://www.regulations.gov* for our consideration of economic impacts. After consideration of the conservation and economic impacts of the 4(d) rule, we have determined that the 4(d) rule is necessary and advisable to provide for the conservation of the species. We appreciate public comment on the conservation and economic impacts of the proposed 4(d) rule.

Required Determinations

Clarity of the Rule

We are required by E.O.s 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.

Regulatory Planning and Review (Executive Orders 12866, 13563, and 14192)

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review significant regulatory actions. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13653 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. We have developed this proposed rule in a manner consistent with these requirements. OIRA has determined that this rule is not significant. This rule is an E.O. 14192 regulatory action.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; title II of Pub. L. 104–121, March 29, 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

While we do not conduct RFA analyses on our classification determinations under the Act, in accordance with recent caselaw (*Kansas*), we comply with RFA through consideration of conservation and economic impacts when promulgating 4(d) rules. Under the RFA, as amended, and as understood in light of recent court decisions, Federal agencies are required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself; in other words, the RFA does not require agencies to evaluate the potential impacts to indirectly regulated entities. Some of the actions regulated by the proposed 4(d) rule are likely to involve Federal action agencies. 4(d) rules do not alter any obligations for Federal agencies under section 7 of the Act. Federal agencies, in consultation with the Service, are required to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirements. Consequently, it is our position that only Federal action agencies would be directly regulated during section 7 consultations (regardless of what is prohibited in 4(d) rules). The RFA does not require evaluation of the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities.

Please see our July 9, 2026, ''Consideration of Economic Impacts for the 4(d) Rule for the Ciliate-leaf Tickseed'' on *https://www.regulations.gov* for our consideration of economic impacts and RFA analysis. We certify that, if adopted as proposed, this proposed rule would not have a significant economic impact on a substantial number of small entities. We request information (see Information Requested) to ensure we fully understand the potential impacts of this proposed rule.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

Regulations adopted pursuant to section 4(a) of the Act are exempt from the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and do not require an environmental analysis under NEPA. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This includes listing, delisting, and reclassification rules, as well as critical habitat designations and species-specific protective regulations promulgated concurrently with a decision to list or reclassify a species as threatened. The courts have upheld this position (*e.g., Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995) (critical habitat); *Center for Biological Diversity* v. *U.S. Fish and Wildlife Service,* 2005 WL 2000928 (N.D. Cal. August 19, 2005) (concurrent 4(d) rule)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (''Government-to-Government Relations with Native American Tribal Governments''; 59 FR 22951, May 4, 1994), Executive Order (E.O.) 13175 (''Consultation and Coordination with Indian Tribal Governments''), the President's memorandum of November 30, 2022 (''Uniform Standards for Tribal Consultation''; 87 FR 74479, December 5, 2022), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations on a government-to-government basis. In accordance with Secretary's Order (S.O.) 3206 of June 5, 1997 (''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act''), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We will continue to work with relevant Tribal entities during the development of any final rules for the tickseed.

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 Georgia Ecological Services Field Office (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.

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 § 17.12, in paragraph (h), amend the List of Endangered and Threatened Plants by adding an entry for ''*Coreopsis integrifolia*'' in alphabetical order under FLOWERING PLANTS to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
Flowering Plants				
*	*	*	*	*
Coreopsis integrifolia	Ciliate-leaf tickseed	Wherever found	T	[**Federal Register** citation when published as a final rule]; 50 CFR 17.73(l); [4d]
*	*	*	*	*

■ 3. Amend § 17.73 by adding a paragraph (l) to read as follows:

§ 17.73 Species-specific rules—flowering plants.

* * * * *

(l) Threatened flowering plants—

(1) The prohibitions and exceptions in this paragraph (l) apply to the following species:

(l) *Coreopsis integrifolia* (ciliate-leaf tickseed)

(ii) Reserved.

(2) *Prohibitions.* The following prohibitions apply to the species identified under paragraph (l)(1). Except as provided under paragraph (l)(3) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to this species:

(i) Import or export, as set forth at § 17.61(b).

(ii) Remove and reduce to possession the species from areas under Federal jurisdiction; maliciously damage or destroy the species on any such area; or remove, cut, dig up, or damage or destroy the species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law, as set forth at § 17.61(c)(1).

(iii) Interstate or foreign commerce in the course of commercial activity, as set forth at § 17.61(d).

(iv) Sale or offer for sale, as set forth at § 17.61(e).

(3) *Exceptions from prohibitions.* In regard to these species, you may:

(i) Conduct activities as authorized by permit under § 17.72.

(ii) Remove and reduce to possession from areas under Federal jurisdiction, as set forth at § 17.71(b).

Brian Nesvik,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2026–24097 Filed 11–25–26; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BO32

Reef Fish Fishery of the Gulf of America; Amendment 63

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

ACTION: Announcement of availability of fishery management plan amendment; request for comments.

SUMMARY: The Gulf Council (Council) has submitted Amendment 63 to the Fishery Management Plan for the Reef Fish Resources of the Gulf (FMP) (Amendment 63) for review, approval, and implementation by NMFS. If approved, Amendment 63 would, for red grouper in the Gulf of America (Gulf), establish a commercial quota pool under a 3-year pilot program within the Grouper-Tilefish Individual Fishing Quota (IFQ) program. The purpose of Amendment 63 is to test whether a new method of distributing a portion of the red grouper commercial quota improves access to red grouper commercial allocation within the IFQ program, reduces bycatch and discards of IFQ species, and enhances economic profitability for quota pool participants.

DATES: Written comments on Amendment 63 must be received no later than January 26, 2027.

ADDRESSES: A plain language summary of Amendment 63 is available at *https://www.regulations.gov/docket/NOAA-NMFS-2026-2938.* You may submit comments on this document, identified by NOAA–NMFS–2026–2938, by either of the following methods:

- *Electronic Submission:* Submit comments electronically via the Federal e-Rulemaking Portal. Visit *https://www.regulations.gov* and type NOAA–NMFS–2026–2938 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Dan Luers, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

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 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, *etc.,* confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous).

An electronic copy of Amendment 63 is available from *https://www.regulations.gov* or from the Southeast Regional Office website at: *https://www.fisheries.noaa.gov/action/*

gulf-amendment-63-red-grouper-commercial-quota-pool-under-grouper-tilefish-individual.

Amendment 63 includes an environmental assessment, Regulatory Flexibility Act analysis, regulatory impact review, and fishery impact statement.

FOR FURTHER INFORMATION CONTACT: Dan Luers, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *Daniel.Luers@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes red grouper is managed under the FMP. The FMP was prepared by NMFS and the Council, approved by the Secretary of Commerce, and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act requires each regional fishery management council to submit any FMP or FMP amendment to the Secretary for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or FMP amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

Background

The Magnuson-Stevens Act requires NMFS, with advice from the regional fishery management councils, to prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

Unless otherwise noted, all weights in this notice are in pounds (lb), gutted weight.

Anyone commercially fishing for red grouper must possess a Federal commercial vessel permit for Gulf reef fish and red grouper allocation under the IFQ program. IFQ allocation is determined at the beginning of each calendar year by multiplying a shareholder's IFQ red grouper share (represented as a percentage of the total commercial quota) times the commercial annual quota for red grouper. IFQ allocation may be transferred among eligible IFQ participants. For Gulf red grouper, the commercial quota is equivalent to the commercial annual catch target (ACT) and is 5 percent less than the commercial annual catch limit (ACL). The difference between the commercial ACL and commercial quota allows for multi-use allocation. Red grouper multi-use allocation may, under certain conditions, be used to possess, land, or sell either red grouper or gag, which is also managed under the IFQ program. The IFQ program acts as the commercial accountability measure for red grouper.

Share Ownership and Patterns of Allocation Distribution

To hold red grouper shares or allocation, a person must have an IFQ shareholder account. Shareholder accounts (also referred to in this notice as IFQ accounts) are capable of holding shares but may hold only allocation. In the annual Gulf of America Grouper-Tilefish Individual Fishing Quota Report, IFQ accounts with shares are categorized by share volume: small shareholders hold less than 0.05 percent of shares, medium shareholders hold between 0.05 and 1.4999 percent of shares, while large shareholders hold equal to or greater than 1.5 percent of shares. For red grouper, and trending overall within the IFQ program, the percentage of shares held by small and medium shareholder accounts have decreased over time while the percentage of shares owned by larger shareholder accounts have increased. The number of IFQ accounts that hold commercial allocation but no shares has also increased since the start of the IFQ program. IFQ accounts that only hold allocation may be related to accounts that hold shares, as industry will often hold their shares in separate accounts for business reasons.

Amendment 62 to the FMP

The Southeast Data, Assessment, and Review (SEDAR) 88 (2025) stock assessment for Gulf red grouper indicated that the red grouper stock was not overfished or undergoing overfishing, and that the size of the stock increased relative to the previous assessment (SEDAR 61, 2019). Based on its review of SEDAR 88, the Council's Standing Scientific and Statistical Committee recommended increases to the Gulf red grouper overfishing limit and acceptable biological catch (ABC).

Based on the results of SEDAR 88 and the SSC's advice, the Council recommended and NMFS implemented Amendment 62 (91 FR 63502, October 6, 2026), effective October 2, 2026. Among other measures, the final rule implementing Amendment 62 increased the Gulf red grouper total ACL, the sector ACLs, the commercial quota, and the recreational ACT. The total ACL is 6.62 million lb (3.00 million kg) in 2026 (80 percent of the ABC), 7.45 million lb (3.38 million kg) in 2027 (90 percent of the ABC), and 8.28 million lb (3.76 million kg) in 2028 and subsequent years (100 percent of the ABC). Amendment 62 set the commercial ACLs at 4.51 million lb (2.05 million kg) for 2026, 5.08 million lb (2.30 million kg) for 2027, and 5.65 million lb (2.56 million kg) for 2028 and subsequent years. The current commercial quotas are set at 4.28 million lb (1.94 million kg) for 2026, 4.83 million lb (2.19 million kg) for 2027, and 5.37 million lb (2.44 million kg) for 2028 and subsequent years. For comparison, the commercial quota before the implementation of Amendment 62 was 2.79 million lb (1.27 million kg).

In anticipation of the substantial commercial quota increase in Amendment 62 and the desire to improve opportunity for participants to enter the IFQ program and reduce red grouper bycatch, the Council initiated development of Amendment 63. Amendment 63 would establish a pilot program to test a new method to improve access to red grouper allocation for some participants in the IFQ program, determine if the program can reduce bycatch and discards of IFQ species, and determine if a commercial quota pool enhances economic profitability for its participants.

Actions Contained in Amendment 63

Amendment 63 would establish a 3-year commercial quota pool pilot program for red grouper, set quota pool eligibility criteria, and set the distribution method of the red grouper quota pool allocation.

Gulf Red Grouper Commercial Quota Pool

The commercial quota pool would be a
3-year pilot program in effect during the 2027, 2028, and 2029 fishing years. The red grouper commercial quota pool would be in effect through December 31, 2029.

The allocation for the quota pool would be equal to 50 percent of the commercial quota that is greater than 4.28 million lb (1.94 million kg), which is the 2026 commercial quota in Amendment 62. Using the commercial quotas for the 2027 through 2029 fishing years, the resulting total available red grouper commercial quota pool allocation would be 275,000 lb (124,738 kg) in 2027, and 545,000 lb (247,208 kg) in 2028 and 2029.

As described in Amendment 63, quota pool allocation is non-transferable and

must be used by eligible participants before they use any other red grouper allocation.

Commercial Quota Pool Eligibility

To be eligible to receive red grouper commercial quota pool allocation, IFQ shareholder account holders would need to possess a valid or renewable Federal commercial reef fish permit and have total red grouper commercial landings of at least 500 lb (227 kg) for each 2-year reference period. The 2-year landing eligibility reference periods are January 1, 2025, through December 31, 2026, for the 2027 fishing year; January 1, 2026, through December 31, 2027, for the 2028 fishing year; and January 1, 2027, through December 31, 2028, for the 2029 fishing year. NMFS would annually determine eligibility to participate in the red grouper commercial quota pool based on permit status and meeting the landings criteria.

To account for any inadvertent exclusion of an otherwise eligible quota pool participant, an appeals process would be established. For each year of the red grouper commercial quota pool program, up to 10 percent of the available quota pool allocation would be initially withheld by NMFS to evaluate appeals. Appeals of decisions regarding eligibility to participate in the red grouper commercial quota pool would be evaluated by the NMFS National Appeals Office (*https://www.fisheries.noaa.gov/national/rules-regulations/appeals*). Persons seeking to appeal an eligibility decision would have to submit their appeal within 30 days from the date on the initial administrative determination and notification provided by NMFS. The only issues that could be appealed would be a person's Federal commercial reef fish permit status as of January 1 of the distribution year (2027, 2028, or 2029), share status as of January 1 of the distribution year, and a person's red grouper commercial landings during the applicable reference period. A person's Federal commercial reef fish permit status would be determined through information in the NMFS Southeast Regional Office permits system. A person's red grouper commercial landings information and share status would be determined through information as entered in the Catch Share Online System (*https://secatchshares.fisheries.noaa.gov*). No hardship appeals would be considered. By April 1 of the distribution year, NMFS would resolve any appeals and distribute any remaining red grouper commercial quota to eligible participants as described under the *Distribution of Commercial Quota Pool Allocation* discussion in this notice.

Distribution of Commercial Quota Pool Allocation

During the 3-year commercial quota pool pilot program, available red grouper commercial quota pool allocation would be distributed to eligible IFQ shareholder accounts near the beginning of the fishing year. NMFS would distribute 50 percent of the quota pool allocation to the eligible IFQ accounts with red grouper shares and 50 percent to eligible IFQ accounts with no red grouper shares. During each year of the quota pool, red grouper commercial quota pool allocation would be distributed to each eligible IFQ account proportionally based on red grouper commercial landings over the same 2-year moving reference period used to determine quota pool eligibility.

2027 Red Grouper Commercial Quota Retention Framework Action

As discussed, Amendment 63 would establish the red grouper commercial quota pool that would begin in 2027. However, the time needed to review, approve, and implement Amendment 63 would not allow NMFS to implement the quota pool until after the annual distribution of allocation to the red grouper IFQ shareholders on January 1, 2027. In the IFQ program, NMFS is not able to redistribute commercial allocation after it has been distributed for a fishing year. Therefore, the Council prepared a framework action under the FMP that would allow NMFS to withhold distribution of 275,000 lb (124,738 kg) of the red grouper 2027 commercial quota, which is the amounted need to implement Amendment 63 in 2027. If a final rule to implement Amendment 63 is not effective by May 1, 2027, NMFS would distribute withheld red grouper allocation to the current shareholders based on their current shares held as of the date of distribution. NMFS published a proposed rule to implement this framework action on September 10, 2026 (91 FR 57532) and is working on the final rule.

Proposed Rule for Amendment 63

A proposed rule to implement Amendment 63 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council submitted Amendment 63 for review, approval, and implementation by the Secretary. Comments on Amendment 63 must be received no later than January 26, 2027. Comments received during the respective comment periods, whether specifically directed to Amendment 63 or the proposed rule, will be considered by NMFS in the decision to approve, partially approve, or disapprove, Amendment 63. Comments received after the comment periods will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: November 23, 2026.

Shannon Bettridge,

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

[FR Doc. 2026–24118 Filed 11–25–26; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 91, No. 227
Friday, November 27, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology Comments regarding these information collections are best assured of having their full effect if received by December 28, 2026. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

Agricultural Marketing Service

Title: National Bioengineered Food Disclosure Standard.

OMB Control Number: 0581–0315.

Summary of Collection: The U.S. Department of Agriculture (USDA) administers the Agricultural Marketing Act of 1946 (Title II of the Act of August 14, 1946). Public Law 114–216 amended the Agricultural Marketing Act of 1946, directing the Secretary of Agriculture to establish the National Bioengineered Food Disclosure Standard (7 CFR 66) for disclosing certain foods that are bioengineered or contain bioengineered ingredients. The final rule (National Bioengineered Food Disclosure Standard [7 CFR 66]) fulfils USDA's need to establish requirements and procedures to carry out the new standard. Public Law 114–216 also addressed Federal preemption of State and local genetic engineering labeling requirements and specifies that certification of food under USDA's National Organic Program (7 CFR 205) were considered sufficient to make claims about the absence of bioengineering in the food. AMS gathered industry input and conducted rulemaking on the National Bioengineered Food Disclosure Standards.

Need and Use of the Information: The audit process involves access to records at the entity's place of business. AMS would examine the records during normal business hours to verify compliance with the standard's disclosure requirements. Under § 66.304(c), if an entity fails to provide AMS access to records, AMS would determine that the entity did not comply and would make the determination public. Companies would know the requirements through a list that AMS will maintain containing bioengineered crops and foods that may be produced in other countries. As set forth in § 66.300, recordkeeping applies to records for food on the list of bioengineered foods. As set forth in § 66.302(a)(3), records would have to be maintained for at least two years after the food's distribution for retail sale.

Description of Respondents: Business or other for-profit; Not for-profit institutions.

Number of Respondents: 155,098.

Frequency of Responses: Recordkeeping; Annually.

Total Burden Hours: 353,952.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–24119 Filed 11–25–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA–2026–0562]

Information Collection Request; Increasing Land, Capital, and Market Access Program

AGENCY: Farm Service Agency, United States Department of Agriculture.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on an information collection request associated with the Increasing Land, Capital, and Market Access grant and cooperative agreement activity. The purpose of the Increasing Land, Capital, and Market Access Program is to fund projects that support a diverse set of farmers, ranchers, and forest landowners (producers) on the edge financially; moving them from surviving to thriving as they address core barriers to attain land, capital, and market access.

DATES: We will consider comments that we receive by January 26, 2027.

ADDRESSES: We invite you to submit comments on this notice. You may submit comments, identified by Docket ID: FSA–2026–0562 in the Federal eRulemaking Portal: Go to *https://www.regulations.gov*. Follow the online instructions for submitting comments.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting the FSA Increasing Land Access Team below. Additional information on the program is available at Increasing Land, Capital, and Market Access Program (*usda.gov*).

FOR FURTHER INFORMATION CONTACT: FSA Increasing Land Access Team; email: *Land.Access@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA's TARGET Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Increasing Land, Capital, and Market Access Program.

OMB Control Number: 0560–0318.

Type of Request: Revision of a currently approved information collection.

Abstract: The purpose of the Increasing Land, Capital, and Market Access (ILA) Program is to fund projects that support a diverse set of farmers, ranchers, and forest landowners (producers) on the edge financially; moving them from surviving to thriving as they address core barriers to attain land, capital, and market access. The Increasing Land, Capital, and Market Access Program funds cooperative agreements and grants for projects that are designed to align with and respond to land, capital, and market access needs of the underserved farmers, ranchers, and forest landowners while concurrently providing wraparound technical assistance to ensure that program participants have the information, training, and customized support they require. FSA requests a revision to the ICR to continue collection of quarterly progress reports and the final progress reports from ILA recipients in accordance with 2 CFR 200.329 and the conditions outlined in executed ILA award agreements.

Selected grant and cooperative agreement recipients are required to submit quarterly reports of project activities (progress report) every 90 days to the assigned National Program Leader and a final reporting requirement (final progress report) within 120 days after the period of performance ends, detailing as applicable:

1. Outreach to be conducted including number and type of events, dates, locations, activities, and producers anticipated and impacted;

2. Budget information including requested funding amount, allocation of requested funds, amount of funds provided for assistance directly benefitting underserved producers, and number of producers benefitted by use of funds;

3. Data identifying outcomes, improvements, and impact on underserved producers' business and financial conditions;

4. Anticipated outcomes including the estimated number of underserved producers who will have increased access to land, capital, and markets (including new markets);

5. How many underserved producers will be able to retain land or acquire new land; and

6. How many underserved producers are seeking and participating in USDA Farm Service Agency farm programs and farm loan programs, Natural Resources Conservation Service programs, Risk Management Agency Federal crop insurance, Rural Development loans, or grant programs or any other programs and services administered by USDA.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per response, in hours, multiplied by the estimated total annual responses.

Estimate of Annual Burden: Public reporting burden for the collection of information is estimated to average 2,500 hours.

Respondents: Increasing Land, Capital, and Market Access Program Awardees: Not-for-profit institutions, State government, County government, Special District Govt, Public/State Institution of Higher Education, Federally Recognized Indian/Native American Governments.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Number of Responses: 250.

Estimated Average Time per Response: 10 hours.

Estimated Total Annual Burden Hours: 2,500 hours.

We are requesting comments on all aspects of this information collection to help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Evaluate the quality, utility, and clarity of the information technology; and

(4) Minimize the burden of the information collection on those who respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses where provided, will be made a matter of public record. Comments will be summarized and included in the request for OMB approval of the information collection.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Mail Stop 9410, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov*.

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

William Beam,

Administrator, Farm Service Agency.

[FR Doc. 2026–24040 Filed 11–25–26; 8:45 am]

BILLING CODE 3411–E2–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Foreign Agricultural Service's (FAS) to request an extension from the Office of Management and Budget (OMB) for a currently approved information collection in support of grants and agreements supporting research, extension, and/or teaching, *i.e.,* those issued pursuant to authorities enumerated in Chapter 64 of Title 7 of the U.S. Code.

DATES: Comments on this notice must be received by January 26, 2027 to be assured of consideration.

ADDRESSES: You may send comments, identified by OMB Control Number 0551–0057, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* This portal enables respondents to enter short comments or attach a file containing lengthier comments.
- *Email: Jim.Suits@usda.gov.* Include OMB Control Number 0551–0057 in the subject line of the message.
- *Mail, Courier, or Hand Delivery:* Jim Suits, U.S. Department of Agriculture, Foreign Agricultural Service, 1400 Independence Avenue SW, Washington, DC 20250–1030.

Instructions: All submissions received must include the agency names and OMB Control Number for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Jim Suits, 202–720–6328, *Jim.Suits@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Grant and Agreement Applications and Reporting for Activities in International Research, Extension, and Teaching.

OMB Number: 0551–0057.

Expiration Date of Approval: Three years from the approval date.

Type of Request: Extension of a currently approved information collection.

Abstract: Section 503 of the Agricultural Trade Expansion Act of 1978 (7 U.S.C. 5693), as implemented via 7 CFR 2.601, empowers the Foreign Agricultural Service (FAS) to assist the Secretary of Agriculture by, inter alia, providing agricultural technical assistance and training; and by carrying out other legislated programs, including international agricultural research, extension, and teaching as authorized by 7 U.S.C. Chapter 64). FAS currently operates seven (7) distinct grant and cooperative agreement programs under both general and specific authorities provided by this chapter, of which four (4) are expected to make new awards in the next three years.

In order to ensure that the most meritorious projects are supported, that funds are supporting activities that are advancing the public purpose prescribed in law, and to validate compliance with governmentwide and program-specific requirements, FAS collects a variety of information related to each activity. Responses are voluntary, however, a non-respondent will not be considered for participation in the program. This describes the information to be collected from the recipients of these grants and cooperative agreements. A separate information collection approval exists related to beneficiaries of these programs.

Estimate of Burden: The public reporting burden for each respondent resulting from information collection under these grant programs varies in direct relation to the number of voluntary applications that each respondent submits.

Respondents: State agricultural experiment stations, State cooperative extension services, all colleges and universities, other research or education institutions and organizations, Federal and private agencies and organizations, individuals, and any other contractor or recipient, either foreign or domestic.

Estimated Number of Respondents: 35 per annum.

Estimated Time per Respondent: 15.27 hours per annum.

Estimated Total Annual Burden on Respondents: 531.5 hours per annum.

Copies of this information collection can be obtained from Kenneth Vernon, the Agency Information Collection Coordinator, at *kenneth.vernon@usda.gov.*

Request for Comments: Send comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information including validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be available without change, including any personal information provided, for inspection online at *http://www.regulations.gov* and at the mail address listed above between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Comments will be summarized and included in the submission for Office of Management and Budget approval.

Persons with disabilities who require an alternative means for communication of information (Braille, large print, audiotape, etc.) should contact *FAS-ReasonableAccommodation@usda.gov.*

Daniel Whitley,

Administrator, Foreign Agricultural Service.

[FR Doc. 2026–24079 Filed 11–25–26; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Commodity Credit Corporation

Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Foreign Agricultural Service and Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Foreign Agricultural Service's (FAS) and Commodity Credit Corporation's (CCC) intention to request an extension from the Office of Management and Budget (OMB) for a currently approved information collection process in support of the Foreign Market Development (FMD) Program and the Market Access Program (MAP).

DATES: Comments on this notice must be received by January 26, 2027 to be assured of consideration.

ADDRESSES: You may send comments, identified by OMB Control Number

0551–0026, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* This portal enables respondents to enter short comments or attach a file containing lengthier comments.

• *Email: PODadmin@usda.gov.* Include OMB Control Number 0551–0026 in the subject line of the message.

• *Mail, Courier, or Hand Delivery:* Curt Alt, U.S. Department of Agriculture, Foreign Agricultural Service, 1400 Independence Avenue SW, Room 6512, Washington, DC 20250.

Instructions: All submissions received must include the agency names and OMB Control Number for this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Curt Alt, (202) 690–4784, *Podadmin@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Foreign Market Development Program and Market Access Program.

OMB Number: 0551–0026.

Expiration Date of Approval: October 31, 2025.

Type of Request: Extension of a currently approved information collection.

Abstract: The primary objective of the FMD and MAP programs is to encourage and aid in the creation, maintenance, and expansion of commercial export markets for U.S. agricultural products through cost–share assistance to eligible trade organizations. The programs are a cooperative effort between CCC and eligible trade organizations.

Currently, there are approximately 70 organizations participating directly in the programs with activities in more than 100 countries.

Prior to initiating program activities, each FMD or MAP participant must submit a detailed application to FAS which includes an assessment of overseas market potential; market or country strategies, constraints, goals, and benchmarks; proposed market development activities; estimated budgets; and performance measurements. Each FMD or MAP participant is also responsible for submitting: (1) reimbursement claims for approved costs incurred in carrying out approved activities, (2) an end–of–year contribution report, (3) travel reports, and (4) progress reports/evaluation studies. FMD or MAP participants must maintain records on all information submitted to FAS. The information collected is used by FAS to manage, plan, evaluate, and account for government resources. The reports and records are required to ensure the proper and judicious use of public funds.

Estimate of Burden: Public reporting burden for this collection of information is currently estimated to average 21 hours per response.

Type of Respondents: Nonprofit agricultural trade organizations, non-profit state regional trade groups, agricultural cooperatives, and state agencies.

Estimated Number of Respondents: 67.

Estimated Number of Responses per Respondent: 64.

Estimated Total Annual Burden on Respondents: 89,324 hours.

Copies of this information collection can be obtained from Kenneth Vernon, the Agency Information Collection Coordinator, at *Kenneth.Vernon@usda.gov.*

Request for Comments: Send comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information including validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be available without change, including any personal information provided, for inspection online at *http://www.regulations.gov* and at the mail address listed above between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Comments will be summarized and included in the submission for Office of Management and Budget approval.

Persons with disabilities who require an alternative means for communication of information (Braille, large print, audiotape, etc.) should contact *FAS-ReasonableAccommodation@usda.gov.*

William L. Beam,

Executive Vice President, Commodity Credit Corporation.

Daniel Whitley,

Administrator, Foreign Agricultural Service.

[FR Doc. 2026–24157 Filed 11–25–26; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Rescission Notice; Cove-East Fork Virgin River Watershed Plan Environmental Impact Statement, Kane County, Utah

AGENCY: Natural Resources Conservation Service (NRCS), United States Department of Agriculture (USDA).

ACTION: Notice; rescission.

SUMMARY: The NRCS Utah State Office, in coordination with the Kane County Water Conservancy District and the Washington County Water Conservancy District, is rescinding the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) (Unique Identification Number: EISX–005–53–049–1288324567) for the Cove-East Fork Virgin River Watershed Plan, Kane County, Utah, which was published in the **Federal Register** on March 29, 2022. NRCS has determined that additional environmental and economic analyses are necessary to identify viable alternatives.

DATES: Effective upon publication, this notice rescinds the NOI to prepare an EIS (87 FR 17979), which was published in the **Federal Register** on March 29, 2022.

FOR FURTHER INFORMATION CONTACT: Ammon Boswell; telephone: (435) 459–1621; email: *ammon.boswell@usda.gov.* Individuals with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone).

SUPPLEMENTARY INFORMATION: The NRCS Utah State Office, in coordination with the Kane County Water Conservancy District and the Washington County Water Conservancy District, and consistent with the requirements of 7 CFR 1b.7, is issuing this notice to advise Federal, State, and local government

agencies and the public that NRCS will continue the planning process to determine whether an EIS is needed for the Cove-East Fork Virgin River Watershed Plan. The project area is located within the East Fork of the Virgin River in Southern Utah. This notice rescinds the NOI to prepare an EIS (87 FR 17979), published on March 29, 2022 (EIS Unique Identification Number: EISX–005–53–049–1288324567).

During the watershed planning process, NRCS evaluated several alternatives. The preferred alternative included development of a 6,000-acre-foot reservoir with appurtenances, as well as a recreation area, irrigation pipelines, and a booster pump station. Based on comments received on the Draft EIS following publication of the Notice of Availability in the **Federal Register** on September 18, 2026 (91 FR 59129), NRCS determined that additional environmental and economic analyses are needed to further refine the evaluation of the proposed action and confirm consistency with applicable program authorities and requirements. Upon completion of those analyses and the associated program review, NRCS will determine whether the project meets applicable program requirements and evaluate the appropriate level of National Environmental Policy Act (NEPA) review. If NRCS determines that preparation of an EIS remains the appropriate level of NEPA review, NRCS will publish a new NOI. Watershed planning is authorized by the Watershed Protection and Flood Prevention Act of 1954 (Pub. L. 83566), as amended, and the Flood Control Act of 1944 (Pub. L. 78–534).

Travis Mote,

Acting Utah State Conservationist, Natural Resources Conservation Service.

[FR Doc. 2026–24078 Filed 11–25–26; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket No. RBS–26–CO–OP–0595]

Notice of an Extension to a Currently Approved Information Collection: OMB Ctrl. No. 0570–0045 ''Agriculture Innovation Centers''

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBCS or Agency), an agency within the United States Department of Agriculture, Rural Development, intention to request an extension to a currently approved information collection package for the Agriculture Innovation Center Demonstration Program (AIC). In accordance with the Paperwork Reduction Act of 1995, the Agency invites comments on this information collection for which it intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by January 26, 2027 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Lauren Cusick, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, South Building, Washington, DC 20250. Telephone: (202) 720–1414. Email *Lauren.Cusick@usda.gov.*

SUPPLEMENTARY INFORMATION: The OMB regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RBCS is submitting to OMB for revision to an existing collection.

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

Comments may be sent by the Federal eRulemaking Portal: Go to *https://www.regulations.gov* and, in the ''Search'' box, type in the Docket No. RBS–26–CO–OP–0595. A link to the Notice will appear. You may submit a comment here by selecting the ''Comment'' button or you can access the ''Docket'' tab, select the ''Notice,'' and go to the ''Browse & Comment on Documents'' Tab. Here you may view comments that have been submitted as well as submit a comment. To submit a comment, select the ''Comment'' button, complete the required information, and select the ''Submit Comment'' button at the bottom. Information on using *Regulations.gov,* including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''FAQ'' link at the bottom. A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, failure to provide data could result in program benefits being withheld or denied.

Title: Agriculture Innovation Center Demonstration Program.

OMB Control Number: 0570–0045.

Type of Request: Extension to a currently approved information collection.

Abstract: The USDA, through the RBCS administers the Agriculture Innovation Center Demonstration (AIC) Program. The primary objective of this program is to provide funds to Agriculture Innovation Centers (Centers) which provide agricultural producers with technical and business development assistance. RBCS collects information from applicants to confirm eligibility for the program and to evaluate the quality of the applications. Recipients of awards are required to submit reporting and payment request information to facilitate monitoring of the award and disbursement of funds. The Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) authorized the Secretary of the U.S. Department of Agriculture (USDA) to award grant funds to Centers.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3.77 hours per response.

Respondents: Small business or organizations.

Estimated Number of Respondents: 3.

Estimated Total Annual Responses: 48.

Estimated Number of Responses per Respondent: 16.

Estimated Total Annual Burden on Respondents: 181 Hours.

Copies of this information collection can be obtained from Kimble Brown, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, South Building, Washington, DC 20250. Telephone: (202) 720–6780. Email: *Kimble.Brown@usda.gov*.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Gimmie Jansonius,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2026–24145 Filed 11–25–26; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 260922–0056]

American SI Exports Program; On-Demand Consortia for Specific Foreign Opportunities

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of SI Exports Program—On-Demand Consortia.

SUMMARY: The Department of Commerce (the Department), through the International Trade Administration (ITA), establishes the On-Demand Consortia pathway under the Super Intelligence (SI) Exports Program [1] (the Program) authorized by Executive Order 14320: Promoting the Export of the American SI Technology Stack, as laid out in the Call for Proposals for Pre-Set Consortia, released on April 10, 2026 (April 2026 CFP). The Department also provides for re-designation and de-designation of packages designated under the April 2026 CFP or this notice and for the Pre-Set Consortia pathway to reopen at a later date.

DATES: Applications for designation under the On-Demand Consortia pathway may be submitted beginning November 30, 2026. The Department will accept applications on a rolling basis.

ADDRESSES: Applications must be submitted electronically through the American SI Exports Program submission portal at *https://SIexports.gov/on-demand.* The portal provides filing instructions for On-Demand Consortium applications. The Department will post Program updates and additional information on the Program at *https://SIexports.gov.*

FOR FURTHER INFORMATION CONTACT: American SI Exports Team, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; email *info@SIexports.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Executive Order 14320 of July 23, 2025, Promoting the Export of the American SI Technology Stack, directs the Secretary of Commerce, in consultation with the Secretary of State and the Director of the Office of Science and Technology Policy, to establish and implement the American SI Exports Program (the Program) to support the development and deployment of United States full-stack SI export packages.

Commerce announced the Call for Proposals for Pre-Set Consortia on April 1, 2026 (91 FR 18412) (April 2026 CFP), establishing the first pathway for designation under the Program. The initial phase of the Pre-Set Consortia pathway closed on June 30, 2026.

This notice establishes a second pathway for designation in the Program: On-Demand Consortia. On-Demand Consortia are industry-led groupings formed to respond to a specific, identified foreign export opportunity, as described in Section III, *infra.* This notice also provides for re-designation and de-designation of packages designated under either this notice or the April 2026 CFP, and for the reopening at a later date of the Pre-Set Consortia pathway.

II. Eligible On-Demand Consortia

On-Demand Consortia must comply with the eligibility requirements laid out in Sections II and IV of the April 2026 CFP, except that:

1. A subsidiary, affiliate, or branch whose ultimate parent entity is organized under the laws of a foreign jurisdiction or has its principal place of business outside the United States is eligible to be an anchor member as long as the entity itself is organized under the laws of the United States or a State thereof, with its principal place of business in the United States, and meets qualifications (1) and (3) of an anchor member laid out in Section II of the April 2026 CFP.

2. Packages offered by On-Demand Consortia are not themselves required to cover the full five layers of the SI technology stack described in Section III of the April 2026 CFP. Instead, On-Demand Consortia need only offer the layers of the SI stack necessary to meet the buyer's demands for the identified foreign export opportunity, provided that the layers offered meet the content requirements described in Section IV of the April 2026 CFP, as applicable.

An On-Demand Consortium that is not offering a full-stack SI technology package, as described in Executive Order 14320 and Section III of the April 2026 CFP, must demonstrate that the layers offered by the Consortium will combine with existing or acquired infrastructure or capabilities to result in a full-stack SI technology package. An On-Demand Consortium must attest that it has made reasonable efforts to confirm that the resulting full-stack SI technology package meets the content and ownership requirements established under Section IV of the April 2026 CFP for all five layers, whether provided by Consortium members or not. An On-Demand Consortium may also include a Trusted Foreign Enterprise (TFE) as an exception to certain content requirements, consistent with Section II.A. of the April 2026 CFP.[2] In addition, the Secretary may, in consultation with the Secretaries of State, War, and Energy and the Director of the Office of Science and Technology Policy, waive the U.S. ownership and control requirement under Section IV.C of the April 2026 CFP for an On-Demand Consortium if doing so would advance the national interest of the United States.

On-Demand Consortia are also strongly encouraged to provide information relating to the telecommunications and energy infrastructure that will support the package. Specifically, applicants are encouraged to show that (1) applicable telecommunications infrastructure uses technology from trusted sources, meaning it does not rely on technology owned, controlled, or manufactured by entities of countries of concern as defined in the April 2026 CFP, and (2) sufficient energy sources, as appropriate, are or will be in place and operational to support the buyer's SI stack. Any such information will be favorably considered in the national interest determination under Section V of this notice.

III. Qualifying Opportunity

A proposal from an On-Demand Consortium must be organized around a specific, qualifying public or private

[1] Per Executive Order 14434, *Inaugurating the Era of Super Intelligence,* federal departments and agencies shall, to the maximum extent permitted by law, use the terms ''Super Intelligence'' and ''SI'' in place of ''Artificial Intelligence'' and ''AI'' in public communications.

[2] Trusted Foreign Enterprises were referred to as National Champion Enterprises in the April 2026 CFP.

sector SI export opportunity identified in the application.

Eligible opportunities include procurements or purchases by foreign government ministries; state-owned or state-controlled enterprises; government-controlled agencies, cooperatives, or commissions; public-private partnerships; and wholly private foreign entities. Wholly private sector opportunities are eligible when the consortium's proposal preserves and extends American leadership in SI and decreases international dependence on SI technologies developed by adversaries.

For an opportunity to qualify, (i) the opportunity must be eligible as described above; (ii) the applicant must demonstrate that the opportunity is existing or forthcoming, such as through a published tender, public announcement, or written communication; and (iii) the applicant must demonstrate that there is a reasonable likelihood that the proposed package will be selected or included in a group of finalists, as applicable, by providing documentation such as a letter of interest, contract(s), or other written communication from the buyer.

The U.S. Government may identify opportunities that could be appropriate for an On-Demand Consortium; more information about any such opportunities will be available at *https://SIexports.gov.*

IV. Proposal Contents

All applications must be submitted through American SI Exports Program submission portal at *https://SIexports.gov/on-demand.* The application will include at least the following:

1. *Consortium overview.* The Consortium name; identification of the anchor member and attestations that the anchor member has the qualifications required under Section II; and a listing of all consortium members, their roles, the stack layers in which they provide products or services, and whether the Consortium seeks to include any members as TFEs.

2. *Full-stack package description.* A concise narrative describing the integrated technology offering across all layers of the stack offered by the Consortium, as well as how layers offered by the Consortium will combine with existing or acquired infrastructure or capabilities to result in a full-stack SI technology package (if the Consortium is offering less than five layers). This must also include:

a. A description of the content and ownership sufficient to establish compliance with the applicable requirements under Section II of this notice for all five layers of the full-stack SI technology package, whether provided by the Consortium or not.

b. A description, estimated total valuation, and estimated percentage of U.S. hardware content in Layer 1, as defined in Section III of the April 2026 CFP.

c. A description of how the package will advance American standards, including NIST frameworks, or comparable frameworks appropriate to the target market, with respect to privacy and security.

3. *Qualifying opportunity description.* A brief description of the opportunity that the Consortium seeks to pursue, including an estimate of the value of the opportunity as well as a description of any known foreign competition, and an explanation of why the opportunity qualifies under Section III, as well as the appropriate supporting documentation.

4. *Business and operational model.* A high-level explanation of which entities will build, own, operate, deliver, and support the package, including any relevant infrastructure, cloud, or managed-service arrangements.

5. *Requested Federal support.* Identification of the types of Federal support that would be most useful if the proposal is designated, which may include export-control engagement, financing referrals, government-to-government engagement, technical assistance, direct loans or loan guarantees, equity investments, co-financing, political risk insurance, credit guarantees, feasibility studies, or other forms of assistance.

6. *National interest policy statement.* A description of how the proposal advances the policy objectives of Executive Order 14320.

7. *Country of concern disclosures.* A description of any specific products or services to be provided by an entity that is (1) incorporated or has its principal place of business in a country of concern, as defined in Sec. 8521 of the 2026 National Defense Authorization Act (Pub. L. 119–60); or (2) owned or controlled through a majority voting or equity interest by a country of concern or by an entity or national of a country of concern. If no products or services will be provided by such an entity, the applicant must attest to that.

8. *Export-control compliance and national security information.* Identification of any aspect of the proposal (including items, software, and technology, destinations, end uses, or end users) that may implicate the Export Administration Regulations (EAR) (15 CFR parts 730–774), the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130), the Office of Foreign Assets Control Regulations (31 CFR parts 501–599), U.S. outbound investment regulations (31 CFR part 850 or successor regulations issued pursuant to Title VIII of the Defense Production Act of 1950, as amended (50 U.S.C. 4581–4589), as well as a description of the consortium's compliance program with those laws.

9. Confirmation from each consortium member that it has agreed to be a member of the consortium.

In addition, applicants are encouraged to submit the following optional items:

1. Information relating to the telecommunications and energy infrastructure that will support the package, as outlined in Section II; and

2. Descriptions of local implementation partners such as contractors, service providers, and other public or private organizations that are likely to play a role in the installation and operation of the SI stack, if such local partners are not already named in the business and operational model section required above.

3. If federal financial support will be sought (*e.g.,* from the Export-Import Bank of the United States or the U.S. International Development Finance Corporation), the name and role of any private bank, underwriter, co-investor, agent, or other financial service provider that may support the package.

V. Review, Designation, and Benefits

The Secretary of Commerce, in consultation with the Secretaries of State, War, and Energy and the Director of the Office of Science and Technology Policy, will review proposals and make designation decisions based on the national interest as described in Section IX of the April 2026 CFP. In making designation decisions, the Department will additionally consider whether the package appears consistent with the identified opportunity as well as any information provided on telecommunications or energy as described in Section II of this notice. The Department intends to issue a designation decision within 60 calendar days. There is no numerical cap on the number of packages that may be designated under this notice, or for any particular opportunity.

Applicants will receive written notice of designation and next-step guidance on engaging with the Department of Commerce. Applicants whose packages are not designated will receive notice of non-designation and may resubmit revised proposals with a concise explanation of material changes.

Designated packages may receive one or more of the benefits laid out in

Section VIII of the April 2026 CFP, as appropriate to that package and the identified opportunity. Provisions on treatment of confidential information and applicable legal terms are located in Sections VII and XII of the April 2026 CFP; additional application requirements and process details are available at *https://www.SIexports.gov.*

VI. Re-Designation and De-Designation

The Anchor Member of a package designated through either the Pre-Set or On-Demand pathway must notify the Department of any material changes to the package, including but not limited to changes relating to consortium membership, member ownership, U.S. and country of concern content, specific products, or other relevant changes that affect the identified opportunity, by emailing *info@SIexports.gov* as soon as practicable. In response to any such changes, the Department may request additional information, require a new application and national interest determination (*i.e.,* re-designation), or de-designate the package. A new application in response to any such changes may be reviewed in an expedited manner.

The Department may also de-designate a package designated under either the April 2026 CFP or this notice upon a determination that designation is no longer in the national interest due to fraud; willful misrepresentation in the application or in any subsequent attestation; criminal conduct relevant to Program integrity; or other conduct that would reflect negatively on the Program. De-designation notifications will be conveyed via email to the Anchor Member and will be effective on the date the email is sent. De-designation does not preclude future application by the same parties if the circumstances that led to the de-designation have been fully addressed.

On-Demand Consortia that have had a package designated for an eligible opportunity and that are seeking to provide the same package for a substantially similar eligible opportunity may have access to an expedited application and review. Additional information about any expedited application processes, including eligibility, will be provided at *https://SIexports.gov.*

VII. Additional Pre-Set Consortia Application Window

Applications for Pre-Set Consortia may be accepted again at a later date; more information will be provided at *SIexports.gov* and published in the **Federal Register**.

VIII. Additional Information and Program Updates

All information about the Program, including FAQ and application information, is available and will be kept updated at *https://SIexports.gov.*

IX. Paperwork Reduction Act Public Burden Statement

A Federal agency may not conductor or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with an information collection subject to the requirements of the Paperwork Reduction Act of 1995 unless the information collection has a currently valid OMB Control Number. The approved OMB Control Number for this information collection is 0690–0040. Without this approval, we could not conduct this information collection. Public reporting for this information collection is estimated to be approximately 60 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. The estimated burden hours are within the approved burden hour limits of this control number. All responses to this information collection are voluntary. Send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden to the International Trade Administration Paperwork Reduction Act Program: *PRA@trade.gov*.

William Kimmitt,

Under Secretary of Commerce for International Trade, U.S. Department of Commerce.

[FR Doc. 2026–24107 Filed 11–25–26; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 261120–0145]

RIN 0625–XC062

Extending Deadlines for Submissions by Importers of Automobiles Qualifying for Preferential Tariff Treatment Under the USMCA To Determine U.S. Content

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice; Deadline Extension.

SUMMARY: In Proclamation 10908 of March 26, 2025, ''Adjusting Imports of Automobiles and Automobile Parts Into the United States,'' the President imposed additional tariffs on imports of specified automobiles and automobile parts to eliminate the threat to national security posed by such imports. That Proclamation also provided that importers of automobiles that qualify for preferential tariff treatment under the United States-Mexico-Canada Agreement (USMCA) may submit documentation to the Secretary of Commerce (Secretary) identifying the amount of U.S. content in each model imported into the United States. In a **Federal Register** Notice published on May 20, 2025, ''Procedures for Submission by Importers of Automobiles Qualifying for Preferential Tariff Treatment Under the USMCA to Determine U.S. Content,'' the Department of Commerce (Department) established procedures for submission and review of such documentation. The Department amended the submission timelines outlined in those procedures in a **Federal Register** Notice published on August 19 ''Amending Procedures for Submissions by Importers of Automobiles Qualifying for Preferential Tariff Treatment Under the USMCA To Determine U.S. Content.'' This Notice extends the submission deadlines provided in that **Federal Register** Notice.

DATES: Importers may begin submitting documentation as described below on or after November 27, 2026.

ADDRESSES: Applications must be submitted electronically via *Autos232USMCAContent@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Emily Davis, Director for Public Affairs, International Trade Administration, U.S. Department of Commerce, 202–482–3809, *Emily.Davis@trade.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 26, 2025, the President issued Proclamation 10908, ''Adjusting Imports of Automobiles and Automobile Parts Into the United States'' (90 FR 14705) (Proclamation 10908), finding that imports of automobiles and certain automobile parts continue to threaten to impair the national security of the United States and determining that it is necessary and appropriate to impose specified tariffs to adjust imports of automobiles and certain automobile parts so that such imports will not threaten to impair national security pursuant to section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862). Proclamation 10908 imposed a 25 percent tariff on certain imports of automobiles and certain

imports of auto parts. Proclamation 10908 also provided that for automobiles that qualify for preferential tariff treatment under the USMCA, importers of such automobiles may submit documentation to the Secretary identifying the amount of U.S. content in each model imported into the United States and apply the additional tariff exclusively to the value of the non-U.S. content of the automobile. Consistent with Proclamation 10908, on May 20, 2025, the Department issued a **Federal Register** Notice, ''Procedures for Submissions by Importers of Automobiles Qualifying for Preferential Tariff Treatment Under the USMCA To Determine U.S. Content'' (90 FR 21450) (May 20 Notice) that established the procedures for submission and review of U.S. content submissions by importers of automobiles.

On August 19, 2026, the Department published a **Federal Register** Notice ''Amending Procedures for Submissions by Importers of Automobiles Qualifying for Preferential Tariff Treatment Under the USMCA To Determine U.S. Content'' (August 19 Notice) (91 FR 53602), which amended the May 20 Notice to make the timelines therein consistent with the timelines established for submissions by importers of Medium- and Heavy-Duty Vehicles in a February 2, 2026 **Federal Register** Notice (91 FR 4504) (February 2 Notice).

Proclamation 10908 provides the Secretary with the authority to issue regulations and guidance consistent with that Proclamation, including to address operational necessity. The Secretary has determined that it is necessary for the operation of the procedures outlined in the February 2 Notice and the August 19 Notice to extend the expiration dates for existing U.S. content determinations for automobiles until March 1, 2027 to allow the Department sufficient time to fully consider and process those applications in light of the number of applications, existing staff resources, and other responsibilities.

II. Amended Review Process

All U.S. content eligibility determinations for automobiles approved by the Department under the procedures in the May 20 Notice and the August 19 Notice remain valid for automobiles imported before March 1, 2027, regardless of model year and any expiration date set forth in the determination. Importers seeking eligibility for an automobile model imported on or after March 1, 2027 must submit new documentation to the Department by December 30, 2026 to ensure timely processing; determinations made in response to such applications will be valid for automobiles imported before March 1, 2028. Importers seeking eligibility for an automobile model imported on or after March 1, 2028 must submit documentation supporting eligibility no later than November 30, 2027 to ensure timely processing. Those eligibility determinations will apply to automobiles imported on or after March 1, 2028 and before March 1, 2029. Importers of a new automobile model may apply at any time for a U.S. content eligibility determination, which shall apply to automobiles imported on or after the date the application was submitted and before the March 1 occurring after the date the application was submitted.

Importers must promptly inform the Department and request a new eligibility determination if any changes in sourcing or production occur that results in a decrease in U.S. content relevant to an eligibility determination. If a change in sourcing or production results in an increase in U.S. content, the importer may inform the Department and request a new eligibility determination by providing a new submission. These determinations will be valid for automobiles imported after the date of the change in sourcing as set forth in the determination and before the March 1 occurring after the date of the determination. Importers may continue to submit new or amended U.S. content eligibility submissions, including updated submissions, for automobiles imported before March 1, 2027; however, an eligibility determination granted in response to such a submission shall only be valid for automobiles imported before that date.

III. Authority

This Notice is issued pursuant to the authority delegated to the Secretary by Proclamation 10908 consistent with section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862).

William Kimmitt,

Under Secretary of Commerce for International Trade, U.S. Department of Commerce.

[FR Doc. 2026–24076 Filed 11–25–26; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

United States-Mexico-Canada Agreement (USMCA), Article 10.12: Binational Panel Review: Notice of Request for Panel Review

AGENCY: United States Section, USMCA Secretariat, International Trade Administration, Department of Commerce.

ACTION: Notice of USMCA Request for Panel Review.

SUMMARY: A Request for Panel Review was filed in the matter of Aluminum Hollow Profiles from the United States with the Mexican Section of the USMCA Secretariat on October 2, 2026. The merchandise under investigation is classified under Mexico's Tarriff code: 7604.21.01. The Request for Panel Review was filed on behalf of Merit Aluminum, Inc. The USMCA Secretariat has assigned case number MEX–USA–2026–10.12–01 to this request.

FOR FURTHER INFORMATION CONTACT: Vidya Desai, United States Secretary, USMCA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, 202–482–5438.

SUPPLEMENTARY INFORMATION: The final result of the investigation under review were determined by Mexico's Secretaría de Economía and was published in the *Diario Oficial de la Federacion* on September 4, 2026.

Article 10.12 of Chapter 10 of USMCA provides a dispute settlement mechanism involving trade remedy determinations issued by the Government of the United States, the Government of Canada, and the Government of Mexico. Following a Request for Panel Review, a Binational Panel is composed to review the trade remedy determination being challenged and issue a binding Panel Decision. There are established USMCA *Rules of Procedure for Article 10.12 (Binational Panel Reviews),* which were adopted by the three governments for panels requested pursuant to Article 10.12(2) of USMCA which requires Requests for Panel Review to be published in accordance with Rule 40. For the complete Rules, please see *https://can-mex-usa-sec.org/secretariat/agreement-accord-acuerdo/usmca-aceum-tmec/rules-regles-reglas/article-article-articulo_10_12.aspx?lang=eng.*

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 44 no later than 30 days after the filing of the first

Request for Panel Review (the deadline for filing a Complaint was November 2, 2026);

(b) A Party, an investigating authority or other interested person who does not file a Complaint but who intends to participate in the panel review shall file a Notice of Appearance in accordance with Rule 45 no later than 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance was November 16, 2026);

(c) The panel review will be limited to the allegations of error of fact or law, including challenges to the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and to the procedural and substantive defenses raised in the panel review.

Dated: November 23, 2026.

Vidya Desai,

United States Secretary, USMCA Secretariat.

[FR Doc. 2026–24034 Filed 11–25–26; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

United States-Mexico-Canada Agreement (USMCA), Article 10.12: Binational Panel Review: Notice of Request for Panel Review

AGENCY: United States Section, USMCA Secretariat, International Trade Administration, Department of Commerce.

ACTION: Notice of USMCA Request for Panel Review.

SUMMARY: A Request for Panel Review was filed in the matter of Liquid Caustic Soda from the United States: Final Resolution regarding the Antidumping Duty Administrative Review with the Mexican Section of the USMCA Secretariat on June 27, 2025. The subject merchandise is classified under Mexico's Tarriff code: 2815.12.01. The Request for Panel Review was filed on behalf of Innophos Fosfatados de México, S. de R.L. de C.V. The USMCA Secretariat has assigned case number MEX–USA–2025–10.12–01 to this request.

FOR FURTHER INFORMATION CONTACT: Vidya Desai, United States Secretary, USMCA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, 202–482–5438.

SUPPLEMENTARY INFORMATION: The final result of the investigation under review was determined by Mexico's Secretaría de Economía and was published in the *Diario Oficial de la Federacion* on May 29, 2025.

Article 10.12 of Chapter 10 of USMCA provides a dispute settlement mechanism involving trade remedy determinations issued by the Government of the United States, the Government of Canada, and the Government of Mexico. Following a Request for Panel Review, a Binational Panel is composed to review the trade remedy determination being challenged and issue a binding Panel Decision. There are established USMCA *Rules of Procedure for Article 10.12 (Binational Panel Reviews),* which were adopted by the three governments for panels requested pursuant to Article 10.12(2) of USMCA which requires Requests for Panel Review to be published in accordance with Rule 40. For the complete Rules, please see *https://can-mex-usa-sec.org/secretariat/agreement-accord-acuerdo/usmca-aceum-tmec/rules-regles-reglas/article-article-articulo_10_12.aspx?lang=eng.*

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 44 no later than 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint was July 28, 2025);

(b) A Party, an investigating authority or other interested person who does not file a Complaint but who intends to participate in the panel review shall file a Notice of Appearance in accordance with Rule 45 no later than 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance was August 11, 2025);

(c) The panel review will be limited to the allegations of error of fact or law, including challenges to the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and to the procedural and substantive defenses raised in the panel review.

Dated: November 23, 2026.

Vidya Desai,

United States Secretary, USMCA Secretariat.

[FR Doc. 2026–24035 Filed 11–25–26; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG200]

Endangered Species; File No. 29913

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the New Jersey Department of Environmental Protection, 360 North New York Road, Port Republic, NJ 08205 (Responsible Party: Jeffrey Brust), has applied in due form for a permit to take Atlantic sturgeon (*Acipenser oxyrinchus*) for purposes of scientific research.

DATES: Written comments must be received on or before December 28, 2026.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' on the Authorizations and Permits for Protected Species home page, *https://www.webapps.nwfsc.noaa.gov/apex/ifq/r/ifqws/apps/home,* and then selecting File No. 29913 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 29913 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Erin Markin, Ph.D., or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to conduct research on Atlantic sturgeon incidentally captured in the New Jersey Ocean Trawl Survey to understand seasonal distribution, habitat use, and movement patterns in New Jersey marine waters, including state waters and adjacent Federal waters of the Mid-Atlantic Bight. Up to 21 adult/subadult and 4 juvenile Atlantic sturgeon would be anesthetized, tagged (internal acoustic, dart), and weighed, annually, prior to release. The permit would be valid for up to 5 years from the date of issuance.

Dated: November 24, 2026.

Nature McGinn,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–24136 Filed 11–25–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG209]

Endangered Species; File No. 29910

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Connecticut Department of Energy and Environmental Protection, 333 Ferry Road, Old Lyme, CT 06371 (Responsible Party: Jacqueline Benway Roberts), has applied in due form for a permit to take Atlantic sturgeon (*Acipenser oxyrinchus*) and shortnose sturgeon (*A. brevirostrum*) for purposes of scientific research.

DATES: Written comments must be received on or before December 28, 2026.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' on the Authorizations and Permits for Protected Species home page, *https://www.webapps.nwfsc.noaa.gov/apex/ifq/r/ifqws/apps/home,* and then selecting File No. 29910 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 29910 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Erin Markin, Ph.D., or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to conduct research on adult, sub-adult, and juvenile Atlantic and shortnose sturgeon captured via gill nets and trawls in Connecticut rivers and the Long Island Sound to understand recruitment, habitat utilization, seasonal movements, and population size and structure. Up to 1,010 Atlantic sturgeon and 1,325 shortnose sturgeon would be marked (passive integrated transponder), measured, biologically sampled (fin clip), photographed/videoed, and weighed, annually, prior to release. A subset of sturgeon would be anesthetized, tagged (internal transmitter), biologically sampled (fin ray), and lavaged, prior to release. Early life stages of both species will be collected using egg mats. The applicant requests up to one unintentional mortality of an adult/subadult and a juvenile Atlantic and shortnose sturgeon annually. See application for detailed requested take numbers. The permit would be valid for up to 10 years from the date of issuance.

Dated: November 24, 2026.

Nature McGinn,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–24138 Filed 11–25–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG218]

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; 2026 Cost Recovery Fee Notice for the Western Alaska Community Development Quota and Trawl Limited Access Privilege Programs

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

ACTION: Notification of standard prices and fee percentage.

SUMMARY: NMFS publishes the 2026 standard prices and fee percentages for cost recovery for the Amendment 80 Program, the American Fisheries Act (AFA) Program, the Aleutian Islands Pollock (AIP) Program, and the Western Alaska Community Development Quota (CDQ) Program in the Bering Sea Aleutian Islands (BSAI) management area. The fee percentages for 2026 are 0.94 percent for the Amendment 80 Program, 0.46 percent for the AFA inshore cooperatives, 0 percent for the AIP program, and 0.93 percent for the CDQ Program. This notice is intended to provide the 2026 standard prices and fee percentages to calculate the required payment for cost recovery fees due by December 31, 2026.

DATES: The standard prices and fee percentages are valid on November 27, 2026.

FOR FURTHER INFORMATION CONTACT: Tristan Mandeville, Fee Coordinator, 907–586–7231.

SUPPLEMENTARY INFORMATION:

Background

Section 304(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes and requires that NMFS collect cost recovery fees for limited access privilege programs and the CDQ Program. Cost recovery fees include NMFS' actual costs directly related to its management, data collection, and enforcement of the programs. Section 304(d) of the Magnuson-Stevens Act mandates that cost recovery fees not exceed 3 percent of the annual ex-vessel value of fish harvested under any program subject to a cost recovery fee and that the fee be collected either at the time of landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

NMFS manages the Amendment 80 Program, AFA Program, and AIP Program as limited access privilege programs. On January 5, 2016, NMFS published a final rule to implement cost recovery for these three limited access privilege programs and the CDQ program (81 FR 150, January 5, 2016). The designated representative (for the purposes of cost recovery) for each program is responsible for submitting the fee payment to NMFS on or before December 31 of the year in which the landings were made. The total dollar amount of the fee due is determined by multiplying the NMFS published fee percentage by the ex-vessel value of all landings under the program made during the fishing year. NMFS publishes this notice of the fee percentages for the Amendment 80, AFA, AIP, and CDQ programs in the **Federal Register** by December 1 each year.

Standard Prices

The fee liability is based on the ex-vessel value of fish harvested in each program. For purposes of calculating cost recovery fees, NMFS uses a

standard ex-vessel price (standard price) for each species. A standard price is determined using information on landings purchased (volume) and ex-vessel value paid (value). For most groundfish species, NMFS annually summarizes volume and value information for landings of all fishery species subject to cost recovery to estimate a standard price for each species. The standard prices are described in U.S. dollars per pound for landings made during the year. The standard prices for all species in the Amendment 80, AFA, AIP, and CDQ programs are provided in table 1. Each landing made under each program is multiplied by the appropriate standard price to arrive at an ex-vessel value for each landing. These values are summed together to arrive at the ex-vessel value of each program (fishery value).

TABLE 1—STANDARD EX-VESSEL PRICES BY SPECIES FOR THE 2026 FISHING YEAR

Species	Gear type	Reporting period	Standard ex-vessel price per pound ($)
Arrowtooth flounder	All	January to December	0.32
Atka mackerel	All	January to December	0.26
Flathead sole	All	January to December	0.26
Greenland turbot	All	January to December	0.78
CDQ halibut	Fixed gear	January to December	8.29
Pacific cod	Fixed gear	January to December	0.53
	Trawl gear	January to December	0.45
Pacific ocean perch	All	January to December	0.31
Pollock	All	January to December	0.13
Rock sole	All	January to March	0.25
	All	April to December	0.25
Sablefish	Fixed gear	January to December	1.94
	Trawl gear	January to December	0.96
Yellowfin sole	All	January to December	0.24

Fee Percentage

Annually, NMFS calculates the applicable fee percentage for each of the four programs according to the factors and methods described at 50 CFR 679 under §§ 679.33(c)(2) for CDQ, 679.66(c)(2) for AFA, 679.67(c)(2) for AIP, and 679.95(c)(2) for Amendment 80. NMFS determines the fee percentage that applies to landings made during the year by dividing the total costs directly related to the management, data collection, and enforcement of each program (direct program costs) during the year by the fishery value. NMFS captures direct program costs through an established accounting system that allows staff to track labor, travel, contracts, and procurement costs. For 2026, the direct program costs for each program were tracked from October 1, 2025 to September 30, 2026 (the end of the fiscal year). The Amendment 80 program moved from active software development to maintenance, resulting in an 18 percent decrease in direct program costs. When combined with a 35 percent increase in overall fishery value, the fee percentage was reduced from 1.55 percent in 2025 to 0.94 percent in 2026. AFA was a focus for software development in 2026, resulting in a 10 percent increase in direct program costs. AFA fishery value declined by 17 percent when compared to 2025, resulting in an increased fee percentage from 0.35 percent in 2025 to 0.46 percent in 2026. CDQ fishery value increased by 28 percent and direct program costs were a 0.2 percent increase when compared to 2025. The CDQ fee percentage decreased from 1.19 percent in 2025 to 0.93 percent in 2026. The 2026 percentage for the AIP Program is zero because there was no AIP fishery in 2026, thus no associated harvest.

NMFS will provide an annual report that summarizes direct program costs for each of the programs in early 2027. NMFS calculates the values for each fishery as described earlier under the Standard Prices section of this notice.

Amendment 80 Program Standard Prices and Fee Percentage

The Amendment 80 Program allocates total allowable catches (TACs) of groundfish species, other than Bering Sea pollock, to identified trawl catcher/processors fishing in the BSAI. The Amendment 80 Program allocates a portion of the BSAI TACs of six species: Atka mackerel, Pacific cod, flathead sole, rock sole, yellowfin sole, and Aleutian Islands Pacific ocean perch. In recent years, participants in the Amendment 80 sector have established a cooperative to harvest these allocations. Each Amendment 80 cooperative is responsible for payment of the cost recovery fee for fish landed under the Amendment 80 Program. Cost recovery requirements for the Amendment 80 Program are at § 679.95.

For Amendment 80 species, other than rock sole, NMFS annually summarizes volume and value information for landings of all fishery species subject to cost recovery in order to estimate a standard price for each fishery species. Regulations specify that for rock sole, NMFS shall calculate a separate standard price for two periods, January 1 through March 31 and April 1 through October 31, which has historically accounted for a substantial difference in estimated rock sole prices during the first quarter of the year relative to the remainder of the year. The volume and value information are obtained from the First Wholesale Volume and Value Report submitted by catcher/processors that harvested Amendment 80 or CDQ species, and the Pacific Cod Ex-Vessel Volume and Value Report submitted by shoreside processors and motherships that processed landings of BSAI or CDQ Pacific cod.

Using the fee percentage formula described generally above, the estimated percentage of direct program costs to fishery value for the 2026 calendar year is 0.94 percent for the Amendment 80 Program. For 2026, NMFS applies the fee percentage to each Amendment 80 species landing that was debited from an Amendment 80 cooperative quota allocation between January 1 and December 31 to calculate the Amendment 80 fee liability for each Amendment 80 cooperative. The 2026

fee payments must be submitted to NMFS on or before December 31, 2026. Payment must be made in accordance with the payment methods set forth in § 679.95(a)(3)(iv).

AFA Standard Price and Fee Percentages

The AFA Program allocates the Bering Sea directed pollock fishery TAC to three sectors: catcher/processor, mothership, and inshore. Each sector has established cooperatives to harvest the sector's exclusive allocation. In 2026, each cooperative for the inshore sector is responsible for paying the fee for Bering Sea pollock landed under the AFA Program. Cost recovery requirements for the AFA sectors are found at § 679.66.

NMFS calculates the standard price for pollock using the most recent annual value information reported to the Alaska Department of Fish and Game for the Commercial Operator's Annual Report and compiled in the Alaska Commercial Fisheries Entry Commission Gross Earnings data. Due to the time required to compile the data, there is a 1-year delay between the gross earnings data year and the fishing year to which it is applied. For example, NMFS used 2025 gross earnings data to calculate the standard price for 2026 pollock landings.

Under the fee percentage formula described above, the estimated percentage of direct program costs to fishery value for the 2026 calendar year is 0.46 percent for the AFA inshore sector. To calculate the 2026 fee liabilities, NMFS applies the respective fee percentages to the landings of Bering Sea pollock debited from each cooperative's fishery allocation that occurred between January 1 and December 31. The 2026 fee payments must be submitted to NMFS on or before December 31, 2026. Payment must be made in accordance with the payment methods set forth in § 679.66(a)(4)(iv).

AIP Program Standard Price and Fee Percentage

The AIP Program allocates the Aleutian Islands directed pollock fishery TAC to the Aleut Corporation, consistent with the Consolidated Appropriations Act of 2004 (Pub. L. 108–199) and implementing regulations. Annually, prior to the start of the pollock season, the Aleut Corporation provides NMFS with the identity of its designated representative for harvesting the Aleutian Islands directed pollock fishery TAC. The same individual is responsible for the submission of all cost recovery fees for pollock landed under the AIP Program. Cost recovery requirements for the AIP Program are at § 679.67.

NMFS calculates the standard price for pollock using the most recent annual value information reported to the Alaska Department of Fish and Game for the Commercial Operator's Annual Report and compiled in the Alaska Commercial Fisheries Entry Commission Gross Earnings data for Aleutian Islands pollock. As explained above, due to the time required to compile the data, there is a 1-year delay between the gross earnings data year and the fishing year to which it is applied.

For the 2026 fishing year, the Aleut Corporation did not select any participants to harvest or process the Aleutian Islands directed pollock fishery TAC, and most of that TAC was reallocated to the Bering Sea directed pollock fishery TAC. Since there was no fishery for the AIP Program in 2026, the fee percentage is zero.

CDQ Standard Price and Fee Percentage

The CDQ Program was implemented in 1992 to provide access to BSAI fishery resources to villages located in Western Alaska. Section 305(i) of the Magnuson-Stevens Act identifies 65 villages eligible to participate in the CDQ Program and the 6 CDQ groups to represent these villages. CDQ groups receive exclusive harvesting privileges of the TACs for a broad range of crab species, groundfish species, and halibut. NMFS implemented a CDQ cost recovery program for the BSAI crab fisheries in 2005 (70 FR 10174, March 2, 2005) and published the cost recovery fee percentage for the 2025/2026 crab fishing year on July 28, 2026 (91 FR 47223). This notice provides the cost recovery fee percentage for the CDQ Program with respect to groundfish and halibut. Each CDQ group is subject to cost recovery fee requirements and the designated representative of each CDQ group is responsible for submitting payment for their CDQ group. Cost recovery requirements for the CDQ Program are at § 679.33.

For most CDQ groundfish species, NMFS annually summarizes volume and value information for landings of all fishery species subject to cost recovery in order to estimate a standard price for each fishery species. The volume and value information are obtained from the First Wholesale Volume and Value Report and the Pacific Cod Ex-Vessel Volume and Value Report. For CDQ halibut and fixed-gear sablefish, NMFS calculates the standard prices using information from the Individual Fishing Quota (IFQ) Ex-Vessel Volume and Value Report, which collects information on both IFQ and CDQ volume and value.

Using the fee percentage formula described above, the estimated percentage of direct program costs to fishery value for the 2026 calendar year is 0.93 percent for the CDQ Program. For 2026, NMFS applies the calculated CDQ fee percentage to all CDQ groundfish and halibut landings made between January 1 and December 31 to calculate the CDQ fee liability for each CDQ group. The 2026 fee payments must be submitted to NMFS on or before December 31, 2026. Payment must be made in accordance with the payment methods set forth in § 679.33(a)(3)(iv).

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

Dated: November 24, 2026.

Shannon Bettridge,

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

[FR Doc. 2026–24156 Filed 11–25–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG213]

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review; Public Meeting

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

ACTION: Notice of webinar.

SUMMARY: The Southeast Data Assessment and Review (SEDAR) 90 assessment process of South Atlantic Red Snapper will consist of a Data Workshop, a series of Assessment Webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 90 Assessment Webinar 14 will be held from 9 a.m. until 12 p.m. EDT on December 17, 2026.

ADDRESSES:

SEDAR Address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

Meeting Address: The SEDAR 90 Assessment Webinar 14 will be held via webinar. The webinar is open to members of the public. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the time established

by this notice. *https://www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Emily Ott, SEDAR Coordinator; (843) 302–8434. Email: *Emily.Ott@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with the NMFS and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the SEDAR process. SEDAR is a participatory process for developing, evaluating and reviewing information used for fisheries management advice. This multi-step process for determining the status of fish stocks in the Southeast Region may include (1) a data stage, (2) an assessment stage, and (3) a review stage. Each stage produces a report summarizing decisions made during that stage. A final stock assessment report is produced at the end of a SEDAR process documenting data sets used, model configurations, and the opinions from the independent peer review. Participants for SEDAR projects are appointed by the Gulf, South Atlantic, and Caribbean Fishery Management Councils and National Marine Fisheries Service Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants may include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations; International experts; and staff of Councils, Commissions, and State and Federal agencies.

The items of discussion in the SEDAR 90 Assessment Webinar 14 are as follows:

Participants will review recommendations made on Assessment Webinar 13 and continue discussion of new modeling topics. Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: November 24, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–24150 Filed 11–25–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG208]

Endangered Species; File No. 29909

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the U.S. Fish and Wildlife Service, Maryland Fish and Wildlife Conservation Office, 177 Admiral Cochrane Drive, Annapolis, MD 21401 (Responsible Party: Michael Mangold), has applied in due form for a permit to take Atlantic sturgeon (*Acipenser oxyrinchus*) and shortnose sturgeon (*A. brevirostrum*) for purposes of scientific research.

DATES: Written comments must be received on or before December 28, 2026.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' on the Authorizations and Permits for Protected Species home page, *https://www.webapps.nwfsc.noaa.gov/apex/ifq/r/ifqws/apps/home,* and then selecting File No. 29909 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 29909 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Erin Markin, Ph.D., or Shasta McClenahan, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to conduct research on adult, sub-adult, and juvenile Atlantic and shortnose sturgeon captured in tributaries of the Chesapeake Bay, specifically in the James, York, Nanticoke, Potomac, Rappahannock, Pocomoke, and Chester Rivers, to understand reproductive success, abundance, movement patterns, and habitat preference. Atlantic and shortnose sturgeon would be marked (dart and passive integrated transponder tags), measured, biologically sampled (fin clip), photographed/videoed, and weighed, prior to release. A subset of sturgeon would be anesthetized and tagged (internal or external acoustic). Early life stages would be collected using egg mats or D-frame nets. The applicant requests unintentional mortality of up to 1 adult or subadult Atlantic sturgeon, annually, and up to 2 juvenile Atlantic sturgeon annually, not to exceed 10 juvenile Atlantic sturgeon over the life of the permit. The permit would be valid for up to 10 years from the date of issuance.

Dated: November 24, 2026.

Nature McGinn,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–24139 Filed 11–25–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG214]

Fisheries of the Caribbean; Southeast Data, Assessment, and Review; Public Meeting

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

ACTION: Notice of webinar.

SUMMARY: The Southeast Data Assessment and Review (SEDAR) 103

assessment process of Caribbean Alternate Assessment Methods will consist of a Development Workshop, a series of Assessment Webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION.**

DATES: The SEDAR 103 Assessment Application Webinar 2 will be held from 3 p.m. until 5 p.m. EDT December 16, 2026.

ADDRESSES:

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405. *www.sedarweb.org.*

Meeting address: The SEDAR 103 Assessment Application Webinar 2 will be held via webinar. The webinar is open to members of the public. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the time established by this notice.

FOR FURTHER INFORMATION CONTACT: Emily Ott, SEDAR Coordinator; (843) 302–8434. Email: *Emily.Ott@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with the NMFS and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the SEDAR process, a multi-step method for determining the status of fish stocks in the Southeast Region SEDAR is a participatory process for developing, evaluating and reviewing information used for fisheries management advice. The process may include (1) a Data stage, and (2) an Assessment stage, and (3) a Review stage. The product of the Data stage is a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment stage is a report which compiles and evaluates recommended model configurations that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks and projects future population conditions. The product of the Review Workshop is a Review Summary documenting panel opinions regarding the strengths and weaknesses of the products reviewed. Participants for SEDAR Workshops are appointed by the Gulf, South Atlantic, and Caribbean Fishery Management Councils and NMFS Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations; International experts; and staff of Councils, Commissions, and State and Federal agencies.

The items of discussion in the Assessment Application Webinar 2 are as follows:

Discuss application of alternate assessment methods. Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: November 24, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–24151 Filed 11–25–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG167]

Permits; Foreign Fishing

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

ACTION: Notice of application for transshipment permit; request for comments.

SUMMARY: NMFS publishes for public review and comment information regarding a permit application for transshipment of farmed salmon from aquaculture operations in Maine waters to processing plants in Canada by Canadian flagged vessels. The application for a transshipment permit is submitted under provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This action is necessary for NMFS to make a determination on whether to approve the permit application.

DATES: Written comments must be received by December 11, 2026.

ADDRESSES: Written comments on this action, identified by RTID 0648–XG167 should be sent to Michael Abbey in the NMFS Office of International Affairs, Trade, and Commerce by email at *michael.abbey@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Abbey by email at *michael.abbey@noaa.gov,* or by phone at 301–427–8019.

SUPPLEMENTARY INFORMATION:

Background

Section 1824(d) of the Magnuson-Stevens Act (16 U.S.C. 1824(d)) authorizes the Secretary of Commerce (Secretary) to issue a transshipment permit for a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the U.S. Exclusive Economic Zone or, with the concurrence of a state, within the boundaries of that state, to a point outside the United States.

Section 1824(d)(3)(D) of the Magnuson-Stevens Act provides that an application to transship from U.S. waters to another country using non-U.S. vessels may not be approved until the Secretary determines that no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated an interest in performing the transportation at fair and reasonable rates. NMFS is publishing this notice as part of its effort to make such a determination with respect to the application described below.

Summary of Application

NMFS received an application from True North Salmon Limited Partnership, Kelly Cove Salmon Limited, and 697002 NB, Inc., requesting authorization to transfer salmon from United States farm pens in Maine waters to five Canadian vessels for the purpose of transporting the salmon to Blacks Harbour, Canada for processing. The transshipment operations will occur within the boundaries of the State of Maine, and within 12 nautical miles from Maine's seaward boundary. NMFS issued permits for the same vessels for use in

calendar year 2026. Those permits expire December 31, 2026.

Dated: November 24, 2026.

Alexa Cole,

Director, Office of International Affairs, Trade, and Commerce, National Marine Fisheries Service.

[FR Doc. 2026–24164 Filed 11–25–26; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete product(s) previously furnished by such agencies.

DATES: Comments must be received on or before: December 27, 2026.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 250 E Street SW, Suite 3100, Washington DC, 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

In accordance with 41 CFR 51–2.4(b), Government personnel within the contracting activity have identified this as a product requirement not applicable to other Federal entities and has requested the Committee consider granting a purchase or distribution preference if the product is added to the Procurement List. *See* 71 FR 69536 (Dec. 1, 2006). If the Committee grants this request, the products listed below will not be available through the U.S. AbilityOne Commission's Commercial Distribution Program. The Committee will consider this request along with relevant comments received from interested parties.

The following product(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product(s)

NSN(s)—Product Name(s):
700007101N—Rubber Duck, Military
700007102N—Rubber Duck, Doctor
700007103N—Rubber Duck, Nurse
700007104N—Rubber Duck, Captain
700007105N—Rubber Duck, Sailor
780001601N—Light, Selfie, LED
Authorized Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI
Mandatory For: DEPT OF DEFENSE
Contracting Activity: DEPT OF DEFENSE, NAVSUP FLT LOG CTR NORFOLK

Deletions

The following product(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s): 8465–00–782–2239—(3–3/4)
Authorized Source of Supply: Alabama Industries for the Blind, Talladega, AL
Contracting Activity: DEPT OF DEFENSE, DLA TROOP SUPPORT

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2026–24054 Filed 11–25–26; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes product(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to and deleted from the Procurement List:* December 27, 2026.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 250 E Street SW, Suite 3100, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: *For further information or to submit comments contact:* Michael R. Jurkowski, Telephone: (703) 489–1322, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On October 22, 2026 (91 FR 66690), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s): 4240–00–NSH–0022—Hearing Protection, Over-the-Head Earmuff, NRR 21Db
Authorized Source of Supply: Access: Supports for Living Inc., Middletown, NY
Contracting Activity: DEPT OF DEFENSE, DLA TROOP SUPPORT

8520–01–684–2496—Refill, Professional Advanced Hand Sanitizer, Fragrance Free Foam, ES8 System, 1200mL
Authorized Source of Supply: Travis Association for the Blind, Austin, TX
Contracting Activity: GENERAL SERVICES ADMINISTRATION, GSA/FSS GREATER SOUTHWEST ACQUISITI

8465–00–261–4983—(Webbing & tape)
Authorized Source of Supply: Alabama Industries for the Blind, Talladega, AL
Contracting Activity: DEPT OF DEFENSE, DLA TROOP SUPPORT

7025–00–NIB–0015—Universal Docking Station, Thunderbolt 3 and USB–C, Dual 4K, Windows and Mac, with Mounting Bracket
Authorized Source of Supply: Chicago Lighthouse Industries, Chicago, IL
Contracting Activity: GENERAL SERVICES ADMINISTRATION, GSA/FAS

FURNITURE SYSTEMS MGT DIV

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2026–24055 Filed 11–25–26; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Civil Penalties; Notice of Adjusted Maximum Amounts

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of adjusted maximum civil penalty amounts.

SUMMARY: In 1990, Congress enacted statutory amendments to adjust the maximum civil penalty amounts authorized under the Consumer Product Safety Act (CPSA), the Federal Hazardous Substances Act (FHSA), and the Flammable Fabrics Act (FFA). On August 14, 2008, the Consumer Product Safety Improvement Act of 2008 (CPSIA) increased the maximum civil penalty amounts to $100,000 for each violation and $15,000,000 for any related series of violations. The CPSIA tied the effective date of the new amounts to the earlier of the date on which final regulations are issued, or 1 year after August 14, 2008. The new amounts became effective on August 14, 2009. The CPSIA also revised the starting date, from December 1, 1994 to December 1, 2011, and December 1 of each fifth calendar year thereafter, on which the Commission must prescribe and publish in the **Federal Register**, the schedule of maximum authorized penalties. On December 1, 2021, the CPSC published increased maximum authorized civil penalty amounts of $120,000 for each violation and $17,150,000 for any related series of violations. As calculated in accordance with the amendments, the new amounts are $140,000 for each violation and $20,350,000 for any related series of violations.

DATES: These new amounts will become effective after January 1, 2027.[1]

FOR FURTHER INFORMATION CONTACT: Amy S. Colvin, Attorney, Office of the General Counsel, U.S. Consumer Product Safety Commission, 441 G Street NW, Washington, DC 20548; telephone: (301) 504–7639; email: *acolvin@cpsc.gov.*

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Improvement Act of 1990 (Improvement Act), Public Law 101–608, 104 Stat. 3110 (Nov. 16, 1990), and the CPSIA, Public Law 110–314, 122 Stat. 3016 (Aug. 14, 2008), amended the CPSA, FHSA, and FFA. The Improvement Act added civil penalty authority to the FHSA and FFA, which previously contained only criminal penalties. 15 U.S.C. 1264(c) and 1194(e). The Improvement Act also increased the maximum civil penalty amounts applicable to civil penalties under the CPSA and set the same maximum amounts for the newly created FHSA and FFA civil penalties. 15 U.S.C. 2069(a)(1), 1264(c)(1) and 1194(e)(1).

The Improvement Act amended the CPSA, FHSA, and FFA to adjust the maximum civil penalty amounts periodically for inflation. 15 U.S.C. 2069(a)(3), 1264(c)(6), and 1194(e)(5). The Improvement Act required that the Commission ''prescribe and publish in the **Federal Register** a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication'' not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, and directed how the Commission must calculate the schedule. Section 115(a)–(c) of Public Law 101–608.

The CPSIA amended the CPSA, FHSA, and FFA to increase the maximum authorized civil penalty amounts to $100,000 for each violation and $15,000,000 for any related series of violations. 15 U.S.C. 2069(a)(1), 1264(c)(1), and 1194(e)(1). The CPSIA amended the starting date in the CPSA from not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, to not later than December 1, 2011, and December 1 of each fifth calendar year thereafter, as the date on which ''the Commission shall prescribe and publish in the **Federal Register** a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.'' Section 217 (a)(1)–(3) of Public Law 110–314. The CPSIA tied the effective date of the new amounts to the earlier of the date on which final regulations are issued under section 217(b)(2) of Public Law 110–314, or 1 year after August 14, 2008. Section 217(a)(4) of Public Law 110–314. The new amounts became effective on August 14, 2009.

On December 1, 2021, the CPSC published increased maximum authorized civil penalty amounts of $120,000 for each violation and $17,150,000 for any related series of violations. The Commission's Directorate for Economic Analysis calculated the cost-of-living adjustment increases the maximum civil penalty amounts to $142,466 for each violation and to $20,360,701 for any related series of violations. In accordance with statutory directions regarding rounding, the adjusted maximum amounts are $140,000 for each violation and $20,350,000 for any related series of violations. These new amounts apply to violations that occur after January 1, 2027.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2026–24153 Filed 11–25–26; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–2905]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Survey on Use of Funds Under Title II, Part A

AGENCY: Office of Elementary and Secondary Education, 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 December 28, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection

[1] The Commission voted 3–0 to approve publication in the **Federal Register** of this notice.

activities, please contact Andrew Lindsay, 202–987–0163.

SUPPLEMENTARY INFORMATION: 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: Survey on Use of Funds Under Title II, Part A.

OMB Control Number: 1810–0756.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 52.

Total Estimated Number of Annual Burden Hours: 416.

Abstract: The U.S. Department of Education (Department) requests an extension of information collection 1810–0756 to continue collecting annual data on states' use of Title II, Part A funds, including activities to improve equitable access to teachers for low-income and minority students and, where applicable, teacher, principal, and other school leader evaluation and retention data. These reporting requirements are established under Section 2104(a) of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act of 2015 (ESSA).

The collection will be administered electronically to Title II, Part A coordinators in all states, the District of Columbia, and Puerto Rico. The data will provide the Department with state-level information on the use of Title II, Part A State activities funds and applicable educator evaluation and retention data.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–24091 Filed 11–25–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Accrediting Agency Currently Undergoing Review for the Purpose of Recognition by the U.S. Secretary of Education

AGENCY: U.S. Department of Education, Office of Postsecondary Education.

ACTION: Call for written third-party comments.

SUMMARY: This notice provides information to members of the public on submitting written comments for an accrediting agency currently undergoing review for the purpose of recognition by the Secretary of Education.

DATES: Comments must be received on or before 30 days from publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elizabeth Daggett, Director, Accreditation Group, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202, telephone: (202) 453–7615, or email: *elizabeth.daggett@ed.gov.*

SUPPLEMENTARY INFORMATION: This request for written third-party comments concerning the performance of accrediting agencies under review by the Secretary of Education is required by Section 496(n)(1)(A) of the Higher Education Act of 1965, as amended, 20 U.S.C. 1001, *et seq.* (HEA), and pertains to the third meeting in 2027 of the National Advisory Committee on Institutional Quality and Integrity (NACIQI). The meeting date will be announced in a later **Federal Register** notice and will describe how to register to provide oral comments at the meeting. Written comments submitted in response to this **Federal Register** notice must be submitted to the electronic mail address identified below on or before the comment due date.

Agency Under Review and Evaluation: The Department requests written comments from the public on the following accrediting agencies, which are currently undergoing review and evaluation by the Accreditation Group, and which will potentially be reviewed at the third 2027 NACIQI meeting.

The agencies have submitted an application for initial recognition and a compliance report, respectively. Please note, each agency's requested scope of recognition is indicated below.

Application for Initial Recognition

1. Accreditation Council for Nutrition Professional Education. Requested Scope of Recognition: The accreditation of master of science degree programs in clinical nutrition and similarly titled degree programs. Geographic Area of Accrediting Activities: Throughout the United States.

Compliance Report

1. Council on Academic Accreditation in Audiology and Speech-Language Pathology. Scope of Recognition: The accreditation and preaccreditation (Accreditation Candidate) of education programs in audiology and speech-language pathology leading to the first professional or clinical degree at the master's or doctoral level, and the accreditation of these programs offered via distance education. Geographic Area of Accrediting Activities: Throughout the United States.

Submission of Written Comments Regarding a Specific Accrediting Agency Under Review

Written comments in response to this **Federal Register** notice about the recognition of the accrediting agencies listed above must be received on or before the comment due date, in the *ThirdPartyComments@ed.gov* mailbox. Please include in the subject line ''Written Comments: (agency name).'' The electronic mail (email) must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number of the person(s) making the comment. Comments should be submitted as a PDF, Microsoft Word document, or in a medium compatible with Microsoft Word that is attached to an email or provided in the body of an email message. Comments about an agency that has submitted a petition for initial recognition must relate to the agency's compliance with the Secretary's Criteria for Recognition of accrediting agencies, which are available at: *https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-602?toc=1.*

Comments about an agency that has submitted a compliance report scheduled for review by the Department must relate to the criteria for recognition cited in the senior Department official's letter that requested the report, which is available at: *https://surveys.ope.ed.gov/erecognition/#/public-documents.*

Only written materials submitted by the deadline to the email address listed in this notice, and in accordance with these instructions, become part of the official record concerning agencies scheduled for review and are considered by the Department and NACIQI in their deliberations. Comments about the agency listed in this **Federal Register** notice may also be provided orally at the third 2027 NACIQI meeting, which has not yet been scheduled, but which

will be announced in a future **Federal Register** notice.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *https://www.govinfo.gov/.* At this site, you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 20 U.S.C. 1099b; 20 U.S.C. 1011c.

David Barker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2026–24093 Filed 11–25–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

U.S. Energy Information Administration

Agency Information Collection Proposed New Survey

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Notice and request for comments.

SUMMARY: EIA invites public comment on the proposed collection of information, Data Center Energy Consumption Survey (DCECS), as required under the Paperwork Reduction Act of 1995. Form EIA–872 will collect facility-level data on energy consumption and energy-related physical and operational characteristics from all U.S. data centers with a design capacity of at least 1 megawatt (MW). DCECS will be used to produce national statistics on data center energy consumption and electricity demand.

DATES: EIA must receive all comments on this proposed information collection no later than January 26, 2027. If you anticipate any difficulties in submitting your comments by the deadline, contact the person listed in the **ADDRESSES** section of this notice as soon as possible.

ADDRESSES: You may submit comments, identified by EIA–872: Data Center Energy Consumption Survey, by email to *EIA-FRNcomments@eia.gov.* Include the OMB control number listed in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Maura Bardos Chihil, EIA Clearance Officer, at (202) 586–7865, *Maura.BardosChihil@eia.gov.* The forms and instructions are available on EIA's website at *www.eia.gov/survey/.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No.:* New;

(2) *Information Collection Request Title:* Data Center Energy Consumption Survey (DCECS);

(3) *Type of Request:* New;

(4) *Purpose:* Form EIA–872, Data Center Energy Consumption Survey (DCECS), will collect facility-level statistical information on energy consumption and energy-related physical and operational characteristics of data centers in the United States.

Data centers exhibit high power densities when compared with other commercial spaces that would traditionally fall under EIA's Commercial Building Energy Consumption Survey (CBECS), which most recently collected data from 2018. A new survey is required because there are currently no sources that comprehensively measure end-use energy consumption of data centers and certain aspects of their operating profiles, which are driven by continuous information-technology (IT) loads, uninterruptible power supplies, complex liquid- and air-cooling systems, and other characteristics.

For the purposes of this collection, a data center facility is defined as follows: ''A data center facility is comprised of a dedicated building, buildings, or a clearly delineated or partitioned portion of a building with the primary purpose of housing computer servers and associated IT equipment (*e.g.,* storage, networking) and essential supporting infrastructure, including, but not limited to, uninterruptible power delivery, cooling systems, and network connectivity.

A data center facility may be a campus, which is a multi-building complex where energy, cooling, or power delivery infrastructure is functionally integrated or shared across the buildings.''

EIA will collect data annually for the previous reference year. EIA will send each company with at least one data center a questionnaire to identify a roster of data center facilities and will ask the company to provide data for each in-scope facility that has an IT design capacity of at least 1 MW. Facilities that meet the definition and capacity threshold may include enterprise data centers, colocation facilities, hyperscale facilities, edge data centers, super intelligence (SI) data centers, carrier hotels, network gateways, and cryptocurrency mines, but such facilities that do not meet the definition and capacity threshold will be excluded from DCECS reporting. EIA is not proposing to collect any confidential business information pertaining to the customers these facilities may serve.

As part of the agency's effort to accelerate all consumption survey programs from a multi-year to an annual publication frequency, EIA will be conducting DCECS in 2027 as the annual data collection component of commercial energy consumption statistics.

(5) *Annual Estimated Number of Respondents:* 1,400;

(6) *Annual Estimated Number of Total Responses:* 1,400;

(7) *Annual Estimated Number of Burden Hours:* 12,200;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* The cost of the burden hours is estimated to be $1,158,268 (12,200 burden hours times $94.94 per hour).

Comments are invited on whether or not: (a) The proposed collection of information is necessary for the proper performance of agency functions, including whether the information will have a practical utility; (b) EIA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used, is accurate; (c) EIA can improve the quality, utility, and clarity of the information it will collect; (d) EIA can minimize the burden of the collection of information on respondents, such as automated collection techniques or other forms of information technology; and (e) EIA's definition of a data center facility to ensure that it is comprehensive and accurate.

The information provided on Form EIA–872 will be used for statistical purposes only and is confidential by law. In accordance with the Confidential Information Protection and Statistical Efficiency Act of 2018 (44 U.S.C. 3572), responses will not be disclosed in identifiable form without consent. Collected data will be published only in aggregate form.

Statutory Authority: 15 U.S.C. 772(b) and 42 U.S.C. 7101 *et seq.*

Signed in Washington, DC, on November 23, 2026.

Pushpal Mukhopadhyay,

Director, Office of Statistical Methods & Research, U.S. Energy Information Administration.

[FR Doc. 2026–24077 Filed 11–25–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP27–177–000.
Applicants: Chandeleur Pipe Line, LLC.
Description: Compliance filing: Chandeleur Annual FLLA Filing to be effective 1/1/2027.
Filed Date: 11/19/26.
Accession Number: 20261119–5131.
Comment Date: 5 p.m. ET 12/1/26.

Docket Numbers: RP27–178–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: 4(d) Rate Filing: Rate Schedule S–2 Tracker Filing Eff 12/1/2026 to be effective 12/1/2026.
Filed Date: 11/19/26.
Accession Number: 20261119–5144.
Comment Date: 5 p.m. ET 12/1/26.

Docket Numbers: RP27–179–000.
Applicants: Rayburn Energy Station LLC, Rayburn Country Electric Cooperative, Inc.
Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al., Request for Expedited Action and Request for Shortened Comment Period of Rayburn Country Electric Cooperative Inc, et al.
Filed Date: 11/19/26.
Accession Number: 20261119–5260.
Comment Date: 5 p.m. ET 12/1/26.

Docket Numbers: RP27–180–000.
Applicants: Millennium Pipeline Company, LLC.
Description: Compliance filing: Penalty Revenue Crediting Report 2026 to be effective N/A.
Filed Date: 11/20/26.
Accession Number: 20261120–5114.
Comment Date: 5 p.m. ET 12/2/26.

Docket Numbers: RP27–181–000.
Applicants: Natural Gas Pipeline Company of America LLC.
Description: 4(d) Rate Filing: Negotiated Rate Filing—Macquarie Energy LLC December 2026 to be effective 12/1/2026.
Filed Date: 11/20/26.
Accession Number: 20261120–5126.
Comment Date: 5 p.m. ET 12/2/26.

Docket Numbers: RP27–182–000.
Applicants: Young Gas Storage Company, Ltd.
Description: 4(d) Rate Filing: Annual Fuel Filing 2026 to be effective 1/1/2027.
Filed Date: 11/20/26.
Accession Number: 20261120–5152.
Comment Date: 5 p.m. ET 12/2/26.

Docket Numbers: RP27–183–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: 4(d) Rate Filing: Non-Conforming—SSE Interim Service to be effective 1/15/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5132.
Comment Date: 5 p.m. ET 12/7/26.

Docket Numbers: RP27–184–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: 4(d) Rate Filing: Quarterly LUF True-up Filing Nov 2026 to be effective 1/1/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5134.
Comment Date: 5 p.m. ET 12/7/26.

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.

Filings in Existing Proceedings

Docket Numbers: PR22–7–001.
Applicants: Kinder Morgan Border Pipeline LLC.
Description: Certification Pursuant to 18 CFR 284.123(g)(9)(ii) to be effective N/A.
Filed Date: 11/20/26.
Accession Number: 20261120–5120.
Comment Date: 5 p.m. ET 12/11/26.

Docket Numbers: RP24–781–012.
Applicants: Algonquin Gas Transmission, LLC.
Description: Compliance filing: AGT New York Delivery Surcharge 2026 Filing to be effective 1/1/2027.
Filed Date: 11/20/26.
Accession Number: 20261120–5166.
Comment Date: 5 p.m. ET 12/2/26.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: November 23, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–24081 Filed 11–25–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8791–005]

R.J. Fortier Hydropower, Inc.; 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 the exemptee' s application for surrender and decommissioning of the Starks Hydroelectric Project No. 8791 and have prepared an Environmental Assessment (EA) for the project.[1] The exemptee proposes to surrender the project's exemption and remove the dam, powerhouse, and appurtenant project features. The project is located on Lemon Stream in Somerset County, Maine. The project does not occupy any federal lands.

The EA contains Commission staff's analysis of the potential environmental effects of the proposed surrender and removal of the project, alternatives to the proposed action, and concludes that the proposed action, with appropriate environmental protective measures, 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.

[1] The unique identification number for documents relating to this environmental review is EAXX–019–20–000–1781511078.

Enter the docket number (P–8791) 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 by December 23, 2026, by 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–8791–005.

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 Diana Shannon at 202–502–6136 or *diana.shannon@ferc.gov.*

(Authority: 18 CFR 2.1)

Dated: November 23, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–24101 Filed 11–25–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–158–000]

WBI Energy Transmission, Inc.; Notice of Availability of the Environmental Assessment for the Proposed Line Section 32 Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Line Section 32 Expansion Project (Project), proposed by WBI Energy Transmission, Inc. (WBI), in the above-referenced docket.[1] WBI requests authorization to construct and operate about 17.2 miles of 24-inch-diameter, interstate, natural gas transmission pipeline and associated facilities in Williams County, North Dakota, and upgrade a pipeline interconnection in McKenzie County, North Dakota. According to WBI, the purpose of the Line Section 32 Expansion Project is to provide 190,000 dekatherms per day of incremental firm transportation service to Basin Electric Power Cooperative's new Bison Generation Station.

Any person wishing to comment on the EA may do so. To ensure consideration of your comments on the proposal prior to making a decision on the project, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on December 23, 2026. Instructions for filing comments are provided on pages 2–3.

FERC is the lead federal agency for authorizing interstate natural gas transmission facilities under the Natural Gas Act of 1938 (NGA) and the lead federal agency for preparation of the EA. The EA assesses the potential environmental effects of the Line Section 32 Expansion Project in accordance with the requirements of the National Environmental Policy Act (NEPA)[2] and the Commission's implementing regulations.[3] The principal purposes of the EA are to: identify and assess the potential effects on the natural and human environment; describe and evaluate reasonable alternatives; identify and recommend mitigation measures; and facilitate public involvement in the environmental review process. The EA concludes that approval of the proposed project would not constitute a major federal action significantly affecting the quality of the human environment.

The EA addresses the potential environmental effects of the construction and operation of the following project facilities:

- 17.2 miles of 24-inch-diameter lateral pipeline;
- an interconnect with an existing WBI-system pipeline;
- modification of an existing WBI and Northern Border Pipeline Company interconnect to allow for bidirectional flow and over-pressure protection; and
- a meter station at the delivery point in Williams County.

The Commission mailed a copy of the *Notice of Availability* of the EA to federal, state, and local government representatives and agencies; elected officials; Native American tribes; environmental and public interest groups; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*), select ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.* CP26–158). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The EA is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Under section 7(c) of the NGA, the Commission determines whether interstate natural gas transportation facilities are in the public convenience and necessity and, if so, grants a Certificate of Public Convenience and Necessity to construct and operate them. The Commission bases its decisions on both economic

[1] For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1778150426.

[2] National Environmental Policy Act of 1969, as amended (Public Law [Pub. L.] 91–190. 42 U.S.C. 4321–4347, as amended by Public Law 94–52, July 3, 1975; Public Law 94–83, August 9, 1975; Public Law 97–258, 4(b), September 13, 1982; Public Law 118–5, June 3, 2023; Public Law 119–21, July 4, 2025).

[3] 18 Code of Federal Regulations (CFR) 380.

issues, including need, and environmental effects.

Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental effects. The more specific your comments, the more useful they will be. For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP26–158–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission's Rules of Practice and Procedures (18 CFR 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to intervene are more fully described at *https://www.ferc.gov/how-intervene.*

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.* Additional information about the project is available from the FERC website (*www.ferc.gov*) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

(Authority: 18 CFR 2.1)

Dated: November 23, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–24103 Filed 11–25–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–4803–011]

Leopold, Diane G.; Notice of Filing

Take notice that on October 26, 2026, Diane G. Leopold, submitted for filing, application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b) and Part 45.8 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45.8.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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.*

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Comment Date: 5:00 p.m. Eastern Time on December 14, 2026.

Dated: November 23, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–24102 Filed 11–25–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Exempt Wholesale Generator filings:

Docket Numbers: EG27–45–000.
Applicants: Mahi Solar, LLC.
Description: Mahi Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 11/20/26.
Accession Number: 20261120–5217.
Comment Date: 5 p.m. ET 12/11/26.

Docket Numbers: EG27–46–000.
Applicants: Silo Lunenburg BESS LLC.
Description: Silo Lunenburg BESS LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 11/20/26.
Accession Number: 20261120–5253.
Comment Date: 5 p.m. ET 12/11/26.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL27–18–000.
Applicants: Hermes Buyer LLC.
Description: Petition for Declaratory Order of Hermes Buyer LLC.
Filed Date: 11/19/26.
Accession Number: 20261119–5328.
Comment Date: 5 p.m. ET 12/21/26.

Docket Numbers: EL27–19–000.
Applicants: Longview Infrastructure Southwest, LLC.
Description: Petition for Declaratory Order of Longview Infrastructure Southwest, LLC.
Filed Date: 11/20/26.
Accession Number: 20261120–5391.
Comment Date: 5 p.m. ET 12/21/26.

Take notice that the Commission received the following Electric Rate filings:

Docket Numbers: ER10–2126–011.
Applicants: Idaho Power Company.
Description: Supplement to 06/26/2025, Updated Triennial Market Power Analysis for Northwest Region of Idaho Power Company.
Filed Date: 7/10/25.
Accession Number: 20250710–5160.
Comment Date: 5 p.m. ET 12/14/26.

Docket Numbers: ER26–2753–002.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: Compliance Filing—Attachment AQ for HITT T3 Phase II to be effective 11/19/2026.
Filed Date: 11/23/26.
Accession Number: 20261123–5191.
Comment Date: 5 p.m. ET 12/14/26.

Docket Numbers: ER26–3847–001.
Applicants: American Transmission Systems, Incorporated.
Description: Tariff Amendment: ATSI submits an amendment to SA No. 7277—ER26–3847 to be effective 1/23/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5093.
Comment Date: 5 p.m. ET 12/14/26.

Docket Numbers: ER27–585–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: 205(d) Rate Filing: Amendment to Service Agreement No. 935 to be effective 1/20/2027.
Filed Date: 11/20/26.
Accession Number: 20261120–5348.
Comment Date: 5 p.m. ET 12/11/26.

Docket Numbers: ER27–599–000.
Applicants: Dairyland Power Cooperative.
Description: Request for Limited Waiver of procedural deadlines set forth in Section 6.6(g) of Attachment DD and Section II.C.4 of Attachment M of the PJM Tariff of Dairyland Power Cooperative.
Filed Date: 11/20/26.
Accession Number: 20261120–5234.
Comment Date: 5 p.m. ET 12/11/26.

Docket Numbers: ER27–601–000.
Applicants: ISO New England Inc., New England Power Company.
Description: 205(d) Rate Filing: New England Power Company submits tariff filing per 35.13(a)(2)(iii: NEP; Filing to Refund the Over-Recovery of PBOP Expenses to be effective 1/20/2027.
Filed Date: 11/20/26.
Accession Number: 20261120–5293.
Comment Date: 5 p.m. ET 12/11/26.

Docket Numbers: ER27–602–000.
Applicants: Transource Missouri, LLC.
Description: 205(d) Rate Filing: Amend RS142 TMO-Evergy Metro (Mullin Creek 2) Preliminary Development Agreement to be effective 11/6/2026.
Filed Date: 11/20/26.
Accession Number: 20261120–5296.
Comment Date: 5 p.m. ET 12/11/26.

Docket Numbers: ER27–603–000.
Applicants: Transource Missouri, LLC.
Description: 205(d) Rate Filing: Amend RS141 TMO-Evergy Missouri West; Mullin Creek 1 Preliminary Development Agr to be effective 11/6/2026.
Filed Date: 11/20/26.
Accession Number: 20261120–5330.
Comment Date: 5 p.m. ET 12/11/26.

Docket Numbers: ER27–605–000.
Applicants: TLG Commodities LLC.
Description: 205(d) Rate Filing: Normal filing 2026 change in status to be effective 11/21/2026.
Filed Date: 11/20/26.
Accession Number: 20261120–5349.
Comment Date: 5 p.m. ET 12/11/26.

Docket Numbers: ER27–606–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of ISA, Service Agreement No. 7079; Queue No. AE1–106 to be effective 1/23/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5065.
Comment Date: 5 p.m. ET 12/14/26.

Docket Numbers: ER27–607–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of GIA, Service Agreement No. 7410, Queue No. AG1–189 to be effective 1/23/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5122.
Comment Date: 5 p.m. ET 12/14/26.

Docket Numbers: ER27–608–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of ISA, Service Agreement No. 6894; Queue No. AF1–122 to be effective 1/23/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5128.
Comment Date: 5 p.m. ET 12/14/26.

Docket Numbers: ER27–609–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Amendment to NUCRA SA No. 7831 re: Network Upgrade n9259 to be effective 1/23/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5143.
Comment Date: 5 p.m. ET 12/14/26.

Docket Numbers: ER27–610–000.
Applicants: Atlas Solar V, LLC.
Description: 205(d) Rate Filing: Update to Seller Categorization in Market-Based Rate Tariff to be effective 1/23/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5145.
Comment Date: 5 p.m. ET 12/14/26.

Docket Numbers: ER27–611–000.
Applicants: Atlas Solar VI, LLC.
Description: 205(d) Rate Filing: Update to Seller Categorization in Market-Based Rate Tariff to be effective 1/23/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5151.
Comment Date: 5 p.m. ET 12/14/26.

Docket Numbers: ER27–612–000.
Applicants: Lions Grid LLC.
Description: Initial Rate Filing: Initial Market-Based Rate Application and Requests for Waivers to be effective 1/25/2027.

Filed Date: 11/23/26.
Accession Number: 20261123–5162.
Comment Date: 5 p.m. ET 12/14/26.
Docket Numbers: ER27–613–000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: 205(d) Rate Filing: 2026–11–23 Pike Lake-FSA–813–0.0.0 to be effective 11/24/2026.
Filed Date: 11/23/26.
Accession Number: 20261123–5171.
Comment Date: 5 p.m. ET 12/14/26.
Docket Numbers: ER27–614–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Amendment to GIA, SA No. 7247; Project Identifier No. AF1–228 to be effective 1/23/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5182.
Comment Date: 5 p.m. ET 12/14/26.
Docket Numbers: ER27–615–000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: 205(d) Rate Filing: 2026–11–23 Chaska-West Creek-FSA–814–0.0.0 to be effective 11/24/2026.
Filed Date: 11/23/26.
Accession Number: 20261123–5197.
Comment Date: 5 p.m. ET 12/14/26.
Docket Numbers: ER27–616–000.
Applicants: Wells Fargo Bank, National Association.
Description: Initial Rate Filing: Baseline new to be effective 1/23/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5233.
Comment Date: 5 p.m. ET 12/14/26.
Docket Numbers: ER27–617–000.
Applicants: Wells Fargo Commodities, LLC.
Description: Initial Rate Filing: Baseline new to be effective 1/23/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5234.
Comment Date: 5 p.m. ET 12/14/26.
Docket Numbers: ER27–618–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of GIA SA No. 7357; Project Identifier No. AG1–366 to be effective 1/23/2027.
Filed Date: 11/23/26.
Accession Number: 20261123–5235.
Comment Date: 5 p.m. ET 12/14/26.

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: November 23, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–24083 Filed 11–25–26; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R08–SFUND–2026–7328; FRL–13599–01–R8]

Settlement Agreement: Silver Bow Creek/Butte Area Superfund Site, Butte-Silver Bow County, Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), notice is hereby given by the United States Environmental Protection Agency (''EPA''). The proposed settlement agreement is for settling parties to make a cash payment to resolve their alleged civil liability regarding Past Response Costs incurred by the United States at three operable units of the Silver Bow Creek/Butte Area Superfund Site (''Site'') located in Butte, Butte-Silver Bow County, Montana. EPA and the settling parties recognize that this proposed settlement agreement has been negotiated in good faith and that the actions undertaken by the settling parties in accordance with this proposed settlement agreement do not constitute an admission of any liability.

DATES: Comments must be submitted on or before December 28, 2026.

ADDRESSES: The proposed settlement agreement and additional background information relating to the agreement will be available upon request. Comments and requests for a copy of the proposed settlement agreement should be addressed to Sarah Ferguson, Enforcement Specialist, Superfund and Emergency Management Division, Environmental Protection Agency-Region 8, Mail Code 8SEM–PAC, 1595 Wynkoop Street, Denver, Colorado 80202, telephone number: (303) 312–6029, email address: *ferguson.sarah@epa.gov* and should reference the Silver Bow Creek/Butte Area Superfund Site. You may also send comments, identified by Docket ID No. EPA–R8–SFUND–2026–7328 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: William Lindsey, Senior Assistant Regional Counsel, Office of Regional Counsel, Environmental Protection Agency, Region 8, Mail Code 8 ORC–LEC,1595 Wynkoop, Denver, Colorado 80202, telephone number: (303) 312–6282, email address: *lindsey.william@epa.gov* and Hannah Woolsey, Assistant Regional Counsel, Office of Regional Counsel, Environmental Protection Agency, Region 8, 10 West 15th Street, Suite 3200, Helena, Montana 59626, telephone number: (406) 457–5030, email address: *woolsey.hannah@epa.gov.*

SUPPLEMENTARY INFORMATION: For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the proposed settlement agreement. The Agency will consider all comments received and may modify or withdraw its consent to the proposed settlement agreement if comments received disclose facts or considerations that indicate that the agreement is inappropriate, improper, or inadequate.

Aaron Urdiales,

Division Director, Superfund and Emergency Management Division, Region 8.

[FR Doc. 2026–24027 Filed 11–25–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2024–0420; FRL–12264.1–03–OECA]

U.S. Environmental Protection Agency (EPA) Contractor and Subcontractor Access to Confidential Business Information (CBI) Submitted Under Clean Air Act (CAA), Act To Prevent Pollution From Ships (APPS), and American Innovation and Manufacturing Act (AIM); Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: The United States Environmental Protection Agency's (EPA's) Office of Enforcement and Compliance Assurance (OECA) intends to authorize a contractor and several subcontractors to access information that will be submitted to the EPA under the Clean Air Act (CAA), the Act to Prevent Pollution from Ships (APPS), and the American Innovation and Manufacturing Act (AIM) that may be claimed as, or may be determined to be, confidential business information (CBI).

DATES: Comments must be received on or before December 2, 2026. The contractor's and subcontractors' access to information collected under the CAA, APPS, AIM will begin on December 3, 2026.

ADDRESSES: You may send comments, identified by Docket ID No. EPA HQ–OECA–2024–0420, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/*(our preferred method). Follow the online instructions for submitting comments.
- *Email: docket.oeca@epa.gov.* Include Docket ID No. EPA HQ–OECA–2024–0420 in the subject line of the message.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Griffith Brown, Office of Enforcement and Compliance Assurance (OECA), Office of Civil Enforcement (OCE), Air Enforcement Division (AED), (Mail Code 8MSU), Environmental Protection Agency, 1595 Wynkoop St., Denver, CO 80202; telephone number: (202) 250–8551; email address: *brown.griffith@epa.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of September 9, 2026 in 91 FR 57337, on page 57338, in the third column, correct the EPA contractor Eastern Research Group, Incorporated (ERG) address to 2677 Prosperity Ave Ste 450, Fairfax, VA 22031. In addition, ERG subcontractor, Aleksandrich Compliance & Engineering Services LLC, was omitted from the initial notice and will require access to CBI submitted to the EPA under the CAA, APPS, and AIM for the work that will be performed under Contract Number 68HERL26A0022.

All other information in the original notice remains unchanged.

Dated: November 5, 2026.

Meetu Kaul,

Acting Director, Air Enforcement Division.

[FR Doc. 2026–24037 Filed 11–25–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–11923–02–R9]

Notice of Availability of Proposed National Pollutant Discharge Elimination System (NPDES) General Permit for Bulk Fuel Facilities in Guam

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of proposed NPDES general permit.

SUMMARY: The Environmental Protection Agency (EPA), Region 9 is proposing to reissue an NPDES general permit for water discharges from bulk fuel facilities located in Guam (Permit No. GUG000001). The permit will be reissued upon completion of the notice and comment period and after due consideration has been given to all comments received. Upon issuance, the permit will be valid for five years. Use of an NPDES general permit allows EPA and dischargers to allocate resources in a more efficient manner while ensuring consistent permit conditions for comparable facilities. This notice announces the availability of the proposed NPDES general permit and the corresponding fact sheet for public comment, both of which can be found on EPA Region 9's website: *https://www.epa.gov/npdes-permits/npdes-permits-epas-pacific-southwest-region-9.* The EPA is also taking comment on the frequency, duration, and volume of water discharges from these bulk fuel facilities for the years including 2019 to 2024. A prior version of this permit was published for public review in the **Federal Register** on April 17, 2025. The current version available for public review incorporates changes based on additional discharge data submitted by permittees and revised habitat monitoring as an outcome of Endangered Species Act and Essential Fish Habitat consultations with the National Marine Fisheries Service.

DATES: Comments on the proposed NPDES general permit must be received by December 28, 2026.

ADDRESSES: Documents and instructions for submitting comments related to this proposed NPDES general permit are available for public inspection online at: *https://www.epa.gov/npdes-permits/npdes-permits-epas-pacific-southwest-region-9.* If there are issues accessing the website, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Bryn Copson, EPA Region 9, Water Division, NPDES Permits Office; telephone (415) 972–3663; email address: *Copson.Bryn@epa.gov.* The proposed NPDES general permit and other related documents in the administrative record are on file and may be inspected any time between 9 a.m. and 5 p.m., Monday through Friday, excluding legal holidays, at the following address: U.S. EPA Region 9, NPDES Permits Section, Water Division, 75 Hawthorne Street, San Francisco, CA 94105–3901.

SUPPLEMENTARY INFORMATION:

A. Does this action apply to me?

The proposed NPDES General Permit for Bulk Fuel Facilities in Guam is intended to provide NPDES permit coverage to certain discharges from the following bulk fuel storage facilities operating in Guam:

a. Mobil Oil Guam Inc. Cabras Terminal,
b. Tristar Guam F–1 Pier Terminal,
c. South Pacific Petroleum Corporation Cabras Island Terminal,
d. Tristar Guam Agat Terminal, and
e. Guam Power Authority Piti Terminal.

The proposed permit does not provide coverage for any other discharges or facilities.

B. How can I submit comments?

- Submit comments by the deadline identified in this **Federal Register** notice.
- No public hearing is planned. If you would like to request a hearing, please see instructions at: *https://www.epa.gov/npdes-permits/npdes-permits-epas-pacific-southwest-region-9.*
- Provide your comments in writing via instructions found here: *https://*

www.epa.gov/npdes-permits/npdes-permits-epas-pacific-southwest-region-9. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please reach out by email or telephone to the EPA contact. EPA encourages electronic submittals of comments, but if you are unable to submit electronically or need other assistance, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

• Please note ''General Permit for Bulk Fuel Facilities in Guam'' in the subject line of any email submittal.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: November 10, 2026.

Tomas Torres,

Director, Water Division, EPA Region 9.

[FR Doc. 2026–24038 Filed 11–25–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OPRM–FAD–250]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Federal Activities Division, General Information 202–993–3272 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed November 16, 2026 10 a.m. EST Through November 23, 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.*

EIS No. 20260149, Draft, NRC, TN, Project IKE Enrichment Facility in Roane County, Tennessee, Comment Period Ends: 01/11/2027, Contact: Ashley Waldron 301–415–7317.

EIS No. 20260150, Final, NRCS, UT, Logan River Final Watershed Plan and Environmental Impact Statement, Review Period Ends: 01/11/2027, Contact: Ammon Boswell 435–459–1621.

Dated: November 23, 2026.

Nancy Abrams,

Deputy Director, Federal Activities Division.

[FR Doc. 2026–24126 Filed 11–25–26; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 91 FR 74164.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Monday, November 23, 2026, 10:00 a.m. Eastern Time.

CHANGES IN THE MEETING: This notice announces that the meeting was cancelled. On November 18, 2026, the EEOC published a notice in the **Federal Register**, 91 FR 74164, announcing an open meeting of the Commission to consider the following matters: Management Directive 716. The meeting was to be held on November 23, 2026, virtually. The matter to be considered was decided by the Commissioners by notation vote pursuant to Commission voting procedures. Thus, the meeting became unnecessary.

CONTACT PERSON FOR MORE INFORMATION: Raymond Windmiller, Executive Officer, (202) 921–2705.

Date: November 23, 2026.

For the Equal Employment Opportunity Commission

Raymond D. Windmiller,

Executive Officer, Office of the Executive Secretariat.

[FR Doc. 2026–24132 Filed 11–24–26; 11:15 am]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 379461]

Privacy Act of 1974; System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice of a new system of records.

SUMMARY: The Federal Communications Commission (FCC, Commission, or Agency) proposes to establish a new system of records, FCC/OEA–7, Foreign Adversary Risk Management System (FARMS), subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the creation, existence, and character of records maintained by the Agency. The Commission uses this system to collect information on whether FCC regulatees are subject to the control or other influence of a foreign adversary or adversarial country, as well as ownership and other information on the nature of any regulatees subject to adversarial control.

DATES: This system of records will become effective on November 27, 2026. Written comments on the routine uses are due by December 28, 2026. The routine uses will become effective on December 28, 2026, unless written comments are received that require a contrary determination.

ADDRESSES: Send comments to Shana Yates, FCC, 45 L Street NE, Washington, DC 20554, care of the Office of General Counsel, Privacy Team; or to *privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: FCC Office of General Counsel, Privacy Team, at *privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: In January 2026, the FCC adopted the *Foreign Adversary Control Report & Order,* which requires the Office of Economics and Analytics (OEA) and the Public Safety and Homeland Security Bureau (PSHSB) to develop a new system to collect information on whether FCC Regulatees are subject to the control or other influence of a foreign adversary or adversarial country. The Commission will use this system to collect information on whether FCC Regulatees are subject to such control. The system will collect attestation information from each Regulatee regarding that control, with the control status information made public for transparency and awareness. For Regulatees subject to adversarial control, the system will also collect ownership and other information on the nature of the control.

SYSTEM NAME AND NUMBER

FCC/OEA–7, Foreign Adversary Risk Management System (FARMS)

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554; or FISMA-compliant contractor.

SYSTEM MANAGER(S):

FCC, OEA, 45 L Street NE, Washington, DC 20554; or FISMA-compliant contractor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

47 U.S.C. 151, 152, 154 (i)-(j), 155, 211, 214, 215, 218, 219, 220, 225, 251(e), 254, 301, 302a, 303, 307, 308, 310, 312, 316, 319, 332, 335, 336, 403, 412, 521; and 5 U.S.C. 602(c), 609(a)(3).

PURPOSES OF THE SYSTEM:

The FCC and organizations administering programs on behalf of the FCC use this system to collect and

maintain information about whether FCC Regulatees are subject to the control or other influence of a foreign adversary or adversarial country. The Commission will use this system to collect information on whether FCC Regulatees are subject to such control. The system will collect attestation information from each Regulatee regarding that control, with the control status information made public for transparency and awareness. For Regulatees subject to adversarial control, the system will also collect ownership and other information on the nature of the control. The system will also make information about the control status and details of Regulatees public. The information contained may also be made available to national security and other relevant law enforcement partners.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, including certifying officials, points of contact, and other individuals, who either

(1) have an ownership interest in, or

(2) certify or file information on behalf of,

FCC regulatees, licensees, authorization holders, and other regulated entities subject to the relevant attestation and disclosure requirements of the FCC's Foreign Adversary Control rules, 47 CFR 1.80000 through 1.80004.

CATEGORIES OF RECORDS IN THE SYSTEM:

For certifying and other filing officials, contact information, including first and last names, phone numbers, facsimile numbers, email addresses, and official titles. For Regulatees asserting foreign adversarial control, information related to ownership structure and details about individuals who have a 5% or larger ownership share in the organization, including for each owner the first, middle, and last name, address, country or countries of citizenship, the voting, equity, and controlling interest held by the person, and a description of the interest holding.

RECORD SOURCE CATEGORIES:

Information in this system is provided by individuals, including certifying officials and other points of contact, for FCC Regulatees, licensees, authorization holders, and other regulated entities subject to the relevant attestation and disclosure requirements of the FCC's Foreign Adversary Control rules, 47 CFR 1.80000 through 1.80004.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows.

1. Public Access—Filed information including attestations, certifications, additional disclosures, and other documentation contained in this system may be made available for public inspection to comply with FCC regulations that require public disclosure of this information, or in Commission releases, including notices of proposed rulemaking, public notices, orders, and other actions released by the Commission. Information provided through the system will be made public through a searchable, public-facing database.

2. Authorized Third Parties—Contact information and certifications made by individuals contained in this system may be shared with authorized third parties, including individuals and businesses in regulated and related industries, FCC vendors, and their contractors, to administer, support, participate in, or receive information related to, FCC programs and activities; or to ensure compliance with the confidentiality and other rules regarding information sharing in the FCC's programs and activities.

3. Federal, State, Local, U.S. Territorial, and Tribal Government Entities—Information may be shared with appropriate partner federal agencies and other authorized state, local, U.S. territorial or Tribal government entities to assess national security concerns associated with foreign adversaries or in any interagency process to assess the national security risks associated with potential applicants for and current holders of FCC licenses, certifications, and other covered authorizations, or in support of other FCC programs and activities.

4. Litigation—Records may be disclosed to the Department of Justice (DOJ) when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and the use of such records by the DOJ is for a purpose that is compatible with the purpose for which the FCC collected the records.

5. Adjudication—Records may be disclosed in a proceeding before a court or adjudicative body, when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

6. Law Enforcement and Investigation—When the FCC investigates any violation or potential violation of a civil or criminal law, regulation, policy, executed consent decree, order, or any other type of compulsory obligation and determines that a record in this system, either alone or in conjunction with other information, indicates a violation or potential violation of law, regulation, policy, consent decree, order, or other compulsory obligation, the FCC may disclose pertinent information as it deems necessary to the target of an investigation, as well as with the appropriate Federal, State, local, Tribal, international, or multinational agencies, or a component of such an agency, responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, order, or other compulsory obligation.

7. Congressional Inquiries—Information may be provided to a Congressional office in response to an inquiry from that Congressional office made at the written request of the individual to whom the information pertains.

8. Government-wide Program Management and Oversight—Records may be disclosed to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

9. Breach Notification—Records may be disclosed to appropriate agencies, entities, and persons when: (a) the Commission suspects or has confirmed that there has been a breach of the system of records; (b) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information system, programs, and operations), the

Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

10. Assistance to Federal Agencies and Entities Related to Breaches—Records may be disclosed to another Federal agency or Federal entity, when the Commission determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

11. Non-Federal Personnel—Records may be disclosed to non-Federal personnel, including contractors, other vendors (*e.g.,* identity verification services), grantees, and volunteers who have been engaged to assist the FCC in the performance of a service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity.

12. Department of Treasury—Records may be disclosed to the U.S. Department of Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

13. Prevention of Fraud, Waste, and Abuse Disclosure—Records may be disclosed to Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom the FCC has a contract, service agreement, cooperative agreement, or computer matching agreements for the purpose of: (1) detection, prevention, and recovery of improper payments; (2) detection and prevention of fraud, waste, and abuse in Federal programs administered by a Federal agency or non-Federal entity; (3) detection of fraud, waste, and abuse by individuals in their operations and programs, but only to the extent that the information shared is necessary and relevant to verify pre-award and prepayment requirements prior to the release of Federal funds, prevent and recover improper payments for services rendered under programs of the FCC or of those Federal agencies and non-Federal entities to which the FCC provides information under this routine use.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

This is an electronic system of records that resides on the FCC's network or on an FCC vendor's network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system of records can be retrieved by category field based searches (*e.g.,* FRN or Regulatee name) on the FARMS public search.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The FCC has drafted a retention and disposition schedule for these records; currently all records retention schedules are pending. Unscheduled records are retained indefinitely pending the agency's submission, and the National Archives and Records Administration's (NARA) approval, of a disposition schedule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records, files, and data are stored within FCC or a vendor accreditation boundaries and maintained in a database housed in the FCC's or a vendor's computer network databases. Access to the electronic files is restricted to authorized employees and contractors; and to IT staff, contractors, and vendors who maintain the IT networks and services. Other employees and contractors may be granted access on a need-to-know basis. The electronic files and records are protected by the FCC and third-party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal IT privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), the Office of Management and Budget (OMB), and the National Institute of Standards and Technology (NIST).

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedures below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedures below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about themselves may do so by writing to *privacy@fcc.gov.* Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to records as required under 47 CFR part 0, subpart E.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–24041 Filed 11–25–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064–ZA52

Notice of Inflation Adjustments for Civil Money Penalties

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of monetary penalties 2026.

SUMMARY: The Federal Deposit Insurance Corporation is providing notice of its maximum civil money penalties for 2026 under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: The maximum amount of civil money penalties in this notice are applicable to penalties assessed on or after January 15, 2025, for conduct occurring on or after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Jennifer Maree, Counsel, Legal Division, 202–898–6543, *jemaree@fdic.gov;* Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: This notice announces the maximum amount

of each civil money penalty (CMP) within the Federal Deposit Insurance Corporation's (FDIC) jurisdiction to administer to account for inflation under the Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Adjustment Act),[1] as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.[2] Under the 1990 Adjustment Act, as amended, Federal agencies must make annual adjustments to the maximum amount of each CMP the agency administers. The Office of Management and Budget (OMB) is required to issue guidance to Federal agencies no later than December 15 of each year providing an inflation-adjustment multiplier (that is, the inflation-adjustment factor agencies must use) applicable to CMPs assessed in the following year.

The 2015 Adjustment Act requires agencies to adjust the level of CMPs for inflation,[3] and publish their CMPs, adjusted under the multiplier provided by the OMB, by January 15 of the applicable year.[4] Agencies like the FDIC that have codified the statutory formula for making the CMP adjustments may make annual inflation adjustments by providing notice in the **Federal Register**.

On April 17, 2026, the OMB issued guidance to affected agencies on implementing the required annual adjustments. That guidance advised that there would be no updated cost-of-living inflation multiplier for 2026.[5] Consistent with the OMB's guidance, the maximum CMPs allowable in 2026 for FDIC-supervised institutions and other parties subject to the FDIC's jurisdiction will continue to be the amounts contained in the 2025 notice,[6] and reprinted below in relevant part. There were no new statutory CMPs administered by the FDIC during 2025.[7]

The following charts provide the inflation-adjusted maximum CMP amounts for use beginning on January 15, 2025, under 12 CFR part 308, for conduct occurring on or after November 2, 2015:

MAXIMUM CIVIL MONEY PENALTY AMOUNTS

U.S. code citation	Adjusted maximum CMP[8] (beginning January 15, 2025)
12 U.S.C. 1464(v):	
Tier One CMP[9]	$5,026
Tier Two CMP	50,265
Tier Three CMP[10]	2,513,215
12 U.S.C. 1467(d):	
12 U.S.C. 1817(a)	12,567
Tier One CMP[11]	5,026
Tier Two CMP	50,265
Tier Three CMP[12]	2,513,215
12 U.S.C. 1817(c):	
Tier One CMP	4,596
Tier Two CMP	45,946
Tier Three CMP[13]	2,297,385
12 U.S.C. 1817(j)(16):	
Tier One CMP	12,567
Tier Two CMP	62,829

[1] Public Law 101–410, 104 Stat. 890, codified at 28 U.S.C. 2461 note.

[2] Public Law 114–74, 701(b), 129 Stat. 599, codified at 28 U.S.C. 2461 note.

[3] Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum M–16–06, *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,* (Feb. 24, 2016), guided agencies on initial ''catch-up'' adjustment requirements, and subsequent memoranda, including M–24–07, guided agencies on annual adjustment requirements. 2026 is the first year adjustments are not required.

[4] Penalties assessed for violations occurring prior to Nov. 2, 2015, will be subject to the maximum amounts set forth in the FDIC's regulations in effect prior to the enactment of the 2015 Adjustment Act.

[5] Due to a government shutdown that resulted in a lapse in appropriations, the Bureau of Labor Statistics was unable to produce the October 2025 Consumer Price Index (CPI–U) data, which is needed to make adjustments under the 2015 Adjustment Act. Since there was a lack of October 2025 CPI–U data, OMB did not issue the updated cost-of-living adjustment multiplier for 2026. *See* Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum No. M–26–11, *Cancellation of Penalty Inflation Adjustments for 2026, Regarding the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (April 17, 2026), *https://www.whitehouse.gov/wp-content/uploads/2026/04/M-26-11-Cancellation-of-Penalty-Inflation-Adjustments-for-2026-Regarding-the-Federal-Civil-Penalties-Inflation-Adjustment-Act-Improvements-Act-of-2015.pdf; see also* 12 CFR 308.132(d) (FDIC regulation that guides readers to the **Federal Register** to see the annual notice of CMP inflation adjustments).

[6] *See* 90 FR 3212 (Jan. 14, 2025).

[7] The Guiding and Establishing National Innovation for U.S. Stablecoins Act, Public Law 119–27, July 18, 2025, 139 Stat. 419, has not yet reached its effective date, so its CMP provisions are not addressed in this notice. *See* 12 U.S.C. 5901 note (effective date), 5905(b)(5) (CMPs).

[8] The maximum penalty amount is per day, unless otherwise indicated.

[9] 12 U.S.C. 1464(v) provides the maximum CMP amounts for the late filing of certain Call Reports. In 2012, however, the FDIC issued regulations that further subdivided these amounts based upon the size of the institution and the lateness of the filing. *See* 77 FR 74573, 74576–78 (Dec. 17, 2012), codified at 12 CFR 308.132(e)(1). These adjusted subdivided amounts are found at the end of this chart.

[10] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

[11] 12 U.S.C. 1817(a) provides the maximum CMP amounts for the late filing of certain Call Reports. In 1991, however, the FDIC issued regulations that further subdivided these amounts based upon the size of the institution and the lateness of the filing. *See* 56 FR 37968, 37992–93 (Aug. 9, 1991), codified at 12 CFR 308.132(e)(1). These adjusted subdivided amounts are found at the end of this chart.

[12] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

[13] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

[14] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

[15] These amounts also apply to CMPs in statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2601, 2804(b), 3108(b), 3349(b), 4009(a), 4309(a), 4717(b); 15 U.S.C. 1607(a), 1681s(b), 1691(b), 1691c(a), 1693*o*(a); and 42 U.S.C. 3601.

[16] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

[17] The $157-per-day maximum CMP under 12 U.S.C. 1828(h) for failure or refusal to pay any assessment applies only when the assessment is less than $10,000. When the amount of the assessment is $10,000 or more, the maximum CMP under section 1828(h) is 1 percent of the amount of the assessment for each day that the failure or refusal continues.

[18] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

[19] The maximum penalty amount for an institution is the greater of this amount or 1/100,000th of the institution's total assets.

[20] The maximum penalty amount for an institution is the greater of this amount or 1/50,000th of the institution's total assets.

[21] The maximum penalty amount for an institution is the lesser of this amount or 1 percent of total assets.

MAXIMUM CIVIL MONEY PENALTY AMOUNTS—Continued

U.S. code citation	Adjusted maximum CMP [8] (beginning January 15, 2025)
Tier Three CMP [14]	2,513,215
12 U.S.C. 1818(i)(2): [15]	
Tier One CMP	12,567
Tier Two CMP	62,829
Tier Three CMP [16]	2,513,215
12 U.S.C. 1820(e)(4)	11,489
12 U.S.C. 1820(k)(6)	413,388
12 U.S.C. 1828(a)(3)	157
12 U.S.C. 1828(h): [17]	
For assessments <$10,000	157
12 U.S.C. 1829b(j)	26,262
12 U.S.C. 1832(c)	3,650
12 U.S.C. 1884	365
12 U.S.C. 1972(2)(F):	
Tier One CMP	12,567
Tier Two CMP	62,829
Tier Three CMP [18]	2,513,215
12 U.S.C. 3909(d)	3,126
15 U.S.C. 78u–2:	
Tier One CMP (individuals)	11,823
Tier One CMP (others)	118,225
Tier Two CMP (individuals)	118,225
Tier Two CMP (others)	591,127
Tier Three CMP (individuals)	236,451
Tier Three CMP (others)	1,182,251
15 U.S.C. 1639e(k):	
First violation	14,435
Subsequent violations	28,866
31 U.S.C. 3802	14,308
42 U.S.C. 4012a(f)	2,730

CFR citation	Adjusted presumptive CMP (beginning January 15, 2025)
12 CFR 308.132(e)(1)(i):	
Institutions with $25 million or more in assets:	
1 to 15 days late	$689.
16 or more days late	$1,379.
Institutions with less than $25 million in assets:	
1 to 15 days late [19]	$231.
16 or more days late [20]	$459.
12 CFR 308.132(e)(1)(ii):	
Institutions with $25 million or more in assets:	
1 to 15 days late	$1,148.
16 or more days late	$2,296.
Institutions with less than $25 million in assets:	
1 to 15 days late	1/50,000th of the institution's total assets.
16 or more days late	1/25,000th of the institution's total assets.
12 CFR 308.132(e)(2)	$50,265.
12 CFR 308.132(e)(3):	
Tier One CMP	$5,026.
Tier Two CMP	$50,265.
Tier Three CMP [21]	$2,513,215.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on November 23, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–24049 Filed 11–25–26; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's

Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than December 14, 2026.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001. Comments can also be sent electronically to *KCApplicationComments@kc.frb.org:*

1. *Jeffrey Hill, Baldwin City, Kansas; Jessica Johnson, Overland Park, Kansas; and Julie Dean, Olathe, Kansas;* to join the Hill Family Control Group, a group acting in concert, to retain voting shares of Mid-America Bankshares, Inc., and thereby indirectly retain voting shares of Mid-America Bank, both of Baldwin City, Kansas.

B. Federal Reserve Bank of Chicago (Christopher Koopmans, Senior Vice President); 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *The Vicky J. Nicholas Trust, Vicky Nicholas, as trustee, both of Missoula, Montana; and The Diane N. Ferree Revocable Trust, Diane Ferree, as trustee, both of Fairbanks, Alaska;* to retain voting shares of Whitney Corporation of Iowa, and thereby indirectly retain voting shares of First Whitney Bank and Trust, both of Atlantic, Iowa.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–24154 Filed 11–25–26; 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 information collection requirements contained in the contained in the agency's Business Opportunity Rule (''Rule''). The current clearance expires on February 28, 2027.

DATES: Comments must be filed by January 26, 2027.

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 ''Paperwork Reduction Act 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: Christine M. Todaro, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326–3711; *ctodaro@ftc.gov.*

SUPPLEMENTARY INFORMATION:

Title: Disclosure Requirements Concerning Business Opportunities, 16 CFR part 437.

OMB Control Number: 3084–0142.

Type of Review: Extension without change of currently approved collection.

Abstract: The Business Opportunity Rule requires business opportunity sellers to furnish prospective purchasers a disclosure document that provides information regarding the seller, the seller's business, and the nature of the proposed business opportunity, as well as additional information to substantiate any claims about actual or potential sales, income, or profits for a prospective business opportunity purchaser. The seller must also preserve information that forms a reasonable basis for such claims.

The Rule is designed to ensure that prospective purchasers receive information to help them evaluate business opportunities. Sellers must disclose five key items of information in a simple, one-page document: (1) The seller's identifying information; (2) whether the seller makes a claim about the purchaser's likely earnings (and, if yes, the seller must provide information supporting any such claims); (3) whether the seller, its affiliates, or key personnel have been involved in certain legal actions (and, if yes, the seller must provide a separate list of those actions); (4) whether the seller has a cancellation or refund policy (and, if yes, the seller must provide a separate document stating the material terms of such policies); and (5) a list of persons who have purchased the business opportunity within the previous three years. Misrepresentations and omissions are prohibited under the Rule, and for sales conducted in languages other than English, all disclosures must be provided in the language in which the sale is conducted.

Affected Public: Private Sector: Businesses and other for-profit entities.

Estimated Annual Burden Hours: 10,065.

Estimated Annual Labor Costs: $899,308.

Estimated Annual Non-Labor Costs: $4,154,197.

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 Business Opportunity Rule.

Burden Statement

FTC staff estimates there are approximately 3,050 business opportunity sellers covered by the Rule, including vending machine, rack display, work-at-home, and other opportunity sellers. Of this total, staff estimates that on an annual basis approximately 90 percent are established sellers and the remaining 10 percent are new entrants (*i.e.,* 2,745 existing business opportunity sellers plus 305 new entrants).[1] In addition, staff estimates that approximately 76 sellers market business opportunities in Spanish (in addition to English) and another 52 sellers market business opportunities in languages other than English or Spanish (in addition to English).[2]

[1] Staff also estimates that 10% of businesses depart each year, reflecting an equal number of departing and new entrants.

[2] FTC staff bases these estimates on census data. *See* American Community Survey, Limited Speaking English Households (2024) (5-year

A. Estimated Hours Burden

Compliance burdens will vary depending on a business opportunity seller's prior experience with the Rule. Appendices A and B to the Rule provide models of the required disclosure documents in both English and Spanish, reducing the potential burden that sellers may incur to provide the required disclosures. FTC staff estimates that 2,745 existing business opportunity sellers will require approximately two hours to update their disclosure documents annually. This yields a total annual burden of 5,490 hours for established sellers. FTC staff also projects that 305 new business opportunity sellers will require approximately five hours to develop their initial disclosure documents. This yields a total annual burden of approximately 1,525 hours. In addition, FTC staff estimates that all business opportunity sellers will require approximately one hour to file and store required records for a total of 3,050 hours. This yields a cumulative total of 10,065 hours.

B. Estimated Labor Cost

FTC staff determines estimated labor costs by applying applicable wage rates to the burden hours discussed above. FTC staff assumes that an attorney likely would prepare or update required disclosure documents at an approximate hourly rate of $89.35.[3] Accordingly, FTC staff estimates that cumulative labor costs are $899,308 (10,065 hours × $89.35 per hour).[4]

C. Estimated Non-Labor Costs

1. Printing and Mailing of the Disclosure Document

Business opportunity sellers may also incur costs to print and distribute the single-page disclosure document, plus any attachments. These costs vary based upon the length of the attachments and the number of copies produced to meet the expected demand. Commission staff estimates that 3,050 business opportunity sellers will print and mail approximately 1,000 disclosure documents per year at a cost of $1.36 per document, for a total cost of $4,148,000. Conceivably, many business opportunity sellers will elect to furnish disclosures electronically; thus, the total cost could be much less.

2. Translating the Required Disclosures Into a Language Other Than English

The costs associated with translating the disclosures will vary depending upon a business opportunity seller's prior experience and the language the seller uses to market business opportunities. Because Appendices A and B to the Rule provide illustrations of the required disclosure documents in both English and Spanish, business opportunity sellers marketing in Spanish will not incur costs to translate their disclosure documents. Existing sellers who market business opportunities in either Spanish or another non-English language may incur translation costs to update their disclosures over time. New entrants that market business opportunities in languages other than English or Spanish will incur costs to translate Appendix A into other languages.

Informed by Census data, FTC staff estimates that 76 sellers market business opportunities in Spanish and an additional 52 sellers market business opportunities in languages other than English or Spanish. This includes an estimated 8 new entrants annually that market business opportunities in Spanish and 5 new entrants that market business opportunities in languages other than English or Spanish.

FTC staff estimates that approximately 128 business opportunity sellers are marketing business opportunities in languages other than English. FTC staff estimates these sellers will require on average approximately 250 words (about one standard, double-spaced page) to update and create initial disclosures. Therefore, FTC staff estimates the total cost to translate sellers' disclosures is approximately $5,760 [128 sellers × (18 cents per word[5] × 250 words)].

In addition, staff estimates that new entrant business opportunity sellers marketing in languages other than English or Spanish will incur burden to translate the required disclosures. There are 485 words in Appendix A to the Rule. Therefore, FTC staff estimates that the average annual cost burden for new business opportunity sellers to translate the required disclosures into a language other than English or Spanish will be approximately $437 [5 sellers × (18 cents per word × 485 words)]. Thus, cumulative estimated non-labor costs are $4,154,197 ($4,148,000 + $5,760 + $437).

Request for Comment

Pursuant to section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will be practically useful; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 January 26, 2027. 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.

You can file a comment online or on paper. Due to heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you file your comment on paper, write ''Paperwork Reduction Act 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

estimates), *https://data.census.gov/table/ACSST5Y2024.S1602?q=S1602*. The census data indicates that approximately 2.5 percent of U.S. households speak Spanish and are classified as limited English-speaking households. In addition, the data indicates that approximately 1.7 percent of U.S. households are classified as limited English-speaking households and speak a language other than Spanish. FTC staff estimates that approximately 2.5 percent of all entities selling business opportunities market in Spanish and 1.7 percent of all such entities market in languages other than English or Spanish.

[3] This figure is derived from the mean hourly wage for Lawyers. *See* ''Occupational Employment and Wage Statistics (OEWS) Tables'' released on May 15, 2026, by the Bureau of Labor Statistics, U.S. Department of Labor (May 2025), available at *https://data.bls.gov/oes/#/area/0000000/2025*.

[4] For many business opportunity sellers, clerical staff may file and store required records, which would significantly lower the sellers' labor costs.

[5] FTC staff estimates that this represents the current market rate per word to translate the disclosure documents into the language the sellers use to market business opportunities.

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 January 26, 2027. 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. 2026–24159 Filed 11–25–26; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10993, CMS–R–262, CMS–10549, CMS–102, CMS–10995]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. 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 or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by January 25, 2027.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. Electronically. You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. By *regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: __/OMB Control Number: __, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''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 requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* QHP Issuers Best Practices for Plan Year 2027 Agent and Broker Oversight; *Use:* Section 1312(e) of The Patient Protection and Affordable Care Act directs the Secretary of the Department of Health and Human Services (HHS) to establish procedures under which a State may permit agents and brokers (ABs) to enroll qualified individuals and employers into qualified health plans (QHPs) offered through an Exchange and to enable these ABs to assist individuals in applying for advance payments of the premium tax credit and cost sharing reductions. The authority to collect information from QHP issuers pertaining to ABs and associated enrollments comes from 45 CFR

155.220(c)(5), which states that ''HHS or its designee may periodically monitor and audit an agent, broker, or web-broker under this subpart to assess its compliance with the applicable requirements of this section.'' Further authority for collection of this information comes from §§ 156.705 and 156.715, which describe QHP issuer maintenance of records and compliance review requirements. This is a voluntary information collection. This information collection specifically details what information CMS recommends that QHP issuers should collect and maintain on a regular basis. This information collection focuses on the burden on issuers that undergo HHS compliance reviews pursuant to § 156.715(a), performed to ensure ongoing compliance with Exchange standards applicable to issuers offering QHPs in the FFEs. Form Number: CMS–10993 (OMB control number: 0938–1500); Frequency: Annually; Affected Public: Private Sector, State, Business, and Not-for Profits; Number of Respondents: 9,499; Number of Responses: 9,499; Total Annual Hours: 124,789. (For questions regarding this collection, contact Rebecca Zimmermann at 301–492–4396.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* CMS Plan Benefit Package (PBP) and Formulary CY 2028; *Use:* CMS requires that MA and PDP organizations submit a completed PBP and formulary as part of the annual bidding process. During this process, organizations prepare their proposed plan benefit packages for the upcoming contract year and submit them to CMS for review and approval. CMS uses this data to review and approve the benefit packages that the plans will offer to Medicare beneficiaries. This allows CMS to review the benefit packages in a consistent way across all submitted bids during with incredibly tight timeframes. This data is also used to populate data on Medicare Plan Finder, which allows beneficiaries to access and compare Medicare Advantage and Prescription Drug plans. *Form Number:* CMS–R–262 (OMB control number: 0938–0763); *Frequency:* Annually; *Affected Public:* Private Sector, State, Business, and Not-for Profits; *Number of Respondents:* 732; *Number of Responses:* 7,745; *Total Annual Hours:* 42,550. (For questions regarding this collection, contact Raven Robinson at 667–414–0090 or *raven.robinson@cms.hhs.gov.*)

3. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Generic Clearance for Questionnaire Testing and Methodological Research for the Medicare Current Beneficiary Survey (MCBS); *Use:* The purpose of this OMB clearance package is to extend the approval of the current generic clearance for the Medicare Current Beneficiary Survey (MCBS). The MCBS Questionnaire Testing and Methodological Research encompasses development and testing of MCBS questionnaires, instrumentation, and data collection protocols, as well as a mechanism for conducting methodological experiments. The current clearance includes six types of potential research activities: (1) cognitive interviewing, (2) focus groups, (3) usability testing, (4a) field testing within the MCBS production environment, (4b) field testing as a separate data collection effort outside of the MCBS production environment, (5) respondent debriefings, and (6) research about incentives. The MCBS is a continuous, multipurpose survey of a nationally representative sample of aged, disabled, and institutionalized Medicare beneficiaries. The MCBS, which is sponsored by the Centers for Medicare & Medicaid Services (CMS), is the only comprehensive source of information on the health status, health care use and expenditures, health insurance coverage, and socioeconomic and demographic characteristics of the entire spectrum of Medicare beneficiaries. The core of the MCBS is a series of interviews with a stratified random sample of the Medicare population, including aged and disabled enrollees, residing in the community or in institutions. Questions are asked about enrollees' patterns of health care use, charges, insurance coverage, and payments over time. Respondents are asked about their sources of health care coverage and payment, their demographic characteristics, their health and work history, and their family living circumstances. In addition to collecting information through the core questionnaire, the MCBS collects information on special topics.; *Form Number:* CMS–10549 (OMB control number: 0938–1275); *Frequency:* Occasionally; *Affected Public:* Individuals or Households; *Number of Respondents:* 11,655; *Number of Responses:* 11,655; Total *Annual Hours:* 3,947. (For questions regarding this collection, contact William Long at 410–786–7927.)

4. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* CLIA Budget Workload Reports; *Use:* The Clinical Laboratory Improvement Amendments of 1988 (CLIA), Public Law 100–578 were enacted on October 31, 1988. Provisions of this law mandated by Congress require entities (with few exceptions) that test human specimens be subject to Federal regulation and have in effect a certificate issued by the Department of Health and Human Services. CLIA mandates that fees must be paid by each laboratory to obtain or renew a certificate and for the cost of compliance determination if applicable. The certificate issuance fees will be set by CMS at levels sufficient to recover the full costs of administering the operational provisions of CLIA, including approval and monitoring of proficiency testing programs and accrediting bodies and implementing Federal requirements. Fees will also be collected by CMS to cover the costs of inspecting non-accredited laboratories and validating accrediting laboratories based on the lab's volume and scope of testing. Currently, CMS contracts with 50 State agencies to conduct surveys of all participating health care facilities. As part of their contract, CMS reimburses the State agencies for the reasonable cost of conducting surveys. This information collection gathers the information necessary to reimburse State agencies for a reasonable cost. *Form Number:* CMS–102 (OMB control number: 0938–0599); *Frequency:* Yearly, quarterly, and semi-annually; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 50; *Total Annual Responses:* 50; *Total Annual Hours:* 25.5. (For policy questions regarding this collection contact Eric Powell at 312–886–0791.)

5. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* CMS Provider Enrollment Requirement for Providers and Suppliers to Maintain Signage; *Use:* To bill the Medicare program for services and items they furnish to Medicare beneficiaries, providers and suppliers must first enroll in Medicare. CMS over the years has updated its provider enrollment regulations to strengthen the enrollment process and address various payment safeguard vulnerabilities that have arisen. CMS did so again in the Calendar Year (CY) 2027 Home Health Prospective Payment System (HH PPS) final rule, published in the **Federal Register** (FR) on November 9, 2026 (91 FR 72022). This rule finalized several important provider enrollment enhancements. One involved requiring providers and suppliers to maintain a permanent

visible sign in plain view posting their normal hours of operation; if the provider's or supplier's place of business is located within a building complex, the sign must be visible at the main entrance of the building (or the hours can be posted at the entrance of the supplier). *Form Number:* CMS-10995; OMB control number: 0938-New); *Frequency:* Annually; *Affected Public:* Business and not-for profit institutions; *Number of Respondents:* 66,667; *Total Annual Responses:* 66,667; *Total Annual Hours:* 333,333. (For policy questions regarding this collection contact Alisha Sanders at (443) 827–6187.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–24026 Filed 11–25–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–R–235, CMS–10137, and CMS–10971]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. 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 or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by December 28, 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''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 publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment.

Information Collections

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Use Agreement (DUA) Limited Data Set (LDS) Forms Research Identifiable Files (RIF) Forms; *Use:* The Privacy Act of 1974, § 552a requires the Centers for Medicare & Medicaid Services (CMS) to track all disclosures of the agency's Personally Identifiable Information (PII). CMS is also required by the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Federal Information Security Management Act (FISMA) of 2002 to properly protect all Protected Health Information (PHI) data maintained by the agency and account for the disclosure of PHI. When entities, such as academic, federal or state agency researchers request CMS PII/PHI data, they enter into a Data Use Agreement (DUA) with CMS. The DUA stipulates that the recipient of CMS data must properly protect the data according to all applicable data security standards and provide for its appropriate destruction at the completion of the project/study or the expiration date of the DUA. The DUA form enables the data recipient and CMS to document the request and approval for release of CMS data. *Form Number:* CMS–R–235 (OMB control number: 0938–0734); *Frequency:* Annually; *Affected Public:* Private Sector, State, Local or Tribal Government, Not-for-profit institutions and Business or other for-profits; *Number of Respondents:* 5,250; *Total Annual Responses:* 5,250; *Total Annual Hours:* 3,668. (For policy questions regarding this collection contact James Krometis at (410) 786–0340.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Solicitation for Applications for Medicare Prescription Drug Plan 2028 Contracts; *Use:* Coverage for the prescription drug benefit is provided through contracted prescription drug plans (PDPs) or through Medicare Advantage (MA) plans that offer integrated prescription drug and health care coverage (MA–PD plans). Cost Plans that are regulated under Section 1876 of the Social Security Act, and Employer Group Waiver Plans (EGWP) may also provide a Part D benefit. Organizations wishing to provide services under the Prescription Drug Benefit Program must complete an application, negotiate rates, and receive final approval from CMS. Existing Part D Sponsors may also expand their contracted service area by completing the Service Area Expansion (SAE) application.

Collection of this information is mandated in Part D of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) in Subpart 3. The application requirements are codified in Subpart K of 42 CFR 423 entitled ''Application Procedures and Contracts with PDP Sponsors.''

The information will be collected under the solicitation of proposals from PDP, MA–PD, Cost Plan, Program of All-Inclusive Care for the Elderly (PACE), and EGWP applicants. The collected

information will be used by CMS to: (1) ensure that applicants meet CMS requirements for offering Part D plans (including network adequacy, contracting requirements, and compliance program requirements, as described in the application), (2) support the determination of contract awards. *Form Number:* CMS–10137 (OMB control number: 0938–0936); *Frequency:* Annually; *Affected Public:* Individuals and Households; Private Sector—Not-for-profit institutions and Business or other for-profits; *Number of Respondents:* 750; *Total Annual Responses:* 380; *Total Annual Hours:* 1,643.47. (For policy questions regarding this collection contact April Forsythe at 410–786–8493 or *April.Forsythe@cms.hhs.gov.*)

3. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Acute Hospital Care at Home (AHCAH) Quantity, Intensity, and Mix of Services (QIMS) Data Collection Tool; *Use:* This is a new information collection request. The Consolidated Appropriations Act (CAA) of 2026 Section 6210(c) requires CMS to evaluate care provided to patients served through the Acute Hospital Care at Home (AHCAH) initiative, including the quantity, intensity, and mix of services (QIMS) furnished. This includes, but not limited to, the number of clinician visits, food services, and pharmacy services provided to patients while on the hospital-at-home service.

To participate in the AHCAH initiative hospitals are granted individual waivers at the CMS Certification Number (CCN) level. The AHCAH initiative waives specific Hospital Conditions of Participation (CoPs), 42 CFR 483, which require nursing services to be provided on premises 24 hours a day, 7 days a week and the immediate availability of a registered nurse for care of any patient.

In-patient healthcare services are provided to patients served under the AHCAH initiative. CMS has developed a tool to quantify the mix and intensity of the services for the purposes of analysis as required by CAA 2026. CMS is seeking OMB approval for information collection via this tool.

CMS will use this information to describe the quantity, mix, and intensity of services (QIMS) provided to patients in the AHCAH initiative. This includes patients admitted from an emergency department (ED) and patients transferred from an inpatient hospital unit. CMS will use this data to report to Congress. *Form Number:* CMS–10971 (OMB control number: 0938–NEW); *Frequency:* Annually; *Affected Public:* Individuals and Households; Private Sector—Not-for-profit institutions and Business or other for-profits; Federal Government and State, Local or Tribal Governments; *Number of Respondents:* 365; *Total Annual Responses:* 13,000; *Total Annual Hours:* 13,000. (For policy questions regarding this collection contact Cheryl Lehane at (617) 461–4888.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–24024 Filed 11–25–26; 8:45 am]

BILLING CODE 4169–69–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–8482]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Allegations of Regulatory Misconduct Voluntarily Submitted to the Center for Devices and Radiological Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by December 28, 2026.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0769. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Barrett, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Allegations of Regulatory Misconduct Voluntarily Submitted to the Center for Devices and Radiological Health

OMB Control Number 0910–0769—Extension

This information collection supports the voluntary submission of allegations of regulatory misconduct to FDA's Center for Devices and Radiological Health (CDRH). An allegation of regulatory misconduct is a claim that a medical device manufacturer or individuals marketing medical devices or electronic products regulated by CDRH may be doing so in a manner that violates the law. Reporting these allegations can help make FDA aware of regulatory concerns it may not learn of otherwise. This information can help FDA identify the potential risks to patients and determine whether further investigation is warranted, as well as any steps needed to address or correct a potential violation. Anyone may file a complaint reporting an allegation of regulatory misconduct. FDA encourages people submitting allegations to include supporting information and contact information in case additional information is needed for FDA to understand the allegation and act on the report; however, you can choose to submit a report anonymously. FDA will not share your identity or contact information with anyone outside FDA unless required to do so by law, regulation, or court order.

Allegations of regulatory misconduct may include failure to register and list a medical device, marketing uncleared or unapproved products, failure to follow quality system requirements, or misleading promotion.

You can submit an allegation through the Allegations of Regulatory Misconduct Form (*https://www.fda.gov/medical-devices/reporting-allegations-regulatory-misconduct/allegations-regulatory-misconduct-form*), by email, or by regular mail.

In the **Federal Register** of August 26, 2026 (91 FR 55101), FDA published a 60-day notice requesting public comment on the proposed collection of information. We received one comment that was PRA related.

The commenter questioned the usefulness of the form, citing submission concerns and recommended publishing submissions with identifying information removed. The comment did not address the proposed changes to the

burden estimate. FDA appreciates this feedback. Reports submitted through the form help FDA identify potential regulatory misconduct, assess risks to patients, and determine whether further investigation or action is warranted. CDRH prioritizes its review based on potential risks to patients. Depending on the assessment, FDA may take regulatory action, request additional information, or continue monitoring the allegation.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Electronic submission of voluntary allegations to CDRH ..	2,800	1	2,800	0.25 (15 minutes) ..	700

[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 increase of 75 hours and a corresponding increase of 300 responses. We attribute this adjustment to an increase in the number of submissions we received over the last few years.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–24046 Filed 11–25–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–D–11783]

Individualized Human Genome Editing Products: Considerations for BLA Submission and Postapproval Management; Draft Guidance for Industry; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is extending the comment period for the draft guidance for industry titled ''Individualized Human Genome Editing Products: Considerations for BLA Submission and Postapproval Management'' that appeared in the **Federal Register** of October 28, 2026. In the notice of availability for the draft guidance, FDA requested comments on the draft guidance. The Agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the draft guidance for industry published October 28, 2026 (91 FR 67838). Either electronic or written comments must be submitted by December 28, 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 December 28, 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–D–11783 for ''Individualized Human Genome Editing Products: Considerations for BLA Submission and Postapproval Management.'' 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: Phillip Kurs, Center for Biologics Evaluation and Research, Food and Drug Administration, 240–402–7911.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 28, 2026, FDA published a notice with a 30-day comment period to request comments on the draft guidance for industry titled ''Individualized Human Genome Editing Products: Considerations for BLA Submission and Postapproval Management.'' The Agency has received two requests for a 30-day extension of the comment period. The requests conveyed concern that the current 30-day comment period does not allow sufficient time to develop a meaningful or thoughtful response to the draft guidance.

FDA has considered the request and is extending the comment period for 30 days, until December 28, 2026. The Agency believes that a 30-day extension allows adequate time for interested persons to submit comments on this draft guidance.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–24021 Filed 11–25–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be partially open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend as well as those who need special assistance, such as sign language interpretation or other reasonable accommodation, must notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*https://www.niehs.nih.gov/news/webcasts*).

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Environmental Health Sciences Council (NAEHSC).

Date: February 19, 2027.

Open: 9:00 a.m. to 12:00 p.m.

Agenda: Discussion of Program Policies and Issues/Council Discussion.

Address: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Meeting Format: Virtual.

Closed: 12:45 p.m. to 3:00 p.m.

Agenda: To review and evaluate review and Evaluate Grant Applications.

Address: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Meeting Format: Virtual.

Contact Person: David M. Balshaw, BA, Ph.D., Director and Acting Chief, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, P.O. Box 12233; MD EC–27, Research Triangle Park, NC 27709–2233, 984–287–3234, *balshaw@niehs.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. In the interest of security, NIH has procedures at *https://security.nih.gov/visitors/Pages/visitor-campus-access.aspx* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.niehs.nih.gov/dert/c-agenda.htm,* where an agenda and any additional information for the meeting will be posted when available.

Dated: November 23, 2026.

Margaret Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–24152 Filed 11–25–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, Training and Career Development: Neurosciences, Development, and Aging, December 17, 2026, 12:30 p.m. to December 17, 2026, 03:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on November 20, 2026, FR Doc. 2026–23621, 91 FR 75336.

This meeting is being amended to change the meeting times from 12:30 p.m.–3:00 p.m. to 9:00 a.m.–6 p.m., December 17, 2026. The meeting is closed to the public.

Dated: November 23, 2026.

Margaret Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–24134 Filed 11–25–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Human Genome Research Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Human Genome Research Institute.

Date: February 26, 2027.

Closed: 9:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Address: National Human Genome Research Institute, National Institutes of Health, 50 Center Drive, Room 5537, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Shawn M. Burgess, Ph.D., Executive Secretary, National Human Genome Research Institute, 50 South Drive, Room 5537, Rockville, MD 20892, (301) 594–8224, *burgess@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Dated: November 23, 2026.

Margaret Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–24130 Filed 11–25–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be held as a virtual meeting and will be open to the public as indicated below. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting website (*https://videocast.nih.gov/*). Registration is not required to access the videocast.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Mental Health Council.

Date: February 11, 2027.

Open: 10:00 a.m. to 1:00 p.m.

Agenda: Presentation of the NIMH Director's report, discussion of NIMH programs, and concept clearances.

Address: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Meeting Format: Virtual Meeting.

Closed: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Address: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Meeting Format: Virtual Meeting.

Contact Person: Elizabeth S. Church, Ph.D., Acting Director Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Boulevard, Bethesda, MD 20892, (301) 496–4000, *elizabeth.church@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.nimh.nih.gov/about/advisory-boards-and-groups/namhc/index.shtml,* where an agenda and any additional information for the meeting will be posted when available.

Dated: November 24, 2026.

Margaret Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–24131 Filed 11–25–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

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, the Substance Abuse and Mental Health Services Administration (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, call the SAMHSA Reports Clearance Officer on (240) 276–0361.

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.

Proposed Project: 988 Cooperative Agreements Monitoring Program (OMB No. 0930–0394)—Revision

The Substance Abuse and Mental Health Services Administration (SAMHSA) is seeking Office of Management and Budget (OMB) approval for the revision to the information collection activities for monitoring all of SAMHSA's 988 Cooperative Agreements.

In order to help meet the standards and requirements set forth in legislation, ongoing communication of key outcomes within this OMB request must be received and reviewed to ensure connection and quality of care through 988. A revision is needed to update and streamline existing materials, add new, and remove discontinued instruments to support the 988 Suicide and Crisis Lifeline network administrator grants, the 988 state and territory grant program, the Crisis Center Follow-up grant program, and the 988 Tribal Response grant program.

Congress designated 988 in 2020 and the National Suicide Prevention Lifeline transitioned to the 3-digit number in July 2022. As a part of the federal government's commitment to addressing the mental health crisis in America, unprecedented federal resources have been invested to expand crisis centers in support of 988. In 2023 appropriations funding and again in 2026 appropriations funding, Congress called for enhanced program evaluation, including performance measures to assess program response and improve readiness and performance of the service, including review of each contact to ensure timely connection of service and quality provision in line with evidence-based care. Congress called for enhanced program evaluation, including performance measures to assess program response and improve readiness and performance of the service, including review of each contact to ensure timely connection of

service and quality provision in line with evidence-based care.

The information being collected will be used by SAMHSA to ensure individuals in suicidal crisis can contact the 988 Suicide and Crisis Lifeline and are connected to crisis centers that provide evidence-based care and receive critical resource referral and linkage, including opportunities for mobile crisis support, crisis receiving and stabilizing facilities, peer respite centers and withdrawal management services. The four programs to be evaluated are the Tribal Cooperative Agreements, State and Territory Cooperative Agreements, 988 Crisis Center Follow-up Cooperative Agreements, and the 988 Lifeline Administrator. Revisions have been made to some instruments, there are several new instruments, and others have been removed.

The purpose of the 988 Lifeline Administrator Cooperative Agreement is to manage, enhance, and strengthen the 988 Lifeline network that routes individuals in the United States to a network of certified crisis centers that link to local emergency, mental health, and social services resources. The information collection instrument is the monthly Lifeline Key Metrics and Progress Report.

The purpose of the Tribal Cooperative Agreements is to improve connection and response to 988 contacts (including calls, chats, and texts) originating in Tribal communities and/or initiated by American Indians/Alaska Natives.

The information collection instruments are the Tribal Government: Semi-Annual Progress Report Template, Tribal Government: GPO Meeting Agenda Template, and the Tribal Government: Optional Local Evaluation Plan Template.

The purpose of the State and Territory Cooperative Agreements is to improve state and territory response to 988 contacts (including calls, chats, and texts) originating in the state/territory. The information collection instruments are the State/Territory: Semi-Annual Progress Report Template, State/Territory: Semi Annual Key Metrics Report Template, State/Territory: GPO Meeting Agenda Template, State/Territory: Sustainability Plan Template, and the State/Territory: Communications Plan Template.

The purpose of the 988 Crisis Center Follow Up Cooperative Agreements is to provide a crisis center response that ensures the systematic follow-up of suicidal persons who contact a 988 Suicide and Crisis Lifeline (988 Lifeline) Crisis Center; provides enhanced coordination of crisis stabilization, crisis respite, mobile crisis outreach (MCO) response services, and other services on the crisis continuum of care; reduces unnecessary police engagement and; improves connections for high-risk populations. The information collection instruments are the Crisis Center: Semi Annual Progress Report Template, Semi-Annual CSPDC Key Metrics Report Template, and the Crisis Center: GPO Meeting Agenda Template.

The total annualized burden to an estimated 416 respondents for the 988 Cooperative Agreements programs combined monitoring is estimated to be 1,613 hours. Burden estimates are based on the data collection requirements and the number of respondents. The annualized estimated burden hours are as follows:

ESTIMATED TOTAL BURDEN FOR 988 COOPERATIVE AGREEMENTS MONITORING PROGRAM

SAMHSA tool	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden	Hourly wage cost	Total hour cost [1]
Tribal Govt: Semi Annual Progress Report Template	19	2	38	2	76	$45.61	$3,466.36
Tribal Govt: GPO Meeting Agenda Template	19	12	228	0.5	114	45.61	5,199.54
Tribal Govt: Optional Local Evaluation Plan Template	19	1	19	2	38	45.61	1,733.18
State/Territory: Semi-Annual Progress Report Template	53	2	106	2	212	45.61	9,669.32
State/Territory: Semi-Annual Key Metrics Report Template	53	2	106	1	106	45.61	4,834.66
State/Territory: GPO Meeting Agenda Template	53	12	636	0.5	318	45.61	14,503.98
State/Territory: Communications Plan Template	53	1	53	1	53	45.61	2,417.33
State/Territory: Sustainability Plan Template	53	1	53	2	106	45.61	4,834.66
Crisis Center: Semi-Annual Progress Report Template	31	2	62	2	124	45.61	5,655.64
Crisis Center: Semi-Annual Key Metrics Report Template	31	2	62	2	124	45.61	5,655.64
Crisis Center: GPO Meeting Agenda Template	31	12	372	0.5	186	45.61	8,483.46
988 Network Admin: Lifeline Key Metrics and Progress Report (Monthly)	1	12	12	13	156	45.61	7,115.16
Total	416	61	1,447	28.5	1,613	.....	73,568.96

[1] The hourly wage of $45.61 was calculated based on the Occupational Employment and Wages, Mean Hourly Wage rate for Community and Social Service Occupations (*https://www.bls.gov*).

Written comments and recommendations for Send comments to SAMHSA Reports Clearance Officer, 5600 Fisher Lane, Room 15E57A, Rockville, MD 20852 *OR* email a copy at *samhsapra@samhsa.hhs.gov.* Written comments should be received by January 26, 2027.

Alicia Broadus,

Public Health Advisor.

[FR Doc. 2026–24100 Filed 11–25–26; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0054]

Agency Information Collection Activities; Revision; Exportation of Used Self-Propelled Vehicles

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than December 28, 2026) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Please submit written comments and/or suggestions in English. 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: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (91 FR 58909) on September 17, 2026, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Exportation of Used Self-Propelled Vehicles.

OMB Number: 1651–0054.

Form Number: N/A.

Current Actions: Revision.

Type of Review: Revision.

Affected Public: Individuals and Businesses.

Abstract: U.S. Customs and Border Protection (CBP) regulations require an individual attempting to export a used self-propelled vehicle to furnish documentation to CBP at the port of export. Exportation of a vehicle is permitted only upon compliance with these requirements. The required documentation includes, but is not limited to, a Certificate of Title or a Salvage Title, the Vehicle Identification Number (VIN), a Manufacturer's Statement of Origin, etc. CBP will accept originals or certified copies of the Certificate of Title. Supporting documentation may be submitted through the Document Image System (DIS). The purpose of this information is to help ensure that stolen vehicles or vehicles associated with other criminal activity are not exported.

Collection of this information is authorized by 19 U.S.C.1627a, which provides CBP with authority to impose export reporting requirements on all used self-propelled vehicles. It is also authorized by Title IV, Section 401 of the Anti-Car Theft Act of 1992, 19 U.S.C. 1646(c), which requires all persons exporting a used self-propelled vehicle to provide to CBP, at least 72 hours prior to export, the VIN and proof of ownership of each automobile. This information collection is provided for by 19 CFR part 192. Further guidance regarding these requirements is provided at: *https://www.cbp.gov/trade/basic-import-export/export-docs/motor-vehicle.*

New Change: Respondents are now able to submit supporting documentation through the Document Image System (DIS). CBP estimates that the option to submit through DIS saves respondents 5 minutes per response, from an average of 10 minutes, reducing burden per response down to only 5 minutes.

Type of Information Collection: Exportation of Self-Propelled Vehicles.

Estimated Number of Respondents: 1,400,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 1,400,000.

Estimated Time per Response: 5 minutes (0.0833333 hours).

Estimated Total Annual Burden Hours: 116,667.

Seth D Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2026–24147 Filed 11–25–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0018]

Agency Information Collection Activities; Extension; Ship's Stores Declaration (CBP Form 1303)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than January 26, 2027) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0018 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments: Email. Submit comments to: *CBP_PRA@cbp.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions

regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Ship's Stores Declaration.
OMB Number: 1651–0018.
Form Number: 1303.
Current Actions: Extension without change.
Type of Review: Extension (without change).
Affected Public: Businesses.
Abstract: CBP Form 1303, Ship's Stores Declaration, is used by the carriers to declare articles to be retained on board the vessel, such as sea stores, ship's stores (*e.g.* alcohol and tobacco products), controlled narcotic drugs or bunker fuel in a format that can be readily audited and checked by CBP. The form was developed as a single international standard ship's stores declaration form to replace the different forms used by various countries for the entrance and clearance of vessels. CBP Form 1303 collects information about the ship, the ports of arrival and departure, and the articles on the ship. This form is provided for by 19 CFR 4.7, 4.7a, 4.81, 4.85 and 4.87 and is accessible at: *https://www.cbp.gov/newsroom/publications/forms?title=1303&=Apply*.

This form is anticipated to be submitted electronically as part of the maritime forms automation project through the Vessel Entrance and Clearance System (VECS), which will eliminate the need for any paper submission of any vessel entrance or clearance requirements under the above referenced statutes and regulations. VECS will still collect and maintain the same data, but will automate the capture of data to reduce or eliminate redundancy with other data collected by CBP.

Type of Information Collection: Form 1303.
Estimated Number of Respondents: 98,631.
Estimated Number of Annual Responses per Respondent: 72.
Estimated Number of Total Annual Responses: 7,101,432.
Estimated Time per Response: 15 minutes.
Estimated Total Annual Burden Hours: 1,775,358.

Seth D Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2026–24148 Filed 11–25–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2026–0529; OMB No. 1660–0159]

Agency Information Collection Activities: Proposed Collection, Comment Request; Generic Clearance for Notice of Loss and Proof of Loss

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 30-Day notice of revision and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. FEMA invites the general public to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Generic Clearance for Notice of Loss and Proof of Loss for claimants who file a claim with the Agency seeking compensation for injury or loss of property resulting from fires.

DATES: Comments must be submitted on or before December 28, 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: Angelica Searls, Emergency Management Specialist, Recovery Directorate, at 202–701–9021 and *fema-hermits-peak@fema.dhs.gov.* You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: FEMA proposes to collect information from parties who apply for compensation under FEMA-established fire claims programs stemming from its role providing financial assistance and direct services to individuals applying for disaster assistance benefits in the event of a federally declared disaster as specified by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Public Law 93–288, as amended (42 U.S.C. 5121–5207). On September 30, 2022, President Biden signed into law the Hermit's Peak/Calf Canyon Fire Assistance Act (''Act'') Public Law 117–180, Division G—Hermit's Peak/Calf Canyon Fire Assistance Act. Congress passed the Act to compensate those parties who suffered injury and loss of property from the Hermit's Peak/Calf Canyon Fire. Such a generic clearance will minimize delays in FEMA's ability to respond to future fire incidents resulting in the establishment of claims offices.

This proposed information collection previously published in the **Federal Register** on September 4, 2026 at 91 FR 56893 with a 60-day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Generic Clearance for Notice of Loss and Proof of Loss.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0159.

FEMA Forms: N/A.

Abstract: The Federal Emergency Management Agency (FEMA) will use the collected information to commence the process and procedures for claimants to seek compensation for injury or loss of property resulting from the Hermit's Peak/Calf Canyon Fire and other Fires that meet the criteria. Affected state, local and Tribal Governments, private sector businesses, not-for-profit organizations, and individuals and households that suffered injuries resulting from fires will be eligible to apply for compensation. Claimants will submit a Notice of Loss to the Agency, meet with a FEMA Claims Reviewer, obtain documentation needed to substantiate claims, sign Proof of Loss, and complete and return a Release and Certification form.

Affected Public: Individuals or Households; Businesses or other For-Profit; Not-for-Profit Institutions; and State, Local or Tribal Government.

Estimated Number of Respondents: 10,993.

Estimated Number of Responses: 10,993.

Estimated Average Time per Response: 0.3322.

Estimated Total Annual Burden Hours: 3,652.

Estimated Total Annual Respondent Cost: $189,316.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $102,981,973.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Nigel S. Allicock,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2026–24025 Filed 11–25–26; 8:45 am]

BILLING CODE 9111–68–P

DEPARTMENT OF HOMELAND SECURITY

Agency Information Collection Activities: Generic Clearance for Improving Customer Experience (OMB Circular A–11, Section 280 Implementation); OMB Control No. 1601–0029

AGENCY: Department of Homeland Security (DHS)

ACTION: 30-Day notice and request for comments

SUMMARY: The Department of Homeland Security, DHS will submit the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS previously published this information collection request (ICR) in the **Federal Register** on September 10th, 2026 for a 60-day public comment period. 1 comment were received by DHS. The purpose of this notice is to allow additional 30-days for public comments.

DATES: Comments are encouraged and will be accepted until December 28, 2026. This process is conducted in accordance with 5 CFR 1320.10.

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.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

SUPPLEMENTARY INFORMATION: On September 11, 1993, Executive Order 12862, ''Setting Customer Service Standards'' was issued. This Executive Order expressed the vision that Federal agencies will put the people first. Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. Section 1(b) of Executive Order 12862 requires government agencies to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services'' and Section 1(e) requires agencies ''survey front-line employees on barriers to, and ideas for, matching the best in business.''

On March 30, 2016, the Core Federal Services Council was established. The Council emphasized the need to deliver world-class customer service to the American people. The Council, composed of the major high-volume, high-impact Federal programs that provide transactional services directly to the public, were encouraged ''to improve the customer experience by using public and private sector management best practices, such as conducting self-assessments and journey mapping, collecting transactional feedback data, and sharing such data with frontline and other staff.''

ensuring 'excellent service' as a focus in future agency strategic planning efforts. The PMA included a CAP Goal on Improving Customer in March 2018; the President's Management Agenda (PMA) and new Cross-Agency Priority (CAP) Goals were launched. Excellent service was established as a core component of the mission, service, stewardship model that frames the entire PMA, embedding a customer-focused approach in all of the PMA's initiatives. This model was also included in the 2018 update of the Federal Performance Framework in Circular A–11, Experience with Federal Services, with a primary strategy to drive improvements within 25 of the

nation's highest impact programs. This effort is supported by an interagency team and guidance in Circular A–11 requiring the collection of customer feedback data and increasing the use of industry best practices to conduct customer research. From 2021–2023, Executive Order 14058, *Transforming Customer Experience and Service Delivery to Rebuild Trust in Government,* Memorandum M–22–10, *Improving Access to Public Benefits Program Through the Paperwork Reduction Act,* and an OIRA Memorandum titled *Strategies for Reducing Administrative Burden in Public Benefit and Service Programs* were issued. The Executive Order and memoranda, taken as a whole, direct agencies to take specific actions to improve customer experience and enhance public participation and community engagement. Furthermore, the President's Management Agenda contains a Priority titled Delivering Excellent, Equitable, and Secure Federal Services and Customer Experience, which, among other things, seeks to improve the service design, digital products, and customer-experience management of Federal High Impact Service Providers by reducing customer burden, addressing inequities, and streamlining processes.

These Presidential actions and requirements establish an ongoing process of collecting customer insights and using them to improve services. This new request will enable the Department of Homeland Security (hereafter ''the Agency'') to act in accordance with OMB Circular A–11 Section 280, Executive Order 14058, and the OMB memoranda on burden reduction, to ultimately transform the experience of its customers to improve both efficiency and mission delivery and increase accountability by communicating about these efforts with the public.

The Agency will collect, analyze, and interpret information gathered through this generic clearance to identify services' accessibility, navigation, and use by customers, and make improvements in service delivery based on customer insights gathered through developing an understanding of the user experience interacting with Government.

For the purposes of this request, ''customers'' are individuals, businesses, and organizations that interact with a Federal Government agency or program, either directly or via a federal contractor.

''Service delivery'' or ''services'' refers to the multitude of diverse interactions between a customer and Federal agency such as applying for a benefit or loan, receiving a service such as healthcare or small business counseling, requesting a document such as a passport or social security card, complying with a rule or regulation such as filing taxes or declaring goods, utilizing resources such as a park or historical site, or seeking information such as public health or consumer protection notices.

Under this request, three types of activities will be conducted to generate customer insights:

Customer Research (e.g., User Persona and Journey Map Development): A critical first component of understanding customer experience is to develop customer personas and journey maps. This process enables the Agency to more deeply understand the customer segments they serve and to organize the processes customers interact with throughout their engagement with the Federal entity to accomplish a task or meet a need. In order to adequately capture the perspective of the customer and the barriers or supports that exist as they navigate these journeys, it is necessary to directly interact with customers rather than relying solely upon the Agency's stated policy of how a process should work or employees' interpretation of how services are delivered. This can occur through a variety of information collection mechanisms that include focus groups, individual intercept interviews at a service site, shadowing a user as they navigate a Federal service and documenting their reactions and frustrations, customer free-response comment cards, or informal small discussion groups.

Regardless of the format, the Agency will apply Human Centered Design (HCD) Discovery methods to generate personas and journey maps, ultimately identifying customer insights. An approach to recruiting participants, resources for preparing and structuring interviews, and a consent form for interviewees can be found at *https://www.gsa.gov/cdnstatic/HCD-Discovery-Guide-Interagency-v12-1.pdf.* This document is also included in the package.

Insights documented, summarized and presented in customer personas and journey maps can then be shared across the program, the Agency, other Federal, State, and Local government stakeholders and even with the public to validate and discuss common themes identified. These products can be used as ''indicator lights'' for where more rigorous qualitative and quantitative research can be conducted to improve Federal service delivery.

Publicly shared personas and journey maps will include language that qualifies their use (see question #16), and high-level, non-identifying descriptive statistics of the population(s) interviewed to develop it (*ex.* ''25 Service members that transitioned to civilian employment within the last decade, 14 female, 11 male, 21 enlisted and 4 officers) to ensure that the perspective represented is understood. Quotes or insights will never be associated with an actual individual unless they have signed a release form (see link above for template) and this was included in the specific collection request.

Customer Feedback (Satisfaction Survey): Surveys to be considered under this generic clearance will only include those surveys modeled on the OMB Circular A–11 CX Feedback survey to improve customer service by collecting feedback at a specific point during a customer journey. This could include submitting a form online on a Federal website, speaking with a call center representative, paying off a loan, or visiting a Federal service center.

In an effort to develop comparable, government-wide scores that will enable cross-agency or industry benchmarking (when relevant) and a general indication of an agency's overall customer satisfaction, High Impact Service providers must refer to OMB Circular A–11 Section 280 for required survey question wording and organization.

As part of the Customer Experience CAP goal's strategy to increase transparency to drive accountability, the feedback data collected through the A–11 Standard Feedback survey is meant to be shared with the public. This collection is part of the government-wide effort to embed standardized customer metrics within high-impact programs to create government-wide performance dashboards. Data collected from the questions listed above will be submitted by the Agency to OMB at a minimum quarterly for updating of customer experience dashboards on performance.gov. This dashboard will also include the total volume of customers that passed through the transaction point at which the survey was offered, the number of customers the survey was presented to, the number of responses, and the mode of presentation and response (online survey, in-person, post-call touchtone, mobile, email). This will help to qualify the data's representation by showing both the response rate and total number of actual responses.

User Testing of Services and Digital Products: Agencies should continually review, update and refine their service

delivery, including communication materials, processes, supporting reference materials, and digital products associated with a federal program. This often requires ''field testing'' program informational materials, process updates, forms, or digital products (such as websites or mobile applications) by interacting with past, existing, or future customers and soliciting feedback. These activities can include cognitive laboratory studies, such as those used to refine questions on a program form to ensure clarity, demo kiosks at a service center where customers can provide informal feedback while waiting for a service, or more formally scheduled in-person observation testing (*e.g.,* website or software usability tests). These information collection activities are more specific than broad customer research and related to a particular artifact/product of a federal program. As such, there will be a more structured interview/set of questions than more open-ended customer research. Findings from these activities are meant to support the design and implementation of Federal program services and digital products and may only be shared in an anonymized/in aggregate if a particular insight is useful to include as part of a customer persona, journey map, or common lesson learned for improving service delivery.

The Agency will only submit under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours or burden hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used for general service improvement and program management purposes
- The agency will follow the procedures specified in OMB Circular A–11 Section 280 for the required quarterly reporting to OMB of trust data and experience driver data from surveys.
- Outside of the quarterly reporting mentioned in the bullet immediately above, if the agency intends to release journey maps, user personas, reports, or other data-related summaries stemming from this collection, the agency must include appropriate caveats around those summaries, noting that conclusions should not be generalized beyond the sample, considering the sample size and response rates. The agency must submit the data summary itself (*e.g.,* the report) and the caveat language mentioned above to OMB before it releases them outside the agency. OMB will engage in a passback process with the agency.

This clearance will help the Agency to establish a process where customer experience is regularly monitored and measured. The results will assist the Agency in the planning and decision-making processes to improve the quality of the Agency's products and services.

Results from feedback activities and surveys will be used to measure against established baseline standards and for measuring the Agency's progress toward defined goals.

There are neither legal nor technical obstacles to the use of technology in these information collection activities. The determination to use technology, and which technology to use, will be based on the type of information collected and the utility and the availability of specific technology to each respondent in a proposed customer research activity or feedback survey.

The information collected in these surveys will represent the minimum burden necessary to evaluate customer experience with the Agency's programs and processes. The Agency will minimize the burden on respondents by sampling as appropriate, asking for readily available information, and using short, easy-to-complete information collection instruments.

Without regular mechanisms for collecting and generating customer insights, the Agency is not able to provide the public with the highest level of service. These activities will be coordinated to ensure that most individual respondents will not be asked to respond to more than one survey instrument per transaction or to participate in more than one qualitative feedback or testing activity.

Activity and survey instructions will provide all necessary assurances of confidentiality to the respondents. Although there is no requirement for such an assurance in statute, the quality of this type of information requires respondent candor and anonymity.

There is no change in information being collected or the burden.

Analysis

Agency: Department of Homeland Security (DHS).

Title: Generic Clearance for Improving Customer Experience (OMB Circular A–11, 280 Implementation).

OMB Number: 1601–0029.

Frequency: Annually.

Affected Public: Individuals or Households.

Number of Respondents: 2,001,550.

Estimated Time per Respondent: N/A.

Total Burden Hours: 101,125.

Suzanne Komara,

Acting Deputy Executive Director, Enterprise Business Management Directorate.

[FR Doc. 2026–24128 Filed 11–25–26; 8:45 am]

BILLING CODE 9112–FL–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7094–N–13; OMB Control No. 2506–0133]

60-Day Notice of Proposed Information Collection: Housing Opportunities for Persons With AIDS (HOPWA) Program

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* January 26, 2027.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to *www.regulations.gov.* Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Urnell Johnson, PRA Supervisor, Correspondence Unit, Department of Housing and Urban Development, 451 7th Street SW, Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Claire Donze, Senior Program Financial Operations Specialist, Office of HIV/AIDS Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *Claire.L.Donze@hud.gov* or telephone (202) 402–2365. This is not a toll-free

number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

Copies of available supporting documents for the proposed collection may be obtained from Ms. Donze.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Housing Opportunities for Persons With AIDS (HOPWA): Grant Reporting, Recordkeeping, and Closeout.

OMB Approval Number: 2506–0133.

Type of Request: Revision of currently approved collection.

Form Number: HUD–40110–B, HUD–4153, HUD–4154, HUD–4155, HUD–4158, SF–425.

Description of the need for the information and proposed use:

The current Paperwork Reduction Act approval under OMB Control No. 2506–0133 covers reporting, and record keeping requirements for both the HOPWA formula and competitive grant programs. The competitive grant program includes new competitive grants and renewal/replacement grants. This revision applies to reporting and closeout requirements for all HOPWA grantees.

This submission requests to add additional data elements to form HUD–4155, remove data elements that are no longer needed, update language in the HOPWA grant closeout certification, as well as updating the collection method for the HOPWA grant closeout certification to submit in Integrated Disbursement and Information System (IDIS).

HUD plans to continue using the data elements in this submission for the purposes of measuring program performance against benchmark goals and objectives and communicate the program's achievements and contributions towards Departmental strategic goals.

Respondents: HOPWA competitive and renewal grant applicants, and all HOPWA formula, competitive, and renewal grantees.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Consolidated APR/CAPER Data Elements (HUD–4155)	258.00	1.00	258.00	40.00	10320.00	$29.57	$305,162.40
HUD–4154, HIV Housing Care Continuum Model Report (new competitive SPNS grant only)	30.00	1.00	30.00	20.00	600.00	29.57	17,742.00
HUD–4153, SPNS Grant Model Report (new competitive SPNS grant only)	30.00	1.00	30.00	40.00	1200.00	29.57	47,484.00
Recordkeeping for Competitive, PSH, and Formula Grantees	258.00	1.00	258.00	60.00	15480.00	29.57	457,743.60
Grant Amendments (budget change, extension, or early termination)	30.00	1.00	30.00	6.00	180.00	29.57	5,322.60
Grant Closeout (closeout certification, SF425, and all financial, performance, and other reports required as a condition of the grant)	258.00	1.00	200.00	11.00	2,200.00	29.57	65,054.00
Total	864.00		806.00		29,980.00		898,508.60

HOPWA grantees and applicants may be required to respond to more than one piece of information collection. All annualized costs reflect staff time spent on tasks in the table. The hourly rate of $29.57 is based on a GS–9 for Rest of United States. 10,320 hours * $29.57 = $305,162.40.

The estimated costs under this OMB approval number in this request is higher than previous approval because of the higher hourly wage compared to the previous submission. Responses per annum and annual burden hours are actually lower than previous submission because of the a reduced number of new competitive SPNS grantees, and more efficient processing of grant closeouts through the IDIS system.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

44 U.S.C. 3507.

Ronald J. Kurtz,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2026–24074 Filed 11–25–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; O2509–014–004–125222.1; LLWY]

Plat(s) of Survey Filed; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials that the plat(s) of survey (plat(s)) of the following described lands were

officially filed in the Bureau of Land Management (BLM) Wyoming State Office. The surveys announced in this notice, which were executed at the request of the BLM, are necessary for the management of these lands.

DATES: Filing is effective at 10:00 a.m. on the dates indicated below.

ADDRESSES: A copy of the survey records may be obtained at the BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, WY 82009, upon required payment. The plats may also be viewed at this location at no cost. Requests for copies of the survey records may be made by email to *blm_wy_survey_records@blm.gov* or by telephone at 307–775–6222. Copies are $4.20 per plat and $0.15 per page of field notes.

FOR FURTHER INFORMATION CONTACT: Jeremy D. Davis, Acting BLM Wyoming Chief Cadastral Surveyor, by telephone at 307–775–6467 or by email at *j65davis@blm.gov*. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the BLM Wyoming State Office.

Sixth Principal Meridian, Wyoming

T. 23 N., R. 94 W., Group No. WY1123–2601, supplemental plat, accepted June 16, 2026 and filed June 17, 2026.

T. 24 N., R. 112 W., Group No. WY1136, supplemental plat, accepted July 2, 2026, and filed July 6, 2024.

Thirty-Four Principal Meridian, Wyoming

T. 2 N., R 4 W and T. 4 N., R. 2E., Group No. 1135, supplemental plat, accepted June 18, 2026 and filed June 19, 2026.

The plat(s), listed above, are now filed in the official survey records, may be used for all authorized purposes, and is readily available to the public.

(Authority: 43 U.S.C. chapter 3)

Jeremy D. Davis,

Acting Chief Cadastral Surveyor for Wyoming.

[FR Doc. 2026–24031 Filed 11–25–26; 8:45 am]

BILLING CODE 4331–26–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516, O2509–014–004–125222.1; LLID935000]

Filing of Surveys; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials that the following described land survey records were officially filed in the Bureau of Land Management (BLM) Idaho State Office. The associated surveys were executed at the request of various Federal agencies and are necessary for the management of the lands described.

ADDRESSES: Copies of these survey records may be viewed or obtained from the BLM's General Land Office website (*glorecords.blm.gov*) at no cost, or obtained from the BLM Idaho State Office, 1387 S Vinnell Way, Boise, Idaho 83709, upon required payment.

FOR FURTHER INFORMATION CONTACT: Michael L. Hart, Branch of Cadastral Survey, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho 83709–1657; (208) 373–3981; email: *mlhart@blm.gov*. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Boise Meridian, Idaho

The remonumentation field notes in Township 45 North, Range 5 West, approved September 3, 2025, under Group No. 1500.

The plat in Township 6 North, Range 1 East, filed September 16, 2025, under Group No. 1626.

The plat in Township 29 North, Range 8 East, filed September 18, 2025, under Group No. 1618.

The plat in Township 3 North, Range 3 West, filed September 23, 2025, under Group No. 1476.

The plat in Township 14 North, Range 5 East, filed December 16, 2025, under Group No. 1547.

The plat in Township 12 North, Range 1 East, filed December 17, 2025, under Group No. 1548.

The plat in Township 12 North, Range 2 East, filed December 17, 2025, under Group No. 1548.

The plat in Township 3 North, Range 3 West, filed January 11, 2026, under Group No. 1487.

The plat in Township 5 North, Range 34 East, filed January 28, 2026, under Group No. 1549.

The plat in Township 3 North, Range 18 East, filed February 10, 2026, under Group No. 1310.

The plat in Township 3 North, Range 3 East, filed February 19, 2026, under Group No. 1523.

The plat in Township 3 North, Range 18 East, filed February 23, 2026, under Group No. 1310.

The plat in Township 5 South, Range 8 East, filed February 23, 2026, under Group No. 1534.

The plat in Township 2 North, Range 2 West, filed March 16, 2026, under Group No. 1439.

The plat in Township 31 North, Range 4 East, filed March 16, 2026, under Group No. 1507.

The plat in Township 8 South, Range 45 East, filed March 16, 2026, under Group No. 1529.

The plat in Township 14 North, Range 44 East, filed March 24, 2026, under Group No. 1528.

The plat in Township 9 South, Range 36 East, filed April 6, 2026, under Group No. 1494.

The plat in Township 8 South, Range 36 East, filed April 13, 2026, under Group No. 1493.

The plat in Township 8 North, Range 21 East, filed July 14, 2026, under Group No. 1571.

The plat in Township 19 North, Range 23 East, filed July 15, 2026, under Group No. 1551.

The plat in Township 9 South, Range 20 East, filed July 23, 2026, under Group No. 1568.

The plat in Township 29 North, Range 8 East, filed August 3, 2026, under Group No. 1603.

The remonumentation field notes in Township 7 North, Range 40 East, approved August 14, 2026, under Group No. 1500.

The plat in Township 10 South, Range 2 West, filed August 17, 2026, under Group No. 1339.

The plat in Township 10 North, Range 11 East, filed August 20, 2026, under Group No. 1646.

The plat in Township 9 North, Range 17 East, filed August 26, 2026, under Group No. 1509.

The plat in Township 8 South, Range 36 East, filed August 26, 2026, under Group No. 1513.

The plat in Township 3 North, Range 41 East, filed September 3, 2026, under Group No. 1580.

The plat in Township 14 South, Range 34 East, filed September 16, 2026, under Group No. 1532.

The plat in Township 3 North, Range 18 East, filed September 23, 2026, under Group No. 1310.

The plat in Township 2 South, Range 20 East, filed September 23, 2026, under Group No. 1515.

The plat in Township 8 North, Range 32 East, filed October 5, 2026, under Group No. 1563.

The plat in Township 9 North, Range 32 East, filed October 5, 2026, under Group No. 1563.

(Authority: 43 U.S.C. chapter 3)

Michael L. Hart,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 2026–24098 Filed 11–25–26; 8:45 am]

BILLING CODE 4331–25–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; O2509–014–004–125222.1; LLWY]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file the plats of survey 30 calendar days after the date of publication of this notice in the BLM Wyoming State Office. These surveys, which were executed at the request of the Department of Defense, are necessary for the management of these lands.

DATES: Protests must be received by the BLM Wyoming State Office prior to the scheduled date of official filing, December 28, 2026.

ADDRESSES: A copy of the survey records may be obtained at the BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, WY 82009, upon required payment. The plats may also be viewed at this location at no cost. Requests for copies of the survey records may be made by email to *blm_wy_survey_records@blm.gov* or by telephone at 307–775–6222. Copies are $4.20 per plat and $0.15 per page of field notes.

FOR FURTHER INFORMATION CONTACT: Jeremy D. Davis, Acting BLM Wyoming Chief Cadastral Surveyor, by telephone at 307–775–6467 or by email at *j65davis@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the BLM Wyoming State Office.

Sixth Principal Meridian, Wyoming

T. 32 N., R. 107 W., Group No. WY1041, dependent resurvey, survey, and metes and bounds survey, accepted July 1, 2026.

A person or party who wishes to protest one or more plats of survey identified in this notice must file a written notice of protest within 30 calendar days from the date of this publication with the BLM Wyoming State Director at the address listed in the **ADDRESSES** section of this notice.

The notice of protest must identify the specific plat(s) of survey that the person or party wishes to protest. If a notice of protest is received after regular business hours, a notice of protest will be considered filed the next business day. Any notice of protest filed after the scheduled date of official filing will be untimely and will not be considered.

A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the BLM Wyoming State Director within 30 calendar days after the notice of protest is received.

If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C., Chapter 3)

Jeremy D. Davis,

Acting Chief Cadastral Surveyor for Wyoming.

[FR Doc. 2026–24032 Filed 11–25–26; 8:45 am]

BILLING CODE 4331–16–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516;#O2602–014–004–125222.1]

Proposed Class II Reinstatement of Terminated Oil and Gas Lease NDM 111938, Billings County, ND

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of lease reinstatement.

SUMMARY: In accordance with the Mineral Leasing Act of 1920, as amended, Norra Resources LLC filed a timely petition for reinstatement of oil and gas lease NDM 111938 for land in Billings County, North Dakota. The petition was accompanied by all required rentals and royalties accruing from December 1, 2021, the date of termination. No additional leases have been issued that affect these lands. The Bureau of Land Management (BLM) proposes to reinstate this lease.

FOR FURTHER INFORMATION CONTACT: Samantha Iron Shirt, Section Chief for Fluids Adjudication, BLM, Montana/Dakotas State Office, 5001 Southgate Drive, Billings, Montana 59101–4669; phone 406–896–5060; email *sironshi@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the new lease terms:

- Original term and additional conditions of the lease;
- Increased rental of $20 per acre;
- Increased royalty of 16 ⅔ percent;
- $133 cost of publishing this Notice, and
- $500 cost of administrative fee.

The lease contains approximately 160.28 acres in Billings County, North Dakota. The lessee has met all the requirements for reinstatement of the lease per section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), as amended. The BLM is proposing to reinstate the lease 30 days following publication of this notice, with the effective date of December 1, 2021, subject to the amended terms and conditions of the lease and the increased rental and royalty rates cited above.

(Authority: 43 CFR 3108.2–3)

Samantha Iron Shirt,

Chief, Fluids Adjudication Section.

[FR Doc. 2026–24029 Filed 11–25–26; 8:45 am]

BILLING CODE 4331–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516;#O2602–014–004–125222.1]

Proposed Class II Reinstatement of Terminated Oil and Gas Lease MTM 111932 Richland County, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of lease reinstatement.

SUMMARY: In accordance with the Mineral Leasing Act of 1920, as amended, Levi Sap Nei Thang LLC filed a timely petition for reinstatement of oil and gas lease MTM 111932 for land in Richland County, Montana. The petition was accompanied by all required rentals and royalties accruing from December 1, 2021, the date of termination. However, JBLS, Inc. has filed a Record Title Assignment and will become the new lessee when the lease is reinstated. No additional leases have been issued that affect these lands. The Bureau of Land Management (BLM) proposes to reinstate this lease.

FOR FURTHER INFORMATION CONTACT: Samantha Iron Shirt, Section Chief for Fluids Adjudication, BLM, Montana/Dakotas State Office, 5001 Southgate Drive, Billings, Montana 59101–4669; phone 406–896–5060; email *sironshi@blm.gov*.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the new lease terms:

- Original term and additional conditions of the lease;
- Increased rental of $20 per acre;
- Increased royalty of 16⅔ percent;
- $133 cost of publishing this Notice, and
- $500 cost of administrative fee.

The lease contains approximately 1,239.72 acres in Richland County, Montana. The lessee has met all the requirements for reinstatement of the lease per section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), as amended. The BLM is proposing to reinstate the lease 30 days following publication of this notice, with the effective date of December 1, 2021, subject to the amended terms and conditions of the lease and the increased rental and royalty rates cited above.

(Authority: 43 CFR 3108.2–3)

Samantha Iron Shirt,

Chief, Fluids Adjudication Section.

[FR Doc. 2026–24030 Filed 11–25–26; 8:45 am]

BILLING CODE 4331–20–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–779 and 731–TA–1765–1766 (Final)]

Chromium Trioxide From India and Turkey; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of chromium trioxide from India and Turkey, provided for in subheading 2819.10.00 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV''), and imports of the subject merchandise from India that have been found to be subsidized by the government of India.[2] [3]

Background

The Commission instituted these investigations effective September 29, 2025, following receipt of petitions filed with the Commission and Commerce by American Chrome & Chemicals, Inc. (''ACC''), Canonsburg, Pennsylvania. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of chromium trioxide from India were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and imports of chromium trioxide from India and Turkey were being sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on June 8, 2026 (91 FR 34653), as revised on June 23, 2026 (91 FR 37422). The Commission conducted its hearing on September 29, 2026. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on November 23, 2026. The views of the Commission are contained in USITC Publication 5811 (November 2026), entitled *Chromium Trioxide from India and Turkey: Investigation Nos. 701–TA–779 and 731–TA–1765–1766 (Final).*

By order of the Commission.

Issued: November 23, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–24053 Filed 11–25–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–525 and 731–TA–1260–1261 (Second Review)]

Welded Line Pipe From South Korea and Turkey; Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing duty order on welded line pipe from Turkey and antidumping duty orders on welded line pipe From South Korea and Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on May 1, 2026 (91 FR 23459, May 1, 2026) and determined on August 4, 2026 that it would conduct expedited reviews (91 FR 56670, September 3, 2026).

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 91 FR 64335 (October 8, 2026); 91 FR 64349 (October 8, 2026); 91 FR 64351 (October 8, 2026).

[3] Commissioner Samuel Negatu not participating.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on November 23, 2026. The views of the Commission are contained in USITC Publication 5816 (November 2026), entitled *Welded Line Pipe from South Korea and Turkey: Investigation Nos. 701–TA–525 and 731–TA–1260–1261 (Second Review).*

By order of the Commission.

Issued: November 23, 2026.

Avram Lichtenstein,

Attorney Advisor.

[FR Doc. 2026–24047 Filed 11–25–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1782–1785 (Final)]

Polytetramethylene Ether Glycol (PTMEG) From China, South Korea, Taiwan, and Vietnam; Scheduling of the Final Phase of Antidumping Duty Investigations; Correction

AGENCY: U.S. International Trade Commission.

ACTION: Notice; correction.

SUMMARY: Corrections are made to the date the prehearing report will be placed on the nonpublic record; the deadline to request to appear at the hearing; the date of the prehearing conference; and the deadline for filing prehearing briefs.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of November 20, 2026 (91 FR 75348) in FR Doc. 2026–23624, on page 75349, in the third column, in the *Staff report* section, the date the prehearing report will be placed in the nonpublic record should be January 6, 2027. On page 75349, in the third column, in the *Hearing* section, the deadline to make requests to appear at the hearing should be January 14, 2027 and the date of the prehearing conference, if necessary, is January 15, 2027. On page 75350, in the first column, in the *Written submissions* section, the deadline for filing prehearing briefs should be January 13, 2027.

Issued: November 24, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–24155 Filed 11–25–26; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: Museums for All

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Notice, request for comments on this collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort 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 in accordance with the Paperwork Reduction Act (PRA). The PRA ensures that 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 on respondents can be properly assessed. The purpose of this notice is to communicate the agency's intent to request clearance to collect information from museums participating in the *Museums for All* program.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before January 26, 2027.

ADDRESSES: Send comments to Sandra Narva, Lead Senior Grants Management Specialist, Office of General Counsel, ATTN: Grants Administration, Institute of Museum and Library Services, 200 Constitution Ave. NW, Suite N–3629, Washington, DC 20210. Ms. Narva can be reached by Telephone: 202–653–4634 or by email at *snarva@imls.gov.* Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Reagan Moore, Senior Program Officer, Office of Museum Services, Institute of Museum and Library Services, 200 Constitution Ave. NW, Suite N–3629, Washington, DC 20210. Ms. Moore can be reached by Telephone: 202–653–4637, or by email at *rmoore@imls.gov.* Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: IMLS is particularly interested in public comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- 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;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

I. Background

IMLS is the primary source of Federal support for the Nation's libraries and museums. The agency advances, supports, and empowers America's museums, libraries, and related organizations through grant making, research, and policy development. For more information about IMLS, visit *www.imls.gov.*

II. Current Actions

This information collection will support *Museums for All,* a voluntary program that helps museums make their institutions more accessible by offering reduced-price admission to Electronic Benefit Transfer (EBT) cardholders. This information collection will obtain data from participating museums needed to administer the program, such as institution contact information and a staff person to administer the program. Additional information will be collected on a quarterly basis to assess the implementation of program components, the efficacy of program materials, and the impact of the program.

Agency: Institute of Museum and Library Services.

Title: Museums for All.

OMB Control Number: 3137–0089.

Agency Number: 3137.

Respondents/Affected Public: Museums.

Total Estimated Number of Annual Respondents: 171 respondents to the Registration Form; 650 respondents to the Report Form.

Frequency of Response: Once per request for the Registration Form; four times per year for the Report Form.

Estimated Average Burden Hours per Response: Registration Form: 0.33 hour; Report Form: 0.25 hour.

Total Estimated Annual Burden Hours: 56.43 hours for the Registration Form; 650 hours for the Report Form.

Total Estimated Annual Cost Burden: $1,941.19 for the Registration Form; $22,360.00 for the Report Form.

Total Estimated Annual Federal Cost Burden: $23,461.90.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request to OMB for clearance of this information collection. This collection is authorized by Title 20 of the United States Code (U.S.C.) §§ 9101–9176, including 20 U.S.C. 9173, ''Museum services activities'' and 20 U.S.C. 9103(h) ''Regulatory authority.''

Dated: November 24, 2026.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2026–24115 Filed 11–25–26; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: Request for Advance or Reimbursement Web Form

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Notice, request for comments on this collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort 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 in accordance with the Paperwork Reduction Act. This program helps to ensure that 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 on respondents can be properly assessed. The purpose of this notice is to solicit comments on the web form used by IMLS grant recipients to request advance or reimbursement payments. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before January 26, 2027.

ADDRESSES: Send comments to Sandra Narva, Lead Senior Grants Management Specialist, Office of General Counsel, ATTN: Grants Management, Institute of Museum and Library Services, 200 Constitution Ave. NW, Suite N–3629, Washington, DC 20210. Ms. Narva can be reached by telephone: 202–653–4634, or by email at *snarva@imls.gov.* Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sandra Narva, Lead Senior Grants Management Specialist, Office of General Counsel, ATTN: Grants Management, Institute of Museum and Library Services, 200 Constitution Ave. NW, Suite N–3629, Washington, DC 20210. Ms. Narva can be reached by telephone: 202–653–4634, or by email at *snarva@imls.gov.* Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: IMLS is particularly interested in public comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- 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;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

I. Background

IMLS is the primary source of Federal support for the Nation's libraries and museums. The agency advances, supports, and empowers America's museums, libraries, and related organizations through grant making, research, and policy development. For more information about IMLS, visit *www.imls.gov.*

II. Current Actions

The notice proposes clearance of the form used by IMLS grant recipients to request advance or reimbursement payments of grant award funds. The form is incorporated into the agency's electronic grants management system, which is used to administer and service all active awards during the period of performance and through closeout.

Agency: Institute of Museum and Library Services.

Title: Request for Advance or Reimbursement Web Form.

OMB Control Number: 3137–0124.

Agency Number: 3137.

Respondents/Affected Public: IMLS financial assistance recipients.

Total Number of Annual Respondents: 2,000.

Estimated Frequency of Response: Four times per year.

Average Hours per Response: One.

Total Estimated Number of Annual Burden Hours: 8,000.

Estimated Total Cost Burden: $277,680.00.

Estimated Total Annual Federal Cost Burden: $67,500.00.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection. This collection is authorized by Title 20 of the U.S. Code (U.S.C.) 9101–9176, including 20 U.S.C. 9103(c)(2)(C) (''Director of Institute; Duties and powers'') and § 9103(h) (''Regulatory authority'').

Dated: November 24, 2026.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2026–24142 Filed 11–25–26; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: IMLS Grants to States Five-Year State Plan Guidelines for State Library Administrative Agencies for Fiscal Years 2028–2032

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Notice, request for comments on this collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort 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 in accordance with the Paperwork Reduction Act (PRA). The PRA ensures that data requested by the Federal Government 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 on respondents can be properly assessed. This notice informs the public of the agency's intent to request renewal of the clearance for the IMLS Grants to States Five-Year State Plan Guidelines for State Library Administrative Agencies. The current five-year period covers fiscal years (FYs) 2022–2027. The upcoming five-year period will cover FYs 2028–2032, with Five-Year State Plans due to IMLS on June 30, 2027. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before January 26, 2027.

ADDRESSES: Send comments to Sandra Narva, Lead Senior Grants Management Specialist, Office of General Counsel, ATTN: Grants Management, Institute of Museum and Library Services, 200 Constitution Ave. NW, Suite N–3629, Washington, DC 20210. Ms. Narva can be reached by telephone, 202–653–4634, or by email at *snarva@imls.gov.* Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Teri DeVoe, Associate Deputy Director for Grants to States, Office of Library Services, Institute of Museum and Library Services, 200 Constitution Ave. NW, Suite N–3629, Washington, DC 20210. Ms. DeVoe can be reached by telephone at 202–653–4778, or by email at *tdevoe@imls.gov.* Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- 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;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

I. Background

IMLS is the primary source of Federal support for the Nation's libraries and museums. The agency advances, supports, and empowers America's museums, libraries, and related organizations through grant making, research, and policy development. For more information about IMLS, visit *www.imls.gov.*

II. Current Actions

This action proposes clearance of the IMLS Grants to States Program Five-Year State Plan Guidelines for State Library Administrative Agencies for FYs 2028–2032.

The Grants to States program is the largest grant program administered by IMLS, providing Federal financial assistance to develop library services throughout the States, U.S. Territories, and the Freely Associated States. Title 20 of the United States Code (U.S.C.) § 9141, ''Grants to States.'' To receive funds under the Grants to States program, each established State Library Administrative Agency (SLAA) must submit to the Director of IMLS a Five-Year State Plan detailing certain goals, assurances, and procedures for a five-year period. 20 U.S.C. 9134(a), ''State plans.'' The upcoming five-year period will cover FYs 2028–2032, with Five-Year State Plans due to IMLS on June 30, 2027. The Five-Year State Plan identifies a State's library needs, sets forth the activities to be taken toward meeting the identified needs supported with the Federal funds made available under the Library Services and Technology Act (LSTA), and provides assurances that the officially designated SLAA has the fiscal and legal authority and capability to administer all aspects of an award issued under the Grants to States program. 20 U.S.C. 9122(5), ''Definitions—State plan.'' The Five-Year State Plan must also provide assurances for establishing the State's policies, priorities, criteria, and procedures necessary to the implementation of all programs under the LSTA. 20 U.S.C. 9122(5), ''Definitions—State Plan.''

Authority for this action is provided by 20 U.S.C. 9134, ''State Plans,'' 20 U.S.C. 9141, ''Grants to States,'' and 20 U.S.C. 9103(h), ''Regulatory authority.''

Agency: Institute of Museum and Library Services.

Title: IMLS Grants to States Five-Year State Plan Guidelines for State Library Administrative Agencies for FYs 2028–2032.

OMB Number: 3137–0029.

Agency Number: 3137.

Respondents/Affected Public: State Library Administrative Agencies.

Total Estimated Number of Annual Respondents: 11 or 12.

Frequency of Response: Once every five years.

Estimated Average Burden Hours per Response: 90.

Estimated Annual Burden Hours: 1,062.

Estimated Annual Cost Burden: $37,191.24.

Estimated Annual Federal Cost Burden: $2,999.09.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Dated: November 24, 2026.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2026–24163 Filed 11–25–26; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL MEDIATION BOARD

Notice of Proposed Information Collection Request

AGENCY: National Mediation Board.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Mediation Board (NMB) will be submitting an information Collection Request (ICR) entitled ''Application for Mediation Services'' to the Office of Management and Budget (OMB) for review and approval. The NMB is seeking the reinstatement, with non-substantive change, of this previously approved collection of information. The change to the information collection is a non-substantive one related to the change in the agency's Washington, DC headquarters address, which was effective August 1, 2026. The NMB did not receive comments on this information collection during the 60-day notice and comment period. OMB will accept comments from the public during the review and approval period. OMB may act on the NMB's ICR only

after the 30-day comment period in this notice has closed.

DATES: Comments are due by December 28, 2026.

ADDRESSES: Submit written comments and recommendations for this information collection to the following website: *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection or the OMB control number: 3140–0002.

FOR FURTHER INFORMATION CONTACT: To request a copy of the proposed information collection, email NMB Program Management Specialist Keaira Butler at *keaira.butler@nmb.gov.* Please specify the complete title of the information collection when making your request. If you have questions about the information collection or the NMB's reinstatement request, contact John Gross, Counsel, National Mediation Board, Office of Legal Affairs, P.O. Box 23300, Washington, DC 20026; telephone number: 202–815–1647; email address: *gross@nmb.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The NMB publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection contains the following: (1) Type of review requested, *e.g.* new, revision extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Record keeping burden. OMB invites public comment.

The proposed information collection was previously published in the **Federal Register**, 91 FR 59810–59812, on September 21, 2026 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment. We encourage written comments and suggestions addressing the following issues: (1) Is this collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency minimize the burden of this collection on the respondents, including through the use of information technology.

Title of Collection: Application for Mediation Services.

OMB Control Number: 3140–0002.

Type of Review: Reinstatement, with non-substantive change, of a previously approved collection of information.

Affected Public: Carrier and Labor Union Officials, and employees of railroads and airlines.

Frequency of Collection: On occasion.

Respondent's Obligation: Voluntary.

Estimated Reporting and Recordkeeping Hour Burden: Responses: 25 annually.

Burden Hours: 6.25.

1. *Abstract:* Section 5, First, of the Railway Labor Act (RLA), 45 U.S.C. 155, First, provides that both, or either, of the parties to a labor/management dispute may invoke the mediation services of the NMB. Congress has determined that it is in the nation's best interest to provide for governmental mediation as the primary dispute resolution mechanism to resolve collective bargaining disputes in the railroad and airline industries. The NMB's duties do not arise until its services have been invoked by a party to the dispute. The RLA is silent as to how the invocation of the mediation services of the NMB is to be accomplished and the NMB has not promulgated regulations requiring any specific vehicle. Nonetheless, 29 CFR 1203.1, provides that applications for the mediation services of the NMB under Section 5, First, of the RLA, may be made on printed forms secured from the NMB or on the internet at *http://www.nmb.gov.* This section of the regulations provides that applications should be submitted in duplicate, show the exact nature of the dispute, the number of employees involved, name of the carrier and name of the labor organization, date of agreement between the parties, date and copy of notice served by the invoking party to the other and date of final conference between the parties. The application should be signed by the highest officer of the carrier who has been designated to handle disputes under the RLA or by the chief executive of the labor organization, whichever party files the application.

2. The reinstatement of this form is necessary considering the information provided by the parties is used by the NMB to structure a mediation process that will be productive to the parties and result in a settlement, hopefully, without resort to a strike or lockout. The NMB has been very successful in resolving labor disputes in the railroad and airline industries. Historically, approximately 97 percent of all NMB mediation cases have been successfully resolved without interruption to public transportation services. This success ratio would possibly be reduced if the NMB was unable to collect the brief information it does on the Application for Mediation Services.

3. There is no improved technological method for obtaining this information. The burden on the parties is minimal in completing the one-page Application for Mediation Services.

4. There is no duplication in obtaining this information. The information sought in the Application for Mediation Services constantly changes and is known at any given time only to the labor and management parties involved. Thus, there is no similar information available elsewhere.

5. This collection does not impact small businesses or other small entities.

6. Although the Application for Mediation Services is required by 29 CFR 1203.1, parties determine when to submit the applications. The NMB has no ability to control the frequency of applications or the technical or legal obstacles, which would reduce the burden.

7. The information requested by the NMB is consistent with the general information collection guidelines of 5 CFR 1320.6 and 5 CFR 1320.8(b)(3). The NMB has no ability to control the data provided or timing of the invocation. The burden on the parties is minimal in completing the Application for Mediation Services.

8. No payments or gifts have been provided by the NMB to any respondents of the form.

9. There are no questions of a sensitive nature on the form.

10. The total time burden on respondents is 6.25 hours annually—this is the time required to collect information. After consulting with a sample of people involved with the collection of this information, the time to complete this information collection is estimated to average 15 minutes per response, including gathering the data needed and completion and review of the information.

Number of respondents per year: 25.

Estimated time per respondent: 15 minutes.

Total Burden hours per year: 6.25 (25 × .25 hours).

11. The total collection and mail cost burden on respondents is estimated at $205.60 annually ($201.50 time cost burden + $4.10 mail cost burden).

a. The respondents will not incur any capital costs or start up costs for this collection.

b. Cost burden on respondents—detail:

The total time burden annual cost is $201.50.

Time Burden Basis: The total hourly burden per year, upon respondents, is 6.25.

Staff cost = $201.50.

$32.24 per hour—based on mid level clerical salary.

$32.24 × 6.25 hours per year = $201.50.

We are estimating that a mid-level clerical person, with an average salary of $32.24 per hour, will be completing the Application for Mediation Services form. The total burden is estimated at 6.25 hours, therefore, the total time burden cost is estimated at $201.50 per year.

The total annual mailing cost to respondents is $4.10.

Number of applications mailed by Respondents per year: 5 (The NMB receives 5 or fewer by regular mail each year; the vast majority are sent to the NMB by email.).

Total estimated cost: $4.10 (5 × .82 stamp).

The collection of this information is not mandatory; it is a voluntary request from carrier and union officials and airline and railroad carrier employees seeking to invoke mediation services. The NMB will send the form to the carriers and labor organizations upon request. The form is also available on the internet at *http://www.nmb.gov,* which is the primary source of the form.

12. The total annualized Federal cost is $340.00. This cost represents the processing cost of the applications once they are received by the NMB. There are no printing and mailing costs. (The NMB has not received any requests to print and mail a form for a number of years.) The completed applications are maintained by the Office of Mediation Services.

a. Processing Cost = $340.00.

Basis (processing cost): Mediation is requested approximately 25 times per year and it takes approximately 20 minutes to process each application.

Staff Cost = $340.00.

$.68 per minute (GS 11 Step 1 base hourly rate of $40.94 per hr. ÷ 60).

$.68 × 20 minutes per application = $13.60.

$13.60 × 25 times per year = $340.00.

13. Item 13—no change in annual reporting and recordkeeping hour burden.

14. The information collected by the application will not be published.

15. The NMB will display the OMB expiration date on the form.

16(a)—the form does not reduce the burden on small entities; however, the burden is minimized and voluntary.

16(b)—the form does not indicate the retention period for record keeping requirements.

16(c)—not applicable, the form is not part of a statistical survey.

Dated: November 24, 2026.

Michael Jerger,

Chief Financial Officer, Acting Director of Administration, National Mediation Board.

[FR Doc. 2026–24089 Filed 11–25–26; 8:45 am]

BILLING CODE 7550–01–P

NATIONAL MEDIATION BOARD

Notice of Proposed Information Collection Request

AGENCY: National Mediation Board.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Mediation Board (NMB) will be submitting an information Collection Request (ICR) entitled ''Application for ADR Services'' to the Office of Management and Budget (OMB) for review and approval. The NMB is seeking the reinstatement, with non-substantive change, of this previously approved collection of information. The change to the information collection is a non-substantive one related to the change in the agency's Washington, DC headquarters address, which was effective August 1, 2026. The NMB did not receive comments on this information collection during the 60-day notice and comment period. OMB will accept comments from the public during the review and approval period. OMB may act on the NMB's ICR only after the 30-day comment period in this notice has closed.

DATES: Comments are due by December 28, 2026.

ADDRESSES: Submit written comments and recommendations for this information collection to the following website: *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection or the OMB control number: 3140–0009.

FOR FURTHER INFORMATION CONTACT: To request a copy of the proposed information collection, email NMB Program Management Specialist Keaira Butler at *keaira.butler@nmb.gov.* Please specify the complete title of the information collection when making your request. If you have questions about the information collection or the NMB's reinstatement request, contact John Gross, Counsel, National Mediation Board, Office of Legal Affairs, P.O. Box 23300, Washington, DC 20026; telephone number: 202–815–1647; email address: *gross@nmb.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The NMB publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection contains the following: (1) Type of review requested, *e.g.,* new, revision extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Record keeping burden. OMB invites public comment.

The proposed information collection was previously published in the **Federal Register**, 91 FR 59812–59813, on September 21, 2026 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment. We encourage written comments and suggestions addressing the following issues: (1) Is this collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency minimize the burden of this collection on the respondents, including through the use of information technology.

Title of Collection: Application for ADR Services.

OMB Control Number: 3140–0009.

Type of Review: Reinstatement, with non-substantive change, of a previously approved collection of information.

Affected Public: Union Officials and Officials of Railroads and Airlines.

Frequency of Collection: On occasion.

Respondent's Burden: Voluntary.

Estimated Reporting and Recordkeeping Hour Burden:

Responses: 25 annually.

Burden Hours: 5.0.

1. *Abstract:* The Railway Labor Act (RLA), *45 U.S.C., 151a.* General Purposes, provides that the purposes of the RLA are (1) to avoid any interruption to commerce or to the operation of any carrier engaged therein. * * * (4) to provide for the prompt and orderly settlement of all disputes concerning rates of pay, rules, or working conditions, and (5) to provide for the prompt and orderly settlement of all disputes growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions. In fulfilling its role to administer the RLA, the NMB offers the parties to disputes mediation and arbitration services. On a voluntary basis, training programs in Alternative Dispute Resolution (ADR) and facilitation services are also available. These ADR programs are designed to enhance the bargaining and grievance handling skill level of the disputants and to assist the parties in the resolution of disputes. The impact of these ADR programs is that mediation and arbitration can be avoided entirely or the scope and number of issues brought to mediation or arbitration is significantly reduced. This collection is necessary to confirm the voluntary participation of the parties in the ADR process. The information provided by the parties is used by the NMB to schedule the parties for ADR training and facilitation. Based on a recent survey of those who participated in the NMB's ADR Programs, 94.6% said they were satisfied with the ADR Programs and said they recommend the program for all negotiators. Collecting the brief information on the Application for ADR Services form allows the parties to voluntarily engage the services of the NMB in the orderly settlement of all disputes and fulfill the purposes of the RLA.

2. This collection is necessary to confirm the voluntary participation of the parties in the ADR process. The information provided by the parties is used by the NMB to schedule the parties for ADR training and facilitation. Based on a recent survey of those who participated in the NMB's ADR Programs, 94.6% said they were satisfied with the ADR programs and would recommend the program for all negotiators. Collecting the brief information on the Application for ADR Services form allows the parties to voluntarily engage the services of the NMB in the orderly settlement of all disputes and fulfill the purposes of the RLA.

3. There is no improved technological method for obtaining this information. The burden on the parties is minimal in completing the one-page Application for ADR Services.

4. There is no duplication in obtaining this information and the information does not exist elsewhere.

5. This collection does not impact small businesses or other small entities.

6. The collection of this information is voluntary and occurs when the labor and management parties determine that training is desired or required. The NMB has no ability to control the frequency of applications, because the submission is voluntary. There are no technical or legal obstacles involved with this collection.

7. The information requested by the NMB is consistent with the general information collection guidelines of 5 CFR 1320.6 and 5 CFR 1320.8(b)(3). The burden on the parties is minimal in completing the Application for ADR Services. We do not require submission of more than one copy of any document, nor do we require submission of any confidential information.

8. No payments or gifts have been provided by the NMB to any respondents of the form.

9. There are no questions of a sensitive nature on the form.

10. The total time burden on respondents is 5.0 hours annually. This includes the time required to collect information. After consulting with a sample of people involved with the collection of this information, the time to complete this information collection is estimated to average 12 minutes per response, including gathering the data needed and completion and review of the information.

Number of respondents per year: 25.

Estimated time per respondent: 12 minutes.

Total burden hours per year: 5.0. (25 × 12 = 300 ÷ 60 = 5.0 hours).

11. The total collection cost burden on respondents is estimated at $161.20 annually. There is no mail cost burden—the forms are usually emailed (not mailed) to the NMB for processing.

a. The respondents will not incur any capital costs or start up costs for this collection.

b. Cost burden on respondents—detail:

The total time burden annual cost is $161.20.

Time burden basis: The total hourly burden per year, upon respondents, is 5.0.

Staff cost = $161.20.

$32.24 per hour—based on mid level clerical salary.

$32.24 × 5.0 hours per year = $161.20.

We are estimating that a mid-level clerical person, with an average salary of $32.24 per hour, will be completing the Application for ADR Services form. The total burden is estimated at 5.0 hours, therefore, the total time burden cost is estimated at $161.20 per year.

The collection of this information is not mandatory; it is a voluntary request from airline and railroad carrier officials and union officials seeking to participate in the NMB's ADR training and facilitation processes. The NMB will send the form to the carriers and labor organizations upon request. The form is available on the internet at *http://ww.nmb.gov,* which is the primary source of the form.

12. The total annualized Federal cost is $1,020.00. This cost represents the processing cost of the applications once they are received by the NMB. There are no printing or mailing costs. The forms are available on the NMB's website, and registrants print them and email them to us. The completed applications are maintained by the Office of Mediation Services.

a. Processing cost = $1,020.00.

Basis (processing cost): Applications for ADR Services are submitted approximately 25 times per year and it takes approximately 60 minutes to process each application.

Staff cost = $1,020.00.

$.68 per minute (GS 11 Step 1 base hourly rate of $40.94 per hr. ÷ 60).

$.68 × 60 minutes per application = $40.80.

$40.80 × 25 times per year = $1,020.00.

13. Item 13—no change in annual reporting and recordkeeping hour burden.

14. The information collected by the application will not be published.

15. The NMB will display the OMB expiration date on the form.

16(a)—the form does not reduce the burden on small entities; however, the burden is minimized and voluntary.

16 (b)—the form does not indicate the retention period for record keeping requirements.

16 (c)—not applicable, the form is not part of a statistical survey.

Dated: November 24, 2026.

Michael Jerger,

Chief Financial Officer, Acting Director of Administration, National Mediation Board.

[FR Doc. 2026–24090 Filed 11–25–26; 8:45 am]

BILLING CODE 7550–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–1600]

Information Collection: Suspicious Activity Reporting Using the Protective Web Server

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Suspicious Activity Reporting Using the Protective Web Server.''

DATES: Submit comments by December 28, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6355; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2025–1600 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–2025–1600.
- *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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML26209A155. The supporting statement is available in ADAMS under Accession No. ML26209A156.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6355; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Suspicious Activity Reporting Using the Protective Web Server.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on May 21, 2026, 91 FR 29988.

1. *The title of the information collection:* Suspicious Activity Reporting Using the Protective Web Server.
2. *OMB approval number:* 3150–0219.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* On occasion. Reports to the NRC are made as suspicious activities occur.
6. *Who will be required or asked to respond:* Licensees subject to section 73.1215 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Suspicious Activity Reports,'' paragraphs (d), (e), and (f) must report suspicious activities that are applicable to their facility, material, or shipping activity. Entities that may voluntarily send reports include, but are not limited to: applicants for 10 CFR part 50 or 52 licenses; holders of construction permits under 10 CFR part 50; fuel fabrication facilities; uranium conversion/deconversion facilities; and holders of certificates of compliance under 10 CFR part 72.
7. *The estimated number of annual responses:* 95.
8. *The estimated number of annual respondents:* 65.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 72.5.
10. *Abstract:* NRC licensees submit either mandatory or voluntary reports on suspicious activity as these activities occur, based on applicable regulations. Each report provides details about a specific suspicious activity (*e.g.,* suspicious person, manned or

unmanned aircraft flyovers) and actions taken by the reporting organization. This information is shared with authorized nuclear industry officials and Federal, State, and local government agencies using the Protected Web Server. Information provided by licensees is considered OFFICIAL USE ONLY and is not made public.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: November 24, 2026.

For the Nuclear Regulatory Commission.

Kristen Benney,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026–24158 Filed 11–25–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–7040; NRC–2026–5446]

General Matter, Inc.; General Matter Paducah Enrichment Facility; Notice of Intent To Conduct Scoping Process and Prepare an Environmental Impact Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will conduct a scoping process to gather information necessary to prepare an environmental impact statement (EIS) to evaluate the environmental impacts of issuing a license to General Matter, Inc. (GeM) for construction and operation of a uranium enrichment facility in McCracken County, Kentucky. As part of the EIS development process, the NRC seeks comments on the scope of the EIS.

DATES: Submit comments on the scope of the EIS by December 28, 2026. The NRC will consider comments received after this date, only it is practical to do so, but the NRC can ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

Federal rulemaking website: Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–5446. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Nuclear Material Safety and Safeguards, Mail Stop: TWFN–5–A85, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Guidance and Publications Branch.

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: Jill Caverly, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7674; email: *Jill.Caverly@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–5446 when contacting the NRC about the availability of information regarding 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–2026–5446.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2026–5446 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

By letters dated September 27, 2026 (ADAMS package Accession No. ML26273A126), GeM submitted to the NRC an application for a license that would be used by GeM to construct and operate an enrichment facility in McCracken County, Kentucky, to be known as the General Matter Paducah Enrichment Facility (GMPEF). The requested license would authorize GeM to possess and use source material, special nuclear material, and byproduct material for the purposes of constructing, and then operating a facility for up to 40 years that enriches uranium.

The site proposed for the GMPEF is situated on approximately 107 acres of land leased from the U.S. Department of Energy Paducah Site, which includes the former Paducah Gaseous Diffusion Plant. This GeM Land Parcel, zoned for heavy industrial land use, spans between latitudes (North) 37°5′48.9″ and 37°6′13.8″, and between longitudes (west) 88°49′10.9″ and 88°48′20.5″, and is approximately 10 miles west of the City of Paducah in McCracken County, Kentucky. The GMPEF site is bordered by the Paducah Site to the north, Hobbs Road to the west, and Dyke Road to the south and east. The applicant's environmental report can be found in ADAMS under Accession No. ML26273A150.

The NRC staff completed an acceptance review of GeM's license application and determined it contains sufficient information for the NRC to conduct a detailed technical review. An acceptance letter was issued to GeM on October 29, 2026 (ADAMS Accession No. ML26300A017). Pursuant to 36 CFR

800.2(d)(3), the NRC is using this Notification of Intent to conduct scoping and prepare an EIS to satisfy the public involvement requirements of the National Historic Preservation Act of 1966, as amended. Information regarding historic properties is accessible through ADAMS package Accession No. ML26322A360.

III. Request for Comment

This notice informs the public of the NRC's intention to conduct environmental scoping and prepare an EIS regarding the license application for the GMPEF in accordance with part 51 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' This notice also provides the public an opportunity to participate in the environmental scoping process, as defined in 10 CFR 51.29, ''Scoping-environmental impact statement and supplement to environmental impact statement.''

The EIS will address the potential impacts from the proposed action and its alternatives. As part of its environmental review, the NRC will first conduct a scoping process and, as soon as practicable thereafter, will prepare a draft EIS for public comment. Participation in this scoping process by members of the public and local, State, Tribal, and Federal government agencies is encouraged. While the NRC will not hold a public scoping meeting, persons may participate in the scoping process by submitting written comments, as explained in this notice, regarding the appropriate scope of the EIS, including significant environmental issues to be analyzed in depth, as well as those that should be eliminated from detailed study because they are peripheral or are not significant. In accordance with 10 CFR 51.29, the scoping process for the draft EIS will be used to accomplish the following:

a. Define the proposed action that is to be the subject of the EIS;

b. Determine the scope of the EIS and identify the significant issues to be analyzed in depth;

c. Identify and eliminate from the detailed study those issues that are peripheral or are not significant or that have been covered by prior environmental review;

d. Identify any environmental assessments and other ElSs that are being or will be prepared that are related to, but are not part of, the scope of the EIS under consideration;

e. Identify other environmental review and consultation requirements related to the proposed action;

f. Indicate the relationship between the timing of the preparation of the environmental analyses and the NRC's tentative planning and decision-making schedule;

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the EIS to the NRC and any cooperating agencies; and

h. Describe how the EIS will be prepared, including any contractor assistance to be used.

In accordance with 10 CFR 51.28, ''Scoping—participants,'' the NRC invites the following persons to participate in the scoping process:

a. The applicant, GeM;

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved or that is authorized to develop and enforce relevant environmental standards;

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards;

d. Any affected Indian Tribe;

e. Any person who requests or has requested an opportunity to participate in the scoping process; and

f. Any person who has petitioned or intends to petition for leave to intervene under 10 CFR 2.309.

Participation in the scoping process for the GMPEF EIS does not entitle participants to become parties to any proceeding related to the GMPEF EIS.

After the close of the scoping period, the NRC staff will prepare a concise summary of its scoping process, the comments received, as well as the NRC's responses to substantive comments. The summary will be made available to the public as an appendix to the draft EIS and will be sent to each participant in the scoping process for whom the NRC staff has an email or mailing address.

The NRC staff will also have a public comment period for the draft EIS. Availability of the draft EIS and the dates of the public comment period will be announced in a future **Federal Register** notice. The final EIS will include the NRC's responses to public comments received on the draft EIS, as appropriate.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: November 24, 2026.

For the Nuclear Regulatory Commission.

Robert Sun,

Chief, Environmental Review Materials Branch, Division of Storage of Fuel Transportation and Environment, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026–24127 Filed 11–25–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–10; NRC–2026–5017]

Northern States Power Company; Prairie Island Independent Spent Fuel Storage Installation; License Amendment Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; receipt; opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a license amendment application from Northern States Power Company (NSPM) for an amendment to Materials License No. SNM–2506 for the Prairie Island Independent Spent Fuel Storage Installation (PI ISFSI) located in Welch, Minnesota. The amendment request seeks to change License Condition 26. The subject License Condition depends, in part, on the completion of the joint Electric Power Research Institute (EPRI) and Department of Energy (DOE) ''High Burnup Dry Storage Cask Research and Development Project'' (HDRP). License Condition 26 includes two requirements to provide evaluations to the NRC by specified due dates. Due to the change in the timeline for completing the evaluations from the HDRP initial period of storage, NSPM proposes to revise License Condition 26 to modify the due date of the first of these evaluations from April 4, 2028, to within six months of the HDRP initial storage period report publication date or April 4, 2033, whichever is earlier.

DATES: A request for a hearing or petition for leave to intervene must be filed by January 26, 2027.

ADDRESSES: Please refer to Docket ID NRC–2026–5017 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–2026–5017. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at

https://www.nrc.gov/reading-rm/adams.html. To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

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

FOR FURTHER INFORMATION CONTACT: Chris Markley, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6293; email: *Christopher.Markley@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC received, by letter dated August 24, 2026 (ADAMS Accession No. ML26236A344), a license amendment application from NSPM, to amend Materials License No. SNM–2506, which authorizes the storage of spent fuel at the PI ISFSI located in Welch, Minnesota. Specifically, the proposed amendment would extend the due date for the first required evaluation of high burnup fuel performance, allowing submission within six months of the High Burnup Dry Storage Cask Research and Development Project (HDRP) initial storage period report publication date or by April 4, 2033, whichever comes first. The delay is necessary because the HDRP gas-sampling activities and completion of the associated EPRI report will not occur early enough to support the currently required April 4, 2028, deadline.

An NRC administrative completeness review, documented in a letter to NSPM dated October 21, 2026 (ADAMS Accession No. ML26286A294), found the application acceptable to begin a technical review.

Before any issuance of the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations. The NRC's findings will be documented in a safety evaluation report. In the amendment request, NSPM asserted that the proposed amendment satisfies the categorical exclusion criteria of paragraph 51.22(c)(11) of title 10 of the *Code of Federal Regulations* (10 CFR). The NRC will evaluate this assertion and make findings consistent with the National Environmental Policy Act and 10 CFR part 51.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and on the NRC's public website at *https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate*.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on

those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/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://ehd.nrc.gov,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: November 23, 2026.

For the Nuclear Regulatory Commission.

Yoira Diaz-Sanabria,

Chief, Storage and Transportation Licensing Branch, Division of Storage of Fuel, Transportation, and Environmental, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026–24075 Filed 11–25–26; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Agency Information Collection Request: 3206–0136, Designation of Beneficiary: Federal Employees' Group Life Insurance, Standard Form 2823

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Office of Personnel Management (OPM), Healthcare and Insurance, Federal Employee Insurance Operations offers the general public and other Federal agencies the opportunity to comment on the reinstatement of an expired information collection request (ICR), Designation of Beneficiary: Federal Employees' Group Life Insurance, Standard Form 2823. OPM is requesting approval that this form be designated as a ''Common Form''.

DATES: Comments are encouraged and will be accepted until January 26, 2027.

ADDRESSES: You may submit comments on the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 6500–AS, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *RSPublicationsTeam@opm.gov.*

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, as amended (44 U.S.C. chapter 35), OPM is soliciting comments for this collection (OMB No. 3206–0136). The Office of Personnel Management is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Suggest ways to enhance the quality, utility, and clarity of the information to be collected; and

4. Suggest ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

The Federal Employees' Group Life Insurance (FEGLI) Program, established pursuant to 5 U.S.C. 8701 *et seq,* provides eligible Federal employees and annuitants with the ability to enroll in life insurance coverage under one or more policies issued to the Government by one or more life insurance companies. MetLife is the life insurance company that has issued the policy, and MetLife's Office of Federal Employees' Group Life Insurance insures and administers claims under its contract with OPM.

Title 5, United States Code, Section 8705, provides that employees and annuitants enrolled in the FEGLI Program may designate beneficiaries to receive monies payable under the FEGLI Program after the death of the enrollee. The law also provides that if the enrollee does not designate a beneficiary, the monies will be paid according to the order of precedence listed in section 8705(a) of the law. Title 5, Code of Federal Regulations, section 870.802, gives further details on the requirements for a designation of beneficiary. Section 870.909 provides that an assignee can also use the form to designate beneficiaries. (An assignee is someone who owns and controls the insured's insurance.)

Standard Form 2823 is used by any Federal employee or annuitant enrolled in the FEGLI Program, or an assignee who owns an insured's coverage, to instruct the Office of Federal Employees' Group Life Insurance how to distribute the proceeds of the FEGLI coverage when the statutory order of precedence does not meet their needs.

OPM is requesting approval that this form be designated as a ''common form''. A common form is an information collection that can be used by two or more agencies, or government-wide, for the same purpose. It allows a host agency to obtain OMB approval of an information collection for use by one

or more ''using'' agencies. After OMB grants approval, a prospective using agency that seeks to collect identical information for the same purpose can obtain approval to use the common form by providing its agency-specific information to OMB (*e.g.,* burden estimates and number of respondents). See *https://digital.gov/guides/pra/types-pra-clearance#common-form-clearance-2* for more information about common forms.

Analysis

Agency: Office of Personnel Management, Healthcare and Insurance, Federal Employee Insurance Operations.

Title: Designation of Beneficiary: Federal Employees' Group Life Insurance.

OMB Number: 3206–0136.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 49,000.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 12,250.

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2026–24111 Filed 11–25–26; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Agency Information Collection Request: 3206–0206, Evidence to Prove Dependency of a Child, RI 25–37

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Retirement Services offers the general public and other Federal agencies the opportunity to comment on the reinstatement of an expired information collection request (ICR), Evidence to Prove Dependency of a Child, RI 25–37.

DATES: Comments are encouraged and will be accepted until January 26, 2027.

ADDRESSES: You may submit comments on the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments.

All submissions received must include the name or OMB control number for this collection. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 6500–AD, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *RSPublicationsTeam@opm.gov.*

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, as amended, (44 U.S.C. chapter 35), OPM is soliciting comments for this collection (OMB No. 3206–0206). The Office of Personnel Management is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Suggest ways to enhance the quality, utility, and clarity of the information to be collected; and

4. Suggest ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

RI 25–37 is designed to collect sufficient information for the Office of Personnel Management to determine whether the surviving child of a deceased federal employee or annuitant is eligible to receive benefits as a dependent child.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Evidence to Prove Dependency of a Child.

OMB Number: 3206–0206.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 250.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 250.

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2026–24108 Filed 11–25–26; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2020–169]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 1, 2026.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *https://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
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I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s).:* CP2020–169; *Filing Title:* Request of United States Postal Service to Amend Inbound Competitive Multi-Service PRIME Agreement; *Filing Acceptance Date:* November 23, 2026; *Filing Authority:* 39 CFR 3041.505; *Public Representative:* Maxine Bradley; *Comments Due:* December 1, 2026.

III. Summary Proceeding(s)

None. *See* Section II for Public Proceedings.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Legal Assistant.

[FR Doc. 2026–24121 Filed 11–25–26; 8:45 am]

BILLING CODE 7710–FW–P

RAILROAD RETIREMENT BOARD

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., December 8, 2026.

PLACE: Members of the public wishing to attend the meeting must submit a written request at least 24 hours prior to the meeting to receive dial-in information. All requests must be sent to *SecretarytotheBoard@rrb.gov.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Legislative Update—Office of Legislative Affairs.

CONTACT PERSON FOR MORE INFORMATION: Stephanie Hillyard, Secretary to the Board, (312) 751–4920.

Authority: 5 U.S.C. 552b.

Dated: November 23, 2026.

Stephanie Hillyard,

Secretary to the Board.

[FR Doc. 2026–24050 Filed 11–24–26; 11:15 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106957; File No. SR–FINRA–2026–017]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Partial Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Partial Amendment No. 1, To Amend the Codes of Arbitration Procedure To Make Changes to Certain Provisions Relating to Arbitrator List Selection

November 23, 2026.

I. Introduction

On August 12, 2026, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''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 the Code of Arbitration Procedure for Customer Disputes (''Customer Code'') [3] and the Code of Arbitration Procedure for Industry Disputes (''Industry Code'') [4] (together, ''Codes'') to amend FINRA Rules 12402 (Cases with One Arbitrator), 12403 (Cases with Three Arbitrators), 13406 (Appointment of Arbitrators; Discretion to Appoint Arbitrators Not on List), and 13411 (Replacement of Arbitrators).

The proposed rule change was published for comment in the **Federal Register** on August 28, 2026.[5] The public comment period closed on September 18, 2026. The Commission received comment letters in response to the Notice.[6] On October 2, 2026, FINRA consented to an extension of 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 November 26, 2026.[7] On November 20, 2026, FINRA responded to the comment letters received in response to the Notice and filed an amendment to modify the proposed rule change (''Partial Amendment No. 1'').[8]

The Commission is publishing this order pursuant to Section 19(b)(2)(B) of the Exchange Act [9] to solicit comments on the proposed rule change, as modified by Partial Amendment No. 1 (hereinafter referred to as the ''proposed rule change'' unless otherwise specified), and to institute proceedings to determine whether to approve or disapprove the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Customer Code governs a customer's claim about the business activities of an individual or entity registered with FINRA (*e.g.,* associated persons of members). *See* FINRA Rules 12101, 12200, 12201.

[4] The Industry Code generally governs business disputes exclusively among associated persons and/or members. *See* FINRA Rules 13101, 13200, 13202.

[5] *See* Exchange Act Release No. 106183 (Aug. 25, 2026), 91 FR 55637 (Aug. 28, 2026) (File No. SR–FINRA–2026–017) (''Notice''), *https://www.govinfo.gov/content/pkg/FR-2026-08-28/pdf/2026-17549.pdf.*

[6] The comment letters received in response to the Notice are available at *https://www.sec.gov/rules-regulations/public-comments/sr-finra-2026-017.*

[7] *See* letter from Meredith Mesa Meadows, Assistant General Counsel, Office of General Counsel, FINRA (Oct. 2, 2026), *https://www.finra.org/sites/default/files/2026-10/SR-FINRA-2026-017-Extension1.pdf.*

[8] *See* letter from Kristine Vo, Assistant General Counsel, Office of General Counsel, FINRA (Nov. 20, 2026) (''FINRA Response Letter''), *https://www.sec.gov/rules-regulations/public-comments/sr-finra-2026-017; see also* Partial Amendment No. 1.

[9] 15 U.S.C. 78s(b)(2)(B).

II. Summary of the Proposed Rule Change and Partial Amendment No. 1

A. Proposed Rule Change

As described in more detail in the Notice, FINRA proposes to, among other things, revise the processes for replacing arbitrators both prior to initial panel appointment and after initial panel appointment, as well as codify related FINRA guidance.

Currently, FINRA uses a list selection algorithm to generate lists of arbitrators on a random basis from its roster of arbitrators.[10] The parties then select arbitrators using a process that involves striking and ranking the arbitrators on the lists.[11] If during the parties' arbitrator selection process, an arbitrator list does not contain enough arbitrators from which the parties can select a complete initial panel, the Codes provide processes for appointing a qualified arbitrator to complete the panel.[12]

The Codes also provide processes for appointing a replacement arbitrator if an arbitrator is removed from an arbitration case or becomes unable or unwilling to serve after the initial panel appointment.[13] In addition, as an alternative method for selecting replacement arbitrators after initial panel appointment, FINRA instituted a voluntary program called the Short List Option.[14] If the parties agree to use the current voluntary Short List Option, the list selection algorithm randomly generates a short list of potential arbitrators, which the Director of FINRA Dispute Resolution Services (the ''Director'') prescreens for availability for any scheduled hearings and then provides the parties with a list of qualified arbitrators (the number of which varies depending on the hearing schedule).[15] Each side may strike and rank the arbitrator names within a prescribed number of days.[16]

Among other things, the proposed rule change would revise the processes under the Codes for appointing an arbitrator prior to the initial panel appointment when the number of arbitrators available to serve is insufficient to fill the panel.[17] In addition, the proposed rule change would codify the current voluntary Short List Option as the default method for selecting replacement arbitrators after the initial panel appointment based on the hearing schedule (''Proposed Short List Option''),[18] as well as codify the circumstances under which the Proposed Short List Option would be unavailable to the parties.[19] Under the proposed rule change, if the Proposed Short List Option is unavailable to the parties, the Director would appoint a replacement arbitrator, consistent with current procedures used when parties do not agree to the current voluntary Short List Option.[20] Finally, the proposed rule change would codify FINRA's expectations relating to replacement arbitrator duties and would codify FINRA's current practice of paying replacement arbitrators an honorarium.[21]

According to FINRA, the proposed rule change would protect investors and the public interest by providing parties with greater input into arbitrator selection at initial panel appointment and when replacing arbitrators after initial panel appointment.[22] FINRA also stated that the proposed rule change will protect investors and the public interest by codifying current practices that FINRA has developed to ensure it administers cases in a fair and efficient manner.[23]

B. Partial Amendment No. 1

As described in the Notice, if the Proposed Short List Option is available, the Director would send a list of arbitrators to the parties,[24] and each opposing party (all separately represented claimants collectively and all separately represented respondents collectively) would strike and rank all remaining arbitrators on the short list in order of preference.[25] The number of arbitrators on the short list and the deadline for when the parties would be required to return the ranked short list would vary depending on the hearing schedule.[26] For example, under the Proposed Short List Option, if a hearing is scheduled between 10 and 20 days, the Director would be required to send a short list of three arbitrators to the opposing parties who would have no more than two days after the date upon which the Director sent the short list to parties to complete the ranked short list via the Party Portal.[27] If the Director does not receive a party's ranked short list within the prescribed timeframe, the Director would proceed as though the party did not want to strike any arbitrator or did not have any preferences among the listed arbitrators.[28]

Partial Amendment No. 1 would amend proposed FINRA Rules 12402(h)(3)(B)(ii), 12403(g)(3)(B)(ii), and 13411(f)(3)(B)(ii), as originally proposed in the Notice, to extend the timeframe for parties to return a ranked short list from two days to three days when the short list contains three arbitrators.[29] The response period would continue to be measured in calendar days from the date the Director sends the short list to the parties.[30] According to FINRA, the three-day period would provide parties with additional time to review and return their ranked short lists while allowing time for FINRA Dispute Resolution Services to complete the replacement process and for the replacement arbitrator to conduct the required review of the existing case record before participating in the hearing.[31]

III. Proceedings To Determine Whether To Approve or Disapprove File No. SR–FINRA–2026–017 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act to determine whether the proposed rule change should be approved or disapproved.[32] Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not

[10] *See* FINRA, How Parties Select Arbitrators, *https://www.finra.org/arbitration-mediation/about/arbitration-process/arbitrator-selection.*

[11] *See* FINRA Rules 12402(d), 12403(c), 13404.

[12] *See* FINRA Rules 12402(f), 12403(e), 13406(c).

[13] *See* FINRA Rules 12402(g)(1)–(2), 12403(f)(1)–(2), (g)(1)–(2), (h)(1)–(2), and 13411(a)–(b).

[14] *See* FINRA, Short List Option, *https://www.finra.org/arbitration-mediation/rules-case-resources/special-procedures/short-list* (''Short List Option''); *see also* Notice at 55639.

[15] *Id.; see also* Notice at 55639.

[16] *See* Short List Option; *see also* Notice at 55639.

[17] *See* Notice at 55638–55639.

[18] *Id.* at 55639–55640.

[19] *Id.* at 55640.

[20] *Id.*

[21] *Id.* at 55638–55640.

[22] *Id.* at 55640.

[23] *Id.* at 55640–41.

[24] *See* proposed FINRA Rules 12402(h), 12403(g), 13411(f).

[25] *See* proposed FINRA Rules 12402(h)(3)(B), 12403(g)(3)(B), 13411(f)(3)(B).

[26] *See* proposed FINRA Rules 12402(h)(1)(A)–(D), 12403(g)(1)(A)–(D), 13411(f)(1)(A)–(D); *see also* proposed FINRA Rules 12402(h)(3)(A)(ii) and (3)(B)(ii), 12403(g)(3)(A)(ii) and (B)(ii), 13411(f)(3)(A) and (B)(ii).

[27] *See* proposed FINRA Rules 12402(h)(3)(B)(ii), 12403(g)(3)(B)(ii), 13411(f)(3)(B)(ii). Under the Customer Code, if a party is a *pro se* customer who opted out of using the Party Portal pursuant to Rule 12300(a), the party may return the ranked short list to the Director by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. *See* proposed FINRA Rules 12402(h)(3)(A)(ii), 12402(h)(3)(B)(ii), 12403(g)(3)(A)(ii), 12403(g)(3)(B)(ii). Parties would not be required to send a copy of their ranked short list to the opposing parties. *See* proposed FINRA Rules 12402(h)(3)(D), 12403(g)(3)(D), 13411(f)(3)(D).

[28] *See* proposed FINRA Rules 12402(h)(3)(C), 12403(g)(3)(C), 13411(f)(3)(C).

[29] *See* Partial Amendment No. 1; *see also* FINRA Response Letter at 3.

[30] FINRA Response Letter at 3.

[31] *Id.*

[32] 15 U.S.C. 78s(b)(2)(B).

indicate that the Commission has reached any conclusions with respect to the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Exchange Act, the Commission is providing notice of the grounds for disapproval under consideration.[33] The Commission is instituting proceedings to allow for additional analysis and input concerning whether the proposed rule change is consistent with the Exchange Act and the rules thereunder.

IV. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposed rule change. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with the Exchange Act and the rules thereunder.

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[34]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change, as modified by Partial Amendment No. 1, should be approved or disapproved by December 18, 2026. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by January 4, 2027.

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–2026–017 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–2026–017. 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 (*https://www.sec.gov/rules/sro.shtml*). Copies of such 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–2026–017 and should be submitted on or before December 18, 2026. If comments are received, any rebuttal comments should be submitted on or before January 4, 2027.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Stephanie J. Fouse,

Assistant Secretary.

[FR Doc. 2026–24057 Filed 11–25–26; 8:45 am]

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[33] *Id.*

[34] Section 19(b)(2) of the Exchange Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[35] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106969; File No. SR–TXSE–2026–051]

Self-Regulatory Organizations; Texas Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Warrant Performance Incentive Program To Add Additional Incentives for Auction Participation

November 23, 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 November 16, 2026, Texas Stock Exchange LLC (the ''Exchange'' or ''TXSE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's warrant performance incentive program (the ''Rodeo Program'' or the ''Program'') [3] to add additional incentives for auction participation. The text of the proposed rule change is available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*) at the Exchange's website (*https://www.txse.com/reuglations/rules-filings*)[sic], and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of 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 the Program to specifically incentivize participation in the Exchange's Opening and Closing Auctions, as further described below. The Exchange previously adopted the Rodeo Program to provide Members [4] of the Exchange that submitted an initial prepayment fee (the ''Prepayment Fee'') with a ticket redeemable for warrants that provide the right to purchase equity in the Exchange's parent holding company, TXSE Group Inc. (''TXSE Group''). As described in the Rodeo Program Release, such warrants vest upon the achievement of certain liquidity volume thresholds on the Exchange. The Rodeo

[3] Securities Exchange Act Release No. 105090 (March 26, 2026), 91 FR 16044 (March 31, 2026) (SR–TXSE–2026–003) (the ''Rodeo Program Release'').

[4] As defined in TXSE Rule 1.005(q), the term ''Member'' means any registered broker or dealer that has been admitted to membership in the Exchange. A Member has the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.

Program commenced on September 1, 2026, and runs for one year, concluding at the end of the business day on August 31, 2027 (the ''Rodeo Period''), subject to Exchange notice.[5]

Under the initial application window, each Member of the Exchange was eligible to become a Participant[6] on a first-come first-served basis by submitting all required documentation for participation by May 1, 2026 and paying a $250,000 Prepayment Fee by May 15, 2026.[7] In order to be a Participant, a Member was required to: (i) be an approved Member of the Exchange in good standing;[8] (ii) be a registered broker-dealer pursuant to Section 15 of the Exchange Act; (iii) qualify as an ''accredited investor'' as that term is defined in Regulation D under the Securities Act of 1933; (iv) have executed all required documentation for participation in the Rodeo Program by May 1, 2026, *i.e.,* the warrant agreement and confidentiality agreement; and (v) have tendered the Prepayment Fee no later than May 15, 2026. A Participant was issued a ''ticket,'' which is redeemable in exchange for warrants representing 100,000 shares of TXSE Group Voting Common Stock (''TXSE Group Stock''),[9] a portion of which is eligible to vest at the end of each three-month period during the Rodeo Period (each, a ''Measurement Period'') based on the Participant's achievement of a specified percentage of Total Consolidated Volume[10] (''TCV'') on the Exchange (the ''Target Performance''). As provided in the Rodeo Program Release, the vesting requirements are as follows:[11]

Measurement period	Target performance	Shares available for vesting
1: (9/1/26–11/30/26)	0.025% TCV	10,000
2: (12/1/26–2/26/27)	0.05% TCV	20,000
3: (3/1/27–5/31/27)	0.075% TCV	30,000
4: (6/1/27–8/31/27)	0.125% TCV	40,000

The warrants of Participants that achieve Target Performance for a Measurement Period will be assigned an exercise price through the Exercise Price Competition which is based on the Participant's Multiplier Adjusted Volume during the Measurement Period.[12] Participants that do not achieve the Target Performance but achieve at least 50% of the Target Performance are eligible for partial vesting, as described in the Rodeo Program Release.[13] The total number of tickets available under the Program was originally between three and 20 among all Participants and each Participant was eligible to receive up to three tickets, in each case subject to the Exchange's discretion to allocate tickets as described in the Rodeo Program Release.[14] As provided in the Rodeo Re-Opening Release, the Exchange previously made up to four additional tickets available to eligible Members and Sponsored Participants.[15]

For each Measurement Period, all Participants that meet the Target Performance for a ticket (''Fully Vesting Participants'') will also be assigned the exercise price of their warrants based on the Participant's ranking in total adjusted volume (''Multiplier Adjusted Volume''), calculated as total shares traded on the Exchange with certain types of transactions being subject to volume multipliers and thus counted as a multiple of the shares actually traded, as applicable, among other Fully Vesting Participants during that Measurement Period. The higher the rank of a Fully Vesting Participant's Multiplier Adjusted Volume, the lower their exercise price will be. Fully Vesting Participants will be assigned an exercise price for their warrants based on the Fully Vesting Participant's ranking in the Multiplier Adjusted Volume among all Fully Vesting Participants during a Measurement Period. Multiplier Adjusted Volume applies only to exercise price assignment and does not have any impact on vesting or the Target Performance for any Measurement Period.

Multiplier Adjusted Volume

In calculating each Fully Vesting Participant's Multiplier Adjusted Volume,[16] the volume multipliers are:

(i) Intraspread Multiplier: transactions for which the adding order added non-displayed liquidity and the execution occurs within the NBBO[17] are subject to a 2x multiplier;

(ii) Auction Multiplier: transactions in Opening Auctions[18] and Closing Auctions[19] for which the order is an Eligible Auction Order[20] in securities for which TXSE is the primary listing market are subject to a 10x multiplier;

(iii) Add Displayed Volume Multiplier: transactions for which the order adds displayed liquidity to the Exchange are subject to a 1.2x multiplier; and

(iv) Enhanced Liquidity Symbol (''ELS'') Multiplier: transactions in securities that are included in a list of securities which the

[5] The Exchange initially submitted the proposed rule change on November 2, 2026 (SR–TXSE–2026–047). On November 16, 2026, the Exchange withdrew that filing and submitted this proposal.

[6] For purposes of this filing, ''Participants'' means Members participating in the Program and Sponsored Participants participating jointly with a Sponsoring Member as provided in the Rodeo Re-Opening Release. In the case of participation by a Sponsored Participant together with a Sponsoring Member, references to a Participant apply to the Sponsored Participant, except where the context specifically refers to the obligations or status of the Sponsoring Member.

[7] The Exchange subsequently submitted a proposal to re-open the application window for the Program and to make the Program available to Sponsored Participants. *See* Securities Exchange Act Release No. 106044 (August 6, 2026), 91 FR 51756 (August 11, 2026) (SR–TXSE–2026–018) (the ''Rodeo Re-Opening Release'').

[8] For purposes of the Program, the term ''good standing'' means that a Member is not delinquent with respect to Exchange fees or other charges and is not suspended or barred from being a Member.

[9] Shares are subject to the Eighth Amended and Restated Stockholders' Agreement of TXSE Group Inc. as amended and of the Certificate of Formation of TXSE Group Inc.

[10] As described in the Rodeo Program Release, ''Total Consolidated Volume'' or ''TCV'' is calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan during the applicable Measurement Period, subject to certain exclusions. *See* Rodeo Program Release at 16046.

[11] *See* Rodeo Program Release at 16047.

[12] *See* Rodeo Program Release at 16047–16048.

[13] *See* Rodeo Program Release at 16045.

[14] *Id.*

[15] *See* TXSE Rule 1.005(dd) (defining ''Sponsored Participant'').

[16] Multiplier Adjusted Volume is calculated as follows: ((number of shares in transactions that do not qualify for a multiplier) + (number of shares in transactions that qualify for Intraspread Multiplier × 2) + (number of shares in transactions eligible for the Auction Multiplier × 10) + (number of shares in transactions that qualify for the Add Displayed Volume Multiplier × 1.2) + (number of shares in transactions that qualify for the ELS Multiplier × 2))/(number of tickets issued to the Fully Vesting Participant). Transactions may qualify for more than one multiplier except that a transaction that is eligible for the Auction Multiplier is not eligible for other multipliers. For example, a transaction that would qualify for the ELS Multiplier and the Intraspread Multiplier will receive both the ELS Multiplier of 2x and the Intraspread Multiplier of 2x.

[17] As provided in Rule 1.005(r), the term ''NBBO'' means the national best bid or offer.

[18] Opening Auction functionality is described in Rule 11.022(b).

[19] Closing Auction functionality is described in Rule 11.022(c).

[20] *See* TXSE Rule 11.022(a)(8) (defining ''Eligible Auction Order'').

Exchange believes could benefit from enhanced liquidity are subject to a 2x multiplier, including Liquidity Improvement Symbols and High-Volume Symbols (collectively ''ELSM Securities''),[21] both defined below. The Exchange will apply several objective factors related to each security's trading characteristics and designate the securities that meet certain thresholds with respect to these factors as Liquidity Improvement Symbols [22] or High-Volume Symbols.[23]

As provided in the Rodeo ETP Release,[24] to be considered as Liquidity Improvement Symbols or High-Volume Symbols, a security must either satisfy TXSE's initial listing standards under Rule 16.310, which relate to the Exchange's listing requirements for common stock of domestic companies, or be an exchange traded product (''ETP'').[25] In addition, all TXSE-listed corporate securities and ETPs, including both primary and dual-listings, are ELSM Securities, in addition to the securities selected as Liquidity Improvement Symbols and High-Volume Symbols.

Proposed Changes

In light of its recent launch of corporate listings, the Exchange is proposing to introduce a new component to the Program that incentivizes connectivity and participation in the Exchange's Opening and Closing Auctions for TXSE primary-listed common stock. At a high level, the purpose of the proposal is to encourage Participants to engage more significantly with the Exchange's Opening and Closing Auction processes by providing meaningful economic opportunity for doing so. As such, the Exchange is proposing to add a total of an additional 116,000 shares to each warrant, all of which will be potentially allocated to existing Participants through the addition of a Performance Incentive and a Participation Incentive, as further described below. The Exchange proposes to add a pool of 115,000 shares to each warrant through an incentive designed to incentivize Participants to submit orders to the Exchange in TXSE primary-listed common stock when market conditions may be indicative of the Auction Book [26] diverging from the market (the ''Performance Incentive'', discussed *infra*).[27] The pool of 115,000 shares introduced under the Performance Incentive would be allocated amongst Participants based on executions occurring during the Opening and Closing Auctions during Measurement Periods 1 and 2. The Exchange proposes to add 46,000 shares in Measurement Period 1 and 69,000 shares in Measurement Period 2, for a total pool of 115,000 shares. The remaining 1,000 shares per warrant are proposed to be added through an incentive designed to encourage Participants to submit orders designed to participate in either the Opening or Closing Auction in a minimum number of TXSE primary-listed common stock (the ''Participation Incentive'', discussed *infra*) during Measurement Period 2. The exercise price of the additional shares proposed to be added to each warrant under each of the Performance Incentive and Participation Incentive is $1.00. The Exchange is not proposing to make any additional changes to the Program and all calculations related to the Program will otherwise remain the same.

Performance Incentive

The Exchange is proposing to incentivize Participants to add liquidity in Opening and Closing Auctions where there are more sell shares than buy shares at the Lower Band [28] (''Lower Band Sell Excess'') or more buy shares than sell shares at the Upper Band (''Upper Band Buy Excess'' and, collectively with Lower Band Sell Excess, ''Order Excess'') in TXSE primary-listed common stock (''Eligible Securities'').[29] The Participation Bands are designed to approximate a reasonable range for executions based on recent market activity and create a limit price boundary for orders entered in the last two minutes before both the Opening and Closing Auctions. Where there is Lower Band Sell Excess or Upper Band Buy Excess, it is potentially indicative of the Auction Book diverging from the market and there may be arbitrage opportunities available. Additional liquidity in these auctions may help bring auction prices into closer alignment with prevailing market prices.

Accordingly, the Exchange proposes to provide a Performance Incentive for participation in Opening and Closing Auctions where there is Order Excess in the Exchange's first dissemination of Participation Bands and related auction interest at 9:28:00 a.m. for an Opening Auction or 3:58:00 p.m. for a Closing Auction (an ''Order Excess Auction'').[30] The Exchange is proposing to add 46,000 shares in Measurement Period 1 (with scoring starting on November 2, 2026) and 69,000 shares in Measurement Period 2. For each Order Excess Auction, Participants will be awarded Points for shares executed in that auction pursuant to their buy orders in the case of Lower Band Sell Excess or sell orders in the case of Upper Band Buy Excess, regardless of when the orders were entered, excluding Market-on-Open and Market-on-Close orders [31] and, for Opening Auctions, market orders with a Regular Hours Only

[21] The Exchange will publish the list of ELSM Securities on its website at least 15 calendar days prior to the start of the Rodeo Program Period. The Exchange will also publish the list of ELSM Securities for a new Measurement Period on its website at least 15 calendar days prior to the beginning of the Measurement Period. The Exchange does not generally expect to change the list of ELSM Securities within a Measurement Period, but where it does make changes within a Measurement Period (*e.g.,* new listings on TXSE), it will post notice of any changes to its website along with an updated list of ELSM Securities at least one day prior to such changes going into effect.

[22] The factors for Liquidity Improvement Symbols are average daily volume, off-exchange volume, auction dislocation, quoted and effective spreads, and whether a symbol trades on away markets more intraday than on their primary listing market.

[23] The factors for determining High-Volume Symbols include trading volume, average spread, and whether a symbol trades on away markets more intraday than on their primary listing market.

[24] *See* Securities Exchange Act Release No. 106181 (August 24, 2026), 91 FR 55374 (August 27, 2026) (SR–TXSE–2026–021) (the ''Rodeo ETP Release'').

[25] For purposes of the Program, the term ''ETP'' means any security described in Chapter 17 of the Exchange's rulebook.

[26] *See* TXSE Rule 11.022(a)(1) (defining ''Auction Book'').

[27] The additional shares underlying each warrant do not represent a guaranteed allocation. Shares will vest only to the extent earned under the applicable incentive, with Performance Incentive shares allocated among Participants from the aggregate pool based on their respective Points. Both the Performance Incentive and the Participation Incentive will be available to all Participants, regardless of whether their warrants have otherwise vested under the Program. Shares vesting under either incentive will have an exercise price of $1.00 per share. Participants will not be required to make an additional payment or satisfy the Program's existing Target Performance requirements to be eligible to earn these additional shares.

[28] *See* TXSE Rule 11.022(a)(20) (defining ''Participation Bands,'' including the ''Lower Band'' and ''Upper Band'').

[29] Because any sell shares counted at the Lower Band (meaning that they are priced equal to or more aggressively than the Lower Band) would by definition also be counted at the Upper Band and any buy shares counted at the Upper Band would also by definition be counted at the Lower Band, there cannot be a situation in which there is both Lower Band Sell Excess and Upper Band Buy Excess.

[30] For scoring purposes, the amount of the Order Excess will equal the excess of sell shares over buy shares at the Lower Band, or buy shares over sell shares at the Upper Band, as applicable, in that first dissemination. The proposal will not amend the existing Participant Band[sic] dissemination messages and Participants will be able to determine the existence, direction, and amount of Order Excess using information already contained within the dissemination messages.

[31] *See* TXSE Rules 11.022(a)(17) and 11.022(a)(16) (defining ''Market-On-Open'' or ''MOO'' and ''Market-On-Close'' or ''MOC,'' respectively).

(''RHO'') [32] time-in-force instruction (''Qualifying Orders''). Shares executed pursuant to Qualifying Orders will be credited in price-time priority, based on each order's limit price, up to the amount of the Order Excess (''Point-Eligible Shares'').[33] As an example, there is a Closing Auction in Security A with a Lower Band Sell Excess of 600 shares, the Lower Band is $24.00 from 3:58:00 until the auction occurs, the Upper Band is $26.00 from 3:58:00 until the auction occurs, and the following Qualifying Orders are entered:[34]

Order	Participant	Order type	Shares	Timestamp	Limit
1	Participant 1	LOC Buy	300	10:30:00	$25.25
2	Participant 2	RHO Limit Buy	100	3:30:00	25.50
3	Participant 3	LOC.L Buy	200	3:58:05	26.50
4	Participant 4	DAY Buy	100	3:59:15	25.25
5	Participant 5	SYS Buy	100	3:59:30	25.40

For purposes of this example, all orders execute fully in the Closing Auction. All of these buy orders are Qualifying Orders because they execute in the Closing Auction and none is a Market-on-Open or Market-on-Close order. The priority of orders for scoring would be as such:

Order 3 (highest limit price);
Order 2 (second highest limit price);
Order 5 (third highest limit price);
Order 1 (tied Order 4 for fourth highest limit price but was entered earlier than Order 4); and
Order 4 (tied Order 1 for fourth highest limit price but entered later than Order 1).

As noted above, the Lower Band Sell Excess is 600 shares, which means that there are 600 shares that can be Point-Eligible Shares for the auction. Going through the priority list, Order 3 would have 200 Point-Eligible Shares, Order 2 would have 100 Point-Eligible Shares, Order 5 would have 100 Point-Eligible Shares, and Order 1 would only have 200 Point-Eligible Shares even though 300 shares executed in the auction because Orders 2, 3, and 5 collectively had 400 Point-Eligible Shares and there were only 200 Point-Eligible Shares remaining for the auction. Order 4 would not have any Point-Eligible Shares because all 600 available Point-Eligible Shares have already been offset. The competition is dollar-weighted. Subject to the cap described below, each Participant's Points for an auction will equal its Point-Eligible Shares multiplied by the midpoint of the Participation Bands in the first dissemination described above (''Points'').[35] In this example, that midpoint is $25.00, resulting in 2,500 Points for 100 Point-Eligible Shares and 5,000 Points for 200 Point-Eligible Shares.[36]

As an illustrative variation, if Orders 2 and 3 were not entered (the RHO Limit Buy order for 100 shares with a limit price of $25.50 and the LOC.L Buy order for 200 shares with a limit price of $26.50, respectively), Order 5 would have 100 Point-Eligible Shares, Order 1 would have 300 Point-Eligible Shares, and Order 4 would have 100 Point-Eligible Shares. A total of 500 Point-Eligible Shares (12,500 Points) would therefore be awarded in the auction out of a possible 600 Point-Eligible Shares (15,000 Points).

This scoring would occur for Participants across all Opening and Closing Auctions in Eligible Securities in which there was Order Excess. At the end of the applicable Measurement Period, the Exchange will total the Points that were available in all Order Excess Auctions (''Total Points Available'') and the Points that were achieved by each Participant (''Participant's Points''). The Points available in each Order Excess Auction will equal the lesser of (i) the amount of the Order Excess multiplied by the midpoint of the Participation Bands, each determined from the first dissemination described above, or (ii) 4,000,000.[37] Total Points Available will include Points that no Participant earns. Each Participant's shares vesting under this component will equal: (Participant's Points/Total Points Available) × shares available for vesting under this component during the applicable Measurement Period. Points not earned by Participants will not be reallocated, and the shares attributable to those Points will not vest. If Total Points Available for a Measurement Period is zero, no shares will vest under the Performance Incentive for that Measurement Period.

To illustrate the vesting of a Participant's shares at the conclusion of a Measurement Period, consider the following example: There are 69,000 additional shares available in Measurement Period 2. Across every eligible auction in Measurement Period 2, there are 100,000,000 Total Points Available. Participants together earn 80,000,000 Points. Firm ABC earned 15,000,000 Points of the 80,000,000 Points during Measurement Period 2. The calculation to determine the total shares vested for Firm ABC is (69,000 × 15,000,000)/100,000,000 = 10,350 shares vested over Measurement Period 2.

Participation Incentive

The Exchange is also proposing to provide 1,000 shares per warrant to Participants that, during Measurement Period 2, submit at least one order [38] (excluding MOO and MOC orders and, for Opening Auctions, market RHO orders) after the first Participation Band message has been disseminated (9:28 a.m. for Opening Auctions and 3:58 p.m. for Closing Auctions) in an Order Excess Auction in each of at least five Eligible Securities that is a buy order in the case of Lower Band Sell Excess or

[32] *See* TXSE Rule 11.006(o)(5) (describing the Regular Hours Only (''RHO'') time-in-force instruction).

[33] Buy orders with higher limit prices and sell orders with lower limit prices will receive priority. Orders with the same limit price will be ranked by time priority in the applicable auction. Only shares actually executed in that auction may become Point-Eligible Shares.

[34] For the order types and instructions used in the table below, *see* TXSE Rule 11.022(a)(11) (defining ''Limit-On-Close-Late'' or ''LOC.L''); TXSE Rule 11.022(a)(13) (defining ''Limit-On-Close'' or ''LOC''); TXSE Rule 11.006(o)(2) (describing the Day time-in-force instruction); and TXSE Rule 11.006(o)(6) (describing the System (''SYS'') time-in-force instruction).

[35] For purposes of calculating Points, the Exchange will not reduce a Participant's Point-Eligible Shares by netting against that Participant's orders on the same side of the Order Excess in the same auction. Participants remain subject to all applicable Exchange rules and federal securities laws, including prohibitions on wash trades and other manipulative activity. *See* Exchange Rule 12.002 (Fictitious Transactions).

[36] The Exchange notes that there will be a cap of 4,000,000 points available in any single auction.

[37] If the amount of the Order Excess multiplied by that midpoint exceeds 4,000,000, each Participant's Points for that auction will equal 4,000,000 multiplied by the ratio of that Participant's Point-Eligible Shares to the amount of the Order Excess. For example, if an auction has an Order Excess of 200,000 shares and an initial Participation Band midpoint of $25.00, its uncapped value would be 5,000,000 Points, but only 4,000,000 Points would be available. A Participant credited with 50,000 Point-Eligible Shares would earn 1,000,000 Points (4,000,000 × (50,000/200,000)). Any portion of the capped Points not earned by Participants will remain unearned.

[38] The order can be an odd lot, round lot, or mixed lot.

a sell order in the case of Upper Band Buy Excess.[39] Execution of such orders is not required to earn the Participation Incentive. To count toward the Participation Incentive, an order must remain on the book and eligible to participate in the applicable Order Excess Auction until that auction occurs. The Exchange is proposing to offer the Participation Incentive in order to incentivize Participants to commit the resources necessary to receive and process the Exchange's auction information and to programmatically enter orders based on their intake and processing of such auction information. Given Participants' competing priorities and limited resources, particularly in light of the Exchange's nascent listing business, the Exchange believes that the Participation Incentive would encourage Participants to devote the time and resources necessary to integrate the Exchange's auction process into their order management systems.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[40] in general, and furthers the objectives of Section 6(b)(5) of the Act,[41] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms 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 requirement in Section 6(b)(5) of the Act [42] that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[43] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes that adding the Performance Incentive and Participation Incentive is consistent with the Act for the same reasons that incentivizing participation in Opening and Closing Auctions through the Auction Multiplier is consistent with the Act as provided in the Rodeo Program Release. The proposed change would provide Participants an additional incentive to build new liquidity absorbing strategies based on when TXSE disseminates security specific Participation Band information, which the Exchange believes may promote price discovery, price improvement opportunities, and execution quality for investors. The proposed change would also create additional competition among Participants to provide qualifying liquidity during each Measurement Period. By providing additional incentives for orders on the opposite side of Order Excess, the Exchange seeks to encourage trading behavior that may improve auction market quality without changing the Program's existing Target Performance requirements or the manner in which Multiplier Adjusted Volume is used to assign exercise prices under the Exercise Price Competition. The Exchange believes it is appropriate to exclude Market-on-Open, Market-on-Close orders, and market RHO orders from the list of Qualifying Orders and limit the Qualifying Orders to limit orders because limit orders communicate a specified price at which a Participant is willing to trade, providing price-specific information that the Exchange seeks to encourage through both the Performance Incentive and the Participation Incentive. Accordingly, the Exchange believes that the proposed incentives would benefit investors, the Exchange, and the broader market.

The Exchange believes that the proposed incentives are equitable and not unfairly discriminatory because all Participants may elect to participate or not to participate, and the additional shares would vest on the same terms and conditions, assuming Participants satisfy the applicable requirements described above. Each of the Performance and Participation Incentives are additive to the existing Rodeo program and do not require Participants to complete a separate enrollment or pay an additional fee. The requirements are objective and would apply uniformly to all Participants, regardless of whether their warrants otherwise vest under the Program. All Participants would have the same opportunity to earn additional vested shares through the specified auction activity, and all additional shares would have the same exercise price. The additional shares would be provided under the existing warrant structure and would vest based on satisfaction of the additional auction-related requirements. The proposal does not reduce existing vesting opportunities or change the existing Target Performance Requirements or Exercise Price Competition. Participation in the Performance Incentive and Participation Incentive is completely optional.

The Exchange believes that limiting eligibility for the additional incentives to existing Participants is reasonable, equitable, and not unfairly discriminatory because the incentives supplement the existing prepaid warrant arrangements under the Program. Participants paid the required Prepayment Fees and satisfied the applicable requirements to participate in those arrangements. The proposed incentives would provide an additional opportunity for those Participants to earn vested shares by supporting the Exchange's auctions as its corporate listings business develops. Eligibility for the additional incentives would therefore be tied to participation in the existing Program and the associated Prepayment Fee commitments. All Participants would be eligible to earn the additional shares under the same objective requirements, regardless of whether their warrants otherwise vest under the Program.

The Exchange believes that the methodology used to calculate Points under the Performance Incentive is fair, reasonable, and not unfairly discriminatory because it is based on objective criteria designed to increase liquidity and participation in the Exchange's auctions. The Performance Incentive would reward Participants for executed orders on the opposite side of Order Excess, with credit allocated in price-time priority. Each Participant's allocation would be based on its Points rather than the number of tickets it holds. Dollar-weighting would account for differences in the value of liquidity provided in different Eligible Securities, while the 4,000,000-Point cap would limit the effect of an unusually large auction on allocations for a Measurement Period. These calculations would apply equally to all Participants. Further, shares attributable to Points that Participants do not earn would not vest or be reallocated.

The Exchange further believes that the Participation Incentive and the 1,000-share award per ticket are fair, reasonable, and not unfairly discriminatory because they are designed to encourage specific auction activity that the Exchange believes would benefit its market. The Exchange believes Eligible Securities would benefit from active participation and price discovery by Participants because

[39] Participants that possess multiple warrant would be eligible to earn an additional 1,000 shares per warrant.

[40] 15 U.S.C. 78f(b).

[41] 15 U.S.C. 78f(b)(5).

[42] 15 U.S.C. 78f(b)(5).

[43] 15 U.S.C. 78f(b)(4).

the Auction Book would better reflect the prevailing state of the market. Any resulting increase in auction liquidity and improvement in price discovery and execution opportunities would benefit all market participants trading on the Exchange. As a new entrant to the competitive auction business operated by established primary listing markets, the Exchange recognizes the significant technological effort required by Participants to connect and integrate the Exchange's auction process into the order management systems of Participants. Thus, the Participation Incentive would encourage Participants to devote resources to receiving and processing auction information and submitting responsive orders. Requiring eligible orders in at least five Eligible Securities would encourage participation across multiple securities, and requiring those orders to remain on the book and eligible for the applicable auction would provide additional auction liquidity. Execution would not be required because this incentive is directed at encouraging the operational integration and order submission necessary to support auction participation. The same requirements and per-ticket award would apply to all Participants.

The Exchange believes that the additional shares available under the proposed incentives and the $1.00 exercise price are reasonable because they are designed to provide a meaningful economic incentive for auction participation as the Exchange develops its corporate listings business. The proposal would limit the additional shares to an aggregate of 139,000, and those shares would vest only upon satisfaction of the applicable requirements. The Exchange believes that increased auction liquidity and participation when there is a significant imbalance leading up to the Opening and Closing Auctions would benefit all market participants by providing additional trading opportunities, enhanced price discovery, and more accurate prices, including for those market participants that do not participate in the Program.

As such, the Exchange believes that the Program, as amended by the proposed rule change, would promote the long-term interests of the Exchange by providing incentives designed to encourage market participants to contribute to the growth and success of the Exchange by actively providing liquidity in Opening and Closing Auctions in Eligible Securities.

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 Exchange Act. The proposed rule change would provide Participants additional incentives to submit orders and provide liquidity in Opening and Closing Auctions in Eligible Securities.

The Exchange believes that the proposed rule change would enhance intramarket competition by providing Participants an additional incentive to compete to provide liquidity on the opposite side of Order Excess. The Performance Incentive would reward qualifying executions based on objective price-time priority and Points calculations that would apply uniformly to all Participants. Each Participant's allocation under the Performance Incentive would depend on its Points rather than the number of tickets it holds. The Participation Incentive would encourage Participants to develop the capabilities necessary to respond to auction information and submit eligible orders in multiple Eligible Securities, with the same requirements and per-ticket award applying to all Participants. Any resulting increase in auction liquidity and improvement in price discovery and execution opportunities would benefit market participants trading on the Exchange.

The Exchange also believes that any competitive burden on persons that do not participate in the Program is appropriate because the proposed incentives are designed to attract additional auction order flow to the Exchange, which would provide additional liquidity and enhance the quality of its market to the benefit of all market participants. The additional shares would vest only upon satisfaction of the applicable auction-related requirements. To the extent that the proposal achieves its intended purpose, market participants that do not participate in the Program would also benefit from the additional liquidity, trading opportunities, and enhanced price discovery in Eligible Securities. The Exchange believes that limiting the additional incentives to existing Participants is appropriate because the awards supplement the Program's existing prepaid warrant arrangements and are tied to the commitments made by Participants under those arrangements. Although nonparticipants would not be eligible to earn the additional shares, they would remain eligible to participate in the Exchange's auctions, and any resulting improvement in auction liquidity and price discovery would benefit all market participants.

The Exchange further believes that the proposed rule change may enhance intermarket competition by enabling the Exchange to compete more effectively for auction order flow in its primary-listed securities. As a new exchange developing its corporate listings business, the Exchange seeks to encourage liquidity provision and improve market quality through the Program. The proposed rule change provides an additional incentive for Participants to direct qualifying auction order flow to the Exchange, while leaving market participants free to execute orders on other trading venues. Accordingly, the Exchange does not believe that the proposed rule change will impose any significant burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [44] and Rule 19b–4(f)(2) thereunder,[45] because it establishes or changes a due, or fee. 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:

[44] 15 U.S.C. 78s(b)(3)(A).

[45] 17 CFR 240.19b–4(f)(2).

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 SR–TXSE–2026–051 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–TXSE–2026–051. 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–TXSE–2026–051 and should be submitted on or before December 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–24066 Filed 11–25–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Investor Advisory Committee will hold a public meeting on Thursday, December 3, 2026. The meeting will begin at 9:30 a.m. (ET) and will be open to the public.

PLACE: The meeting will be conducted by remote means. Members of the public may watch the webcast of the meeting on the Commission's website at *www.sec.gov.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The agenda for the meeting includes: welcome and opening remarks; approval of previous meeting minutes; a panel discussion regarding tokenizing U.S. public company shares and the Commission's Innovation Exemption; a panel discussion regarding the Commission's work in bankruptcy; a panel discussion regarding the market's need for accounting oversight; a discussion of a recommendation regarding the proposed rescission of the Commission's Trade-Through Rule; a discussion of a recommendation regarding a potential study of retail investor understanding regarding private markets; subcommittee reports; and a non-public administrative session.

This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

Public Comment: The public is invited to submit written statements to the Committee. Written statements should be received on or before December 2, 2026.

Written statements may be submitted by any of the following methods:

Electronic Statements

• Use the Commission's internet submission form (*https://www.sec.gov/comments/265-28/investor-advisory-committee-meeting*); or

• Send an email message to *rules-comments@sec.gov.* Please include File No. 265–28 on the subject line; or

Paper Statements

• Send paper statements to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. 265–28. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method.

The Commission will post all statements on the Commission's website. Do not include personal 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.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

(Authority: 5 U.S.C. 552b.)

Dated: November 24, 2026.

Stephanie J. Fouse,

Assistant Secretary.

[FR Doc. 2026–24202 Filed 11–24–26; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106961; File No. SR–PHLX–2026–74]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the PHLX Pricing Schedule at Options 7, Sections 2 (Customer Rebate Program) and 4 (Multiply Listed Options Fees)

November 23, 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 November 12, 2026, Nasdaq PHLX LLC (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the PHLX Pricing Schedule at Options 7, Sections 2 (Customer Rebate Program) and 4 (Multiply Listed Options Fees).[3]

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[46] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange filed SR–Phlx–2026–72 on November 2, 2026. On November 12, 2026, the Exchange proposes to withdraw SR–Phlx–2026–72 and replace it with this proposal.

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 Pricing Schedule at Options 7, Sections 2 (Customer Rebate Program) and 4 (Multiply Listed Options Fees).

Current Section 2 (Customer Rebate Program)

Currently, the Exchange pays rebates on five Customer [4] Rebate Tiers according to four categories. The Customer Rebate Tiers below are calculated by totaling Customer volume in Multiply Listed Options (including SPY) that are electronically-delivered and executed, except volume associated with electronic Qualified Contingent Cross Orders, as defined in Options 3, Section 12. Rebates are paid on Customer Rebate Tiers according to the below categories.[5]

Customer rebate tiers	Percentage thresholds of national customer volume in multiply-listed equity and ETF options classes, excluding SPY options (monthly)	Category A	Category B	Category C	Category D
Tier 1	0.00%–0.60%	$0.00	$0.00	$0.00	$0.00
Tier 2	Above 0.60%–1.50%	0.10	0.10	0.16	0.21
Tier 3	Above 1.50%–2.00%	0.15	0.12	0.18	0.22
Tier 4	Above 2.00%–2.50%	0.20	0.16	0.22	0.26
Tier 5	Above 2.50%	0.21	0.17	0.22	0.27

The Exchange pays a Category B Rebate on Customer PIXL Orders [6] in Options 7, Section 4 symbols that execute against non-Initiating Order interest. In the instance where member organizations qualify for Tier 4 in the Customer Rebate Program, Customer PIXL Orders that execute against a PIXL Initiating Order will be paid a rebate of $0.125 per contract. In the instance where member organizations qualify for Tier 5 in the Customer Rebate Program, Customer PIXL Orders that execute against a PIXL Initiating Order will be paid a rebate of $0.135 per contract. All rebates on Customer PIXL Orders will be capped at 4,000 contracts per order for Simple PIXL Orders.

Section 2 Changes

The Exchange proposes to modify this Category B Rebate so that in the instance where member organizations qualify for Tier 4 in the Customer Rebate Program, Customer PIXL Orders that execute against a PIXL Initiating Order will be paid a rebate of $0.12 (instead of $0.125) per contract; while in the instance where member organizations qualify for Tier 5 in the Customer Rebate Program, Customer PIXL Orders that execute against a PIXL Initiating Order will be paid a rebate of $0.13 (instead of $0.135) per contract.

Current Section 4 (Multiply Listed Options Fees)

Currently, the Exchange assesses a $0.20 per contract QCC Transaction Fee for a Lead Market Maker,[7] Market Maker,[8] Firm,[9] and Broker-Dealer.[10] Customers and Professionals are not assessed a QCC Transaction Fee. QCC Transaction Fees apply to electronic QCC Orders [11] and Floor QCC Orders.[12] Currently, the Exchange pays various QCC Rebates based on certain criteria.

The Exchange pays a QCC Rebate of $0.12 per contract on electronic QCC Orders and Floor QCC Orders when a QCC Order is comprised of a Customer or Professional order on one side, and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side. This rebate will be $0.17 per contract in the event that a member or member organization executes greater than 750,000 qualifying QCC contracts in a given month. This rebate will be

[4] The term ''Customer'' applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of a broker or dealer or for the account of a ''Professional'' (as that term is defined in Options 1, Section 1(b)(45)). *See* Options 7, Section 1(c).

[5] Members and member organizations under Common Ownership may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. Affiliated Entities may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. *See* Options 7, Section 2. Rebates are not paid on broad-based index options symbols listed within Options 7, Section 5.A. in any Category, however broad-based index options symbols listed within Options 7, Section 5.A. count toward the volume requirement to qualify for a Customer Rebate Tier.

[6] A PIXL Order is as described in Options 3, Section 13(a). *See* Options 3, Section 7(y). A member may electronically submit for execution an order it represents as agent on behalf of a Public Customer, broker-dealer, or any other entity (''PIXL Order'') against principal interest or against any other order it represents as agent (an ''Initiating Order'') provided it submits the PIXL Order for electronic execution into the PIXL Auction. *See* Options 3, Section 13.

[7] The term ''Lead Market Maker'' applies to transactions for the account of a Lead Market Maker (as defined in Options 2, Section 12(a)). A Lead Market Maker is an Exchange member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). An options Lead Market Maker includes a Remote Lead Market Maker which is defined as an options Lead Market Maker in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Options 2, Section 11. *See* Options 7, Section 1(c).

[8] The term ''Market Maker'' is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. The term ''Streaming Quote Trader'' or ''SQT'' is defined in Options 1, Section 1(b)(55) as a Market Maker who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. The term ''Remote Streaming Quote Trader'' or ''RSQT'' is defined in Options 1, Section 1(b)(49) as a Market Maker that is a member affiliated with an RSQTO with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A Remote Streaming Quote Trader Organization or ''RSQTO,'' which may also be referred to as a Remote Market Making Organization (''RMO''), is a member organization in good standing that satisfies the RSQTO readiness requirements in Options 2, Section 1(a). *See* Options 7, Section 1(c).

[9] The term ''Firm'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC. *See* Options 7, Section 1(c).

[10] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. See Options 7, Section 1(c).

[11] A Qualified Contingent Cross (''QCC'') Order is comprised of an originating order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Supplementary Material .01, coupled with a contra-side order or orders totaling an equal number of contracts. *See* Options 3, Section 7(j). Electronic QCC Orders are described in Options 3, Section 12.

[12] Floor QCC Orders are described in Options 8, Section 30(e).

$0.22 per contract in the event that a member or member organization executes (1) greater than 750,000 qualifying QCC contracts in a given month, (2) Floor Originated Strategy Executions in excess of 1,250,000 contracts in a given month, and (3) at least 40% of the member or member organization's QCC executed contracts in that month are comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side.

The Exchange pays a QCC Rebate of $0.14 per contract on electronic QCC Orders, as defined in Options 3, Section 12, and Floor QCC Orders, as defined in Options 8, Section 30(e), when a QCC Order is comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side. This rebate will be $0.19 per contract in the event that a member or member organization executes greater than 750,000 qualifying QCC contracts in a given month. This rebate will be $0.30 per contract in the event that a member or member organization executes: (1) greater than 750,000 qualifying QCC contracts in a given month, (2) Floor Originated Strategy Executions in excess of 1,250,000 contracts in a given month, and (3) at least 40% of the member or member organization's QCC executed contracts in that month are comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side.

Section 4 Changes

The Exchange proposes to modify one of the rebates when a QCC Order is comprised of a Customer or Professional order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side. In particular, the Exchange proposes to decrease from $0.22 to $0.20 the rebate per contract in the event that a member or member organization executes (1) greater than 750,000 qualifying QCC contracts in a given month, (2) Floor Originated Strategy Executions in excess of 1,250,000 contracts in a given month, and (3) at least 40% of the member or member organization's QCC executed contracts in that month are comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side.

The Exchange also proposes to modify one of the rebates when a QCC Order is comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side. In particular, the Exchange proposes to increase from $0.30 to $0.32 the rebate per contract in the event that a member or member organization executes: (1) greater than 750,000 qualifying QCC contracts in a given month, (2) Floor Originated Strategy Executions in excess of 1,250,000 contracts in a given month, and (3) at least 40% of the member or member organization's QCC executed contracts in that month are comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[14] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [15]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [16] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[17] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [18]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [19] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

Section 2 Changes

The Exchange's proposal to modify the Category B Rebate to pay Customer PIXL Orders that execute against a PIXL Initiating Order a rebate of $0.12 per contract (instead of $0.125) where member organizations qualify for Tier 4 of the Customer Rebate Program, and $0.13 per contract (instead of $0.135) where member organizations qualify for Tier 5 of the Customer Rebate Program, is reasonable. Despite the modest reduction in the amount of these rebates, the Exchange believes that the Category B Rebate will continue to incentivize member organizations to submit Customer PIXL Orders to the Exchange and to qualify for Tier 4 or Tier 5 of the Customer Rebate Program in order to earn a rebate on Customer PIXL Orders that execute against Initiating Order interest.

The Exchange's proposal to modify the Category B Rebate is equitable and not unfairly discriminatory because the Exchange would uniformly pay the modified rebates to any member organization that qualifies for Tier 4 or Tier 5 of the Customer Rebate Program. Further, paying these rebates only to Customers is equitable and not unfairly discriminatory because Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of market makers—particularly in response to pricing—facilitates tighter spreads, which may cause an additional

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4) and (5).

[15] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[16] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[17] *See NetCoalition,* at 534–535.

[18] *Id.* at 537.

[19] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782–83 (Dec. 9, 2008) (SR–NYSEArca–2006–21)).

corresponding increase in order flow from other market participants.

Section 4 Changes

The Exchange's proposal to decrease the QCC Rebate from $0.22 to $0.20 per contract when a QCC Order is comprised of a Customer or Professional order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side, provided the qualifications are met, is reasonable. While the Exchange's proposal decreases this rebate, the Exchange believes that the proposed $0.20 per contract rebate would continue to incentivize members and member organizations to transact qualifying QCC Orders and Floor Originated Strategy Executions on Phlx. The Exchange also believes that the proposed rebate remains an appropriate incentive because it would continue to be available only where the member or member organization satisfies objective volume and composition criteria, including greater than 750,000 qualifying QCC contracts, Floor Originated Strategy Executions in excess of 1,250,000 contracts, and the 40% QCC executed-contract requirement. Further, the proposed $0.20 per contract rebate would remain higher than the $0.12 base rebate and the $0.17 rebate that applies where a member or member organization executes greater than 750,000 qualifying QCC contracts in a given month.

The Exchange's proposal to increase the QCC Rebate from $0.30 to $0.32 per contract when a QCC Order is comprised of a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on one side and a Lead Market Maker, Market Maker, Broker-Dealer, or Firm order on the other side, provided the qualifications are met, is reasonable because the increased rebate is designed to encourage Phlx members and member organizations to transact a greater number of qualifying QCC Orders and Floor Originated Strategy Executions on the Exchange. The Exchange believes the increased rebate will continue to promote order flow to Phlx and provide members and member organizations with an additional incentive to satisfy the specified QCC and Floor Originated Strategy Execution criteria.

The Exchange's proposal to modify these QCC Rebates is equitable and not unfairly discriminatory because all members and member organizations may qualify for the rebates, provided they transact the requisite volume and satisfy the applicable objective criteria. The proposed rebates would apply uniformly to all similarly situated members and member organizations that meet those criteria. Further, the Exchange believes that paying a higher enhanced rebate when a QCC Order is comprised of Lead Market Maker, Market Maker, Broker-Dealer, or Firm interest on both sides is equitable and not unfairly discriminatory because Lead Market Makers, Market Makers, Broker-Dealers, and Firms are assessed the QCC Transaction Fee, whereas Customers and Professionals are not assessed that fee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes its proposal remains competitive with other options markets and will offer market participants another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-Market Competition

The Exchange does not believe that the proposed rule change would impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Section 2 Changes

The Exchange's proposal to modify the Category B Rebate paid on Customer PIXL Orders that execute against a PIXL Initiating Order does not impose an undue burden on intra-market competition. The Exchange would uniformly pay the modified Category B rebate of $0.12 per contract to any member organization that qualifies for Tier 4 of the Customer Rebate Program, and the modified Category B rebate of $0.13 per contract to any member organization that qualifies for Tier 5 of the Customer Rebate Program. Further, paying these rebates only to Customers does not impose an undue burden on intra-market competition because Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of market makers—particularly in response to pricing—facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Section 4 Changes

The Exchange's proposal to modify the QCC Rebates does not impose an undue burden on intra-market competition. The proposed $0.20 per contract rebate and proposed $0.32 per contract rebate would apply uniformly to all similarly situated members and member organizations that satisfy the applicable objective qualifications for those rebates, and any member or member organization may qualify by transacting the requisite volume and satisfying the applicable Floor Originated Strategy Execution and 40% QCC executed-contract requirements.

The Exchange also does not believe that decreasing one QCC Rebate and increasing another QCC Rebate imposes an undue burden on competition because the changes are designed to adjust incentives for qualifying QCC order flow, not to restrict access to the Exchange or disadvantage similarly situated participants. Further, the Exchange believes that paying a higher enhanced rebate when a QCC Order is comprised of Lead Market Maker, Market Maker, Broker-Dealer, or Firm interest on both sides does not impose an undue burden on competition because Lead Market Makers, Market Makers, Broker-Dealers, and Firms are assessed the QCC Transaction Fee, whereas Customers and Professionals are not assessed that fee. To the extent any market participant believes that the Exchange's rebates are not attractive, that participant may direct order flow to competing options exchanges that offer different pricing incentives.

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.[20]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–PHLX–2026–74 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–PHLX–2026–74. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–PHLX–2026–74 and should be submitted on or before December 18, 2026.

[20] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–24059 Filed 11–25–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106967; File No. SR–NasdaqTX–2026–059]

Self-Regulatory Organizations; Nasdaq Texas, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Temporary Price Band Protections in the Night Session

November 23, 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 November 18, 2026, Nasdaq Texas, LLC (''Nasdaq Texas'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Equity 4, Rule 4120 to implement the temporary overnight price band protections pursuant to the Twenty-Seventh Amendment (''Amendment 27'' or ''Amendment'') [3] to the National Market System Plan to Address Extraordinary Market Volatility (''LULD Plan'').[4]

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaqtx/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 Equity 4, Rule 4120 [5] to implement the temporary overnight price band protections (''Overnight Protections'') adopted in Amendment 27 [6] to the LULD Plan in support of the introduction of trading 23 hours a day, 5 days per week (''23/5 Trading'') scheduled to commence on December 6, 2026.[7]

Although the Exchange is not currently planning to offer overnight trading, the Exchange plans to operate

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment 27 to the National Market System Plan to Address Extraordinary Market Volatility (''LULD Plan'') established phased price band protections to overnight trading in anticipation of overnight trading by certain national securities exchanges. *See* Joint Industry Plan; Order Granting Approval of the Twenty-Seventh Amendment to the National Market System Plan to Address Extraordinary Market Volatility to Establish Temporary Price Band Protections in Overnight Trading, Securities Exchange Act Release No. 106042 (Aug. 5, 2026), 91 FR 51515, 51516 (Aug. 10, 2026) (File No. 4–631) (''Overnight Protections Approval Order''). Unless otherwise stated, capitalized terms used herein are defined in the LULD Plan.

[4] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (approving the LULD Plan, as amended, on a pilot basis); *see also* Securities Exchange Act Release No. 85623 (Apr. 11, 2019), 84 FR 16086 (Apr. 17, 2019) (File No. 4–631) (approving Amendment No. 18 and permitting the LULD Plan to operate on a permanent basis).

[5] The Exchange recently filed a proposed rule change pursuant to Rule 19b–4(f)(6) (17 CFR 240.19b–4(f)(6)) to amend Equity 4, Rule 4120 by replacing the current rule text with the version of Equity 4, Rule 4120 that reflects the Commission's previously approved framework for Rule 4120, as well as the inclusion of certain intervening updates incorporated into the Exchange's current operative rule. *See* Securities Exchange Act Release No. 106764 (Oct. 29, 2026), 91 FR 69294 (Nov. 3, 2026) (SR–NasdaqTX–2026–050). While Equity 4, Rule 4120, as amended by SR–NasdaqTX–2026–050, is currently effective, it does not become operative until November 21, 2026, (30 days from the date of its filing), in accordance with Rule 19b–4(f)(6). In this proposal, the Exchange proposes to amend Equity 4, Rule 4120, as amended by SR–NasdaqTX–2026–050.

[6] *See* Overnight Protections Approval Order, *supra* note 3.

[7] *See, e.g.,* Securities Exchange Act Release Nos. 101777 (Nov. 27, 2024), 89 FR 97092 (Dec. 6, 2024) (File No. 10–242); 105532 (May 21, 2026), 91 FR 31509 (May 27, 2026) (SR–NYSEARCA–2026–53); 106310 (Sept. 9, 2026), 91 FR 58185 (Sept. 14, 2026) (SR–MEMX–2026–28); 105199 (April 10, 2026), 91 FR 20222 (April 15, 2026) (SR–NASDAQ–2025–109).

as a primary listing venue at some point during the second quarter of 2027 and is a participant in the LULD Plan, as modified by Amendment 27.

Background

The LULD Plan establishes market-wide limit up-limit down requirements designed to address extraordinary market volatility in NMS Stocks.

The Participants [8] originally filed the LULD Plan on April 5, 2011, to create a market-wide limit up-limit down mechanism intended to address extraordinary market volatility in NMS Stocks, as defined in Rule 600(b)(65) of Regulation NMS under the Exchange Act.[9] The Plan sets forth procedures that provide for market-wide LULD requirements to prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands. These LULD requirements are coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to accommodate more fundamental price moves. In particular, the Participants adopted this Plan to address extraordinary volatility in the securities markets, *i.e.,* significant fluctuations in individual securities' prices over a short period of time, such as those experienced during the ''Flash Crash'' on the afternoon of May 6, 2010.[10]

On August 5, 2026, the Commission approved Amendment 27 to the LULD Plan.[11] Amendment 27 establishes certain temporary Overnight Protections in anticipation of 23/5 Trading by certain national securities exchanges.

Amendment 27 establishes a two-phase approach for extending LULD Overnight Protections to 23/5 Trading and describes the temporary protections that apply to the first phase (''Phase 1'').

Specifically, Phase 1 adds new Section VIII to the LULD Plan, entitled ''Overnight Protections,'' which establishes a framework for Overnight Protected Hours that: (1) defines the hours during which the protections apply; (2) specifies how the Primary Listing Exchange [12] calculates the Overnight Price Bands; (3) provides for dissemination of those bands and requires trading centers to prevent trades at prices outside them; and (4) permits but does not require the Primary Listing Exchange to declare a Regulatory Halt. The discussion below addresses each component in turn.

First, Amendment 27 defines the hours during which the Overnight Protections would apply. Specifically, Amendment 27 defines ''Overnight Protected Hours'' as the period from 9:00 p.m. Eastern Time (''ET'') on Sunday through Thursday to 4:00 a.m. ET on the next calendar day. The 9:00 p.m. ET commencement corresponds to the time at which the Processors will open for overnight trading, thereby allowing the Overnight Protections to apply when overnight trading becomes available through the consolidated market data infrastructure. The 4:00 a.m. ET conclusion for Overnight Protected Hours is intended to allow market participants to incorporate earnings announcements, corporate disclosures, and other price-sensitive information released during pre-market hours without the constraints of price bands based on the prior day's activity.

Second, Amendment 27 sets out how the Primary Listing Exchange would calculate the Overnight Price Bands. Specifically, under the Phase 1 framework, the Primary Listing Exchange for each NMS Stock calculates an Overnight Lower Price Band and an Overnight Upper Price Band for application during Overnight Protected Hours. The bands are based on two reference prices, each adjusted for relevant corporate actions: (i) the official closing price reported by the listing market for the NMS Stock (''Closing Price''); and (ii) the consolidated last round lot sale as of 7:30 p.m. ET (''Consolidated Price'').[13] The Overnight Lower Price Band is 20 percent below the lower of the two reference prices, and the Overnight Upper Price Band is 20 percent above the higher of the two reference prices. For a leveraged ETP, the Overnight Percentage Parameter is 20 percent multiplied by the leverage ratio of such product.

The framework also establishes minimum Price Bands. For an NMS Stock with a Closing Price of less than $1.00, the minimum Overnight Upper Price Band and minimum Overnight Lower Price Band are each $1.00 from the applicable Overnight Reference Price. For an NMS Stock with a Closing Price of $1.00 or more, each minimum threshold is $3.00 from the applicable Overnight Reference Price. For a leveraged ETP, the minimum thresholds are multiplied by the product's leverage ratio.

Third, Amendment 27 provides for dissemination of those Overnight Price Bands and requires trading centers to prevent trades at prices outside them. Specifically, the Primary Listing Exchange must transmit the calculated Overnight Price Bands to the Processors no later than 8:55 p.m. ET, and the Processors must disseminate the bands to the public before 9:00 p.m. ET. All trading centers in NMS Stocks that operate during Overnight Protected Hours must establish, maintain, and enforce written policies and procedures reasonably designed to prevent trades at prices outside the Overnight Price Bands during those hours.

Fourth, unlike the LULD framework during Regular Trading Hours, Phase 1 does not provide for an automatic Trading Pause when an Overnight Price Band is reached. Instead, Amendment 27 provides that the Primary Listing Exchange may, but is not required to, declare a Regulatory Halt in accordance with its rules. The Primary Listing Exchange must notify the Processor if it declares a Regulatory Halt. An NMS Stock subject to a Regulatory Halt pursuant to the provisions of Amendment 27 will not reopen during Overnight Protected Hours.

Section II(B) of the LULD Plan provides that each Participant shall adopt a rule requiring compliance by its members with the provisions of the LULD Plan. Pursuant to Section II(B) of the LULD Plan, the Exchange is proposing to adopt rules to comply with Amendment 27.

Proposed Rule Change

The Exchange proposes to implement Amendment 27 in its rules and thereby align its rules with its obligations as a Participant in the LULD Plan, as amended.

The proposed rule would: (1) define the terms necessary to implement the Overnight Protections; (2) establish how the Exchange would calculate and disseminate the Overnight Price Bands, including the applicable minimum thresholds; (3) provide for discretionary Regulatory Halts during Overnight Protected Hours; and (4) specify the expected commencement date for the Overnight Protections.

To effectuate the proposed changes, the Exchange proposes to add new

[8] The ''Participants'' are the parties to the LULD Plan. *See supra* note 4.

[9] 17 CFR 242.600(b)(65).

[10] *See* Overnight Protections Approval Order, *supra* note 3.

[11] *See id.*

[12] ''Primary Listing Exchange'' means the Participant on which an NMS Stock is listed. If an NMS Stock is listed on more than one Participant, the Participant on which the NMS Stock has been listed the longest shall be the Primary Listing Exchange. *See* LULD Plan, Section I(O).

[13] Amendment 27 established the consolidated last round lot sale as of 7:45 p.m. ET as one of the two reference prices, but Amendment 29 subsequently changed that time to 7:30 p.m. ET. See Securities Exchange Act Release No. 106624 (October 7, 2026), 91 FR 65016 (October 13, 2026) (Notice of Filing and Order of Summary Effectiveness on a Temporary Basis Not To Exceed 120 Days of Proposed Twenty-Ninth Amendment to the National Market System Plan to Address Extraordinary Market Volatility to Revise the Time for Calculating the Consolidated price in Connection with Overnight Trading (File No. 4–631).

subparagraph (ix) under Equity 4, Rule 4120(b)(1)(B) as described below.

First, proposed Rule 4120(b)(1)(B)(ix) would define terms necessary to implement the Overnight Protections, including ''Closing Price,'' ''Consolidated Price,'' ''Overnight Percentage Parameter,'' ''Overnight Price Bands,'' ''Overnight Protected Hours,'' ''Overnight Reference Prices,'' and ''LULD Plan.'' [14] The proposed definitions are intended to track the terms and framework set out in Section VIII(A) of the LULD Plan, as approved by the Commission in Amendment 27.

Second, the proposed rule would provide, consistent with Section VIII(B)(1) of the LULD Plan, that, for each NMS Stock for which the Exchange is the Primary Listing Exchange, the Exchange shall calculate and disseminate to the Processors an Overnight Lower Price Band and an Overnight Upper Price Band for dissemination by the Processors and application during Overnight Protected Hours. Consistent with Section VIII(B)(1) of the LULD Plan, the Overnight Price Bands would be calculated by applying the Overnight Percentage Parameter to the Overnight Reference Prices.[15] The Overnight Lower Price Band would be an Overnight Percentage Parameter below the lower of the two Overnight Reference Prices, and the Overnight Upper Price Band would be an Overnight Percentage Parameter above the higher of the two Overnight Reference Prices.[16]

The proposed rule also would establish minimum Price Bands consistent with Section VIII(B)(2) of the LULD Plan. As proposed, for an NMS Stock with a Closing Price of less than $1.00, the minimum Overnight Upper Price Band and minimum Overnight Lower Price Band would each be $1.00 from the applicable Overnight Reference Price.[17] For an NMS Stock with a Closing Price of $1.00 or more, the minimum Overnight Upper Price Band and minimum Overnight Lower Price Band would each be $3.00 from the applicable Overnight Reference Price. For a leveraged ETP, the minimum Price Bands would be multiplied by the leverage ratio of such product.[18]

Third, the Exchange proposes to provide, consistent with Section VIII(B)(3) of the LULD Plan, that, for each NMS Stock for which the Exchange is the Primary Listing Exchange, the Exchange shall determine the Overnight Reference Prices and calculate the Overnight Price Bands. As further proposed, the Exchange will transmit the calculated Overnight Price Bands to the Processors no later than 8:55 p.m. ET, except that if there is an issue or error with calculating or transmitting the Overnight Price Bands at 8:55 p.m. ET, the Exchange may transmit corrected or replacement Overnight Price Bands at any time during the Overnight Protected Hours.[19]

Consistent with Section VIII(D) of the LULD Plan, the proposed rule would also provide that during Overnight Protected Hours, the Exchange may declare a Regulatory Halt in any NMS Stock for which the Exchange is the Primary Listing Exchange, in accordance with the Exchange's rules.[20] As proposed, if the Exchange declares a Regulatory Halt in a security pursuant to this paragraph, the Exchange shall notify the Processor, which will disseminate notice of the halt [21] The Exchange further proposes to provide that, if the Exchange institutes a Regulatory Halt in a security pursuant to this paragraph, the affected security will not reopen during Overnight Protected Hours.[22] This approach is consistent with the Commission-approved framework under Amendment 27, which does not provide for automatic trading pauses during Overnight Protected Hours but permits a Primary Listing Exchange to declare a Regulatory Halt pursuant to its rules.[23]

Consistent with Amendment 27, the Exchange proposes to specify that the Overnight Protections described in proposed Rule 4120(b)(1)(B)(ix) and Section VIII of the LULD Plan are expected to commence on December 6, 2026.[24]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[25] in general, and furthers the objectives of Section 6(b)(5) of the Act,[26] 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 proposed rule change is designed to implement the Commission-approved Amendment 27 to the LULD Plan. In approving Amendment 27, the Commission found that the amendment is consistent with Section 11A of the Act and Rule 608 thereunder because it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and that it removes impediments to and perfects the mechanism of a national market system.[27] The Commission based its findings on its determination that the Overnight Protections: (1) are reasonably designed to address extraordinary volatility during a time of reduced liquidity; (2) establish uniform protections across all trading centers that operate during Overnight Protected Hours; and (3) represent a measured first step toward applying the LULD Plan's investor protections to overnight trading sessions.[28]

The Exchange believes that the proposed rule change furthers the objectives of Section 6(b)(5) of the Act for substantially the same reasons. The proposal incorporates into Rule 4120 the Exchange's obligations and authority under Section VIII of the LULD Plan, as approved by the Commission, and is consistent with that Commission-approved framework. Accordingly, the proposal is designed to protect investors and the public interest, promote just and equitable principles of trade, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

First, the proposed Overnight Protections are reasonably designed to address extraordinary volatility during a time of reduced liquidity.[29] Establishing price bands, as proposed, helps ensure that overnight trading continues within a limited price range, which should help protect investors that choose to trade during Overnight Protected

[14] As further proposed, the rule would also provide that any term not defined in Rule 4120(b)(1)(B)(ix) will have the meaning assigned to it under Section I of the LULD Plan. *See* proposed Rule 4120(b)(1)(B)(ix).

[15] *See* proposed Equity 4, Rule 4120(b)(1)(B)(ix)b.

[16] *See* proposed Equity 4, Rule 4120(b)(1)(B)(ix)b.

[17] *See* proposed Equity 4, Rule 4120(b)(1)(B)(ix)b.

[18] *See* proposed Equity 4, Rule 4120(b)(1)(B)(ix)b.

[19] *See, e.g.,* proposed Equity 4, Rule 4120(b)(1)(B)(ix)b.4; *supra* note 3 and accompanying text. While this exception is not specified in the text of the LULD Plan as modified by Amendment 27, the Exchange believes it is reasonably designed to implement the Commission's objectives in approving Amendment 27. *See* Overnight Protections Approval Order, *supra* note 3. Consistent with those objectives, the Exchange believes that it would protect investors and be in the public interest for the Exchange to transmit corrected or replacement Overnight Price Bands to the Processor when it is able to do so, rather than continuing to trade with incorrect or absent Overnight Price Bands for the duration of Overnight Protected Hours.

[20] *See* proposed Equity 4, Rule 4120(b)(1)(B)(ix)c.

[21] *See* proposed Equity 4, Rule 4120(b)(1)(B)(ix)c.

[22] *See* proposed Equity 4, Rule 4120(b)(1)(B)(ix)c.

[23] *See* Overnight Protections Approval Order, *supra* note 3.

[24] *See* proposed Rule 4120(b)(1)(B)(ix)d.

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

[27] *See* Overnight Protections Approval Order, *supra* note 3, 91 FR at 51516–17.

[28] *See id.*

[29] *See* Overnight Protections Approval Order, *supra* note 3, 91 FR at 51516.

Hours.[30] The proposed 20 percent Overnight Price Bands, without automatic Trading Pauses, are similar to existing price protection mechanisms employed by ATSs that currently operate overnight and therefore will be familiar to market participants that currently trade overnight.[31] In addition, the two Overnight Reference Prices used to set the bands, including the consolidated last round lot sale as of 7:30 p.m. ET, account for news and trading activity that occur after the Closing Price is determined.[32] Further, once the Exchange is operating as a Primary Listing Exchange, the Exchange may, in its discretion, declare a Regulatory Halt that will remain in place for the duration of the Overnight Protected Hours, allowing trading to resume in a subsequent trading session when greater liquidity is likely to be available.[33] Together, these aspects of the proposed rule change allow price discovery to occur during the overnight sessions while protecting investors from trading at potentially aberrant prices in a low-liquidity overnight trading environment.[34]

The Exchange believes that proposed Rule 4120(b)(1)(B)(ix)b.4, which would provide that the Exchange shall transmit the calculated Overnight Price Bands to the Processors no later than 8:55 p.m. ET, except that if there is an issue or error with calculating or transmitting the Overnight Price Bands at 8:55 p.m. ET, the Exchange may transmit corrected or replacement Overnight Price Bands to the Processor at any time during the Overnight Protected Hours, is designed to protect investors and the public interest, promote just and equitable principles of trade, and remove impediments to and perfect the mechanism of a free and open market and a national market system because it is reasonably designed to implement Amendment 27.

The proposed process for resuming trading following a Regulatory Halt also is consistent with Amendment 27. As proposed, a security subject to a Regulatory Halt during Overnight Protected Hours would remain halted through the conclusion of those hours, consistent with Amendment 27.[35]

Second, the proposed rule change promotes uniform protections across all trading centers that operate during Overnight Protected Hours. While the Exchange does not plan to operate an overnight session in connection with 23/5 Trading, the uniformity associated with the proposed rule change should help promote fair and orderly markets in NMS Stocks across all trading centers during Overnight Protected Hours.

Third, the proposed rule change represents a measured first step toward applying the LULD Plan's investor protections to overnight trading sessions. Amendment 27 establishes Phase 1 of a two-phase approach under which the Participants will gather and analyze information concerning overnight trading and use that information to develop future recommendations for operation of the LULD Plan during Overnight Protected Hours.[36] Because the proposal is consistent with this Commission-approved Phase 1 framework, the Exchange believes that it is consistent with the protection of investors and the public interest and will promote fair and orderly markets while permitting the LULD Plan Participants to evaluate the operation of the Overnight Protections before proposing a final framework.

Moreover, the Exchange believes that permitting it to transmit corrected or replacement Overnight Price Bands during Overnight Protected Hours, rather than leaving incorrect or absent Overnight Price Bands in effect for the remainder of those hours, is appropriate and consistent with the Act. Trading centers that operate during Overnight Protected Hours rely on the Overnight Price Bands disseminated by the Processors to prevent trades at prices outside those bands. Correcting or replacing erroneous or missing Overnight Price Bands for securities for which the Exchange is the Primary Listing Exchange would therefore help ensure that those trading centers apply accurate price bands, which would protect investors and the public interest and remove impediments to and perfect the mechanism of a free and open market and a national market system.

The proposal would thus enable the Exchange to implement the Commission-approved Overnight Protections, fulfill its obligations as a LULD Plan Participant, and promote fair and orderly markets in NMS Stocks during Overnight Protected Hours.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act[37] in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule change implements Amendment 27 to the LULD Plan, which the Commission has already approved, and is required by Section II(B) of the LULD Plan, which provides that each Participant shall adopt a rule requiring compliance with the provisions of the LULD Plan. The Exchange is a Participant in the LULD Plan and is preparing to become a primary listing venue at some point during the second quarter of 2027. Thus, although the Exchange is not planning to participate in 23/5 Trading at this time, the proposed rule would allow the Exchange to carry out its obligations under Amendment 27 once it begins operating as a primary listing venue sometime during the second quarter of 2027. Because the proposal is designed to be consistent with the uniform, Commission-approved, Amendment 27 framework that applies to all Participants, and because the Exchange does not intend to offer overnight trading, the Exchange does not believe that the proposal will impose a burden on competition among exchanges, trading centers, members, or other market participants, or confer a competitive advantage on the Exchange. On the contrary, the proposal promotes consistent implementation of the Commission-approved overnight framework across LULD Plan participants.

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 Act[38] and subparagraph (f)(6) of Rule 19b–4 thereunder.[39]

[30] *See id.*

[31] *See* Overnight Protections Approval Order, *supra* note 3, 91 FR at 51516.

[32] *See id.*

[33] *See* Overnight Protections Approval Order, *supra* note 3, 91 FR at 51516–17.

[34] *See id.*

[35] *See* Overnight Protections Approval Order, *supra* note 3, 91 FR at 51516–17.

[36] *See id.* at 51517.

[37] 15 U.S.C. 78f(b)(8).

[38] 15 U.S.C. 78s(b)(3)(A)(iii).

[39] 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

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–NasdaqTX–2026–059 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–NasdaqTX–2026–059. 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–NasdaqTX–2026–059 and should be submitted on or before December 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–24064 Filed 11–25–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106956; File No. SR–IEX–2026–48]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Supplementary Material .04 to IEX Rule 23.150(h) to Incrementally Optimize the Proprietary Mathematical Calculation Used To Make Quote Instability Determinations for Certain Market Maker Quotes

November 23, 2026.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 17, 2026, the Investors Exchange LLC (''IEX'' 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] IEX is filing with the Commission a proposed rule change to amend Supplementary Material .04 to IEX Rule 23.150(h) to incrementally optimize the proprietary mathematical calculation used to make quote instability determinations for certain Market Maker quotes. The Exchange has designated this proposal as non-controversial and provided the Commission with the notice required by Rule 19b–4(f)(6)(iii) under the Act.[6]

The text of the proposed rule change is available at the Exchange's website at *https://www.iex.io/resources/regulation/rule-filings* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Supplementary Material .04 to IEX Rule 23.150(h) to incrementally optimize the proprietary mathematical calculation used to make quote instability determinations for certain Market Maker quotes. The change is designed to more narrowly tailor the impact of the quote instability threshold calculation, which determines whether the Exchange's Options Risk Parameter (''ORP'') is triggered. Specifically, while keeping all other calculations the same, the Exchange proposes that the quote instability threshold be calculated based on the quoted spread of the options series rather than one side of that quoted spread.

Description of the Options Risk Parameter

Pursuant to IEX Rule 23.150(h), IEX Options offers Market Makers the ORP, which a Market Maker can elect to apply to a quotation that rests on the Order Book at the price designated by the Market Maker that entered the quotation.[7] When the ORP is triggered based on pre-defined criteria in IEX rules, the relevant quotation(s) is adjusted or canceled in the manner specified in IEX rules.[8]

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.

[40] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 17 CFR 240.19b–4(f)(6)(iii).

[7] The purpose and operation of the ORP is described in the Exchange's filing to adopt rules governing the trading of Options. *See* Securities Exchange Act Release No. 103290 (June 18, 2025), 90 FR 26865, 26878 (June 24, 2025) (SR–IEX–2025–02) (Notice of Filing of Amendment No. 3 to a Proposed Rule Change To Adopt Rules To Govern the Trading of Options on the Exchange for a New Facility Called IEX Options) (the ''Options Rule Filing'').

[8] *See* IEX Rule 23.150(h).

As described in the Options Rule Filing, the ORP leverages IEX's proprietary mathematical formula, which is a fixed formula specified transparently in IEX's rules, to assess whether there is a material dislocation between the current best Protected Bid [9] (''PBB'') or Protected Offer [10] (''PBO'') (and collectively the ''PBBO'') of the options Away Markets [11] and the price of the underlying security that is indicative that the option quotes' prices are likely stale and in the process of imminently transitioning to an adverse price (*i.e.,* the best Protected Offer of the Away Markets to a higher price or the best Protected Bid of the Away Markets to a lower price).[12]

As described in the Options Rule Filing, the ORP is designed to protect Market Makers from excessive risk due to execution of quotes at stale prices (*i.e.,* before the Market Maker can update them in response to changed market data) that can be exploited by latency arbitrage strategies. The ORP utilizes real time relative quoting activity of protected quotations from the Signal Exchanges (as defined in IEX Rule 11.190(g)) in securities underlying each listed options series and a proprietary mathematical calculation (the ''quote instability calculation''), as described in more detail in the Options Rule Filing and below, to assess the impact of a price change in the underlying on the price of a particular options series.[13] When the quote instability calculation identifies that a dislocation between options prices and the underlying security price is sufficiently material in a particular listed options series, it generates a quote instability determination.[14] If a Market Maker has elected that its quotations be subject to the ORP and its bid (offer) quote is above (below) the price level of the quote instability determination, the System will either cancel the quote or reprice it to the price level of the quote instability determination, as instructed by the Market Maker.[15]

Proposal

In the months leading to launch, after soliciting input from market participants of the predicted efficacy of ORP, the Exchange identified an area for optimization to more narrowly tailor when ORP makes a quote instability determination. Specifically, without modifying any other aspect of the ORP calculation, the Exchange proposes to contextualize the quote instability determination in relation to the difference between the PBO and PBB. The Exchange believes the proposed change will optimize the ORP to impact circumstances that are more impactful, particularly in options series with narrow spreads, which present relatively greater risk for adverse selection.[16] IEX believes that this proposed approach is a commonsense enhancement to the ORP because it would restrain ORP protection to tighter markets without unnecessarily acting on other Market Maker quotes in wider markets, which have less risk of adverse selection.

To effectuate this enhancement to the ORP, IEX proposes making the following changes to the ORP rules:

- In subparagraph (2)(c) of Supplementary Material .04 to Rule 23.150(h), which describes when the ORP will generate a quote instability determination that the price for an option is likely to imminently increase, modify the formula to replace ''quote_instability_factor_up [17]'', which compares the price change of the underlying to the PBO of the options series, with ''(delta_absolute_value [18] times the absolute value of underlying_change [19]) divided by (instrument_PBO_lagged—instrument_PBB_lagged [20])'' so that it now reads:
  - Model will generate a quote instability determination ''up'' at a price level equal to instrument_PBO_lagged * (1+quote_instability_factor_up), rounded to the nearest MPV, if (delta_absolute_value*|underlying_change|)/(instrument_PBO_lagged—instrument_PBB_lagged) > Quote Instability Threshold [21] and delta_absolute_value is within Delta Bound Band [22]
- In subparagraph (2)(d) of Supplementary Material .04 to Rule 23.150(h), which describes when the ORP will generate quote instability determinations that the price for an option is likely to imminently decrease, modify the formula to replace ''quote_instability_factor_down'' [23] with ''(delta_absolute_value times the absolute value of underlying_change) divided by (instrument_PBO_lagged—instrument_PBB_lagged)'' so that it now reads:
  - Model will generate a quote instability determination ''down'' at a price level equal to instrument_PBB_lagged * (1-quote_instability_factor_down), rounded to the nearest MPV, if (delta_absolute_value*|underlying_change|)/(instrument_PBO_lagged − instrument_PBB_lagged) > Quote Instability Threshold [24] and delta_absolute_value is within Delta Bound Band
- In subparagraph (2)(e) of Supplementary Material .04 to Rule 23.150(h), which defines the Quote Instability Threshold, change the reference to ''the then-current price'' to refer to the ''instrument_PBO_lagged − instrument_PBB_lagged'' so that it now reads:
  - Quote Instability Threshold: To be periodically determined by the Exchange within a range of 0%–100%, reflecting the difference between the quote instability

[9] *See* IEX Rule 28.100(a)(19).

[10] *See* IEX Rule 28.100(a)(19).

[11] *See* IEX Rule 22.160(a)(7).

[12] *See* IEX Rule 23.150(h).

[13] *See* Supplementary Material .04 to IEX Rule 23.150(h).

[14] *See* IEX Rule 23.150(h)(1)(A).

[15] *See* IEX Rule 23.150(h)(1)(C).

[16] The Exchange understands that the risks related to potential adverse selection to a Market Maker are generally heightened if the amount of the dislocation is a larger percentage of the options spread.

[17] ''quote_instability_factor_up'' is defined as: ''if contract = Call, delta_call * underlying_change_up/instrument_PBO_lagged, else, delta_put * underlying_change_down/instrument_PBO_lagged'' *See* subparagraph (2)(a) to Supplementary Material .04 to Rule 23.150(h).

[18] ''delta_absolute_value'' is defined as ''if contract = Call, delta_call, else |delta_put|.'' *See* subparagraph (1)(p) to Supplementary Material .04 to Rule 23.150(h).

[19] ''underlying_change'' is defined as the underlying_price—underlying_price_lagged. *See* subparagraph (1)(e) to Supplementary Material .04 to Rule 23.150(h). ''Underlying_price'' is defined as the midpoint of the best Protected Bid and best Protected Offer of the Signal Exchanges for the underlying security, and ''underlying_price_lagged'' is defined as the midpoint of the best Protected Bid and best Protected Offer of the Signal Exchanges for the underlying security U_TIME_WINDOW milliseconds prior OR U_UPDATE_WINDOW updates ago, whichever is more recent. *See* subparagraphs (1)(a) and (1)(b), respectively, to Supplementary Material .04 to Rule 23.150(h). The U_TIME_WINDOW and U_UPDATE_WINDOW are variables that are used to measure the lookback period for assessing changes to the underlying price, which have fixed defined values. *See* subparagraphs (1)(c) and 1(d) to Supplementary Material .04 to Rule 23.150(h).

[20] ''instrument_PBB_lagged'' and ''instrument_PBO_lagged'' are defined as the value of the PBB or PBO, respectively, for the instrument U_TIME_WINDOW milliseconds prior or U_UPDATE_WINDOW updates ago, whichever is more recent. *See* subparagraph (1)(r) to Supplementary Material .04 to Rule 23.150(h). Thus, instrument_PBO_lagged—instrument_PBB_lagged represents the spread of the option prior to the price change of the underlying.

[21] As described, *infra,* the Quote Instability Threshold is defined in subparagraph (2)(e) to Supplementary Material .04 to Rule 23.150(h) and is one of three aspects of the ORP IEX proposes to modify in this rule change proposal.

[22] Delta Bound Band is a range specified in subparagraph (1)(q) to Supplementary Material .04 to Rule 23.150.

[23] ''quote_instability_factor_down'' if contract = Call, −1*delta_call * underlying_change_down/instrument_PBB_lagged, else, −1*delta_put * underlying_change_up/instrument_PBB_lagged *See* subparagraph (2)(b) to Supplementary Material .04 to Rule 23.150(h).

[24] As described, *infra,* the Quote Instability Threshold is defined in subparagraph (2)(e) to Supplementary Material .04 to Rule 23.150(h) and is one of three aspects of the ORP IEX proposes to modify in this rule change proposal.

determination price level and the then-current price of the option as a percent of the instrument_PBO_lagged − instrument_PBB_lagged of the option. The current Quote Instability Threshold is 0.5%. If the Exchange determines to change the Quote Instability Threshold, based on its assessment of relevant factors that would optimize application of the ORP, it will submit a rule filing pursuant to Rule 19b–4(f) under the Exchange Act specifying a new Quote Instability Threshold.

Under the current formula, the ORP assesses the materiality of the predicted move only through the value of the PBB or the PBO (depending on the direction of the underlying move). [25] Under the proposed formula, the ORP would assess the materiality of the predicted move through the width of the PBBO. The following examples demonstrate the manner in which these proposed changes will affect the ORP. For each example, assume a call option has a 0.50 delta.[26] Assume that the ORP detects a price move up of the midpoint of the underlying security by $0.10. Accordingly, any offer in a call option would be predicted to move up by $0.05.

EXAMPLE 1

Option PBBO	Spread	Current value $0.05 ÷ PBO (%)	Proposed value $0.05 ÷ spread (%)
$1.00–$2.00	$1.00	2.50	5.00
$15.00–$15.10	0.10	0.33	50.00

The current method assigns the larger ratio to the lower-priced option, even though its spread is ten times wider. The proposed method reverses that ranking: the predicted move is 5% of the wide spread and 50% of the narrow spread. The narrower market would therefore be more sensitive to an ORP trigger for a given underlying move.

EXAMPLE 2

Option PBBO	Spread	Current value $0.05 ÷ PBO (%)	Proposed value $0.05 ÷ spread (%)
$1.00–$1.10	$0.10	4.55	50.00
$15.00–$15.10	0.10	0.33	50.00

The disparity in protection is greater illustrated when options series have the same spread widths. The current method gives the same predicted price increase less weight at the higher option price. However, the proposed method assigns both cases the same 50% ratio. Thus, with the remaining conditions held equal, both series would have the same sensitivity to an up determination, making protection consistent across option series when the spread and predicted change are the same.

IEX understands that Market Makers generally assess their risks related to a potential latency arbitrage ''pick off'' (*i.e.,* when another market participants executes against its quote before the Market Maker has adjusted its quote) based on the degree to which a pick off would exhaust its quoted spread up to its midpoint. IEX thus believes that the ORP's protections are making evaluations based upon a reference that is suboptimal in determining materiality.

EXAMPLE 3

Option PBBO	Spread	Current value $0.05 ÷ PBB	Current value $0.05 ÷ PBO	Proposed value $0.05 ÷ spread
$8.00–$12.10	$4.10	0.63%	0.41%	1.22%

This more extreme example provides an opportunity to see how ORP currently provides uneven results by basing materiality on price of the PBB or PBO. The above example provides a market that is $4.10 wide. However, ORP impact will be different when it detects a $0.10 price move of the midpoint of the underlying security depending on whether that move is up or down. Even though it is the same PBBO and same delta and even though there is the same amount of expected price change ($0.05), currently ORP will trigger a price instability determination for the bid (in a down move) but not for the offer (in a comparable up move). The proposed change would maintain the same treatment for the bid and the offer based on comparable moves.[27]

IEX is not proposing any changes to the other values, reference prices, or inputs to the ORP. The rest of the mathematical calculations relating to existing ORP rules will continue to operate in the same manner as currently specified.

[25] The Exchange notes that a determination as to whether action is taken by the ORP is in relation to the Quote Instability Threshold, which can be set from 0% to 100% as determined by the Exchange. While the current Quote Instability Threshold is set at 0.5%, the Exchange anticipates making a filing pursuant to Rule 19b–4(f) under the Exchange Act to change the Quote Instability Threshold prior to implementation of this proposed rule change. For purposes of evaluating the examples set forth herein, the Exchange anticipates setting the Quote Instability Threshold to 30%.

[26] ''Delta'' is a measure of the sensitivity of the theoretical price of an option to changes in the price of the underlying security, holding other factors constant.

[27] For the purposes of this example and as set forth in footnote 22, with the anticipated Quote Instability Threshold set at 30%, ORP would not impact either the bid or offer given the wide market.

Implementation

The Exchange will announce the implementation date of the proposed rule change by Trading Alert at least ten days in advance of such implementation date and within 90 days of effectiveness of this proposed rule change.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with Section 6(b) [28] of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act,[29] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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. As discussed in the Purpose section, the proposed change is designed to incrementally enhance the effectiveness of the ORP in providing narrowly-tailored protection from adverse selection associated with latency arbitrage during periods of quote instability.

Further, as noted in the Purpose section, IEX believes this is a commonsense enhancement and expects that it will further constrain the times that ORP seeks to impact a resting Market Maker quote. Thus, the Exchange believes that the proposed change is consistent with the Act because it narrowly tailors and targets ORP to tightly quoted markets where protection from adverse selection associated with latency arbitrage is most applicable.

Additionally, the Exchange believes that the proposed rule change may result in more, larger sized, and tighter Market Maker quotes being entered on IEX as a result of the more targeted operation of ORP. To the extent quotes are entered, the increased liquidity would benefit all IEX members and their customers. Moreover, price discovery and price formation will be enhanced on IEX and in the market generally to the benefit of all IEX Members and market participants. Thus, the Exchange believes that application of the rule change is equitable and not unfairly discriminatory.

In addition, the Exchange believes that the conforming edit to the description of the Quote Instability Threshold in subparagraph (2)(e) of Supplementary Material .04 to Rule 23.150(h) to reflect the proposed change to the quote instability determination is consistent with the Act because it will assure that the description is accurate.

Further, the Exchange notes that the ORP is a narrowly-tailored fixed formula specified transparently in IEX rules, that was previously approved by the Commission.[30] The Exchange is not proposing to add any new functionality, but merely to enhance the SEC approved quote instability calculation in a manner designed to reduce the frequency of its impact on Market Maker quotations in circumstances where the Exchange believes that protection from latency arbitrage is less relevant, as described in the Purpose Section. And as proposed, the ORP will continue to be a narrowly-tailored fixed formula specified transparently in IEX's rules. Thus, IEX does not believe that the proposal raises any new or novel issues that have not already been considered by the Commission.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX 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. To the contrary, as discussed in the Statutory Basis section, the proposal is designed to enhance competition by incentivizing additional liquidity on IEX Options.

With regard to intra-market competition, the proposed changes to the reference data used by the ORP would apply equally to all Market Makers on a fair, impartial and nondiscriminatory basis without imposing any new burdens because ORP enablement is an optional risk mitigation mechanism available for Market Makers to use at their discretion. With respect to market participants seeking to execute against an IEX Market Maker quotation, the proposed change will apply on a fair, impartial and nondiscriminatory basis without imposing any new burdens because the proposed change is designed to more narrowly tailor the circumstances where ORP acts on a Market Maker quotation. The Exchange further believes that the proposed rule change is consistent with the Commission's approval of the ORP which found that ''the [ORP] is reasonably designed to target firms engaged in latency arbitrage . . . will not be overbroad in its application and . . . generally should not affect market participants not engaged in latency arbitrage or adversely affect the functioning of the options market but rather will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.'' [31] As discussed in the Purpose and Statutory Basis sections, the proposed rule change is designed to merely provide a narrowly-tailored enhancement to the ORP; therefore, no new burdens are being proposed.

With regard to inter-market competition, other exchanges are free to adopt similar quote instability calculations subject to the SEC rule filing process.

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 Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [32] of the Act and Rule 19b–4(f)(6) [33] thereunder. Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) 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 under Section 19(b)(2)(B) [34] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(5).

[30] *See* Securities Exchange Act Release No. 103998 (September 18, 2025), 90 FR 45861 (September 23, 2025) (SR–IEX–2025–02) (SEC Approval Order).

[31] *See supra* note 24 at 45872.

[32] 15 U.S.C. 78s(b)(3)(A).

[33] 17 CFR 240.19b–4(f)(6).

[34] 15 U.S.C. 78s(b)(2)(B).

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–IEX–2026–48 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–IEX–2026–48. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–IEX–2026–48 and should be submitted on or before December 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–24056 Filed 11–25–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106976; File No. SR–NASDAQ–2026–100]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4120 Regarding Regulatory Halts Associated With Corporate Actions

November 23, 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 November 16, 2026, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Equity 4, Rule 4120 (Limit Up-Limit Down Plan and Trading Halts) to integrate into Rule 4120(b)(1)(C)(vi) the corporate action regulatory halt provisions previously filed by the Exchange in SR–NASDAQ–2026–057, and to make related conforming and clarifying changes. This proposal supersedes and replaces the rule text in SR–NASDAQ–2026–057 in its entirety, and this proposal, rather than SR–NASDAQ–2026–057, will become operative on December 6, 2026, as described below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Equity 4, Rule 4120 (Limit Up-Limit Down Plan and Trading Halts) to incorporate into current Rule 4120(b)(1)(C)(vi) the mandatory Regulatory Halt provisions for corporate actions and other issuer-related events previously filed in SR–NASDAQ–2026–057[3] (''Corporate Actions Proposal'') so that current Rule 4120 will reflect those provisions when they become operative in connection with trading 23 hours a day, 5 days a week (''23/5 Trading'') on December 6, 2026.[4] This proposal supersedes and replaces the rule text in SR–NASDAQ–2026–057 in its entirety. Although this proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act and Rule 19b–4(f)(6) thereunder, the Exchange has designated it to become operative on December 6, 2026, in place of SR–NASDAQ–2026–057, which would otherwise have become operative on that date at the commencement of 23/5 Trading.

The Exchange is also proposing certain conforming and clarifying changes, as described below.

Background

In the Corporate Actions Proposal, the Exchange amended then-current Rule 4120(a)(15) to extend its existing mandatory regulatory halt framework for reverse stock splits to additional categories of issuer-related corporate actions, in conjunction with its plans for 23/5 Trading.[5] As amended by the Corporate Actions Proposal, that provision requires the Exchange to declare a Regulatory Halt[6] in a security for which Nasdaq is the Primary Listing Market[7] that is the subject of an enumerated issuer corporate action or other issuer-related event after the end of Post-Market Hours and before 9 p.m. ET on the day immediately preceding the market effective date of the corporate action or issuer-related event, and provides that trading in the security will resume through the Nasdaq Halt Cross[8] at 8:00 a.m. ET on the market effective date.[9] The Corporate Actions Proposal enumerates nine categories of

[35] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 105860 (July 8, 2026), 91 FR 42990 (July 13, 2026) (SR–NASDAQ–2026–057) (''Corporate Actions Proposal'').

[4] *See* Securities Exchange Act Release No. 105199 (April 10, 2026), 91 FR 20222 (April 15, 2026) (SR–NASDAQ–2025–109) (''23/5 Approval Order'').

[5] *See* Corporate Actions Proposal, *supra* note 3, 91 FR at 42990–42992.

[6] The term ''Regulatory Halt'' has the same meaning as in the Nasdaq UTP Plan. *See* Equity 4, Rule 4120(a)(11).

[7] The term ''Primary Listing Market'' has the same meaning as in the Nasdaq UTP Plan. *See* Equity 4, Rule 4120(a)(9).

[8] The ''Nasdaq Halt Cross'' is the process for determining the price at which Eligible Interest shall be executed at the open of trading for a halted security and for executing that Eligible Interest. *See* Rule 4753(a)(4).

[9] *See* Corporate Actions Proposal, *supra* note 3, 91 FR at 42992 & n.14.

covered corporate actions and issuer-related events: (1) trading symbol changes; (2) changes in CUSIP; (3) stock dividends equal to at least 25% of the Nasdaq Official Closing Price; (4) forward and reverse stock splits; (5) De-SPAC transactions; (6) spin-off transactions; (7) security-type changes; (8) mergers and mandatory exchanges; and (9) other corporate actions or issuer-related events not otherwise enumerated for which the Exchange determines that a Regulatory Halt is necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors, or otherwise in the public interest.[10] The Exchange provided that the changes in the Corporate Actions Proposal would become operative at the commencement of 23/5 Trading.[11]

On August 3, 2026, the Exchange filed SR–NASDAQ–2026–064 to make operative the reorganized Rule 4120 framework that the Commission previously approved in SR–NASDAQ–2022–017, updated to reflect intervening amendments to the then-operative Rule 4120, and to replace the entirety of the then-operative Rule 4120 with the reorganized rule.[12] In the Rule 4120 Conforming Proposal, the Exchange incorporated into the reorganized framework the reverse stock split mandatory halt provision then set forth in operative Rule 4120(a)(15), relocating that provision to Rule 4120(b)(1)(C)(vi).[13] The reorganized Rule 4120 is now operative. Because the amendments set forth in the Corporate Actions Proposal were not yet operative at the time of the Rule 4120 Conforming Proposal, however, the current Rule 4120(b)(1)(C)(vi) continues to describe only the reverse stock split mandatory Regulatory Halt, and does not reflect the corporate action and issuer-related event provisions set forth in the Corporate Actions Proposal.

Proposed Rule Change

The Exchange now proposes to amend Rule 4120(b)(1)(C)(vi) to integrate the corporate action regulatory halt provisions set forth in the Corporate Actions Proposal into the current Rule 4120 structure, so that they will be reflected in the operative rule.[14] Although this proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act and Rule 19b–4(f)(6) thereunder, the Exchange has designated it to become operative on December 6, 2026, in place of the Corporate Actions Proposal, which would otherwise have become operative on that date at the commencement of 23/5 Trading.[15]

Specifically, the Exchange proposes to delete the text of current Rule 4120(b)(1)(C)(vi) that follows the words ''shall halt trading of a security for which Nasdaq is the Primary Listing Market'' and to replace it with the corporate action halt text set forth in the Corporate Actions Proposal, as modified by the conforming and clarifying changes described below. The Exchange also proposes to add new subparagraph a. to Rule 4120(b)(1)(C)(vi), which would integrate, consistent with the structure of current Rule 4120, the nine enumerated categories of corporate actions and issuer-related events subject to a mandatory Regulatory Halt that are set forth in the Corporate Actions Proposal.[16]

Reverse stock splits would remain subject to a mandatory Regulatory Halt, because forward and reverse stock splits are among the enumerated categories in proposed Rule 4120(b)(1)(C)(vi)a.(4), consistent with the Corporate Actions Proposal. Also consistent with the Corporate Actions Proposal, a Regulatory Halt for a reverse stock split would be implemented after the end of Post-Market Hours and before 9 p.m. ET, and trading would resume through the Nasdaq Halt Cross at 8:00 a.m. ET.[17] The proposed deletion would also eliminate a drafting omission in the current text, which refers to the market effective date of ''a reverse stock'' rather than ''a reverse stock split.''[18]

Conforming Changes

The Exchange proposes the following conforming changes to the text set forth in the Corporate Actions Proposal. Each proposed change is necessary, either to conform that text into the current structure of Rule 4120 or to correct a non-substantive drafting error. None of these changes alters the substance of the corporate action regulatory halt framework set forth in the Corporate Actions Proposal.

- *Cross-references.* References to ''Rule 4120(a)(15),'' the location of the provisions in the Corporate Actions Proposal, would be replaced with references to ''Rule 4120(b)(1)(C)(vi),'' their location in the current Rule 4120 structure.
- *Subparagraph and clause designations.* The list of enumerated corporate actions, which the Corporate Actions Proposal designated as subparagraph ''(A),'' would be designated as subparagraph ''a.,'' and the corresponding reference to ''subparagraph (A) hereof'' would refer to ''subparagraph a. hereof,'' consistent with the designations used below the roman-numeral level in current Rule 4120. Similarly, the clauses designated ''(i),'' ''(ii),'' and ''(iii)'' within enumerated categories (6) and (7) would be designated ''(a),'' ''(b),'' and ''(c),'' consistent with the designations used in current Rule 4120 for clauses that follow a numbered paragraph.
- *Nasdaq Halt Cross.* The Corporate Actions Proposal refers to the ''Nasdaq Cross Halt mechanism under Rule 4753.'' The proposed text would instead refer to the ''Nasdaq Halt Cross mechanism under Rule 4753,'' which corrects the transposition and conforms the reference to the defined term ''Nasdaq Halt Cross.''[19]
- *Other conforming changes:* To conform the introductory clause of Rule 4120(b)(1)(C)(vi), the Exchange proposes to delete, from the first sentence of Rule 4120(b)(1)(C)(vi) the words ''The Exchange halt trading of a'' because similar language is already contained in the introductory clause of Rule 4120(b)(1)(C). For the same reasons, the Exchange proposes an additional conforming change to add ''in a'' before the word ''security'' in the first sentence of Rule 4120(b)(1)(C)(vi). As another conforming change, and because the sentence that governs the resumption of trading would begin with the clarifying clause described below, the Exchange proposes that the words ''A security'' would read ''a security.''

Clarifying Change

The Exchange proposes to add to Rule 4120(b)(1)(C)(vi) the introductory clause ''Unless the Exchange determines not to hold a Halt Cross pursuant to Rule 4120(b),'' so that the provision would state that, unless the Exchange makes such a determination, a security subject to a corporate action or issuer-related

[10] *See id.* at 42992.

[11] *Id.* at 42993.

[12] *See* Securities Exchange Act Release No. 106139 (August 14, 2026), 91 FR 53677 (August 19, 2026) (SR–NASDAQ–2026–064) (''Rule 4120 Conforming Proposal''); *see also* Securities Exchange Act Release No. 95069 (June 8, 2022), 87 FR 36018 (June 14, 2022) (SR–NASDAQ–2022–017).

[13] *See* Rule 4120 Conforming Proposal, *supra* note 12, 91 FR at 53678 & n.7.

[14] As discussed herein, this proposed rule change supersedes and replaces the rule text in SR–NASDAQ–2026–057 in its entirety. The Exchange has designated the proposed rule change to become operative on December 6, 2026, in place of SR–NASDAQ–2026–057, which would otherwise have become operative on that date, as further described in this proposal. Accordingly, SR–NASDAQ–2026–057 will not become operative.

[15] *See* Corporate Actions Proposal, *supra* note 3.

[16] *See* Corporate Actions Proposal, *supra* note 3, 91 FR at 42992 & nn.15–23.

[17] *See* Corporate Actions Proposal, *supra* note 3, 91 FR at 42993.

[18] *See* Rule 4120(b)(1)(C)(vi); proposed Rule 4120(b)(1)(C)(vi).

[19] *See* Rule 4753(a)(4); proposed Rule 4120(b)(1)(C)(vi).

event Regulatory Halt will resume trading through the Nasdaq Halt Cross at 8:00 a.m. ET on the market effective date.[20] This change is clarifying and non-substantive, because it reflects authority that the Exchange's rules already provide. Specifically, Rule 4753(b) provides that, for Nasdaq-listed securities that are the subject of a trading halt or pause initiated pursuant to Rule 4120, the Nasdaq Halt Cross shall occur at the time specified by Nasdaq pursuant to Rule 4120, ''unless it makes a determination under Rules 4120(a) or (b) or Rule 4120(c)(3)(A) to not hold a Halt Cross,'' and that, in the case of a security for which Nasdaq determines not to hold a Halt Cross, trading shall commence when Nasdaq releases the security.[21] A halt under Rule 4120(b)(1)(C)(vi)—the subject of this proposed rule change—is a Regulatory Halt declared under Rule 4120(b). Accordingly, the authority reflected in Rule 4753(b) for the Exchange to determine under Rule 4120(b) not to hold a Halt Cross already applies to such a halt. The proposed clause would make that existing authority express in Rule 4120(b)(1)(C)(vi) itself, which would enhance transparency for Members and other market participants.

Implementation

Although the proposed rule change is effective upon filing, the Exchange has designated it to become operative on December 6, 2026, in place of the Corporate Actions Proposal, which provided that its changes would become operative at the commencement of 23/5 Trading.[22] As discussed below, the Exchange has requested that the Commission waive the 30-day operative delay to permit the proposed rule change to become operative on that date.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[23] in general, and furthers the objectives of Section 6(b)(5) of the Act,[24] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest., The Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act because it would update current Rule 4120 to reflect changes that the Exchange proposed in the Corporate Actions Proposal but that are not yet operative, so that, when those changes become operative at the commencement of 23/5 Trading, as proposed herein, the operative Rule 4120 will be current, complete, and accurate.[25] Integrating the previously filed provisions into the current rule would allow Members, issuers, and other market participants to find, in a single, current location, the rule that governs when the Exchange will halt trading in a security that is the subject of a covered corporate action or issuer-related event, and how trading in that security will resume. The Exchange believes that a current and accurate rule will be easier for Members and other market participants to use and to comply with, and will reduce the potential for confusion, thereby protecting investors and the public interest.

The proposed conforming changes are likewise consistent with Section 6(b)(5) of the Act. The proposed changes are non-substantive and are limited to updating cross-references, subparagraph and clause designations, and similar changes, so that the previously filed text fits within, and operates as intended in, the current Rule 4120 structure. Accurate cross-references and consistent designations reduce the potential for confusion and help market participants readily understand the operation of the rule. The conforming changes do not alter the categories of corporate actions and issuer-related events subject to a mandatory Regulatory Halt, the timing of those halts, or the timing or mechanism for resuming trading, each of which remains as set forth in the Corporate Actions Proposal.

The Exchange also believes that the proposed clarifying change is consistent with Section 6(b)(5) of the Act because it would promote transparency by stating expressly in Rule 4120(b)(1)(C)(vi) an authority that the Exchange's rules already provide, namely, the Exchange's ability to determine under Rule 4120(b) not to hold a Halt Cross, as reflected in Rule 4753(b). Stating that authority in the provision that governs corporate action halts would help Members and other market participants understand, from the text of that provision, that trading in a halted security may resume without a Halt Cross where the Exchange so determines, in which case trading would commence when the Exchange releases the security, as provided in Rule 4753(b) and (c).

Finally, the substance of the proposed rule text was set forth in the Corporate Actions Proposal, and the Exchange is proposing to integrate that rule text into the current Rule 4120 structure without substantive change.[26] The proposal does not raise any new or novel issues. Rather, it would help ensure that the previously filed corporate actions-related framework is accurately reflected in the Exchange's current rules when that framework becomes operative, as proposed herein.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue. Rather, it would integrate into current Rule 4120 amendments that the Exchange previously submitted in its Corporate Actions Proposal, together with conforming and clarifying changes, so that Rule 4120 is current and accurate when those provisions become operative on December 6, 2026, as proposed herein.

The Exchange does not believe that the proposal will impose an undue burden on intermarket competition. The proposal makes no substantive change to the corporate action regulatory halt framework set forth in the Corporate Actions Proposal. It does not alter the categories of corporate actions and issuer-related events subject to a mandatory Regulatory Halt, the timing of those halts, or the timing or mechanism for resuming trading. The proposal also does not affect fees, order handling, or the availability of, or access to, the Exchange's market. Because the proposal would only integrate previously filed provisions into the current Rule 4120 structure, make conforming changes, and state expressly an authority that the Exchange's rules already provide, it is not designed to, and would not, affect the Exchange's competitive position relative to other markets or the ability of market participants to choose among markets.

The Exchange also does not believe that the proposal will impose an undue burden on intramarket competition. The proposed changes are conforming, clarifying, or organizational in nature, and they will apply equally to all

[20] *See* proposed Rule 4120(b)(1)(C)(vi).

[21] *See* Rule 4753(b). Rule 4753(c) in turn sets forth how Nasdaq-listed securities that are the subject of a trading halt initiated pursuant to Rule 4120(b) and (c), and in which no Halt Cross occurs, shall open for trading. *See* Rule 4753(c).

[22] *See* Corporate Actions Proposal, *supra* note 3, 91 FR at 42993; *see also supra* note 14.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] *See supra* note 14.

[26] *See supra* note 14.

Members, issuers, and market participants. They do not unfairly discriminate among Members or classes of market participants.

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 after 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 Act [27] and subparagraph (f)(6) of Rule 19b–4 thereunder.[28]

A proposed rule change filed under Rule 19b–4(f)(6) [29] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[30] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative on December 6, 2026, the date on which the Exchange will commence 23/5 Trading and on which the provisions set forth in the Corporate Actions Proposal concerning corporate actions and issuer-related events subject to a mandatory Regulatory Halt would otherwise become operative. The Exchange states that waiver of the operative delay would ensure that, on the date those provisions become operative, they are reflected in their proper location in the current Rule 4120 structure, with accurate cross-references, thereby avoiding any period during which the operative Rule 4120 would not accurately reflect the corporate action regulatory halt framework that applies to securities for which Nasdaq is the Primary Listing Market. The Exchange also states that the substance of the proposed rule text was set forth in the Corporate Actions Proposal, and the remaining changes are conforming or clarifying in nature. For these reasons, and because the proposed rule change does not raise any new or novel regulatory issues, the Commission finds that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative on December 6, 2026.[31]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [32] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NASDAQ–2026–100 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NASDAQ–2026–100. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2026–100 and should be submitted on or before December 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Vanessa A. Countryman,

Secretary.

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BILLING CODE 8011–01–P

[27] 15 U.S.C. 78s(b)(3)(A)(iii).

[28] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[29] 17 CFR 240.19b–4(f)(6).

[30] 17 CFR 240.19b–4(f)(6)(iii).

[31] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[32] 15 U.S.C. 78s(b)(2)(B).

[33] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106971]

Order Granting Temporary Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 and Rule 203(d) of Regulation SHO, From Compliance With the Locate Requirement in Rule 203(b)(1) of Regulation SHO Outside of Regular Trading Hours

November 23, 2026.

I. Introduction

On November 20, 2026, PTG submitted a request for exemptive relief pursuant to section 36 of the Securities Exchange Act of 1934 (''Exchange Act'') [1] from the locate requirement under Rule 203(b)(1) of Regulation SHO [2] for U.S. equity securities that are traded outside of regular market hours.[3] In submitting the request, PTG cites (i) a need for further development of the market infrastructure needed to obtain locates (defined below) outside of regular trading hours in the same manner as during regular trading hours, and (ii) operational challenges in obtaining locates for trading outside of regular market hours that may stifle liquidity and limit participation in trading sessions outside of regular market hours. Accordingly, PTG requests that the Commission provide temporary exemptive relief from the

[1] 15 U.S.C. 78mm.

[2] 17 CFR 242.203(b)(1).

[3] Letter from Joanna Mallers, Secretary, PTG (November 20, 2026) (''November 2026 PTG Letter'').

locate requirement to facilitate trading outside of regular market hours.

For the reasons discussed below, the Commission has determined it is appropriate in the public interest and consistent with the protection of investors to grant temporary exemptive relief until November 23, 2027, pursuant to its authority under section 36(a)(1) of the Exchange Act and Rule 203(d) of Regulation SHO, from compliance with the locate requirement in Rule 203(b)(1) of Regulation SHO for broker-dealers effecting short sales during trading occurring outside of 9:30 a.m. to 4 p.m. Eastern Time (''ET'').

II. Background

The Securities and Exchange Commission (''Commission'' or ''SEC'') adopted Rule 203(b)(1) of Regulation SHO under the Exchange Act to reduce persistent fails-to-deliver in order to address potentially abusive ''naked'' short selling.[4] Rule 203(b)(1) of Regulation SHO generally requires a broker-dealer, prior to effecting short sales in an equity security, to ''locate'' the securities available for borrowing.[5] Subject to certain exceptions,[6] the rule prohibits a broker-dealer from accepting a short sale order in any equity security from another person, or effecting a short sale for the broker-dealer's own account, unless the broker-dealer (1) has borrowed the security, or entered into a bona-fide arrangement to borrow the security, or (2) has reasonable grounds to believe that the security can be borrowed so that it can be delivered on the date delivery is due.[7] This requirement to either borrow or enter into a bona fide agreement to borrow, or have reasonable grounds to believe that the security can be borrowed in time for delivery, is known as the ''locate'' requirement and must be met and documented by the broker-dealer effecting a short sale prior to effecting the short sale, regardless of whether the seller's short position may be closed out by purchasing securities the same day.[8] Broker-dealers engaged in certain bona-fide market making activities at the time of the short sale may be eligible for the bona-fide market making exception to the locate requirement.[9]

The Commission discussed the expansion of extended-hours trading (*i.e.,* trading that occurs outside of the regular trading hours of 9:30 a.m. to 4 p.m. ET) even before Regulation SHO's locate requirement was adopted,[10] and interest in extended-hours trading has increased in recent years.[11] Under these circumstances, PTG requests a temporary exemption from the locate requirement in Rule 203(b)(1) for extended-hours trading.[12] PTG asserts that the requested exemption ''will allow all market participants to actively support the ongoing initiatives to expand market trading hours for U.S. equities, thus fostering deep liquidity and broad participation.'' [13]

III. PTG Exemption Request

In its request for relief, PTG states that the market infrastructure necessary to obtain locates ''outside of regular market hours'' in the same manner as ''during regular trading hours'' is ''not fully developed,'' which creates operational challenges with the potential to ''stifle liquidity and participation'' outside of regular trading hours.[14] PTG highlights operational concerns that render the locate requirement difficult during extended-hours trading. First, PTG notes that many lending desks, which provide locates, may not be open 24 hours a day.[15] Second, PTG states that locates obtained during regular hours may expire before extended-hours trading commence.[16] PTG also states that clearing broker infrastructure may not be ready to accommodate trading outside of regular trading hours.[17]

PTG states that during extended-hours trading, liquidity is typically thinner, trading interest is more episodic in nature, and price volatility may be higher. PTG also states that even when trading sessions outside of regular market hours become supported by registered exchanges, it is anticipated that a significant percentage of overall trading activity will continue to occur off-exchange.[18] PTG suggests that, as a result, market makers may not be able to use the bona fide market making

[4] Short selling involves a sale of a security that the seller does not own and that is consummated by the delivery of a security borrowed by or on behalf of the seller. In a ''naked'' short sale, a seller does not borrow or arrange to borrow securities in time to make delivery to the buyer within the standard settlement cycle, which is currently one business day after the trade (''T+1''). As a result, the seller fails to deliver securities to the buyer when delivery is due. This is referred to as a ''failure to deliver'' or ''fail.'' Sellers can intentionally fail to deliver securities as part of a scheme to manipulate the price of a security, or possibly to avoid borrowing costs associated with short sales. This is typically referred to as ''manipulative'' or ''abusive'' naked short selling. *See* ''Naked'' Short Selling Antifraud Rule, Exchange Act Release No. 58774 (Oct. 14, 2008), 73 FR 61666, 61667 (Oct. 17, 2008). *See also* Short Sales, Exchange Act Release No. 50103 (July 28, 2004), 69 FR 48008, 48009 and 48028 (Aug. 6, 2004) (''Regulation SHO Adopting Release'').

[5] *See* 17 CFR 242.203(b)(1). *See also* Regulation SHO Adopting Release, 69 FR at 48013–14.

[6] *See* 17 CFR 242.203(b)(2).

[7] *See* 17 CFR 242.203(b)(1)(i), (b)(1)(ii). *See also* Regulation SHO Adopting Release, 69 FR at 48014.

[8] *See* 17 CFR 242.203(b)(1)(iii). *See also* Regulation SHO Adopting Release, 69 FR 48014.

[9] *See* 17 CFR 242.203(b)(2)(iii).

[10] *See* Short Sales, Exchange Act Release No. 42037 (Oct. 20, 1999), 64 FR 57996, 58002 (Oct. 28, 1999) (''Short Sales Concept Release''). *See also* Order Suspending the Operation of Short Sale Price Provisions for Designated Securities and Time Periods, Exchange Act Release No. 50104 (July 28, 2004), 69 FR 48032, 48033 (Aug. 6, 2004) (noting, in the context of its 2004 price test study, that ''while after-hours trading has grown in recent years, the volume is relatively small compared to the volume of trading occurring during regular trading hours when liquidity is greatest and prices reflect active market interest. Thus, the impact of any manipulative short selling after hours would be less than the effect of such activity during regular market hours because after-hours prices are not widely viewed as indicative of normal market prices.'').

[11] In recent years, the Commission has approved exchange rules permitting operation of exchanges during extended or overnight trading hours. *See, e.g.,* Exchange Act Release No. 101777 (Nov. 27, 2024), 89 FR 97092 (Dec. 6, 2024); Exchange Act Release No. 104086 (Sept. 26, 2025), 90 FR 46978 (Sept. 30, 2025); Exchange Act Release No. 102400 (Feb. 11, 2025), 90 FR 9794 (Feb. 18, 2025); Exchange Act Release No. 105532 (May 21, 2026), 91 FR 31509 (May 27, 2026); Exchange Act Release No. 105199 (Apr. 10, 2026), 91 FR 20222 (Apr. 15, 2026); and Exchange Act Release No. 105587 (May 29, 2026), 91 FR 33238 (June 3, 2026). Notably, however, while the Commission has approved rule changes of several national securities exchanges that would extend their hours of operation, those exchanges have not yet started trading during such ''exchange extended hours.'' This is because the exchanges' rules provide that the exchanges will not commence operation of extended hours trading until the effective national market system (''NMS'') plans that govern the collection, consolidation, processing, and dissemination of equity market data for NMS stocks and oversee the exclusive securities information processors (''SIPs'') (i) have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during ''exchange extended hours'' that is equivalent to the mechanism established for times outside of those ''exchange extended hours''; and (ii) have notified the exchanges that they are prepared to collect, consolidate, process and disseminate quotation and transaction information during the ''exchange extended hours.'' The Commission approved NMS plan amendments to extend the hours of operation of the exclusive SIPs from 9 p.m. ET Sunday to 8 p.m. ET Friday, with a one-hour pause in operations at 8 p.m. ET, Monday, through Thursday. *See* Exchange Act Release No. 105779 (June 26, 2026), 91 FR 40082 (July 1, 2026) (approval order for CTA Plan and CQ Plan; implementation is scheduled to occur on December 6, 2026) and Exchange Act Release No. 105780 (June 26, 2026), 91 FR 40058 (July 1, 2026) (approval order for UTP Plan; implementation is scheduled to occur on December 6, 2026).

[12] November 2026 PTG Letter at 3 (stating ''it is appropriate for such relief to be limited to one year to allow market infrastructure to develop and mature'').

[13] November 2026 PTG Letter at 3.

[14] *See* November 2026 PTG Letter at 1. *Cf. SIFMA Roundtable: Building the Roadmap to 24/7 Trading,* SIFMA (Feb. 2026), *https://live-sifma-new.pantheonsite.io/wp-content/uploads/2026/02/SIFMA-Roundtable-Building-the-Roadmap-to-24.7-Trading-Debrief-1.pdf* (examining operational, technological, and regulatory changes necessary as exchanges and other trading venues move beyond extended hours trading toward a 24/7 trading model).

[15] *See* November 2026 PTG Letter at 2.

[16] *See* November 2026 PPG Letter at 2.

[17] *See* November 2026 PTG Letter at 2.

[18] *See* November 2026 PTG Letter at 3.

exception to provide liquidity outside of regular trading hours as they ''may not be able to continuously quote in an identical manner compared to regular trading hours.'' [19]

PTG also states that the Commission has, over time, strengthened the close-out requirements and that, ''[o]verall, the close-out requirements have been effective in reducing settlement failures, as close-outs typically result in an economic loss being incurred, which provides a strong incentive to avoid settlement fails.'' [20] Further, PTG states that the penalty provisions that apply when a broker-dealer has not timely closed-out a fail to deliver are ''extremely punitive from a commercial perspective.'' [21]

PTG further asserts that it is possible that clearing brokers may continue to require locates or, alternatively, enforce short position limits even in the absence of a specific Commission locate requirement.[22] According to PTG, clearing brokers would otherwise continue to closely monitor the short sale activities of their customers and may bar certain customers from short selling altogether if they observe a pattern of fails.[23]

IV. Discussion and Exemptive Relief

Section 36(a)(1) of the Exchange Act authorizes the Commission to exempt, conditionally or unconditionally, any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act, or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.[24] Rule 203(d) of Regulation SHO provides that, upon written application or upon its own motion, the Commission may grant an exemption from the provisions of Rule 203, either unconditionally or on specified terms and conditions, to any transaction or class of transactions, or to any security or class of securities, or to any person or class of persons.[25] For the reasons discussed below, the Commission finds that it is necessary or appropriate in the public interest and consistent with the protection of investors to grant a temporary exemption from compliance with the locate requirement in Rule 203(b)(1), for broker-dealers effecting short sales during trading occurring outside of 9:30 a.m. to 4 p.m. ET.

The locate requirement serves an important investor protection function by helping to reduce persistent fails-to-deliver and potentially abusive ''naked'' short selling. The operational challenges associated with satisfying the locate requirement during extended-hours trading, however, present distinct considerations that warrant temporary relief. In particular, the limited availability of securities lending desks, the potential expiration of locates obtained during regular trading hours, and the developing infrastructure to support extended-hours trading may impede broker-dealers' ability to obtain locates. These operational limitations could restrict short selling activity during periods when liquidity and market participation are already limited.

The Commission has previously recognized that short selling provides important benefits to the securities markets, including market liquidity and pricing efficiency. Other market participants have also stated, in discussions with Commission staff, that a temporary exemption from the locate requirement would provide flexibility to facilitate greater participation and increased liquidity in extended-hours trading. The Commission believes that addressing the operational impediments to short selling during extended-hours trading could facilitate additional trading interest, enhance liquidity, and contribute to more efficient price discovery. These potential benefits are particularly relevant during extended-hours trading, when thinner liquidity and episodic trading interest may make it more difficult for investors to execute transactions at competitive prices. By facilitating short-selling activity during these periods, the temporary exemption could help support the development of a more liquid and efficient extended-trading hours market.

The exemption's limited scope and temporary duration, together with the continued applicability of other regulatory safeguards, provide appropriate flexibility to facilitate liquidity during extended-hours trading. In particular, Rule 204 of Regulation SHO, including its close-out requirements and penalty provision, would continue to apply to failures to deliver arising from short sales effected during extended hours. In addition, Rule 10b–21 and other applicable antifraud provisions would continue to prohibit deceptive or manipulative conduct. They would continue to provide important safeguards against fails-to-deliver and potentially abusive ''naked'' short selling during the temporary exemption period.

The basis for this temporary exemption is the distinct operational challenges associated with satisfying that requirement while the infrastructure supporting extended-hours trading continues to develop. Accordingly, the Commission believes that limiting the exemption to extended-hours trading appropriately targets the operational challenges that could otherwise impede short selling activity and the associated liquidity and pricing efficiency benefits, while preserving the locate requirement during regular trading hours.

The temporary nature of the exemption also reflects the Commission's expectation that the operational challenges associated with satisfying the locate requirement during extended-hours trading will diminish in relatively short order as extended-hours trading commences and market participation increases. In particular, as trading activity expands outside of regular market hours, the Commission anticipates that securities lending desks and other market participants providing securities lending services will respond to increased demand by extending their availability and enhancing the systems and processes necessary to support borrowing activity during those hours. Similarly, broker-dealers are expected to develop and adapt their systems for obtaining and documenting locates to accommodate extended-hours trading. Accordingly, the Commission believes that the operational limitations underlying the need for this exemption are temporary in nature.

For these reasons, the Commission finds that the temporary exemption is appropriate in the public interest and consistent with the protection of investors. The exemption is narrowly tailored to address operational challenges specific to extended-hours trading while facilitating short selling activity that could contribute to greater liquidity, more competitive pricing, and improved price discovery during those periods. The Commission believes that the potential benefits of facilitating short selling during extended-hours trading, together with the limited scope and duration of the exemption and the continued application of other regulatory safeguards, support granting this temporary relief.

V. Conclusion

Accordingly, *it is hereby ordered,* pursuant to section 36(a)(1) of the Exchange Act, and Rule 203(d) of Regulation SHO, that the temporary exemptive relief set forth above is

[19] *See* November 2026 PTG Letter at 3.
[20] *See* November 2026 PTG Letter at 2.
[21] *See* November 2026 PTG Letter at 2.
[22] *See* November 2026 PTG Letter at 2.
[23] *See* November 2026 PTG Letter at 2.
[24] 15 U.S.C. 78mm(a)(1).
[25] 17 CFR 242.203(d).

granted from compliance with the locate requirement in Rule 203(b)(1), for broker-dealers effecting short sales during trading occurring outside of 9:30 a.m. to 4 p.m. ET, until November 23, 2027.

By the Commission.

Vanessa A. Countryman,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106960; File No. SR–MEMX–2026–37]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Short Term Option Series Program With Respect to Qualifying Securities

November 23, 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 November 16, 2026, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 with the Commission a proposed rule change to amend the Short Term Option Series Program in Rule 19.5, Interpretation and Policy .05(h) with respect to Qualifying Securities. The text of the proposed rule change is provided in Exhibit 5 and is available on the Exchange's website at *https://info.memxtrading.com/regulation/rules-and-filings/.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Short Term Option Series Program in Rule 19.5, Interpretation and Policy .05(h) with respect to Qualifying Securities. Specifically, the Exchange proposes to amend the Qualifying Securities to: (1) permit the listing of up to two Tuesday and Thursday Expirations for options on certain exchange-traded funds (''Fund Shares'') (as defined in Rule 19.3(i)) that meet the current criteria, in addition to the existing Monday and Wednesday Expirations; and (2) permit the listing of up to two Monday and Wednesday Expirations for options on additional Fund Shares that meet new criteria. The Exchange also proposes to designate the Fund Shares that meet the current criteria in Rule 19.5, Interpretation and Policy .05(h) as ''Tier 1 Qualifying Securities'' and to designate the Fund Shares that meet the proposed new set of criteria, and that would only be permitted to list up to two Monday and Wednesday Expirations, as ''Tier 2 Qualifying Securities.'' This is a competitive filing based on a similar proposal submitted by Nasdaq ISE, LLC (''ISE''),[3] which was recently approved by the Securities and Exchange Commission (the ''Commission'').

Background

Currently, as set forth in Rule 19.5, Interpretation and Policy .05(h), after an option class has been approved for listing and trading on the Exchange as a Short Term Option Series,[4] the Exchange may open for trading on any Thursday or Friday that is a business day (''Short Term Option Opening Date'') series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (''Friday Short Term Option Expiration Dates''). The Exchange may have no more than a total of five Short Term Option Expiration Dates (''Short Term Option Weekly Expirations''). Further, if the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that Friday.

Additionally, the Exchange may open for trading series of options on the symbols provided in Table 1 of Rule 19.5, Interpretation and Policy .05(h) that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (''Short Term Option Daily Expirations'').[5] For those symbols listed in Table 1, the Exchange may have no more than a total of two Short Term Option Daily Expirations beyond the current week for each of Monday, Tuesday, Wednesday, and Thursday Expirations, as applicable, at one time.

Further, the Exchange may open for trading series of options on the symbols provided in Table 2 of Rule 19.5, Interpretation and Policy .05(h) that expire at the close of business on each of the next two Mondays and Wednesdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 106100 (August 12, 2026), 91 FR 53286 (August 17, 2026) (SR–ISE–2026–34) (Order Approving a Proposed Rule Change to Amend the Short Term Option Series Program Related to Qualifying Securities) (''ISE Approval'').

[4] The term ''Short Term Option Series'' means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Tuesday, Wednesday, Thursday, or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday, respectively. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday. *See* Exchange Rule 16.1.

[5] As set forth in Table 1 of Rule 19.5, Interpretation and Policy .05(h), the Exchange currently permits expirations in SPY, IWM, QQQ on Mondays, Tuesdays, Wednesdays and Thursdays. Also, the Exchange permits expirations in GLD, SLV and TLT on Mondays and Wednesdays. Finally, the Exchange permits expirations in USO and UNG on Wednesdays.

Monthly Options Series, or Quarterly Options Series expire (''Qualifying Securities''). For those symbols listed in Table 2, the Exchange may have no more than a total of two Short Term Option Daily Expirations beyond the current week for each of Monday and Wednesday Expirations, at one time. Qualifying Securities may be eligible individual stocks or Fund Shares that meet the following criteria on a quarterly basis:

(1) an underlying security, as measured on the last day of the prior calendar quarter, must have:

(A) a market capitalization of greater than 700 billion dollars for an individual stock based on the closing price,[6] or

(B) Assets under Management (''AUM'') greater than 50 billion dollars for a Fund Share based on net asset value (''NAV'');

(2) monthly options volume, as measured by sides traded in the last month preceding the quarter end, of greater than 10 million options;

(3) a position limit of at least 250,000 contracts; and

(4) participate in the Penny Interval Program.

Each calendar quarter, the Exchange will apply the above criteria to individual stocks and Fund Shares to determine eligibility for the following quarter as a Qualifying Security. Beginning on the second trading day in the first month of each calendar quarter, the market capitalization of individual stocks shall be calculated based on the closing price established on the primary exchange on the last trading day of the prior calendar quarter and the AUM for Fund Shares shall be calculated based on the NAV established on the primary exchange on the last trading day of the prior calendar quarter. The data establishing the volume thresholds is established by using data from the last month of the prior calendar quarter from The Options Clearing Corporation (''OCC''). For options listed on the first trading day of a given calendar quarter, the volume is calculated using the last month of the quarter prior to that calendar quarter.[7] The Exchange will make the list of Qualifying Securities available by close of business on the first trading day of the quarter.[8]

Eligible Qualifying Securities would be permitted to list two Short Term Option Expiration Dates beyond the current week for each Monday and Wednesday expiration at one time. For Qualifying Securities, the Exchange would not list an expiry on a day when there will be an Earnings Announcement that takes place after market close.[9] Qualifying Securities that do not continue to meet the above criteria would no longer be permitted to list Monday and Wednesday expiries beginning on the second day of the following quarter.

Proposal

At this time, the Exchange proposes to amend the listing and trading of Qualifying Securities to: (1) permit the listing of up to two Tuesday and Thursday Expirations for options on certain Fund Shares that meet the current criteria in addition to the existing Monday and Wednesday Expirations; and (2) permit the listing of up to two Monday and Wednesday Expirations for options on additional Fund Shares that meet new additional criteria. As noted above, the Exchange proposes to designate the Fund Shares that meet the current criteria in Rule 19.5, Interpretation and Policy .05(h) as ''Tier 1 Qualifying Securities'' and to designate the Fund Shares that meet the proposed new set of criteria that would only be permitted to trade up to two Monday and Wednesday Expirations, as ''Tier 2 Qualifying Securities.''

Expansion of Fund Shares Qualifying Securities

In January 2026, the Exchange filed to permit the listing of Qualifying Securities, and the filing was noticed for immediate effectiveness.[10] The Exchange began listing Qualifying Securities on January 27, 2026 on Tesla, Inc. (TSLA); NVIDIA Corporation (NVDA); Apple Inc. (AAPL); iShares Bitcoin Trust ETF (IBIT); Amazon.com, Inc. (AMZN); Meta Platforms, Inc. (META); Broadcom Inc. (AVGO); Alphabet, Inc. (GOOGL); and Microsoft Corporation (MSFT). These securities continue to trade in the second calendar quarter of 2026. Based on the required review, the Exchange changed the list by removing IBIT, and adding Advanced Micro Devices, Inc. (AMD), Intel Corporation (INTC), Micron Technology, Inc. (MU), VanEck Semiconductor ETF (SMH), and Financial Select Sector SPDR Fund (XLF) to the list of securities qualifying for the program in the third calendar quarter of 2026.

Tier 1 Expansion

At this time, the Exchange proposes to permit the listing and trading of Qualifying Securities on Fund Shares that meet the current criteria in Rule 19.5, Interpretation and Policy .05(h) to list up to two Tuesday and Thursday Expirations in addition to the existing Monday and Wednesday Expirations, and to redesignate them as Tier 1 Qualifying Securities.

The proposed Tuesday Tier 1 Qualifying Securities Expirations will be similar to the current Tuesday Expirations in SPDR S&P 500 ETF Trust (''SPY''), Invesco QQQ Trust (''QQQ''), and iShares Russell 2000 ETF (''IWM'') in Short Term Option Daily Expirations set forth in Rule 19.5, Interpretation and Policy .05(h), such that the Exchange may open for trading on any Monday or Tuesday that is a business day series of options on the symbols provided in Table 1 and Table 2 that expire at the close of business on each of the next two Tuesdays that are business days and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (''Tuesday Short Term Option Expiration Date'').[11] In the event Tier 1 Qualifying Securities would expire on a Tuesday and that Tuesday is the same day that a standard expiration options series, Monthly Options Series, or Quarterly Options Series expires, the Exchange would skip that week's listing and instead list the following week; the two weeks would therefore not be consecutive. Today, Tuesday Expirations in SPY, QQQ, and IWM similarly skip the weekly listing in the event the weekly listing would expire on the same day in the same class as a standard expiration options series, Monthly Options Series, or Quarterly Options Series.

The proposed Thursday Tier 1 Qualifying Securities Expirations will be similar to the current Thursday Expirations in SPY, QQQ, and IWM in Short Term Option Daily Expirations set forth in Rule 19.5, Interpretation and Policy .05(h), such that the Exchange may open for trading on any Wednesday

[6] The closing price and the opening price shall be that of the primary exchange where the security is listed.

[7] OCC data becomes available for the end of a quarter on the first trading day of a new quarter.

[8] The Exchange makes this information available on its website. This information is freely accessible to the public. See: *https://info.memxtrading.com/us-options-instrument-directory/*.

[9] With respect to individual stock options, the Exchange does not list an expiry on a day when there will be an Earnings Announcement that takes place after market close with respect to individual stock to avoid permitting an additional expiry on a day where post-close price volatility may be impacted due to the Earnings Announcement. Pursuant to Rule 19.5, Interpretation and Policy .05(h), an Earnings Announcement shall include official public quarterly or yearly earnings filed with the Securities and Exchange Commission.

[10] *See* Securities Exchange Act Release No. 104701 (January 28, 2026), 91 FR 4736 (February 2, 2026) (SR–MEMX–2026–03) (Notice of Filing and Immediate Effectiveness of a Proposal to Amend the Short Term Option Series Program in Rule 19.5, Interpretation and Policy .05).

[11] They may also trade on Fridays, as is the case for all options series in the Short Term Option Series Program.

or Thursday that is a business day series of options on the symbols provided in Table 1 and Table 2 above that expire at the close of business on each of the next two Thursdays that are business days and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (''Thursday Short Term Option Expiration Date'').[12] In the event Tier 1 Qualifying Securities would expire on a Thursday and that Thursday is the same day that a standard expiration options series, Monthly Options Series, or Quarterly Options Series expires, the Exchange would skip that week's listing and instead list the following week; the two weeks would therefore not be consecutive. Today, Thursday Expirations in SPY, QQQ, and IWM similarly skip the weekly listing in the event the weekly listing would expire on the same day in the same class as a standard expiration options series, Monthly Options Series, or Quarterly Options Series.

The interval between strike prices for the proposed Tuesday and Thursday Tier 1 Qualifying Securities Expirations will be the same as those currently applicable for SPY, QQQ, and IWM Tuesday and Thursday Expirations (among other symbols that may list a Tuesday or Thursday expiration) in the Short Term Option Series Program.[13] Specifically, the Tuesday and Thursday Tier 1 Qualifying Securities Expirations will have a strike interval of (i) $0.50 or greater for strike prices below $100, and $1 or greater for strike prices between $100 and $150 for all option classes that participate in the Short Term Option Series Program, (ii) $0.50 for option classes that trade in one dollar increments and are in the Short Term Option Series Program, or (iii) $2.50 or greater for strike prices above $150.[14] As is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Tuesday and Thursday Tier 1 Qualifying Securities Expirations series will be P.M.-settled.

Pursuant to Exchange Rule 16.1, with respect to the Short Term Option Series Program, if a Tuesday is not a business day, the series shall expire on the first business day immediately prior to that Tuesday, *e.g.,* Monday of that week if the Tuesday is not a business day, and a Thursday expiration series shall expire on the first business day immediately prior to that Thursday, *e.g.,* Wednesday of that week if the Thursday is not a business day.

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[15] The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.[16] With the proposed changes, this thirty (30) series restriction would apply to Tuesday and Thursday Tier 1 Qualifying Securities Expirations as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list Tuesday and Thursday Tier 1 Qualifying Securities Expirations.

With this proposal, Tuesday and Thursday Tier 1 Qualifying Securities Expirations would be treated similar to existing SPY, QQQ, and IWM Tuesday and Thursday Expirations. With respect to standard expiration option series, Tuesday and Thursday Tier 1 Qualifying Securities Expirations will be permitted to expire in the same week in which standard expiration option series on the same class expire.[17] Not listing Tuesday or Thursday Tier 1 Qualifying Securities Expirations for one week every month because there was a standard options series on that same class on the Friday of that week would create investor confusion. Further, as with SPY, QQQ, and IWM Tuesday and Thursday Expirations, the Exchange would not permit Tuesday or Thursday Tier 1 Qualifying Securities Expirations to expire on a business day in which standard expiration option series, Monthly Options Series, or Quarterly Options Series expire.[18] Therefore, all Tuesday or Thursday Tier 1 Qualifying Securities Expirations would expire at the close of business on each of the next two Tuesdays or Thursdays, respectively, that are business days and are not business days in which standard expiration option series, Monthly Options Series, or Quarterly Options Series expire. The Exchange believes that it is reasonable to not permit two expirations on the same day in which a standard expiration option series, Monthly Options Series, or a Quarterly Options Series would expire because those options would be duplicative of each other.

The Exchange does not believe that any market disruptions will be encountered with the introduction of Tuesday or Thursday Tier 1 Qualifying Securities Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday, Tuesday, Wednesday and Thursday on several symbols[19] and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday, Tuesday, Wednesday and Thursday on several symbols.[20] The Exchange believes that it has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Tuesday and Thursday Tier 1 Qualifying Securities Expirations.

Tier 2 Expansion

The Exchange also proposes to permit the listing of up to two Monday and Wednesday Expirations for options on additional Fund Shares that meet new additional criteria as Qualifying Securities. The Exchange proposes a different set of criteria for Qualifying Securities that are Fund Shares that would only be permitted to list up to two Monday and Wednesday Expirations. Specifically, an underlying security, as measured on the last day of the prior calendar quarter, must have: AUM greater than 25 billion dollars for a Fund Share based on NAV;[21] monthly options volume, as measured by sides traded in the last month preceding the quarter end, of greater than 5 million options;[22] a position limit of at least 250,000 contracts; and participate in the Penny Interval Program (''Tier 2 Qualifying Securities'').

As with any Qualifying Security, each calendar quarter, the Exchange will apply the above criteria to Tier 2 Qualifying Securities to determine eligibility for the following quarter as a Qualifying Security. Beginning on the second trading day in the first month of each calendar quarter, the AUM for Fund Shares that are Tier 2 Qualifying

[12] *Id.*

[13] *See* Rule 19.5, Interpretation and Policy .05(e). The Exchange notes that equity options which have an expiration of more than 21 days from the listing date would also be subject to the intervals as noted within Rule 19.5, Interpretation and Policy .05(f).

[14] *See* Rule 19.5, Interpretation and Policy .05(e) and (g).

[15] *See* Rule 19.5, Interpretation and Policy .05(c).

[16] *See* Rule 19.5, Interpretation and Policy .05(a).

[17] *See* Rule 19.5, Interpretation and Policy .05(h).

[18] *See id.*

[19] *See supra* note 7.

[20] *Id.*

[21] Currently, Fund Shares that are Qualifying Securities must have AUM greater than 50 billion dollars based on NAV.

[22] Currently, Fund Shares that are Qualifying Securities must have monthly options volume, as measured by sides traded in the last month preceding the quarter end, of greater than 10 million options.

Securities will be calculated based on the NAV established on the primary exchange on the last trading day of the prior calendar quarter. As is the case for all Qualifying Securities, the data establishing the volume thresholds will be established by using data from the last month of the prior calendar quarter from OCC, and for options listed on the first trading day of a given calendar quarter, the volume will be calculated using the last month of the quarter prior to that calendar quarter. The Exchange will make the list of Qualifying Securities available on its website by close of business on the first trading day of the quarter.

Eligible Tier 2 Qualifying Securities would be permitted to list two Short Term Option Expiration Dates beyond the current week for each Monday and Wednesday expiration at one time. Tier 2 Qualifying Securities that do not continue to meet the above criteria would no longer be permitted to list Monday and Wednesday Expirations beginning on the second day of the following quarter.[23]

The proposed Monday Tier 2 Qualifying Securities Expirations will be similar to the Monday Expirations for the existing Qualifying Securities (among other symbols that may list a Monday or Expiration) in Short Term Option Daily Expirations set forth in Rule 19.5, Interpretation and Policy .05(h), such that the Exchange may open for trading on any Friday or Monday that is a business day (beyond the current week) series of options on Tier 2 Qualifying Securities to expire on any Monday of the month that is a business day and is not a Monday in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire, provided that Monday Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. (''Monday Qualifying Securities Expirations'').[24] In the event Tier 2 Qualifying Securities would expire on a Monday and that Monday is the same day that a standard expiration options series, Monthly Options Series, or Quarterly Options Series expires, the Exchange would skip that week's listing and instead list the following week; the two weeks of Monday Qualifying Securities Expirations would therefore not be consecutive. Today, Monday Expirations in existing Qualifying Securities similarly skip the weekly listing in the event the weekly listing would expire on the same day in the same class as a standard expiration options series, Monthly Options Series, or Quarterly Options Series.

The proposed Wednesday Tier 2 Qualifying Securities expirations will be similar to the current Wednesday Expirations for the existing Qualifying Securities (among other symbols that may list a Wednesday Expiration) in Short Term Option Daily Expirations set forth in Rule 19.5, Interpretation and Policy .05(h), such that the Exchange may open for trading on any Tuesday or Wednesday that is a business day (beyond the current week) series of options on Tier 2 Qualifying Securities to expire on any Wednesday of the month that is a business day and is not a Wednesday in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (''Wednesday Qualifying Securities Expirations'').[25] In the event Tier 2 Qualifying Securities would expire on a Wednesday and that Wednesday is the same day that a standard expiration options series, Monthly Options Series, or Quarterly Options Series expires, the Exchange would skip that week's listing and instead list the following week; the two weeks of Wednesday Qualifying Securities Expirations would therefore not be consecutive. Today, Wednesday Expirations in existing Qualifying Securities similarly skip the weekly listing in the event the weekly listing would expire on the same day in the same class as a standard expiration options series, Monthly Options Series, or Quarterly Options Series.

The interval between strike prices for the proposed Monday and Wednesday Tier 2 Qualifying Securities expirations will be the same as those currently applicable to Monday and Wednesday Expirations in existing Qualifying Securities (among other symbols that may list a Monday or Wednesday expiration) in the Short Term Option Series Program.[26] Specifically, the Monday and Wednesday Tier 2 Qualifying Securities Expirations for the proposed new Exchange-Traded Fund Shares will have a strike interval of (i) $0.50 or greater for strike prices below $100, and $1 or greater for strike prices between $100 and $150 for all option classes that participate in the Short Term Option Series Program, (ii) $0.50 for option classes that trade in one dollar increments and are in the Short Term Option Series Program, or (iii) $2.50 or greater for strike prices above $150.[27] As is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Monday and Wednesday Tier 2 Qualifying Securities Expirations series will be P.M.-settled.

As noted above, pursuant to Exchange Rule 16.1, with respect to the Short Term Option Series Program, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday. Also, pursuant to Exchange Rule 16.1, with respect to the Short Term Options Series Program, a Wednesday expiration series shall expire on the first business day immediately prior to that Wednesday, *e.g.,* Tuesday of that week if the Wednesday is not a business day.

As noted above, currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[28] The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.[29] With the proposed changes, this thirty (30) series restriction would apply to Monday and Wednesday Tier 2 Qualifying Securities Expirations as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list Monday and Wednesday Tier 2 Qualifying Securities Expirations.

With this proposal, Monday and Wednesday Tier 2 Qualifying Securities Expirations would be treated similar to existing Monday and Wednesday Qualifying Securities Expirations. With respect to standard expiration option series, Monday and Wednesday Tier 2 Qualifying Securities Expirations will be permitted to expire in the same week in which standard expiration option series on the same class expire.[30] Not listing Monday and Wednesday Tier 2 Qualifying Securities Expirations for one week every month because there was a standard options series on that same class on the Friday of that week would create investor confusion.

Further, as with existing Monday and Wednesday Qualifying Security Expirations, the Exchange would not

[23] The Exchange has noted the additional expiries in Table 2 of Rule 19.5, Interpretation and Policy .05(h) along with the criteria for a Qualifying Security for the proposed Tier 2 Qualifying Securities.

[24] They may also trade Fridays, as is the case for all options series in the Short Term Option Series Program.

[25] *Id.*

[26] *See supra* note 15.

[27] *Id.*

[28] *See* Rule 19.5, Interpretation and Policy .05(c).

[29] *See* Rule 19.5, Interpretation and Policy .05(a).

[30] *See* Rule 19.5. Interpretation and Policy .05(b).

permit Monday and Wednesday Tier 2 Qualifying Securities Expirations to expire on a business day in which standard expiration option series, Monthly Options Series, or Quarterly Options Series expire.[31] Therefore, all Monday and Wednesday Tier 2 Qualifying Securities Expirations would expire at the close of business on each of the next two Mondays and Wednesdays, respectively, that are business days and are not business days in which standard expiration option series, Monthly Options Series, or Quarterly Options Series expire. The Exchange believes that it is reasonable to not permit two expirations for the proposed Tier 2 Qualifying Securities on the same day in which a standard expiration option series, Monthly Options Series, or a Quarterly Options Series would expire because those options would be duplicative of each other.

The Exchange does not believe that any market disruptions will be encountered with the introduction of Monday and Wednesday Tier 2 Qualifying Securities Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday, Tuesday, Wednesday and Thursday on several symbols[32] and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday, Tuesday, Wednesday and Thursday on several symbols.[33] The Exchange believes that it has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday and Wednesday Tier 2 Qualifying Securities Expirations.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[34] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[35] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5)[36] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposal to permit Tuesday and Thursday Tier 1 Qualifying Securities Expirations and Monday and Wednesday Tier 2 Qualifying Securities Expirations, subject to the proposed limitation of two expirations beyond the current week, would protect investors and the public interest by providing the investing public and other market participants more choice and flexibility to closely tailor their investment and hedging decisions in these options and allow for a reduced premium cost of buying portfolio protection, thus allowing them to better manage their risk exposure.

The Exchange believes that the proposed criteria for Tier 1 Qualifying Securities requires Fund Shares to be highly liquid. An AUM of greater than 50 billion dollars for a Fund Share, in conjunction with the monthly options volume requirement of greater than 10 million options as measured by sides traded in the last month preceding the quarter end, is very restrictive. This requirement represents substantially less than 1% of Fund Shares. Therefore, a Fund Share that meets the aforementioned AUM and volume requirements is highly liquid and could be viewed as a stable security.

Further, with respect to Tier 2 Qualifying Securities, which have a lower AUM threshold of greater than 25 billion dollars and monthly options volume, as measured by sides traded in the last month preceding the quarter end, of greater than 5 million options, the Exchange believes that despite the lower criteria, these Fund Shares represent highly liquid securities. This requirement also represents substantially less than 1% of Fund Shares. Therefore, a Fund Share that meets the aforementioned AUM and volume requirements would also be highly liquid and could be viewed as a stable security.

The Exchange notes that with respect to position limits, Exchange Rule 18.7(d)(5) provides, that ''[t]o be eligible for the 250,000 contract limit, either the most recent six (6) month trading volume of the underlying security must have totaled at least 100 million shares or the most recent six-month trading volume of the underlying security must have totaled at least seventy-five (75) million shares and the underlying security must have at least 300,000,000 shares currently outstanding.'' The 250,000 contract position limit is the highest position limit by Exchange rules, with the exception of the securities enumerated in Rule 18.7, Interpretation and Policy .01. Options that qualify for the 250,000 position (and exercise) limit are highly liquid securities that have met the stringent requirements noted in Exchange Rule 18.7(d)(5) to qualify for the highest position limit.

Finally, a Qualifying Security must participate in the Penny Interval Program. In order to qualify for the Penny Interval Program, an options class must be among the 300 most actively traded multiply listed option classes overlying securities priced below $200.[37] The most actively traded options classes are included in the Penny Interval Program based on certain objective criteria (trading volume thresholds and initial price tests).

The improvement in price transparency brought about by the existing Monday and Wednesday Qualifying Securities Expirations offers Market Makers and investors better volatility pricing which informs trading on the related products to these indexes. The Exchange believes that the proposed criteria for Tier 1 Qualifying Securities remains consistent with the protection of investors and the general public because the criteria targets the most liquid Fund Shares. The addition of Tuesday and Thursday Qualifying Securities Expirations would further provide Market Makers and investors with volatility pricing clarity. Further, the expansion of the Qualifying Securities program for Tier 2 would engender the same benefits to a select few additional Fund Shares.

Qualifying Securities that do not continue to meet the above criteria would no longer be permitted to list Monday, Tuesday, Wednesday or Thursday Expirations (as applicable) in the following quarter, although the Qualifying Security would potentially have two weeks of strikes already listed which will persist. These remaining

[31] *Id.*

[32] *See supra* note 7.

[33] *Id.*

[34] 15 U.S.C. 78f(b).

[35] 15 U.S.C. 78f(b)(5).

[36] Id.

[37] *See* Exchange Rule 21.5(d). Each December OCC ranks all multiply listed option classes based on National Cleared Volume for the six full calendar months from June 1 through November 30 for determination of the most actively traded option classes.

listings could continue to be traded until they expire.

With this proposal, overall, the Exchange would add a small number of additional Tuesday and Thursday Tier 1 Qualifying Securities Expirations and new Monday and Wednesday Tier 2 Qualifying Securities Expirations, and would continue to limit the addition of two Monday, Tuesday, Wednesday and Thursday Expirations beyond the current week. These additional Monday, Tuesday, Wednesday, and Thursday Tier 1 and Tier 2 Qualifying Security Expirations would remove impediments to and perfect the mechanism of a free and open market by encouraging Market Makers to continue to deploy capital more efficiently and improve displayed market quality.[38] The Exchange believes that the proposal will allow Members to expand hedging tools and tailor their investment and hedging needs more effectively in Qualifying Securities as these funds are most likely to be utilized by market participants to hedge the underlying asset classes.

Similar to SPY, QQQ, and IWM expirations, the additional Tuesday and Thursday Tier 1 Qualifying Securities Expirations, as well as the new Monday and Wednesday Expirations for Tier 2 Qualifying Securities, are consistent with the Act as they will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Tier 1 and Tier 2 Qualifying Securities Expirations will allow market participants to purchase options on Qualifying Securities based on their timing as needed and allow them to tailor their investment and hedging needs more effectively, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that the proposed Tier 1 and Tier 2 Qualifying Securities Expirations (Monday, Tuesday, Wednesday and Thursday) should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging.

There are no material differences in the treatment of SPY, QQQ and IWM Tuesday and Thursday Qualifying Security Expirations compared to the proposed Tuesday and Thursday Tier 1 Qualifying Securities Expirations. Further, there are no material differences in the treatment of current Qualifying Securities that will qualify as Tier 1 Monday and Wednesday Expirations compared to the proposed Monday and Wednesday Tier 2 Qualifying Security Expirations.

Additionally, market participants that elect to utilize options receive a copy of the Options Disclosure Document, which explains the risks inherent in options trading. Also, broker-dealers must have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer.[39] Suitability rules are intended to distinguish the trading of customers with those of professional traders who are likely to have distinct risk/reward profiles, risk tolerance and capital. Regardless of whether the account is self-directed or options are being recommended, broker-dealers must perform due diligence on the customer and collect information about the customer to support a determination that options trading is appropriate for the customer. Options accounts are subject to specific supervisory reviews, including, among others, reviewing the compatibility of options transactions with investment objectives and with the types of transactions for which the account was approved, and are subject to other FINRA rules that apply when opening customer accounts, including among others, customer identification requirements under anti-money laundering rules.[40] Therefore, the Exchange does not believe that the listing of up to two Monday and Wednesday expirations for options on certain individual stocks or Fund Shares is inconsistent with the Act.

Finally, the Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed option expirations, in the same way that it monitors trading in the current Qualifying Security expirations. The Exchange also represents that it has the necessary system capacity to support the new expirations. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of these option expirations. As discussed above, the Exchange believes that its proposal is a modest expansion of weekly expiration dates for Qualifying Security Expirations given that it will be limited to two expirations beyond the current week.

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.

While the proposal will expand the Short Term Options Expirations to allow Tuesday and Thursday Tier 1 Qualifying Securities for Fund Shares to be listed in addition to Monday and Wednesday Qualifying Securities, the Exchange believes that this limited expansion for Tuesday and Thursday Tier 1 Qualifying Securities for Fund Shares will not impose an undue burden on competition; rather, it will meet customer demand. The Exchange would uniformly apply the Qualifying Security criteria to options in individual stocks and Fund Shares. The Exchange believes that Members will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in the Qualifying Securities.

Similar to SPY, QQQ and IWM Tuesday and Thursday Expirations, the introduction of Tuesday and Thursday Expirations for Tier 1 Qualifying Security Expirations on Fund Shares does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand the hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Tuesday and Thursday Tier 1 Qualifying Security Expirations will allow market participants to purchase options on Fund Shares based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe the proposal will impose any burden on intermarket competition, as nothing prevents other options exchanges from proposing similar rules to list and trade Tuesday and Thursday Tier 1 Qualifying Security Expirations on Fund Shares. Further, the Exchange does not believe the proposal will impose any burden on intra market competition, as all market participants will be treated in the same manner under this proposal. With respect to the proposed expansion of Monday and Wednesday Expirations for Tier 2 Qualifying Securities that are Fund Shares, in addition to the current Monday and Wednesday Qualifying Securities, the Exchange believes that this limited expansion will not impose

[38] Today, Market-Makers are required to quote a specified time in their assigned options series. *See* Rule 22.6.

[39] *See* FINRA Rule 2111.

[40] *See https://www.finra.org/rules-guidance/notices/21-15.*

an undue burden on competition; rather, it will meet customer demand. The Exchange would uniformly continue to apply the Qualifying Security criteria to options in individual stocks and Fund Shares that are Tier 1 and Tier 2 Qualifying Securities. The Exchange believes that Members will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in the Qualifying Securities.

Similar to Monday and Wednesday Expirations for Qualifying Securities for Fund Shares, the introduction of Monday and Wednesday Expirations for Tier 2 Qualifying Securities that are Fund Shares does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand the hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Monday and Wednesday Expirations for Tier 2 Qualifying Securities will allow market participants to purchase options on Fund Shares that meet the criteria based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe the proposal will impose any burden on intermarket competition, as nothing prevents other options exchanges from proposing similar rules to list and trade Monday and Wednesday Expirations for Tier 2 Qualifying Securities that are Fund Shares. Further, the Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A)[41] of the Act and Rule 19b–4(f)(6)[42] thereunder. Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[43]

A proposed rule change filed under Rule 19b–4(f)(6)[44] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[45] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, the proposed rule change is a competitive response to a substantively identical filing submitted by ISE that was recently approved by the Commission.[46] The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change as operative upon filing.[47]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[48] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MEMX–2026–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–MEMX–2026–37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–MEMX–2026–37 and should be submitted on or before December 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

Vanessa A. Countryman,

Secretary.

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[41] 15 U.S.C. 78s(b)(3)(A).

[42] 17 CFR 240.19b–4(f)(6).

[43] 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.

[44] 17 CFR 240.19b–4(f)(6).

[45] 17 CFR 240.19b–4(f)(6)(iii).

[46] *See supra* note 3.

[47] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[48] 15 U.S.C. 78s(b)(2)(B).

[49] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106975; File No. 10–259]

OX Gamma LLC; Notice of Filing of Application, as Amended, for Registration as a National Securities Exchange Under Section 6 of the Securities Exchange Act of 1934

November 23, 2026.

On September 11, 2026, OX Gamma LLC (''OX Gamma'') filed with the Securities and Exchange Commission (''Commission'') a Form 1 application under the Securities Exchange Act of 1934 (''Exchange Act''), seeking registration as a national securities

exchange under Section 6 of the Exchange Act. On November 12, 2026, OX Gamma submitted Amendment No. 1 to its Form 1 application.[1] OX Gamma's Form 1 application, as amended, provides detailed information on how it proposes to satisfy the requirements of the Exchange Act.

The Commission is publishing this notice to solicit comments on OX Gamma's Form 1 application. The Commission will take any comments it receives into consideration in making its determination about whether to grant OX Gamma's request to register as a national securities exchange. The Commission will grant the registration if it finds that the requirements of the Exchange Act and the rules and regulations thereunder with respect to OX Gamma are satisfied.[2]

With respect to governance, Options Xchange Group Inc. (''Options Xchange Group'') is a holding company that directly holds 100% of the equity of Options Xchange Midco LLC, which in turn directly holds 100% of the equity of OX Gamma. Options Xchange Group is the entity through which the ultimate owners of OX Gamma indirectly hold their ownership interest in OX Gamma. The Options Xchange Group Certificate of Formation would provide a 40% cap on beneficial ownership of stock of Options Xchange Group by any person (alone or together with related persons) and would further cap beneficial ownership of Options Xchange Group by members of OX Gamma at 20%. The governing documents for OX Gamma can be found in Exhibit A to OX Gamma's Form 1 application, and a listing of the officers and intended categories of directors of OX Gamma can be found in Exhibit J. The governing documents for Options Xchange Group can be found in Exhibit C to OX Gamma's Form 1 application.

With respect to its trading system, the Form 1 application provides that OX Gamma would operate a fully automated electronic options trading platform to buy or sell securities with a continuous, automated matching function that prioritizes execution on a price-size pro rata basis. OX Gamma would not maintain a physical trading floor. Liquidity would be derived from quotes as well as orders to buy and orders to sell submitted to OX Gamma electronically by its registered broker-dealer members from remote locations. Access to OX Gamma would be open to registered broker-dealers that meet the standards for membership in OX Gamma's proposed rules. There would be two types of members on OX Gamma—Market Makers and Order Entry Firms.[3] Members registered as Market Makers would have certain rights and bear certain responsibilities beyond those of other members. According to OX Gamma, it ''intends for its trading system to be relatively simple, without many of the complex order types or instructions available on other national securities exchanges.''[4]

A more detailed description of the manner of operation of OX Gamma's proposed system can be found in Exhibit E to OX Gamma's Form 1 application. The proposed rulebook for the proposed exchange can be found in Exhibit B to OX Gamma's Form 1 application. A complete set of forms concerning membership and access can be found in Exhibit F to OX Gamma's Form 1 application.

OX Gamma's Form 1 application, including all of the Exhibits referenced above, is available online at *https://www.sec.gov/rules-regulations/commission-orders-notices/other-commission-orders-notices-information.* Interested persons are invited to submit written data, views, and arguments concerning OX Gamma's Form 1, including whether the application is consistent with the Exchange 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/commission-orders-notices/other-commission-orders-notices-information*); or
- Send an email to *rule-comments@sec.gov.* Please include file number 10–259 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 10–259. 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/commission-orders-notices/other-commission-orders-notices-information*). Copies of the filing will be available for inspection and copying at the principal office of OX Gamma. 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 10–259 and should be submitted on or before January 11, 2027.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–24070 Filed 11–25–26; 8:45 am]

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[1] In Amendment No. 1, OX Gamma submitted updated portions of its Form 1 application, including Exhibits E (description of the proposed operation of the exchange) and F–7 (Service Bureau Agreement).

[2] 15 U.S.C. 78s(a).

[3] Capitalized terms used but not defined herein have the meanings specified in Exhibit B–1.

[4] Form 1, Exhibit E at 5.

[5] 17 CFR 200.30–3(a)(71)(i).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106970; File No. SR–ICC–2026–015]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to ICC's Exercise Procedures

November 23, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4,[2] notice is hereby given that on November 13, 2026, ICE Clear Credit LLC (''ICC'' or ''ICE Clear Credit'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to make revisions to the Exercise Procedures in connection with the clearing of credit default index swaptions (''Index Swaptions'') as part of the CDS Clearing Service.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICC proposes revising the Exercise Procedures in connection with the clearing of Index Swaptions as part of the CDS Clearing Service. The Exercise Procedures supplement the provisions of Subchapter 26R of the ICC CDS Clearing Rules (the ''Rules'') [3] with respect to Index Swaptions [4] and provide further detail as to the manner in which Index Swaptions may be exercised by Swaption Buyers, the manner in which ICC will assign such exercises to Swaption Sellers, and certain actions that ICC may take in the event of technical issues. ICC proposes to make the changes effective following Commission approval of the proposed rule change. The proposed revisions are described in detail as follows.

Background

ICC proposes enhancements to the Exercise Procedures related to the automatic (''auto'') exercise of Index Swaptions. Currently, the Exercise Procedures allow Exercising Parties [5] to submit preliminary exercise notices that may be used as final exercise instructions if a communications failure occurs during the Exercise Period.[6] The Exercise Procedures further allow ICC to submit preliminary exercise notices, on behalf of Exercising Parties, for Index Swaption open positions that ICC determines are ''in the money'' based on last available end-of-day prices.[7] ICC proposes to replace this process under which ICC may submit preliminary exercise notices, on behalf of Exercising Parties, with a new elective auto exercise process that uses more current pricing information. In particular, ICC proposes to allow an Exercising Party to elect to auto exercise all its expiring Index Swaption open positions that are ''in the money'' by submitting notice to ICC before the Swaption Exercise Cut-Off Time.[8] In general, ICC would determine whether positions are ''in the money'' using available intraday pricing information, as described below.

The changes are designed to enhance ICC's exercise process by incorporating more current pricing information into exercise determinations and permitting an auto exercise election. Such changes simplify the exercise process by eliminating reliance on preliminary exercise notices submitted by ICC and instead allowing Exercising Parties to elect auto exercise. ICC identified the proposed changes as an opportunity for improvement regarding its Index Swaption solution to support and promote the clearing of Index Swaptions at ICC.

Exercise Procedures Changes

ICC proposes to revise Paragraph 1 to add and amend defined terms. ICC would define ''Auto-Exercise Notice'' by cross-reference to Paragraph 2.2(c)(i) as a notice submitted by an Exercising Party electing to auto exercise all its expiring Index Swaption open positions. ICC would define ''Auto-Exercise Exclusion Notice'' by cross-reference to Paragraph 2.2(c)(ii) as a notice submitted by an Exercising Party (that has filed or is deemed to have filed an Auto-Exercise Notice) to elect expiring positions to exclude from auto exercise. ICC would add ''Covered Notice'' as a defined term to consolidate references to various notices under the Exercise Procedures. ICC would accordingly revise the definition of ''Electronic Notice'' to be a kind of Covered Notice delivered pursuant to the ''Electronic Notice Process.'' ICC would revise the definition of ''Electronic Notice Process'' to refer to the electronic delivery and assignment of Electronic Notices through an electronic system (*i.e.,* the ''Exercise System'').

ICC proposes changes to defined terms in Paragraph 1 used as part of the new auto exercise process. ICC would define ''Intrinsic Value'' as the value of an Index Swaption position at expiration. Intrinsic Value would factor in the Reference Level (defined below) of the underlying index contract and without duplication relevant cash payments and/or physical settlements with respect to credit events. ICC would amend the term, ''Minimum Intrinsic Value,'' to incorporate the newly defined term, ''Intrinsic Value,'' revise a related cross-reference, and specify that a Minimum Intrinsic Value would no longer apply for a Pre-Exercise Notification Period [9] based on the changes to Paragraph 2.2 described below. In addition, ICC proposes to define ''Reference Level'' as the price of the index contract underlying an expiring Index Swaption, determined by ICC, through its index live prices feed process, which considers intraday prices of transactions executed on swap execution facilities (''SEFs''). If SEF transaction data is unavailable or ICC is unable to operate its index live prices feed process, proposed language explains how ICC will calculate Reference Levels using intraday pricing information or end-of-day pricing information. ICC may permit an Exercising Party to specify its own Reference Level to determine whether its Index Swaption open positions are ''in the money'' for auto exercise (a ''Reference Level Specification''), and acceptance will be at ICC's discretion.

ICC proposes to amend Paragraph 2.2(c) to set out the proposed auto exercise process. Under Paragraph 2.2(c)(i), an Exercising Party may, in advance of a Swaption Exercise Cut-Off Time, elect to auto exercise all its expiring Index Swaption open positions by submitting an Auto-Exercise Notice. For an Exercising Party that has properly filed an Auto-Exercise Notice, ICC would automatically exercise on the expiration date each Index Swaption open position that is ''in the money.'' Whether an Index Swaption open position is ''in the money'' would be

[3] Capitalized terms used herein but not defined have the meaning set forth in the Rules.

[4] Pursuant to an Index Swaption, one party (the ''Swaption Buyer'') has the right (but not the obligation) to cause the other party (the ''Swaption Seller'') to enter into an index CDS transaction at a pre-determined strike price on a specified expiration date on specified terms. In the case of Index Swaptions cleared by ICC, the underlying index CDS is limited to certain CDX and iTraxx index CDS that are accepted for clearing by ICC, and which would be automatically cleared by ICC upon exercise of the Index Swaption by the Swaption Buyer in accordance with its terms.

[5] Exercising Party means (i) with respect to an Index Swaption carried in the house account of a Clearing Participant (''Participant'') as Swaption Buyer, such Participant, and (ii) with respect to an Index Swaption carried in the client origin account of a Participant for a Non-Participant Party (*i.e.,* a customer of a Participant) as Swaption Buyer, such Non-Participant Party. *See* Paragraph 1.

[6] The Exercise Period is further defined in Paragraph 1 as the period on the expiration date of an Index Swaption during which the Swaption Buyer may deliver a Swaption Exercise Notice to ICC to exercise all or part of such Index Swaption in accordance with the Rules. Such period will start at the Swaption Exercise Start Time and end at the Swaption Exercise Cut-Off Time.

[7] *See* Securities Exchange Act Release No. 91834 (May 11, 2021), 86 FR 26745 (May 17, 2021) (SR–ICC–2021–006).

[8] As defined in Paragraph 1, Swaption Exercise Cut-Off Time means (i) with respect to an Index Swaption referencing a CDX.NA index, 11:00 a.m., New York time; and (ii) with respect to an Index Swaption referencing an iTraxx Europe index, 4:00 p.m., London time.

[9] Pre-Exercise Notification Period is defined in Paragraph 1 as a period commencing after ICC ceases to accept trades in Index Swaptions and ending at the Swaption Exercise Start Time.

determined by computing the Index Swaption's Intrinsic Value using the applicable Reference Level and comparing the Intrinsic Value to the applicable Minimum Intrinsic Value. ICC would also be permitted, subject to appropriate notice, to deem all Exercising Parties to have given an Auto-Exercise Notice, in which case a party that does not wish for auto exercise to apply must revoke the Auto-Exercise Notice by the Swaption Exercise Cut-Off Time.

Under Paragraph 2.2(c)(ii), an Exercising Party that has filed (or is deemed to have filed) an Auto-Exercise Notice may, in advance of the Swaption Exercise Cut-Off Time, elect on a position-by-position basis the expiring positions excluded from auto exercise by submitting an Auto-Exercise Exclusion Notice. As a clarification, Index Swaption open positions that are not subject to an Auto-Exercise Notice or that are excluded by an Auto-Exercise Exclusion Notice would remain subject to the exercise procedures in Paragraphs 2.2(d) through (j).

ICC proposes Paragraph 2.2(c)(iii) to address the case where an Exercising Party submits (or is deemed to submit) an Auto-Exercise Notice and also submits a Swaption Exercise Notice [10] for the same expiring Index Swaption open position. In such case, if the Swaption Exercise Notice is for the full notional amount, ICC would execute the Swaption Exercise Notice instructions, and the Auto-Exercise Notice would not apply to that position. If the Swaption Exercise Notice is for less than the full notional amount, the Auto-Exercise Notice would apply and ICC will exercise such position in whole if it is determined to be ''in the money.'' Otherwise, ICC would execute the Swaption Exercise Notice instructions. For the avoidance of doubt, the Auto-Exercise Notice would continue to apply to the Exercising Party's other Index Swaption Open Positions.

ICC would remove Paragraph 2.2(e)(ii), which would be unnecessary in light of the proposed auto exercise process. Currently, Paragraph 2.2(e)(ii) permits ICC, in connection with a Pre-Exercise Notification Period, to identify an Exercising Party's ''in the money'' Index Swaption open positions and submit preliminary exercise notices on the Exercising Party's behalf for all such ''in the money positions.'' Currently, whether an Index Swaption open position is ''in the money'' is determined using last available end-of-day prices. ICC proposes to remove and replace this process with the new elective auto exercise process described above in Paragraph 2.2(c). ICC proposes additional changes in Paragraph 2.2 to remove references to Subparagraph (e)(ii), re-letter Paragraph 2.2, and update cross-references accordingly in Paragraph 2.2 and throughout the Exercise Procedures.

ICC proposes related changes to incorporate reference to the auto exercise process in Paragraph 2.2, including in amended Subparagraphs (k) and (m). Amended Paragraph 2.2(k) would clarify that, after the Exercise Period ends, ICC would allocate and assign exercised Index Swaptions, including those deemed exercised or exercised through automatic exercise, in the manner described in that paragraph. Amended Paragraph 2.2(m) would provide that the report delivered to each Participant shows all open positions exercised, deemed exercised, or automatically exercised.

ICC proposes additional revisions to Paragraphs 2.3 and 2.4. In Paragraph 2.3(a), ICC would revise a reference from ''Index Option'' to ''Index Swaption,'' consistent with the terminology used throughout the Exercise Procedures. Under amended Paragraph 2.3(b), ICC proposes to specify that it is not responsible for any inability or failure of a Participant or Non-Participant Party to submit an Auto-Exercise Notice, Auto-Exercise Exclusion Notice or Reference Level Specification, and that each Exercising Party is responsible for monitoring the applicable auto exercise provisions and pricing levels, among other things, and for taking appropriate action to effect all desired exercises or non-exercises of Index Swaptions. Under amended Paragraph 2.4(a), only the Exercising Party may provide Auto-Exercise Notices, Auto-Exercise Exclusion Notices and Reference Level Specifications to ICC. Accordingly, Non-Participant Parties are responsible for submitting their own such notices and specifications.

ICC proposes changes to its description of the Exercise System to reference the new notices and specifications related to auto exercise. Amended Paragraph 2.5 would provide that Participants may electronically submit Covered Notices, including Auto-Exercise Notices, Auto-Exercise Exclusion Notices, Reference Level Specifications, as well as any permitted revocations, withdrawals or modifications thereof. In Paragraph 2.5(b), ICC proposes to specify that Covered Notices may be submitted through the Exercise System unless ICC determines otherwise pursuant to Paragraph 2.6 or 2.7.

Paragraph 2.6 addresses a failure of the Exercise System (an ''Exercise System Failure''), and Paragraph 2.7 addresses a communications failure affecting an Exercising Party. Under each of those paragraphs, references to Swaption Exercise Notices would be revised to refer to Covered Notices, and references to ICC assigning Swaption Exercise Notices to Participants would be revised to refer to ICC assigning exercised Index Swaptions to Participants, so that these provisions are not limited to Swaption Exercise Notices.

ICC proposes additional revisions in Paragraph 2.8, under which ICC currently maintains the ability to effect auto exercise in case of Exercise System Failure. Specifically, in case of Exercise System Failure, ICC may determine that auto exercise applies, in which case ICC will automatically exercise, on the expiration date, open positions of Exercising Parties in Index Swaptions that are ''in the money.'' ICC proposes to update its determination of whether an Index Swaption is ''in the money'' to align with the proposed defined terms. Similar to the language used in Paragraph 2.2(c), whether an Index Swaption open position is ''in the money'' would be determined by computing the Index Swaption's Intrinsic Value using the applicable Reference Level and comparing the Intrinsic Value to the applicable Minimum Intrinsic Value. Such change is intended for consistency, so the computation of ''in the money'' Index Swaption open position is consistent throughout the Exercise Procedures for auto exercise.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [11] and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad–22.[12] In particular, Section 17A(b)(3)(F) of the Act [13] requires that the rule change be consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the

[10] Swaption Exercise Notice is defined in Rule 26R–318(b) as an exercise notice that a Participant which has or carries an open position in an Index Swaption on the expiration date for which it is the Swaption Buyer may issue (or, if applicable in the case of a client-related position, its Non-Participant Party may issue).

[11] 15 U.S.C. 78q–1.

[12] 17 CFR 240.17Ad–22.

[13] 15 U.S.C. 78q–1(b)(3)(F).

protection of investors and the public interest. ICC proposes enhancements to the Exercise Procedures related to the auto exercise of Index Swaptions. As described in more detail above, the proposed changes replace the existing process under which ICC may submit preliminary exercise notices on behalf of Exercising Parties based on last available end-of-day prices with a new elective auto exercise process that uses more current pricing information. The new process allows an Exercising Party to elect auto exercise of its expiring Index Swaption open positions, to exclude specific positions from auto exercise, and, at ICC's discretion, to specify its own Reference Level. Determining whether a position is ''in the money'' by computing Intrinsic Value using the applicable Reference Level will incorporate more current pricing information into exercise determinations through ICC's index live prices feed process, which considers intraday pricing information. The proposed changes also simplify the exercise process by eliminating reliance on preliminary exercise notices submitted by ICC on behalf of Exercising Parties by allowing Exercising Parties to elect to auto exercise. In addition, the proposed changes clarify the treatment of Swaption Exercise Notices and Auto-Exercise Notices for the same expiring open position, the reports delivered to Participants, and the responsibilities of ICC and Exercising Parties with respect to the new notices and specifications. Additional changes ensure that the procedures apply to all relevant notices, as appropriate, and not only to Swaption Exercise Notices and apply the same ''in the money'' determination in the case of an Exercise System Failure, so that the computation is consistent throughout the Exercise Procedures. In ICC's view, these changes will promote clarity, consistency and transparency in how Index Swaptions are exercised and assigned, thereby promoting the prompt and accurate clearing and settlement of the contracts cleared by ICC, including Index Swaptions, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[14]

The amendments would also satisfy relevant requirements of Rule 17Ad–22.[15] Rule 17Ad–22(e)(1)[16] requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions. The Exercise Procedures continue to supplement the provisions of Subchapter 26R of the Rules with respect to Index Swaptions and ensure that ICC's Rules clearly reflect the terms and conditions applicable to Index Swaptions. As described above, the proposed revisions would set out the auto exercise process, the related defined terms (including Auto-Exercise Notice, Auto-Exercise Exclusion Notice, Intrinsic Value and Reference Level), and the related responsibilities of ICC and Exercising Parties. The proposed rule change would continue to support the legal basis for ICC's clearance of Index Swaptions and operation of the exercise and assignment process, including where there are operational or technical issues. As such, the proposed rule change would satisfy the requirements of Rule 17Ad–22(e)(1).[17]

Rule 17Ad–22(e)(17)[18] requires, in relevant part, each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to manage its operational risks by (i) identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls; and (ii) ensuring that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity. The Exercise Procedures continue to allow ICC to manage the operational risks associated with the exercise and assignment process by establishing procedures for the exercise and assignment of Index Swaptions and including fallback measures, which help mitigate the impact from operational or technical issues and ensure that the system has a high degree of security, resiliency, operational reliability, and adequate, scalable capacity. The proposed changes would reduce operational risk by replacing reliance on ICC-submitted preliminary exercise notices with an elective process that uses more current pricing information, and by providing a fallback to determine Reference Levels using intraday or end-of-day pricing information if SEF transaction data or ICC's index live prices feed process is unavailable. The proposed changes also maintain ICC's ability to effect auto exercise in the case of an Exercise System Failure, using the same ''in the money'' determination. The proposed rule change is therefore reasonably designed to meet the requirements of Rule 17Ad–22(e)(17).[19]

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The proposed changes to the Exercise Procedures will apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission, and Advance Notice and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking*); or

[14] *Id.*

[15] 17 CFR 240.17Ad–22.

[16] 17 CFR 240.17Ad–22(e)(1).

[17] *Id.*

[18] 17 CFR 240.17Ad–22(e)(17)(i)–(ii).

[19] *Id.*

• Send an email to *rule-comments@sec.gov.* Please include file number SR–ICC–2026–004 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–ICC–2026–015. 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 such filings will be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.ice.com/clear-credit/regulation.*

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR–ICC–2026–015 and should be submitted on or before December 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–24067 Filed 11–25–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106968; File No. SR–NASDAQ–2026–102]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4120 To Incorporate Overnight Price Bands Established Under the Regulation NMS Plan To Address Extraordinary Market Volatility

November 23, 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 November 18, 2026, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Equity 4, Rule 4120 to implement the temporary overnight price band protections pursuant to the Twenty-Seventh Amendment (''Amendment 27'' or ''Amendment'') [3] to the National Market System Plan to Address Extraordinary Market Volatility (''LULD Plan''),[4] and to address order handling in connection with the implementation of such temporary overnight protections.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Equity 4, Rule 4120 to implement the temporary overnight price band protections (''Overnight Protections'') adopted in Amendment 27 [5] to the LULD Plan in support of the introduction of trading 23 hours a day, 5 days per week (''23/5 Trading'') scheduled to commence on December 6, 2026,[6] and to address order handling in connection with the implementation of such temporary Overnight Protections.

Background

The LULD Plan establishes market-wide limit up-limit down requirements designed to address extraordinary market volatility in NMS Stocks.

The Participants [7] originally filed the LULD Plan on April 5, 2011, to create a market-wide limit up-limit down mechanism intended to address extraordinary market volatility in NMS Stocks, as defined in Rule 600(b)(65) of Regulation NMS under the Exchange Act.[8] The Plan sets forth procedures that provide for market-wide LULD requirements to prevent trades in individual NMS Stocks from occurring

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment 27 to the National Market System Plan to Address Extraordinary Market Volatility (''LULD Plan'') established phased price band protections to overnight trading in anticipation of overnight trading by certain national securities exchanges. *See* Joint Industry Plan; Order Granting Approval of the Twenty-Seventh Amendment to the National Market System Plan to Address Extraordinary Market Volatility to Establish Temporary Price Band Protections in Overnight Trading, Securities Exchange Act Release No. 106042 (Aug. 5, 2026), 91 FR 51515, 51516 (Aug. 10, 2026) (File No. 4–631) (''Overnight Protections Approval Order''). Unless otherwise stated, capitalized terms used herein are defined in the LULD Plan.

[4] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (File No. 4–631) (approving the LULD Plan, as amended, on a pilot basis); *see also* Securities Exchange Act Release No. 85623 (Apr. 11, 2019), 84 FR 16086 (Apr. 17, 2019) (File No. 4–631) (approving Amendment No. 18 and permitting the LULD Plan to operate on a permanent basis).

[5] *See* Overnight Protections Approval Order, *supra* note 3.

[6] *See* Securities Exchange Act Release No. 34–105199 (April 10, 2026), 91 FR 20222 (April 15, 2026) (''23/5 Approval Order''). *See also* Equity 1, Section 1(a)(19) (defining the term ''Night Session'' as the time between 9:00 p.m. on one calendar day through 4:00 a.m. the next calendar day Sunday through Thursday provided that each such next calendar day is a Business Day and further providing (1) that the Exchange shall not commence operation of the Night Session unless the Equity Data Plans have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during the Night Session that is equivalent to the mechanism established for Exchange trading hours during Regular Market Hours, and have provided the Exchange with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction information to accommodate the Night Session; (2) that, prior to commencing operation during the Night Session, the Exchange will file a proposed rule change pursuant to Section 19(b) of the Exchange Act and the rules thereunder to amend its rules confirming that the Exchange is able to comply with its obligations under the Exchange Act and the rules thereunder during the Night Session and that such Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information at all times during the Night Session (''Night Session Proposed Rule Change''); and (3) that if the Night Session Proposed Rule Change is not filed within 18 months of the SEC's approval of this proposed rule change, the Exchange will promptly file a proposed rule change to remove the rules that apply to the Night Session).

[7] The ''Participants'' are the parties to the LULD Plan. *See supra* note 4.

[8] 17 CFR 242.600(b)(65).

outside of the specified Price Bands. These LULD requirements are coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to accommodate more fundamental price moves. In particular, the Participants adopted this Plan to address extraordinary volatility in the securities markets, *i.e.,* significant fluctuations in individual securities' prices over a short period of time, such as those experienced during the ''Flash Crash'' on the afternoon of May 6, 2010.[9]

On August 5, 2026, the Commission approved Amendment 27 to the LULD Plan.[10] Amendment 27 establishes certain temporary Overnight Protections in anticipation of 23/5 Trading by certain national securities exchanges, including the Exchange.

Amendment 27 establishes a two-phase approach for extending LULD Overnight Protections to 23/5 Trading and describes the temporary protections that apply to the first phase (''Phase 1'').

Specifically, Phase 1 adds new Section VIII to the LULD Plan, entitled ''Overnight Protections,'' which establishes a framework for Overnight Protected Hours that: (1) defines the hours during which the protections apply; (2) specifies how the Primary Listing Exchange [11] calculates the Overnight Price Bands; (3) provides for dissemination of those bands and requires trading centers to prevent trades at prices outside them; and (4) permits but does not require the Primary Listing Exchange to declare a Regulatory Halt. The discussion below addresses each component in turn.

First, Amendment 27 defines the hours during which the Overnight Protections would apply. Specifically, Amendment 27 defines ''Overnight Protected Hours'' as the period from 9:00 p.m. Eastern Time (''ET'') on Sunday through Thursday to 4:00 a.m. ET on the next calendar day. The 9:00 p.m. ET commencement corresponds to the time at which the Processors will open for overnight trading, thereby allowing the Overnight Protections to apply when overnight trading becomes available through the consolidated market data infrastructure. The 4:00 a.m. ET conclusion for Overnight Protected Hours is intended to allow market participants to incorporate earnings announcements, corporate disclosures, and other price-sensitive information released during pre-market hours without the constraints of price bands based on the prior day's activity.

Second, Amendment 27 sets out how the Primary Listing Exchange would calculate the Overnight Price Bands. Specifically, under the Phase 1 framework, the Primary Listing Exchange for each NMS Stock calculates an Overnight Lower Price Band and an Overnight Upper Price Band for application during Overnight Protected Hours. The bands are based on two reference prices, each adjusted for relevant corporate actions: (i) the official closing price reported by the listing market for the NMS Stock (''Closing Price''); and (ii) the consolidated last round lot sale as of 7:30 p.m. ET [12] (''Consolidated Price''). The Overnight Lower Price Band is 20 percent below the lower of the two reference prices, and the Overnight Upper Price Band is 20 percent above the higher of the two reference prices. For a leveraged ETP, the Overnight Percentage Parameter is 20 percent multiplied by the leverage ratio of such product.

The framework also establishes minimum Price Bands. For an NMS Stock with a Closing Price of less than $1.00, the minimum Overnight Upper Price Band and minimum Overnight Lower Price Band are each $1.00 from the applicable Overnight Reference Price. For an NMS Stock with a Closing Price of $1.00 or more, each minimum threshold is $3.00 from the applicable Overnight Reference Price. For a leveraged ETP, the minimum thresholds are multiplied by the product's leverage ratio.

Third, Amendment 27 provides for dissemination of those Overnight Price Bands and requires trading centers to prevent trades at prices outside them. Specifically, the Primary Listing Exchange must transmit the calculated Overnight Price Bands to the Processors no later than 8:55 p.m. ET, and the Processors must disseminate the bands to the public before 9:00 p.m. ET. All trading centers in NMS Stocks that operate during Overnight Protected Hours must establish, maintain, and enforce written policies and procedures reasonably designed to prevent trades at prices outside the Overnight Price Bands during those hours.

Fourth, unlike the LULD framework during Regular Trading Hours, Phase 1 does not provide for an automatic Trading Pause when an Overnight Price Band is reached. Instead, Amendment 27 provides that the Primary Listing Exchange may, but is not required to, declare a Regulatory Halt in accordance with its rules. The Primary Listing Exchange must notify the Processor if it declares a Regulatory Halt. An NMS Stock subject to a Regulatory Halt pursuant to the provisions of Amendment 27 will not reopen during Overnight Protected Hours.

Section II(B) of the LULD Plan provides that each Participant shall adopt a rule requiring compliance by its members with the provisions of the LULD Plan. Pursuant to Section II(B) of the LULD Plan, the Exchange is proposing to adopt rules to comply with Amendment 27.

Proposed Rule Change

The Exchange proposes to implement Amendment 27 in its rules and thereby align its rules with its obligations as a Participant in the LULD Plan, as amended.

The proposed rule would: (1) define the terms necessary to implement the Overnight Protections; (2) establish how the Exchange would calculate and disseminate the Overnight Price Bands, including the applicable minimum thresholds; (3) require the Exchange to maintain and enforce policies and procedures designed to prevent trades outside those bands; (4) provide for discretionary Regulatory Halts during Overnight Protected Hours; and (5) specify the expected commencement date for the Overnight Protections. The Exchange further proposes to address how orders would be handled in connection with the implementation of such Overnight Protections.

To effectuate the proposed changes, the Exchange proposes to add new subparagraph (x) under Equity 4, Rule 4120(b)(1)(B) as described below.

First, proposed Rule 4120(b)(1)(B)(x) would define terms necessary to implement the Overnight Protections, including ''Closing Price,'' ''Consolidated Price,'' ''Overnight Percentage Parameter,'' ''Overnight Price Bands,'' ''Overnight Protected Hours,'' ''Overnight Reference Prices,'' and ''LULD Plan.'' The proposed definitions are intended to track the terms and framework set out in Section VIII(A) of the LULD Plan, as approved by the Commission in Amendment 27.

[9] *See* Overnight Protections Approval Order, *supra* note 3.

[10] *See id.*

[11] ''Primary Listing Exchange'' means the Participant on which an NMS Stock is listed. If an NMS Stock is listed on more than one Participant, the Participant on which the NMS Stock has been listed the longest shall be the Primary Listing Exchange. *See* LULD Plan, Section I(O).

[12] Amendment 27 established the consolidated last round lot sale as of 7:45 p.m. ET as one of the two reference prices, but Amendment 29 subsequently changed that time to 7:30 p.m. ET. *See* Securities Exchange Act Release No. 106624 (October 7, 2026), 91 FR 65016 (October 13, 2026) (Notice of Filing and Order of Summary Effectiveness on a Temporary Basis Not To Exceed 120 Days of Proposed Twenty-Ninth Amendment to the National Market System Plan to Address Extraordinary Market Volatility to Revise the Time for Calculating the Consolidated price in Connection with Overnight Trading (File No. 4–631).

Second, the proposed rule would provide, consistent with Section VIII(B)(1) of the LULD Plan, that, for each NMS Stock for which the Exchange is the Primary Listing Exchange, the Exchange shall calculate and disseminate to the Processors an Overnight Lower Price Band and an Overnight Upper Price Band for dissemination by the Processors and application during Overnight Protected Hours. Consistent with Section VIII(B)(1) of the LULD Plan, the Overnight Price Bands would be calculated by applying the Overnight Percentage Parameter to the Overnight Reference Prices. The Overnight Lower Price Band would be an Overnight Percentage Parameter below the lower of the two Overnight Reference Prices, and the Overnight Upper Price Band would be an Overnight Percentage Parameter above the higher of the two Overnight Reference Prices.

The proposed rule also would establish minimum Price Bands consistent with Section VIII(B)(2) of the LULD Plan. As proposed, for an NMS Stock with a Closing Price of less than $1.00, the minimum Overnight Upper Price Band and minimum Overnight Lower Price Band would each be $1.00 from the applicable Overnight Reference Price. For an NMS Stock with a Closing Price of $1.00 or more, the minimum Overnight Upper Price Band and minimum Overnight Lower Price Band would each be $3.00 from the applicable Overnight Reference Price. For a leveraged ETP, the minimum Price Bands would be multiplied by the leverage ratio of such product.

Third, the Exchange proposes to provide, consistent with Section VIII(B)(3) of the LULD Plan, that, for each NMS Stock for which the Exchange is the Primary Listing Exchange, the Exchange shall determine the Overnight Reference Prices and calculate the Overnight Price Bands. As further proposed, the Exchange will transmit the calculated Overnight Price Bands to the Processors no later than 8:55 p.m. ET, except that if there is an issue or error with calculating or transmitting the Overnight Price Bands at 8:55 p.m. ET, the Exchange may transmit corrected or replacement Overnight Price Bands, at any time during the Night Session.[13]

Consistent with Section VIII(C) of the LULD Plan, the Exchange further proposes to state that the Exchange will establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades at prices that are below the Overnight Lower Price Band or above the Overnight Upper Price Band for an NMS Stock during Overnight Protected Hours and, in general, to comply with Section VIII of the LULD Plan.

The Exchange also proposes to address the rejection and cancellation of orders in connection with the Overnight Price Bands.

Specifically, the Exchange would provide that the Exchange will reject incoming orders that are priced or could be traded below the Overnight Lower Price Band or above the Overnight Upper Price Band.

The Exchange further proposes to provide that, if the Overnight Price Bands are published or republished by the Processors after the start of the Night Session, the Exchange will cancel resting sell (buy) orders that are priced below (above) the Overnight Lower (Upper) Price Band.

Consistent with Section VIII(D) of the LULD Plan, the proposed rule would also provide that during Overnight Protected Hours, the Exchange may declare a Regulatory Halt in any NMS Stock for which the Exchange is the Primary Listing Exchange, in accordance with the Exchange's rules. As proposed, if the Exchange declares a Regulatory Halt in a security pursuant to this paragraph, the Exchange shall notify the Processor, which will disseminate notice of the halt. The Exchange further proposes to provide that, if the Exchange institutes a Regulatory Halt in a security pursuant to this paragraph, the affected security will not reopen during Overnight Protected Hours. This approach is consistent with the Commission-approved framework under Amendment 27, which does not provide for automatic trading pauses during Overnight Protected Hours but permits a Primary Listing Exchange to declare a Regulatory Halt pursuant to its rules.

Consistent with Amendment 27, the Exchange proposes to specify that the Overnight Protections described in proposed Rule 4120(b)(1)(B)(x) and Section VIII of the LULD Plan are expected to commence on December 6, 2026.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] 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 proposed rule change is designed to implement the Commission-approved Amendment 27 to the LULD Plan. In approving Amendment 27, the Commission found that the amendment is consistent with Section 11A of the Act and Rule 608 thereunder because it is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and that it removes impediments to and perfects the mechanism of a national market system.[16] The Commission based its findings on its determination that the Overnight Protections: (1) are reasonably designed to address extraordinary volatility during a time of reduced liquidity; (2) establish uniform protections across all trading centers that operate during Overnight Protected Hours; and (3) represent a measured first step toward applying the LULD Plan's investor protections to overnight trading sessions.[17]

The Exchange believes that the proposed rule change furthers the objectives of Section 6(b)(5) of the Act for substantially the same reasons. The proposal incorporates into Rule 4120 the Exchange's obligations and authority under Section VIII of the LULD Plan, as approved by the Commission, and is consistent with that Commission-approved framework. Accordingly, the proposal is designed to protect investors and the public interest, promote just and equitable principles of trade, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

First, the proposed Overnight Protections are reasonably designed to address extraordinary volatility during a time of reduced liquidity.[18] Establishing price bands, as proposed, helps ensure that overnight trading continues within a limited price range, which should

[13] *See, e.g.,* proposed Exchange Rule 4120(b)(1)(B)(x)b.4; *supra* note 3 and accompanying text. While this exception is not specified in the text of the LULD Plan as modified by Amendment 27, the Exchange believes it is reasonably designed to implement the Commission's objectives in approving Amendment 27. *See* Overnight Protections Approval Order, *supra* note 3. Consistent with those objectives, the Exchange believes that it would protect investors and be in the public interest for the Exchange to transmit corrected or replacement Overnight Price Bands to the Processor when it is able to do so, rather than continuing to trade with incorrect or absent Overnight Price Bands for the duration of the Night Session.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* Overnight Protections Approval Order, *supra* note 3, 91 FR at 51516–17.

[17] *See id.*

[18] *See* Overnight Protections Approval Order, *supra* note 3, 91 FR at 51516.

help protect investors that choose to trade during Overnight Protected Hours.[19] The proposed 20 percent Overnight Price Bands, without automatic Trading Pauses, are similar to existing price protection mechanisms employed by ATSs that currently operate overnight and therefore will be familiar to market participants that currently trade overnight.[20] In addition, the two Overnight Reference Prices used to set the bands, including the consolidated last round lot sale as of 7:30 p.m. ET, account for news and trading activity that occur after the Closing Price is determined.[21] Further, as a Primary Listing Exchange, the Exchange may, in its discretion, declare a Regulatory Halt that will remain in place for the duration of the Night Session, allowing trading to resume in a subsequent trading session when greater liquidity is likely to be available.[22] Together, these aspects of the proposed rule change allow price discovery to occur during the Night Session while protecting investors from trading at potentially aberrant prices in a low-liquidity overnight trading environment.[23]

The Exchange believes that proposed Exchange Rule 4120(b)(1)(B)(x)b.4, which would provide that the Exchange shall transmit the calculated Overnight Price Bands to the Processors no later than 8:55 p.m. ET, except that if there is an issue or error with calculating or transmitting the Overnight Price Bands at 8:55 p.m. ET, the Exchange may transmit corrected or replacement Overnight Price Bands to the Processor at any time during the Night Session, is designed to protect investors and the public interest, promote just and equitable principles of trade, and remove impediments to and perfect the mechanism of a free and open market and a national market system because it is reasonably designed to implement Amendment 27. The Exchange believes that it would protect investors and be in the public interest for the Exchange to transmit corrected or replacement Overnight Price Bands to the Processor when it is able to do so, rather than continuing to trade with incorrect or absent Overnight Price Bands for the duration of the Night Session.

The proposed process for resuming trading following a Regulatory Halt also is consistent with Amendment 27. As proposed, a security subject to a Regulatory Halt during Overnight Protected Hours would remain halted through the conclusion of those hours, consistent with Amendment 27.[24]

Second, the proposed rule change promotes uniform protections across all trading centers that operate during Overnight Protected Hours. Because the Exchange plans to operate during Overnight Protected Hours, it proposes, consistent with Amendment 27, to establish, maintain, and enforce written policies and procedures reasonably designed to prevent trades at prices outside the Overnight Price Bands during those hours.[25] This uniformity should help promote fair and orderly markets in NMS Stocks across all trading centers during Overnight Protected Hours.

Third, the proposed rule change represents a measured first step toward applying the LULD Plan's investor protections to overnight trading sessions. Amendment 27 establishes Phase 1 of a two-phase approach under which the Participants will gather and analyze information concerning overnight trading and use that information to develop future recommendations for operation of the LULD Plan during Overnight Protected Hours.[26] Because the proposal is consistent with this Commission-approved Phase 1 framework, the Exchange believes that it is consistent with the protection of investors and the public interest and will promote fair and orderly markets while permitting the LULD Plan Participants to evaluate the operation of the Overnight Protections before proposing a final framework.

Fourth, the proposed rejection and cancellation provisions in proposed Rule 4120(b)(1)(B)(x)c are consistent with the Act. The provisions are consistent with Amendment 27's requirement that trading centers establish, maintain, and enforce written policies and procedures reasonably designed to prevent trades at prices outside the Overnight Price Bands[27] because they address how orders priced outside such bands would be handled during Overnight Protected Hours. By stating in its rules how such orders will be handled, the proposal would increase transparency and reduce potential confusion among Exchange members and other market participants. Market participants would know in advance that incoming orders that are priced or could be traded outside the Overnight Price Bands will be rejected, and that resting sell (buy) orders priced below (above) the Overnight Lower (Upper) Price Band will be cancelled if the Overnight Price Bands are published or republished by the Processors after the start of the Night Session. That clarity should help market participants make informed decisions when entering and managing orders overnight and should help avoid unexpected outcomes. In addition, the provisions would apply uniformly to all orders and all members entering orders in NMS Stocks during Overnight Protected Hours and therefore are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange further believes that the proposed cancellation of resting sell (buy) orders priced below (above) the Overnight Lower (Upper) Price Band, if the Overnight Price Bands are published or republished by the Processors after the start of the Night Session, is appropriate in light of proposed Rule 4120(b)(1)(B)(x)b.4. Under that provision, if there is an issue or error with calculating or transmitting the Overnight Price Bands at 8:55 p.m. ET, the Exchange may transmit corrected or replacement Overnight Price Bands at any time during the Night Session. If Overnight Price Bands are corrected or replaced during the Night Session, orders already resting on the Exchange's book may be priced outside the bands then in effect. Without a rule, it would be unclear whether those orders would remain on the book, whether they could execute at prices outside the bands, or whether they would be cancelled. Moreover, providing for the cancellation of those orders would align the Exchange's book with the Overnight Price Bands in effect, prevent trades at prices outside those bands consistent with Amendment 27, and give market participants certainty about the treatment of their orders. The Exchange believes that this provision, together with proposed Rule 4120(b)(1)(B)(x)b.4, would protect investors and the public interest by allowing the Exchange to correct or replace the Overnight Price Bands during the Night Session, rather than continuing to trade with incorrect or absent price bands, while helping to prevent resting orders from executing at prices outside the Overnight Price Bands then in effect.

The proposal would thus enable the Exchange to implement the Commission-approved Overnight Protections, fulfill its obligations as a LULD Plan Participant, and promote fair and orderly markets in NMS Stocks during Overnight Protected Hours.

[19] *See id.*

[20] *See* Overnight Protections Approval Order, *supra* note 3, 91 FR at 51516.

[21] *See id.*

[22] *See* Overnight Protections Approval Order, *supra* note 3, 91 FR at 51516–17.

[23] *See id.*

[24] *See* Overnight Protections Approval Order, *supra* note 3, 91 FR at 51516–17.

[25] *See id.*

[26] *See id.* at 51517.

[27] *See id.* at 51516.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act [28] in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Overnight Protections are intended to apply uniformly to trading centers operating during Overnight Protected Hours and to all NMS Stocks subject to the LULD Plan. The Exchange therefore believes that the proposal will not impose a competitive burden on any exchange, trading center, member, or class of market participants. On the contrary, the proposal promotes consistent implementation of the Commission-approved overnight framework across LULD Plan Participants. Because the proposal implements a uniform LULD Plan framework applicable to national securities exchanges operating during Overnight Protected Hours, it does not confer an Exchange-specific competitive advantage or impose requirements that arise solely from the Exchange's individual commercial choices.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [29] and Rule 19b–4(f)(6) [30] thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [31] and subparagraph (f)(6) of Rule 19b–4 [32] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [33] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[34] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The proposed rule change amends Equity 4, Rule 4120 to conform to the requirements of the LULD Plan, as amended by Amendment 27, and implement the LULD Plan's requirements for Overnight Protected Hours that have already been approved by the Commission. The Exchange states that the proposal will increase transparency and reduce potential confusion among Exchange members and other market participants. Waiver of the 30-day operative delay will allow the Exchange to implement the proposed rule change in anticipation of the planned commencement of 23/5 Trading on December 6, 2026. For these reasons, and because the proposal raises no new or novel legal or regulatory issues, the Commission finds that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[35]

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–NASDAQ–2026–102 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NASDAQ–2026–102. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR–NASDAQ–2026–102 and should be submitted on or before December 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–24065 Filed 11–25–26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106963; File No. SR–FINRA–2026–019]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Amend FINRA Rule 4522 (Periodic Security Counts, Verifications and Comparisons) To Modify Position Statement and Reconciliation Requirements for Members Holding Certain Alternative Investments

November 23, 2026.

I. Introduction

On August 25, 2026, the Financial Industry Regulatory Authority, Inc.

[28] 15 U.S.C. 78f(b)(8).

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4(f)(6).

[31] 15 U.S.C. 78s(b)(3)(A).

[32] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[33] 17 CFR 240.19b–4(f)(6).

[34] 17 CFR 240.19b–4(f)(6)(iii).

[35] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[36] 17 CFR 200.30–3(a)(12) and 59.

(''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''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 4522 (Periodic Security Counts, Verifications and Comparisons) to except FINRA members holding uncertificated investments in unregistered investment funds from certain provisions of paragraph (b)(1) of the rule.

The proposed rule change was published for public comment in the **Federal Register** on September 9, 2026.[3] The comment period closed on September 30, 2026. The Commission received one comment letter in response to the Notice.[4] On October 22, 2026, FINRA consented to extend until December 8, 2026, 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.[5] On November 9, 2026, FINRA responded to the comment received in response to the Notice.[6]

This order approves the proposed rule change.

II. Description of the Proposed Rule Change

FINRA Rule 4522 requires each FINRA member that is subject to the requirements of SEC Rule 17a–13 [7] to make the counts, examinations, verifications, comparisons and entries set forth in SEC Rule 17a–13.[8] Further, each FINRA member that is a carrying or clearing member subject to SEC Rule 17a–13 is required to make more frequent counts, examinations, verifications, comparisons and entries where prudent business practice would require,[9] and must receive positions statements as frequently as good business practice requires, but no less than once per month with respect to securities held by clearing corporations, other organizations or custodians.[10] Moreover, each such FINRA member must, at least once per month, reconcile all such securities and money balances by comparing the clearing corporations' or custodians' position statements with the books and records of the FINRA member and promptly report differences to the contra organization, which must be promptly resolved by both.[11]

The proposed rule change would except from paragraph (b)(1) of FINRA Rule 4522 all uncertificated investments in unregistered investment funds as set forth in the proposed rule language.[12] FINRA stated that the proposed rule change would apply where ownership by the FINRA member or its customers of such investment is directly recorded on the issuer's ownership registry maintained by the issuer or its agent or, if no such registry exists, is directly recognized by the issuer.[13] To implement this change, FINRA proposed to revise the first sentence of paragraph (b)(1) by adding an exception to the general requirement for a FINRA member that is a carrying or clearing member subject to the requirements of SEA Rule 17a–13 to ''[r]eceive position statements as frequently as good business practice requires, but no less than once per month with respect to securities held by clearing corporations, other organizations or custodians'' with respect to ''uncertificated investments in unregistered investment funds, where ownership by the member or its customers of such investments is directly recorded on the issuer's ownership registry maintained by the issuer or its agent or, if no such registry exists, is directly recognized by the issuer.'' [14] Moreover FINRA proposes to revise the second sentence of paragraph (b)(1) to clarify that broker-dealers excepted from the monthly position statement requirement described in paragraph (b)(1) would be required to perform a quarterly, rather than monthly, reconciliation and resolution of differences between securities and money balances in the custodians' statements versus the broker-dealer's own books and records.

III. Discussion and Commission Findings

After careful review of the proposed rule change, the comments received, and FINRA's response 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 that are applicable to a national securities association.[15] Specifically, the Commission finds that the proposed rule change is consistent is consistent with Section 15A(b)(6) of the Exchange Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, and, in general, to protect investors and the public interest.[16]

The Commission received one comment letter. The commenter indicated support for the proposed rule change but requested that FINRA provide clarification regarding several matters. Specifically, the commenter requested that FINRA clarify that a position statement relied upon for purposes of the exception should reflect a valuation actually performed as of (or reasonably proximate to) the applicable period, and that FINRA members should not treat a rolled-forward estimate as meeting the requirement, but also stated that FINRA should confirm that a member may reasonably rely on an issuer's (or its agent's) statement or representation that reported figures reflect such a valuation, and that FINRA members will not be deemed out of compliance where an issuer furnishes a rolled-forward estimate without indicating it as such.[17] In response, FINRA stated that the request is outside the scope of the proposed rule change as the proposed amendments address the frequency of reconciliations but not what constitutes an adequate reconciliation.[18]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 106269 (Sep. 3, 2026), 91 FR 57402 (Sep. 9, 2026) (File No. SR–FINRA–2026–019) (''Notice''), *https://www.govinfo.gov/content/pkg/FR-2026-09-09/pdf/2026-18292.pdf.*

[4] The comment letter received in response to the Notice is available at *https://www.sec.gov/rules-regulations/public-comments/sr-finra-2026-019.*

[5] *See* Letter from Adam Arkel, Associate General Counsel, Office of General Counsel, FINRA, dated Oct. 22, 2026, *https://www.finra.org/sites/default/files/2026-10/SR-FINRA-2026-019-Extension-20261022.pdf.*

[6] See Letter from Adam Arket, Associate General Counsel, Office of General Counsel, FINRA, dated Nov. 9, 2026, *https://www.sec.gov/comments/SR-FINRA-2026-019/srfinra2026019-1128739-4019566.pdf* (the ''FINRA Letter'').

[7] 17 CFR 240.17a–13.

[8] *See* FINRA Rule 4522(a).

[9] *See* FINRA Rule 4522(b).

[10] *See* FINRA Rule 4522(b)(1).

[11] *See id.*

[12] *See* Notice at 57403.

[13] FINRA also noted that members will continue to be subject to FINRA Rule 4522(b), which states: ''Each carrying or clearing member subject to the requirements of SEA Rule 17a–13 shall make more frequent counts, examinations, verifications, comparisons and entries where prudent business practice would so require.'' FINRA stated that this requirement would continue to apply to uncertificated investments in an unregistered fund or security excepted from FINRA Rule 4522(b)(1) by the proposed rule change, and that FINRA firms should have policies and procedures in place to ensure compliance with this provision of the rule. *See* Notice at 57403.

[14] *See* FINRA Rule 4522, as proposed to be amended.

[15] 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).

[16] 15 U.S.C. 78o–3(b)(6).

[17] *See* Letter from Stephen Byron, Managing Director, Head of Operations, Technology, Cyber & BCP, and Anthony Macchiarulo, Vice President, Financial Services Operations & Assistant General Counsel, SIFMA, dated Sep. 30, 2026 (the ''SIFMA Letter'') at 2.

[18] *See* FINRA Letter at 2.

The commenter also requested that FINRA to clarify whether the proposed amendments were limited to ''capital balance funds,'' [19] stating that many uncertificated, unregistered funds report on a unitized, per-share basis, and that FINRA member firms should not be required to apply different approaches depending on whether a particular alternative investment reports in dollars or units.[20] In response, FINRA confirmed that the proposed rule change would apply to all uncertificated investments in unregistered investment funds that are within the scope of the proposed rule language, not just capital balance funds.[21]

Further, the commenter requested FINRA to reaffirm that the quarterly reconciliation cadence is a floor, and to confirm that the ''good business practice'' standard in FINRA Rule 4522(b)(1) would continue to apply to investments excepted from the monthly requirement.[22] FINRA confirmed in its response that the requirement to make more frequent counts, examinations, verifications, comparisons and entries where prudent business practice would so require would continue to apply to investments excepted from FINRA Rule 4522 under the proposed amendments.[23]

The commenter stated that FINRA member firms should not be subject to regulatory exposure for reasonably relying on the reporting schedule of a fund administrator, which may differ from a fund's own valuation cycle and which is outside of a FINRA member firm's control.[24] FINRA responded by stating that FINRA Rule 4522(b)(1) goes to the member firm's obligations, not the reporting schedules of third parties. FINRA further stated that while Rule 4522 does not prevent a member from placing reliance on such schedules, FINRA members would need to comply with the reconciliation cadence requirements and other requirements in the proposed rule, including the requirement to comply with SEC Rule 17a–13.[25]

Lastly, the commenter encouraged FINRA to continue to engage with member firms on matters related to the underlying timing and data-quality challenges of alternative investments.[26] In response, FINRA indicated that it would welcome further engagement.[27]

As discussed above, the proposed rule change would provide for a new exception from the requirements for FINRA member firms to receive position statements and reconcile securities and money balances, with respect to uncertificated investments in unregistered investment funds, no less than once per month. Due to the nature of many uncertificated investments in unregistered funds, issuers of such alternative investments may not be able to provide current position information with respect to customer ownership interests as frequently as required by FINRA Rule 4522. Consequently, meeting the requirements of FINRA Rule 4522 may be impracticable for FINRA members. The proposed rule change will reduce regulatory compliance burdens on FINRA member firms while also providing greater clarity to FINRA members regarding the treatment of such securities for the purpose of FINRA Rule 4522. Further, investors will continue to receive the protections afforded by the security count and reconciliation requirements of FINRA Rule 4522, even if less frequently than is currently mandated under the rule, as FINRA member firms must still take into consideration the requirements of prudent business practices in determining the frequency of conducting the required counts, comparisons and reconciliations. Additionally, the proposed rule change may encourage more FINRA members to offer alternative investments to customers as a result of the enhanced clarity and reduced regulatory burden, which could expand the investment opportunities and choices available to customers of FINRA member firms.

IV. Conclusion

For, these reasons discussed above, the Commission finds that the proposed rule change is consistent with the requirements of Section 15A(b)(6) of the Exchange Act [28] that the FINRA proposed rule change be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, and, in general, to protect investors and the public interest.

It is therefore ordered pursuant to Section 19(b)(2) of the Exchange Act [29] that the proposed rule change (SR–FINRA–2026–019) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Stephanie J. Fouse,

Assistant Secretary.

[FR Doc. 2026–24061 Filed 11–25–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106966; File No. SR–LTSE–2026–31]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Article III, Section 3.6 of the LTSE Bylaws Regarding Vacancies on the Board of Directors

November 23, 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 November 10, 2026, Long-Term Stock Exchange, Inc. (''LTSE'' 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 is filing with the Commission a proposed rule change to amend the Bylaws to amend Article III, Section 3.6 of the Bylaws regarding vacancies on the Exchange's Board of Directors to clarify board composition obligations during active candidate search and onboarding periods.

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.

[19] ''Capital balance funds'' for purposes of this proposed rule change and the SIFMA Letter are defined in a related No-Action letter recently issued by the Commission. *See* Letter regarding Capital Balance Fund Reconciliations from Raymond A. Lombardo, Assistant Director, SEC Division of Trading & Markets, to Mark M. Attar of Stradley Ronon Stevens & Young, LLP and counsel to Raymond James & Associates, Inc., dated January 6, 2026, *https://www.sec.gov/files/tm/noaction/raymond-james-associates-inc-010626.pdf.*

[20] *See* SIFMA Letter at 2.

[21] *See* FINRA Letter at 2–3.

[22] *See* SIFMA Letter at 2–3.

[23] *See* FINRA Letter at 3.

[24] *See* SIFMA Letter at 3.

[25] *See* FINRA Letter at 3.

[26] *See* SIFMA Letter at 3.

[27] *See* FINRA Letter at 3–4.

[28] 15 U.S.C. 78o–3(b)(6)

[29] 15 U.S.C. 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 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 the Bylaws to amend Article III, Section 3.6 of the Bylaws regarding vacancies on the Exchange's Board of Directors to clarify board composition obligations during active candidate search and onboarding periods.

Under Article III, Section 3.2(b)(ii) of the Bylaws, which describes the requisite composition of the Board, at least 20% of the total number of seats on the Board must be allocated to Member Representative Directors to ensure member market participants maintain fair representation in governance.[3] These individuals must be actively affiliated—as an officer, director, employee, or agent—with an LTSE-approved member firm.[4] Section 3.6(b) of the Bylaws also addresses the practical mechanics of managing mid-term vacancies of Member Representative Director seats. Currently, Section 3.6(b) mandates that when a Member Representative Director seat becomes vacant, the Member Nominating Committee must either recommend a candidate or provide a vetted candidate list to fill the seat.[5] To prevent immediate technical non-compliance with Section 3.2(b), the current rule includes a narrow exception: if a vacancy occurs when six months or less remain in a Member Representative Director's term, the Board is not deemed in violation of the compositional requirement during the vacancy period (''safe harbor exception'').[6]

The Exchange notes, however, that an unexpected vacancy occurring earlier than the six-month mark is not covered under the current safe harbor exception and therefore could create immediate governance strain, forcing either a rushed appointment or a technical regulatory breach.[7] To prevent this potential friction, LTSE proposes to expand the existing safe harbor exception to extend to any period in which the Exchange is performing reasonable due diligence to identify and onboard a qualified successor.[8] This change ensures that the Board has adequate time to perform comprehensive candidate vetting and regulatory background checks without compromising its governance obligations under the Act.

The Exchange also proposes a conforming change to remove the potentially confusing clause ''during the period of vacancy'' from current Section 3.6(b).

2. Statutory Basis

For the reasons discussed below, the Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general, and furthers the objectives of Sections 6(b)(1), 6(b)(3), 6(b)(5), and 19(g)(1) of the Act.[10]

The proposal to enlarge the safe harbor exception by expanding it to include any period in which the Exchange is performing reasonable due diligence to identify and onboard a qualified successor is consistent with the Section 6(b)(3) of the Act. Under the current framework, an unexpected mid-term vacancy of a Member Representative Director could place artificial pressure on the Exchange and the Member Nominating Committee to conduct a truncated candidate search to mitigate technical non-compliance with Section 3.2(b). The proposal would provide the Board with a reasonable window for due diligence and ensure that the Member Nominating Committee has sufficient time to identify, interview, and evaluate candidates who meet all regulatory qualifications and genuinely reflect the interests of Exchange market participants. In this way, the proposal would enhance member representation, by enabling thorough vetting and prioritizing candidate quality over an arbitrary timeline, and safeguard the integrity and effectiveness of the member representation by providing a process that better ensures fair representation of Exchange members in selecting Member Representative Directors and administering Exchange affairs. The Exchange notes that the ''reasonable due diligence'' standard is an objective baseline: reasonable due diligence would require active, verifiable outreach and evaluation efforts, ensuring that the safe harbor could not be utilized to leave member representative positions vacant indefinitely.

The Exchange believes that the proposal would also further the objectives of Section 6(b)(5) of the Act [11] because it promotes just and equitable principles of trade and protects investors and the public interest by ensuring that all prospective Member Representative Directors undergo rigorous evaluation before joining the Board. The proposal would allow the Exchange to conduct thorough due diligence, including comprehensive background checks, statutory disqualification reviews under Section 3(a)(39) of the Act, and potential conflict-of-interest screenings, all of which protect market participants and the integrity of the Exchange's governance structure.

The Exchange believes that the proposed rule change is consistent with Section 6(b)(1) of the Act, which requires (among other things) that a national securities exchange be organized and have the capacity to be able to carry out the purposes of the Act and comply with its own rules. The Exchange believes that the proposal is consistent with Section 19(g)(1) of the Act, which also requires (among other things) that a national securities exchange comply with its own rules.

Under the current Bylaws, an unexpected vacancy on the Board—whether due to resignation, illness, disqualification, or other unforeseen

[3] *See* Bylaws, Art. III, Section 3.2(b)(ii) (providing that ''the number of Member Representative Directors shall be at least twenty (20) percent of the Board . . . .). There are currently two Member Representative Directors on the 10-person LTSE Board.

[4] *See* Bylaws, Art. I (Definitions), paragraph (s) (defining ''Member Representative Director'').

[5] *See* Bylaws, Art. III, Section 3.6(b).

[6] *See id.* (providing in relevant part that ''if the remaining term of office of a Member Representative Director at the time of such Director's vacancy is not more than six (6) months, during the period of vacancy the Board shall not be deemed to be in violation of Section 3.2(b) by virtue of such vacancy.'').

[7] For example, if one of the two Member Representative Directors on LTSE's 10-person Board were to pass away, less than 20% of LTSE's Board would be composed of Member Representative Directors.

[8] Proposed Section 3.6(b) provides that ''if the remaining term of office of a Member Representative Director at the time of such Director's vacancy is not more than six (6) months, *or if the Company is performing reasonable due diligence to identify and onboard a successor,* the Board shall not be deemed to be in violation of Section 3.2(b) by virtue of such vacancy.'' *(Emphasis added.).*

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(1), 15 U.S.C. 78f(b)(3), 15 U.S.C. 78f(b)(5), and 15 U.S.C. 78f(b)(3), and 15 U.S.C. 78s(g)(1), respectively.

[11] 15 U.S.C. 78f(b)(5).

departure—occurring prior to six months before the expiration of a Member Representative Director's term could otherwise result in an immediate technical non-compliance under Article III, Section 3.2(b). The proposed expanded safe harbor would allow the Exchange to avoid technical non-compliance and allow the Exchange to ensure continuous, orderly governance. This change would thus better organize the Exchange to comply with its own rules and discharge its duties under the Act.

Finally, removing the clause ''during the period of vacancy'' removes redundant and potentially ambiguous phrasing from Section 3.6(b), thereby fostering greater clarity and enabling the Exchange to more easily follow its rules, consistent with Section 6(b)(1) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change relates to the implementation of a more efficient and effective governance structure for LTSE. As such, the Exchange believes that it will have no effect on LTSE's competitive position.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–LTSE–2026–31 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–2026–31. 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–2026–31 and should be submitted on or before December 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–24063 Filed 11–25–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106977; File No. SR–24X–2026–35]

Self-Regulatory Organizations; 24X National Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend 24X Rule 11.21(b)(2) Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker Halt in Connection With the Expansion of Trading Hours to 23 Hours per Day, 5 Days per Week

November 23, 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 November 18, 2026, 24X National Exchange LLC (''24X'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend 24X Rule 11.21(b)(2) concerning the resumption of trading following a Level 3 market-wide circuit breaker halt in connection with the extension of exchange trading hours to 23 hours per day, 5 days per week. The proposed rule change is available on the Exchange's website at *https://equities.24exchange.com/regulation* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend 24X Rule 11.21(b)(2) concerning the resumption of trading following a Level 3 market-wide circuit breaker (''MWCB'') halt (''Level 3 Market Decline'') in connection with the extension of exchange trading hours to 23 hours per day, 5 days per week (''23/5 Trading'').[3] As discussed herein, the proposed rule change would retain the current 4:00 a.m. Eastern Time (''ET'') resumption time following a Level 3

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 101777 (Nov. 27, 2024), 89 FR 97092 (File No. 10–242) (24X Form 1 Approval Order).

Market Decline, notwithstanding the fact that the Exchange would normally open for overnight trading at 9:00 p.m. ET once the Exchange has implemented 23/5 Trading.

Background

The MWCB mechanism under 24X Rule 11.21 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when U.S. securities markets experience extreme broad-based declines. All U.S. equity exchanges and FINRA (collectively, the self-regulatory organizations or ''SROs'') adopted uniform rules relating to the MWCB mechanism in 2012, which are designed to slow the effects of extreme price movement through coordinated trading halts across U.S. securities markets when severe price declines reach levels that may exhaust market liquidity.[4] Such market-wide circuit breakers provide for trading halts in all U.S. cash equity and equities options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index during regular trading hours.

Pursuant to 24X Rule 11.21, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and before 3:25 p.m. ET would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. ET would not halt market-wide trading. If a Level 3 Market Decline occurs at any time during the trading day, trading in all stocks will halt on the Exchange for the remainder of the trading day and will resume the following trading day at 4:00 a.m. ET during the Pre-Market Session.[5]

Proposal

The Exchange now proposes to amend 24X Rule 11.21 to reflect extended trading hours, *i.e.,* 23/5 Trading. Currently, the Exchange offers three trading sessions on each day it is open for trading: (1) the Pre-Market Session (4:00 a.m. to 9:30 a.m. ET); (2) the Core Market Session (9:30 a.m. to 4:00 p.m. ET); and (3) the Post-Market Session (4:00 p.m. to 8:00 p.m. ET).[6] On December 6, 2026, the Exchange intends to offer a new Overnight Session, which would be available from 9:00 p.m. to 4:00 a.m. ET,[7] significantly increasing the Exchange's hours of operation in response to customer demand.

As discussed, current 24X Rule 11.21(b)(2) provides that if a Level 3 Market Decline occurs at any time during the trading day, trading in all stocks will halt on the Exchange for the remainder of the trading day. Currently, this means the Exchange would re-open at its normal time, *i.e.,* 4:00 a.m. ET, following a Level 3 Market Decline. However, the Exchange intends to begin 23/5 Trading on December 6, 2026. Unless amended, when the Exchange launches overnight trading, the current rule's reference to halting ''for the remainder of the trading day'' [8] would require that the Exchange re-open trading at an earlier time, *i.e.,* at 9:00 p.m. ET on the same calendar day, when the Exchange's systems would generally become available for the Overnight Session. The Exchange does not believe that this is an expected or desired result and is therefore amending this rule in coordination with the other SROs such that trading on the Exchange will not resume until 4:00 a.m. ET or later on the following trading day, consistent with current market practice. This proposed rule change is therefore not intended to make any substantive changes to the MWCB mechanism. Rather, the proposed rule change would preserve the current resumption time following a Level 3 Market Decline, notwithstanding changes to the Exchange's rules that would otherwise allow the Exchange to resume trading at 9:00 p.m. ET as it would on any other trading day.

To effect this change, the Exchange proposes to delete the language in 24X Rule 11.21(b)(2) that provides that trading in all stocks will halt on the Exchange ''for the remainder of the trading day'' if a Level 3 Market Decline occurs at any time during the trading day, and replace it with new language that explicitly provides that trading in all stocks would halt on the Exchange until 4:00 a.m. Eastern Time or later on the following trading day.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act [9] in general, and with Section 6(b)(5) of the Act [10] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest; and it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The MWCB mechanism described in 24X Rule 11.21 is an important, automatic mechanism that is invoked to promote stability and investor confidence during periods of significant stress when U.S. securities markets experience extreme broad-based declines. The proposed rule change would ensure that the Exchange's current 4:00 a.m. ET resumption time following a Level 3 halt continues to apply when the Exchange and various other U.S. equities exchanges begin trading on a 23/5 basis, notwithstanding current rule text implying that the resumption time would coincide with the start of overnight trading on the Exchange.

Rather than leave the rule in place as is, which would result in an earlier resumption time than originally contemplated when the rule was adopted, the Exchange, the other U.S. equity exchanges, and FINRA met alongside industry representatives to determine the appropriate resumption time. Following those discussions, the collective decision was made to retain the 4:00 a.m. ET resumption time, notwithstanding the fact that an earlier resumption time would be possible with the introduction of 23/5 Trading. The proposed rule change codifies this decision into the Exchange's rules. Other SROs have also filed similar proposed rule changes.[11] As a result, the market as a whole, including on- and off-exchange, will continue to be subject to harmonized rules for the resumption of trading following a Level 3 Market Decline.

[4] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–PHLX–2011–129) (''MWCB Approval Order'').

[5] *See* 24X Rule 1.5(z).

[6] *See* 24X Rules 1.5(z), (l), and (y).

[7] *See* 24X Rule 1.5(c).

[8] *See* 24X Rule 11.21(b)(2).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] *See, e.g.,* Securities Exchange Act Release No. 106378 (Sept. 15, 2026), 91 FR 59256 (Sept. 18, 2026) (SR–NYSEARCA–2026–94); Securities Exchange Act Release No. 106293 (Sept. 8, 2026), 91 FR 57945 (Sept. 11, 2026) (SR–MEMX–2026–29).

While the SROs had previously decided to tie the resumption time following a Level 3 halt to the earliest SRO opening time, the upcoming transition to 23/5 Trading raises various concerns that warrant a change from the current approach.

First, the Exchange notes that the MWCB mechanism was designed to provide a cooling-off period where market participants would be provided with additional time to evaluate the market events that led to the decline before determining how to position their trading activity for the next day. With the introduction of 23/5 Trading and the start of the Overnight Session at 9:00 p.m. ET, however, this cooling off period could be materially shortened, reducing one of the key benefits that the MWCB mechanism was designed to provide in the first place. Rather than shorten the cooling-off period and risk this benefit, the Exchange believes the market would be better served by a change to the length of the associated trading halt that mirrors current market practice. Under the proposed amended rule, as is the case today, after a Level 3 halt the Exchange would re-open for the Pre-Market Session at 4:00 a.m. ET and would not offer an Overnight Session starting on the day of a Level 3 halt.

Second, the new Overnight Session may be subject to different liquidity and participation considerations than the current Pre-Market Session. Notably, while retail investors have expressed interest in overnight trading, the Exchange expects that institutional investors will take more time to transition to a round-the-clock model. However, such institutional participation may be of heightened importance following a Level 3 halt, as these investors are likely to have views on the underlying market events that led to the Level 3 Market Decline in the first place. The Exchange is concerned that opening during hours that such participants do not normally trade may impact the quality of price discovery at a time of significant market volatility. Waiting until 4:00 a.m. ET to resume trading would facilitate broader participation and therefore price discovery.

Finally, the Exchange notes that the Commission recently approved an amendment to the Plan to Address Extraordinary Market Volatility (''LULD Plan'') that would establish new price protections from 9:00 p.m. ET to 4:00 a.m. ET.[12] While these price bands would help to assure a fair and orderly market during normal market conditions, it is possible that they would instead prevent normal price discovery following a Level 3 Market Decline. Rather than allowing trading to resume with such price bands in effect, which would represent a change from the current trading reopening following a Level 3 Market Decline, the Exchange believes that waiting until 4:00 a.m. ET to resume trading would ensure that price discovery can occur unimpeded during pre-market trading, as it does today, which may further inform prices going into the opening auction and regular market hours trading following a Level 3 halt.

Given the factors discussed above, the Exchange believes that trading in all securities on the Exchange should not resume before 4:00 a.m. ET on the trading day after a Level 3 halt. This decision, which has also been reflected in the rules of the other SROs, would promote a fair and orderly market at a time of significant market volatility, and thereby protect investors and the public interest. In addition, while the actual Level 3 resumption time would not be changing in practice—as proposed, the current resumption time and future resumption time would both be 4:00 a.m. ET at the earliest—the Exchange believes that it is appropriate to amend its rules to ensure that its rules reflect the upcoming changes to the Exchange's hours of operation. Without this change, market participants may mistakenly believe that the Exchange's intention is to re-open trading on the Exchange at 9:00 p.m. ET following a Level 3 halt. The proposed rule change would therefore facilitate operational transparency while providing for a fair and orderly market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across U.S. securities markets. Further, other SROs have filed proposed rule changes to ensure a consistent resumption time on or after 4:00 a.m. ET across all markets.[13] Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Act[14] and subparagraph (f)(6) of Rule 19b–4 thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6)[16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Exchange's proposal, which seeks to amend its rules to ensure that trading in all securities on the Exchange will not resume before 4:00 a.m. ET on the trading day after a Level 3 halt, will continue the Exchange's current practice, which is to resume trading at 4:00 a.m. ET following a Level 3 halt, and is consistent with the rules of other SROs.[18] Waiver of the 30-day operative delay will allow the Exchange to implement the proposed rule change alongside the other SROs in anticipation of the planned commencement of 23/5 Trading on December 6, 2026. For these reasons, and because the proposal raises no new or novel legal or regulatory issues, the Commission finds that waiver of the 30-day operative delay is consistent with the protection of

[12] *See* Securities Exchange Act Release No. 106042 (August 5, 2026), 91 FR 51515 (August 10, 2026) (Order Granting Approval of the Twenty-Seventh Amendment to the National Market System Plan to Address Extraordinary Market Volatility to Establish Temporary Price Band Protections in Overnight Trading).

[13] *See supra* note 11.

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 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.

[16] *Id.*

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] *See supra* note 11.

investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be 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 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–24X–2026–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–24X–2026–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–24X–2026–35 and should be submitted on or before December 18, 2026.

[19] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–24072 Filed 11–25–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106965; File No. SR–LTSE–2026–30]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the LTSE Bylaws to, Among Other Things, Declassify the Board of Directors

November 23, 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 November 10, 2026, Long-Term Stock Exchange, Inc. (''LTSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Bylaws to: (1) declassify the Board; (2) change the name of the Nominating Committee to the Nominating and Governance Committee; and (3) add gender-neutral language.[3]

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.

[20] 17 CFR 200.30–3(a)(12) and (59).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Additionally, the Exchange proposes to make three clean up changes. First, in Article III, Section 3.7(a) (Removal and Resignation) of the Bylaws, which governs the removal of a Director, the Exchange proposes to change ''majority vote'' to ''a majority vote'' (of stockholders). Second, the Exchange proposes to add its address (14 Wall Street, Floor 20, New York, NY 10005) into Article II, Section 2.1 of the Bylaws. Third, the Exchange proposes to change the title of the document from ''FIRST AMENDED AND RESTATED BYLAWS OF LONG-TERM STOCK EXCHANGE, INC.'' to ''SECOND AMENDED AND RESTATED BYLAWS OF LONG-TERM STOCK EXCHANGE, INC.'' These three proposed changes are referred to collectively as ''Clean Up Changes.''

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 the Bylaws to: (1) declassify the Board; (2) change the name of the Nominating Committee to the Nominating and Governance Committee; and (3) add gender-neutral language.[4]

Board Declassification. Currently, the Bylaws establish a classified Board for the Exchange. Specifically, the Exchange's Industry and Non-Industry Directors are divided into three nearly equal sized classes, with Directors serving staggered three-year terms. This is codified in Article III, Section 3.3(b), which provides:

> Each of the Non-Industry and Industry Directors, shall be divided into three (3) classes, designated Class I, Class II and Class III, which shall be as nearly equal in number and classification as the total number of such Directors then serving on the Board permits. Directors shall serve staggered three-year terms, with the term of office of one class expiring each year. A Director may serve for any number of terms, consecutive or otherwise. In order to commence such staggered three-year terms, Directors in Class I shall hold office until the second annual election of the Board of Directors, Directors in Class II shall initially hold office until the third annual election of the Board of Directors, and Directors in Class III shall initially hold office until the fourth annual

[4] Additionally, the Exchange proposes to make three clean up changes. First, in Article III, Section 3.7(a) (Removal and Resignation) of the Bylaws, which governs the removal of a Director, the Exchange proposes to change ''majority vote'' to ''a majority vote'' (of stockholders). Second, the Exchange proposes to add its address (14 Wall Street, Floor 20, New York, NY 10005) into Article II, Section 2.1 of the Bylaws. Third, the Exchange proposes to change the title of the document from ''FIRST AMENDED AND RESTATED BYLAWS OF LONG-TERM STOCK EXCHANGE, INC.'' to ''SECOND AMENDED AND RESTATED BYLAWS OF LONG-TERM STOCK EXCHANGE, INC.'' These three proposed changes are referred to collectively as ''Clean Up Changes.''

election of the Board of Directors. Commencing with the second annual election of the Board of Directors, the term of office for each class of Directors elected at such time shall be three years from the date of their election. Notwithstanding the foregoing, in the case of any new Director as contemplated by Section 3.2(a), such Director shall be added to a class, as determined by the Board at the time of such Director's initial election or appointment, and shall have an initial term expiring at the same time as the term of the class to which such Director has been added.

The Exchange proposes to declassify the Board,[5] and instead provide that Directors be elected for one-year terms and that each Director hold office until the Director's successor is duly elected and qualified, or the Director's earlier death, resignation, disqualification, or removal. The Exchange would do this by deleting the current text of Section 3.3(b) and replacing it with the following language:

From and after the Company's 2026 annual meeting of stockholders, the Board shall cease to be classified as provided in Section 141(d) of the General Corporation Law of the State of Delaware, and the Directors elected at the 2026 annual meeting of stockholders (and each annual meeting thereafter) shall be elected for a term expiring at the next annual meeting. Each Director elected at any annual meeting of stockholders shall hold office until such Director's successor is duly elected and qualified, or the Director's earlier death, resignation, disqualification, or removal.

The proposed declassification of the Board would enhance Directors' accountability to the Exchange's stockholders. The proposed Board declassification would align the Exchange's corporate governance with the practices of other national securities exchanges.[6]

Committee Name Change. Additionally, the Exchange proposes to change the name of the Nominating Committee to the Nominating and Governance Committee. This change would be reflected in the following sections of the Bylaws: Art. I(u); Art. III, Sections 3.2(c), 3.4(a), 3.4(b), 3.4(c), 3.4(e), 3.6(a); Art. V, Sections 5.2(a), 5.6(a), 5.6(b), 5.6(c), 5.6(d), 5.6(e), 5.6(f); and Art. VI, Sections 6.1, 6.2.

Gender Neutral Language Additions. Lastly, in Article III, Section 3.3(a) and Article VIII, Sections 8.1(c), and 8.1(d), the Exchange proposes to add ''or her'' after ''his'' to reflect that the referenced people may be female or male.

2. Statutory Basis

For the reasons discussed below, the Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and furthers the objectives of Sections 6(b)(1), 6(b)(3), 6(b)(5), and 19(g)(1) of the Act.[8]

Board Declassification. As explained above, the current Bylaws divide the Board into three nearly equal sized classes of Industry and Non-Industry Directors, and Directors serve staggered three-year terms. The proposal to eliminate the classes of Directors and to require all Directors to stand for election every year (instead of every three years) would allow LTSE Group, Inc. (''LTSEG''), the owner of the Exchange, to establish more efficient accountability of the Board (directly) and the Exchange (indirectly). Business and regulatory landscapes are changing—and may change further—both drastically and quickly.[9] The proposal would allow the Exchange to more quickly respond and adapt to new risks, regulatory shifts, and adapt to technological changes. Specifically, the proposed annual board structure would allow LTSEG to quickly refresh the Board with expertise relevant to meet new business and regulatory challenges. In this way, the proposal is consistent with the requirement of Section 6(b)(1) of the Act that a national securities exchange be organized and have the capacity to be able to carry out the purposes of the Act.

Committee Name Change, Gender Neutral Language, and Clean Up Changes. The proposals to change the name of the Nominating Committee to the Nominating and Governance Committee and to add language to make provisions gender neutral are consistent with the provisions of Sections 6(b)(1) and 19(g)(1) of the Act, which require that a national securities exchange comply with its own rules. Amending the Bylaws to change the name of a Board committee to one that more accurately reflects the committee's functions would better organize the Exchange to comply with its own rules and its responsibilities under the Act. Additionally, this change would eliminate confusion by clarifying the role of that committee and thus allow the Exchange to better comply with its own rules.

Similarly, the Clean Up Changes and the proposed additions of language to make provisions of the Bylaws gender neutral better reflects their potential operation and thus would better organize the Exchange to comply with its own rules. Additionally, these changes would eliminate confusion by more accurately reflecting the operation of these provisions and thus allow the Exchange to better comply with its own rules. In particular, the proposed renaming of the document would allow the Exchange to distinguish between the versions of its bylaws and comply with the operative version.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change relates to the implementation of a more efficient and effective governance structure for LTSE and makes clarifying changes. As such, the Exchange believes that it will have no effect on LTSE's competitive position.

[5] Correspondingly, the Exchange also proposes to remove ''Classes'' from the title of Section 3.3.

[6] *See, e.g.,* Art. III, Section 3.1 of the ELEVENTH AMENDED AND RESTATED BYLAWS OF CBOE EXCHANGE, INC. (''Directors will serve one-year terms ending on the annual meeting following the meeting at which such directors were elected or at such time as their successors are elected or appointed and qualified, except in the event of earlier death, resignation, disqualification or removal''); Article II, Section 1(a) of the By-Laws of The Nasdaq Stock Market LLC (providing that Member Representative Directors are elected to the board on an annual basis) and Section 9(a) of the Second Amended Limited Liability Company Agreement Of The Nasdaq Stock Market LLC (providing that that non-Member Representative directors are elected or appointed by Nasdaq, Inc. without staggered term limits); and Sections 2.03(a)(i) of the Fourteenth Amended and Restated Operating Agreement of New York Stock Exchange LLC (providing that the board consists of a number of directors determined by NYSE Group, Inc. without dividing directors into classes) and 2.03(l) (providing that each director holds office until his or her successor is elected or appointed and qualified, or until earlier resignation or removal, rather than serving staggered multi-year terms).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(1), 15 U.S.C. 78f(b)(3), 15 U.S.C. 78f(b)(5), and 15 U.S.C. 78f(b)(3), and 15 U.S.C. 78s(g)(1), respectively.

[9] For example, the Commission approved a revision to the allocation of net revenues under the CT Plan among Members that targeted quoting activity on LTSE and NYSE Texas, LLC. *See* Securities Exchange Act Release No. 106349 (September 14, 2026), 91 FR 58944 (September 17, 2026) (4–757). Additionally, the Commission has proposed to rescind the trade-through rule, which the Commission says may affect small exchanges—such as LTSE—by making it more difficult for them to gain market share. *See* Securities Exchange Act Release No. 105655 (June 11, 2026), 91 FR 36656, 36723, 36725 (June 17, 2026) (S7–2026–20). The Commission also advises that this proposed rescission may result in a decrease in revenue for those exchanges. *See* Securities Exchange Act Release No. 105655, 91 FR at 36725. In fact, rescission may make it difficult for small exchanges to persist unless they can differentiate themselves and the Commission states that ''there may be a reduction in the overall number of exchanges. . . .'' Securities Exchange Act Release No. 105655, 91 FR at 36729.

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 Proposed Rule Change and Timing for Commission Action

The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A)(iii) of Act [10] and Rule 19b–4(f)(3) [11] thereunder. Accordingly, the proposal will 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 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–LTSE–2026–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–LTSE–2026–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–LTSE–2026–30 and should be submitted on or before December 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Vanessa A. Countryman,

Secretary.

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[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(3).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106962; File No. SR–MEMX–2026–38]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 21.15 To Adopt a Market Data Product Known as Open-Close Data

November 23, 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 November 17, 2026, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to rule change [sic] to adopt a new market data product to be known as Open-Close Data. The text of the proposed rule change is provided in Exhibit 5 and is available on the Exchange's website at *https://info.memxtrading.com/regulation/rules-and-filings/.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4.

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 adopt a new market data product for options to be known as Open-Close Data, which will be available for purchase to MEMX Options Members and Non-Members.[5] The proposed Open-Close Data would be described in new Exchange Rule 21.5(b)(5) and is based on market data products currently available on most other options exchanges.[6]

The Exchange proposes to offer the Open-Close Data which will be a volume summary of trading activity on the Exchange at the option level by origin (Customer, Professional, Firm,

[5] The Exchange intends to submit a separate rule filing prior to the launch of the Data to establish fees for the Open-Close Data.

[6] *See* Securities Exchange Act Release Nos. 89497 (August 6, 2020), 85 FR 48747 (August 12, 2020) (SR–CboeBZX–2020–059); 89498 (August 6, 2020), 85 FR 48735 (August 12, 2020) (SR–Cboe–EDGX–2020–36); 85817 (May 9, 2019), 84 FR 21863 (May 15, 2019) (SR–CBOE–2019–026); 89496 (August 6, 2020), 85 FR 48743 (August 12, 2020) (SRC2–2020–010); 89596 (August 17, 2020), 85 FR 51833 (August 21, 2020) (SR–C2–2020–012); 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR–Phlx–2010–121); 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR–NASDAQ–2011–144); 61317 (January 8, 2010), 75 FR 2915 (January 19, 2010) (SR–ISE–2009–103); 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR–Phlx–2010–121); 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR–NASDAQ–2011–144); 81632 (September 15, 2017), 82 FR 44235 (September 21, 2017) (SR–GEMX–2017–42), 93394 (October 21, 2021), 86 FR 59439 (October 27, 2021) (SR–BOX–2021–24), 93132 (September 27, 2021) 86 FR 54499 (October 1, 2021) (SR–NYSEArca–2021–82), 91965 (May 21, 2021) 86 FR 28665 (May 27, 2021) (SR–MIAX–2021–18); 91963 (May 21, 2021) 86 FR 28662 (May 27, 2021) (SR–EMERALD–2021–18), 91964 (May 21, 2021) 86 FR 28667 (May 27, 2021) (SR–PEARL–2021–24), 93803 (December 16, 2021) 86 FR 72647 (December 22, 2021) (SR–NYSEAMER–2021–46), 93132 (September 27, 2021), 86 FR 54499 (October 1, 2021) (SR–NYSEArca–2021–82) and 100751 (August 16, 2024) 89 FR 68010 (August 22, 2024) (SR–SAPPHIRE–2024–09).

Broker-Dealer, and Market Maker)[7], side of the market (buy or sell), contract volume, and transaction type (opening or closing). The Customer, Market Maker, Professional, Firm, and Broker-Dealer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Data is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. Additionally, at this time, the Open-Close Data will only be available for download at the end of each day.

Specifically, the Open-Close Data would include the following data:

- Aggregate number of buy and sell transactions in the affected series;
- Aggregate volume traded electronically on the Exchange in the affected series;
- Aggregate number of trades effected on the Exchange to open a position;[8]
- Aggregate number of trades effected on the Exchange to close a position;[9]
- Origin of the orders and quotes involved in trades on the Exchange in the affected series during a particular trading session, specifically aggregated in the following categories of participants: Customer, Professional, Firm, Broker-Dealer, and Market Maker.

The Open-Close Data would include the aggregate data described above representing the entire trading session. It would be calculated after the close of trading on the Exchange and would be available to subscribers for download via the Exchange's User Portal at approximately 5:00 p.m. Eastern Time.

The Exchange anticipates a wide variety of market participants will wish to purchase the Open-Close Data, including, but not limited to, individual customers, buy-side investors, and investment banks. The Open-Close Data would provide subscribers data that should enhance their ability to analyze option trade and volume data, and to create and test trading models and analytical strategies. The Exchange believes the proposed Open-Close Data will be a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular option series. It is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange will establish a monthly subscriber fee for the Open-Close Data by way of a separate proposed rule change, which the Exchange will submit prior to the launch of the Open-Close Data report. As stated above, other options exchanges offer a similar data product.[10]

2. Statutory Basis

The Exchange believes the proposal is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[12] 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 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 that it is not designed to permit unfair discrimination among customers, brokers, or dealers.

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. Particularly, the Open-Close Data further broadens the availability of U.S. options market data to investors consistent with the principles of Regulation NMS. The data product also promotes increased transparency through the dissemination of the Open-Close Data report's data. The proposed rule change would benefit investors by providing access to the Open-Close Data, which may promote better informed trading throughout the trading day. Particularly, information regarding opening and closing activity across different option series during the trading day may indicate investor sentiment, which may allow market participants to make better informed trading decisions throughout the day. Subscribers to the data may also be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes the Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading. Moreover, other exchanges also off a substantially identical data product.[13]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to offer a data product similar to those offered by other competitor options exchanges.[14] The Exchange is proposing to introduce Open-Close Data for MEMX Options in order to keep pace with changes in the industry and evolving customer needs, and believes this proposed rule change would contribute to robust competition among national securities exchanges. As noted previously, nearly all of the competing options exchanges offer a market data product that is substantially similar to the Open-Close Data. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Therefore, the Exchange does not believe 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

[7] *See* Exchange Rule 16.1 for definitions of Customer, Market Maker, and Professional.

[8] The Open-Close Data would provide subscribers with the aggregate number of ''opening purchase transactions'' in the affected series. An opening purchase transaction is an Exchange options transaction in which the purchaser's intention is to create or increase a long position in the series of options involved in such transaction. The Open-Close Data would also provide subscribers with the aggregate number of ''opening writing transactions.'' An opening writing transaction is an Exchange options transaction in which the seller's (writer's) intention is to create or increase a short position in the series of options involved in such transaction.

[9] The Open-Close Data will provide subscribers with the aggregate number of ''closing purchase transactions'' in the affected series. A closing purchase transaction is an Exchange options transaction in which the purchaser's intention is to reduce or eliminate a short position in the series of options involved in such transaction. The Open-Close Data would also provide subscribers with the aggregate number of ''closing sale transactions.'' A closing sale transaction is an Exchange options transaction an Exchange options transaction in which the seller's intention is to reduce or eliminate a long position in the series of options involved in such transaction.

[10] *See supra* note 6.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *See supra* note 6.

[14] *Id.*

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [19] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange believes the Open-Close Data will provide valuable information to investors that will ultimately promote better informed trading throughout the trading day. Waiver of the operative delay would enable the proposed rule change to become operative so that the Exchange may offer the Open-Close Data as soon as possible. For these reasons, waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and the Commission designates the proposed rule change as operative upon filing.[20]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2026–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MEMX–2026–38. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR–MEMX–2026–38 and should be submitted on or before November 27, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–24060 Filed 11–25–26; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] *Id.*

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* U.S.C. 78c(f).

[21] 15 U.S.C. 78s(b)(2)(B).

[22] 17 CFR 200.30–3(a)(12), 59.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106979; File No. SR–TXSE–2026–055]

Self-Regulatory Organizations; Texas Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend TXSE Rule 11.021 Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker Halt in Connection With the Expansion of Trading Hours to 23 Hours per Day, 5 Days per Week

November 23, 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 November 20, 2026, Texas Stock Exchange LLC (''Exchange'' or ''TXSE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend TXSE Rule 11.021 (''Trading Halts Due to Extraordinary Market Volatility/Market-Wide Circuit Breakers'') concerning the resumption of trading following a Level 3 market-wide circuit breaker (''MWCB'') halt (''Level 3 Market Decline'') in connection with the industry's expansion of trading hours to 23 hours per day, 5 days per week (''23/5 Trading''). The text of the proposed rule change is available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), at the Exchange's website (*https://www.txse.com/reuglations/rules-filings*) [sic], and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of 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.

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 TXSE Rule 11.021 (''Trading Halts Due to Extraordinary Market Volatility/Market-Wide Circuit Breakers'') concerning the resumption of trading following a Level 3 market-wide circuit breaker (''MWCB'') halt (''Level 3 Market Decline'') in connection with the industry's expansion of trading hours to 23 hours per day, 5 days per week (''23/5 Trading''). Some exchanges, including NYSE Arca, Inc. (''NYSE Arca''), are planning to offer overnight trading,[3] and as a result, the uniform Level 3 Market Decline rules of each exchange are being modified, as explained further below.

Background

The MWCB mechanism under TXSE Rule 11.021 provides an important, automatic mechanism that is invoked to promote stability and investor confidence during a period of significant stress when U.S. securities markets experience extreme broad-based declines. The then-existing U.S. equity exchanges and FINRA (collectively, the self-regulatory organizations or ''SROs'') adopted uniform rules relating to the MWCB mechanism in 2012, which are designed to slow the effects of extreme price movement through coordinated trading halts across U.S. securities markets when severe price declines reach levels that may exhaust market liquidity.[4] Such market-wide circuit breakers provide for trading halts in all U.S. cash equity and equities options markets during a severe market decline as measured by a single-day decline in the S&P 500 Index during regular trading hours.

Pursuant to TXSE Rule 11.021, a market-wide trading halt will be triggered if the S&P 500 Index declines in price by specified percentages from the prior day's closing price of that index. Currently, the triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. ET and up to and including 3:25 p.m. ET (12:25 p.m. ET on an early scheduled close) would halt market-wide trading for 15 minutes, while a similar market decline after 3:25 p.m. ET (12:25 p.m. ET on an early scheduled close) would not halt market-wide trading. If a Level 3 Market Decline occurs at any time during the trading day, trading in all stocks will halt on the Exchange for the remainder of the trading day, and will resume the following trading day subject to the Exchange's trading hours and applicable reopening procedures.[5]

Proposal

The Exchange now proposes to amend TXSE Rule 11.021 to reflect extended trading hours under 23/5 Trading. On December 6, 2026, several exchanges, including NYSE Arca, intend to offer new overnight trading sessions that would be available from 9:00 p.m. ET to 4:00 a.m. ET, significantly increasing their hours of operation in response to customer demand.

As discussed, consistent with the uniform rules in place across all SROs, current TXSE Rule 11.021(b)(2) provides that if a Level 3 Market Decline occurs at any time during the trading day, the Exchange shall halt trading in all stocks on the Exchange for the remainder of the trading day. Currently, that means that the earliest that any exchange would re-open trading after a Level 3 Market Decline is 4:00 a.m. ET the following day, since no SROs are open for trading before 4:00 a.m. ET.

Unless amended, when 23/5 Trading is launched, the current rule's reference to halting ''for the remainder of the trading day'' [6] would require SROs participating in 23/5 Trading to re-open trading at an earlier time, *i.e.,* 9:00 p.m. ET on the same calendar day, when those SROs' systems would generally become available for overnight trading. The Exchange does not believe that this is an expected or desired result and is therefore amending this rule in coordination with the other SROs such that trading on any SRO will not resume until 4:00 a.m. ET or later on the following trading day, consistent with current market practice. This proposed rule change is therefore not intended to make any substantive changes to the MWCB mechanism. Rather, the proposed rule change would preserve the current resumption time following a Level 3 Market Decline.

To effect this change, the Exchange proposes to delete the language in TXSE Rule 11.021(b)(2) that provides that trading in all stocks will halt on the Exchange ''for the remainder of the trading day'' if a Level 3 Market Decline occurs at any time during the trading day, and replace it with new language that explicitly provides that trading in all stocks would halt on the Exchange until 4:00 a.m. Eastern Time or later on the following trading day.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] 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 MWCB mechanism described in TXSE Rule 11.021 is an important, automatic mechanism that is invoked to promote stability and investor confidence during periods of significant stress when U.S. securities markets experience extreme broad-based declines. The proposed rule change, when applied uniformly by all SROs, would ensure that the current 4:00 a.m. ET resumption time following a Level 3 halt continues to apply under 23/5 Trading, notwithstanding current rule text implying that the resumption time would coincide with the start of overnight trading on SROs operating an overnight session.

Rather than leave the rule in place as is, which would result in an earlier resumption time than originally contemplated when the rule was adopted, U.S. equity exchanges and FINRA met alongside industry representatives to determine the appropriate resumption time. Following those discussions, the collective decision was made to retain the 4:00 a.m. ET resumption time, notwithstanding the fact that an earlier resumption time would be possible with the introduction of 23/5 Trading. The proposed rule change codifies this decision into the Exchange's rules. The Exchange understands that the other SROs will also be filing similar

[3] *See, e.g.,* Securities Exchange Act Release No. 105532 (May 21, 2026), 91 FR 31509 (May 27, 2026) (SR–NYSEARCA–2026–53) (''NYSE Arca 23/5 Trading Notice''). TXSE does not intend to participate in 23/5 Trading at the time of this proposal.

[4] *See* Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (SR–BATS–2011–038; SR–BYX–2011–025; SR–BX–2011–068; SR–CBOE–2011–087; SR–C2–2011–024; SR–CHX–2011–30; SR–EDGA–2011–31; SR–EDGX–2011–30; SR–FINRA–2011–054; SR–ISE–2011–61; SR–NASDAQ–2011–131; SR–NSX–2011–11; SR–NYSE–2011–48; SR–NYSEAmex–2011–73; SR–NYSEArca–2011–68; SR–Phlx–2011–129) (''MWCB Approval Order'').

[5] *See* TXSE Rules 11.001 and 1.005(v), and the applicable reopening procedures in TXSE Rules 11.022 and 11.023.

[6] *See* TXSE Rule 11.021(b)(2).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

proposed rule changes. As a result, the market as a whole, including on- and off-exchange, will continue to be subject to harmonized rules for the resumption of trading following a Level 3 Market Decline.

While the SROs had previously decided to tie the resumption time following a Level 3 halt to the earliest SRO opening time, the upcoming transition to 23/5 Trading raises various concerns that warrant a change from the current approach.

First, the Exchange notes that the MWCB mechanism was designed to provide a cooling-off period where market participants would be provided with additional time to evaluate the market events that led to the decline before determining how to position their trading activity for the next day. With the introduction of 23/5 Trading and the start of overnight trading on some SROs at 9:00 p.m. ET, however, this cooling-off period could be materially shortened, reducing one of the key benefits that the MWCB mechanism was designed to provide in the first place. Rather than shorten the cooling-off period and risk this benefit, the Exchange believes the market would be better served by a change to the length of the associated trading halt that mirrors current market practice. Under the proposed rule, as is the case today, after a Level 3 halt, all SROs would re-open trading at 4:00 a.m. ET or later, and no SRO would offer an overnight trading session starting on the day of a Level 3 halt.

Second, overnight trading may be subject to different liquidity and participation considerations than the current pre-market sessions that start at or after 4:00 a.m. ET. Notably, while retail investors have expressed interest in overnight trading, the Exchange expects that institutional investors will take more time to transition to a round-the-clock model. However, such institutional participation may be of heightened importance following a Level 3 halt, as these investors are likely to have views on the underlying market events that led to the Level 3 Market Decline in the first place. The Exchange is concerned that opening during hours that such participants do not normally trade may impact the quality of price discovery at a time of significant market volatility. Waiting until 4:00 a.m. ET to resume trading would facilitate broader participation and therefore price discovery.

Finally, the Exchange notes that the Commission recently approved an amendment to the Plan to Address Extraordinary Market Volatility (''LULD Plan'') that would establish new price protections from 9:00 p.m. ET to 4:00 a.m. ET.[9] While these price bands would help to assure a fair and orderly market during normal market conditions, it is possible that they would instead prevent normal price discovery following a Level 3 Market Decline. Rather than allowing trading to resume with such price bands in effect, which would represent a change from the current trading reopening following a Level 3 Market Decline, the Exchange believes that requiring SROs to wait until 4:00 a.m. ET or later to resume trading would ensure that price discovery can occur unimpeded during pre-market trading, as it does today, which may further inform prices going into the opening auction and regular market hours trading following a Level 3 halt.

Given the factors discussed above, the Exchange believes that trading in all securities on the Exchange should not resume before 4:00 a.m. ET on the trading day after a Level 3 halt. This decision, which the Exchange understands will also be reflected in the rules of the other SROs, would promote a fair and orderly market at a time of significant market volatility, and thereby protect investors and the public interest. In addition, while the actual Level 3 resumption time would not be changing in practice—as proposed, the current resumption time and future resumption time would both be 4:00 a.m. ET at the earliest—the Exchange believes that it is appropriate to amend its rules to ensure that its rules reflect the upcoming changes due to 23/5 Trading. Without this change, market participants may mistakenly believe that the Exchange intends for trading to re-open on overnight trading exchanges at 9:00 p.m. ET following a Level 3 halt. The proposed rule change would therefore facilitate operational transparency while providing for a fair and orderly market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal would ensure the continued, uninterrupted operation of a consistent mechanism to halt trading across U.S. securities markets. Further, the Exchange understands that the other SROs intend to file proposed rule changes to ensure a consistent resumption time at 4:00 a.m. or later ET across markets. Thus, the proposed rule change will help to ensure consistency across market centers without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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 Act[10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Exchange's proposal, which seeks to amend its rules to ensure that trading in all securities on the Exchange will not resume before 4:00 a.m. ET on the trading day after a Level 3 halt, will continue the Exchange's current practice, which is to resume trading at 4:00 a.m. ET following a Level 3 halt, and is consistent with the rules of other SROs. Waiver of the 30-day operative delay will allow the Exchange to implement the proposed rule change alongside the other SROs in anticipation of the planned commencement of 23/5 Trading on December 6, 2026. For these

[9] *See* Securities Exchange Act Release No. 106042 (August 5, 2026), 91 FR 51515 (August 10, 2026) (Order Granting Approval of the Twenty-Seventh Amendment to the National Market System Plan to Address Extraordinary Market Volatility to Establish Temporary Price Band Protections in Overnight Trading).

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 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.

[12] *Id.*

[13] 17 CFR 240.19b–4(f)(6)(iii).

reasons, and because the proposal raises no new or novel legal or regulatory issues, the Commission finds that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[14]

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–TXSE–2026–055 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–TXSE–2026–055. 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–TXSE–2026–055 and should be submitted on or before December 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Vanessa A Countryman,

Secretary.

[FR Doc. 2026–24073 Filed 11–25–26; 8:45 am]

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[14] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106974; File No. 10–258]

OX Delta LLC; Notice of Filing of Application, as Amended, for Registration as a National Securities Exchange Under Section 6 of the Securities Exchange Act of 1934

November 23, 2026.

On September 11, 2026, OX Delta LLC (''OX Delta'') filed with the Securities and Exchange Commission (''Commission'') a Form 1 application under the Securities Exchange Act of 1934 (''Exchange Act''), seeking registration as a national securities exchange under Section 6 of the Exchange Act. On November 12, 2026, OX Delta submitted Amendment No. 1 to its Form 1 application.[1] OX Delta's Form 1 application, as amended, provides detailed information on how it proposes to satisfy the requirements of the Exchange Act.

The Commission is publishing this notice to solicit comments on OX Delta's Form 1 application. The Commission will take any comments it receives into consideration in making its determination about whether to grant OX Delta's request to register as a national securities exchange. The Commission will grant the registration if it finds that the requirements of the Exchange Act and the rules and regulations thereunder with respect to OX Delta are satisfied.[2]

With respect to governance, Options Xchange Group Inc. (''Options Xchange Group'') is a holding company that directly holds 100% of the equity of Options Xchange Midco LLC, which in turn directly holds 100% of the equity of OX Delta. Options Xchange Group is the entity through which the ultimate owners of OX Delta indirectly hold their ownership interest in OX Delta. The Options Xchange Group Certificate of Formation would provide a 40% cap on beneficial ownership of stock of Options Xchange Group by any person (alone or together with related persons) and would further cap beneficial ownership of Options Xchange Group by members of OX Delta at 20%. The governing documents for OX Delta can be found in Exhibit A to OX Delta's Form 1 application, and a listing of the officers and intended categories of directors of OX Delta can be found in Exhibit J. The governing documents for Options Xchange Group can be found in Exhibit C to OX Delta's Form 1 application.

With respect to its trading system, the Form 1 application provides that OX Delta would operate a fully automated electronic options trading platform to buy or sell securities with a continuous, automated matching function that prioritizes execution on a price-time basis. OX Delta would not maintain a physical trading floor. Liquidity would be derived from quotes as well as orders to buy and orders to sell submitted to OX Delta electronically by its registered broker-dealer members from remote locations. Access to OX Delta would be open to registered broker-dealers that meet the standards for membership in OX Delta's proposed rules. There would be two types of members on OX Delta—Market Makers and Order Entry Firms.[3] Members registered as Market Makers would have certain rights and bear certain responsibilities beyond those of other members. According to OX Delta, it ''intends for its trading system to be relatively simple, without many of the complex order types or instructions available on other national securities exchanges.'' [4]

A more detailed description of the manner of operation of OX Delta's proposed system can be found in Exhibit E to OX Delta's Form 1 application. The proposed rulebook for the proposed exchange can be found in Exhibit B to OX Delta's Form 1 application. A complete set of forms concerning membership and access can be found in Exhibit F to OX Delta's Form 1 application.

OX Delta's Form 1 application, including all of the Exhibits referenced above, is available online at *https://www.sec.gov/rules-regulations/commission-orders-notices/other-commission-orders-notices-information.* Interested persons are invited to submit written data, views, and arguments

[1] In Amendment No. 1, OX Delta submitted updated portions of its Form 1 application, including Exhibits E (description of the proposed operation of the exchange) and F–7 (Service Bureau Agreement).

[2] 15 U.S.C. 78s(a).

[3] Capitalized terms used but not defined herein have the meanings specified in Exhibit B–1.

[4] Form 1, Exhibit E at 5.

concerning OX Delta's Form 1, including whether the application is consistent with the Exchange 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/commission-orders-notices/other-commission-orders-notices-information*); or
- Send an email to *rule-comments@sec.gov.* Please include file number 10–258 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 10–258. 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/commission-orders-notices/other-commission-orders-notices-information*). Copies of the filing will be available for inspection and copying at the principal office of OX Delta. 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 10–258 and should be submitted on or before January 11, 2027.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–24069 Filed 11–25–26; 8:45 am]

BILLING CODE 8011–01–P

[5] 17 CFR 200.30–3(a)(71)(i).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106973; File No. SR–FINRA–2026–028]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend FINRA Rule 6190 To Incorporate Overnight Price Bands Established Under the Regulation NMS Plan To Address Extraordinary Market Volatility

November 23, 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 November 19, 2026, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. 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

FINRA is proposing to amend FINRA Rule 6190 (Compliance with Regulation NMS Plan to Address Extraordinary Market Volatility) to incorporate overnight price bands established under the Regulation NMS Plan to Address Extraordinary Market Volatility (''Plan'' or ''LULD Plan''). The text of the proposed rule change is available on FINRA's website at *http://www.finra.org* and at the principal office of FINRA.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA Rule 6190 requires members that are trading centers[3] in NMS Stocks to establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the requirements of the Plan and specifically to prevent: (1) the execution of trades at prices that are below the Lower Price Band or above the Upper Price Band for an NMS Stock, except as permitted under the Plan; (2) the display of offers below the Lower Price Band and bids above the Upper Price Band for an NMS Stock; and (3) the execution of trades in an NMS Stock during a Trading Pause; however, bids and offers may be displayed during a Trading Pause, as permitted under the Plan.[4] By operation of the Plan, the ''Lower Price Band'' and ''Upper Price Band'' are applicable only during ''Regular Trading Hours.''[5]

On August 5, 2026, the Commission approved an amendment to the Plan (the ''LULD Overnight Amendment'').[6] The LULD Overnight Amendment added new Section VIII to the Plan, entitled ''Overnight Protections,'' which establishes a framework for calculating and disseminating ''Overnight Price Bands'' for use during ''Overnight Protected Hours,'' defined as beginning at 9:00 p.m. E.T. on Sunday through Thursday and concluding at 4:00 a.m.

[3] Unless otherwise specified, the terms used herein have the same meaning as set forth in the Plan.

[4] *See* Securities Exchange Act Release No. 68985 (February 25, 2013), 78 FR 13922 (March 1, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2013–016).

[5] *See* Section I(S) of the Plan. ''Regular Trading Hours'' is defined to have the meaning provided in Rule 600(b)(88) of Regulation NMS, which generally defines such hours as 9:30 a.m. to 4:00 p.m. E.T.

[6] *See* Securities Exchange Act Release No. 105596 (June 1, 2026), 91 FR 33774 (June 4, 2026) (Notice of Filing of the Twenty-Seventh Amendment to the National Market System Plan To Address Extraordinary Market Volatility To Establish Temporary Price Band Protections in Overnight Trading); *see also* Securities Exchange Act Release No. 106042 (August 5, 2026), 91 FR 51515 (August 10, 2026) (Order Granting Approval of the Twenty-Seventh Amendment to the National Market System Plan to Address Extraordinary Market Volatility to Establish Temporary Price Band Protections in Overnight Trading) (''Approval Order''); Securities Exchange Act Release No. 106624 (October 7, 2026), 91 FR 65016 (October 13, 2026) (Notice of Filing and Order of Summary Effectiveness on a Temporary Basis Not To Exceed 120 Days of Proposed Twenty-Ninth Amendment to the National Market System Plan To Address Extraordinary Market Volatility To Revise the Time for Calculating the Consolidated Price in Connection With Overnight Trading).

E.T. on the next calendar day.[7] Section VIII of the Plan requires all trading centers in NMS Stocks that are operative during Overnight Protected Hours, including both those operated by Plan Participants and those operated by members of Plan Participants, to establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades at prices that are below the ''Overnight Lower Price Band'' or above the ''Overnight Upper Price Band'' for an NMS Stock during Overnight Protected Hours.[8] The LULD Overnight Amendment contemplates a two-phased approach with the current amendment implementing Phase 1. During the first phase, the Plan Participants intend to gather and analyze data concerning overnight trading and will use that data to prepare new overnight protections for the second phase, which will be proposed in a new Plan amendment.[9] The LULD Overnight Amendment—Phase 1—will become effective on December 6, 2026.

The proposed rule change is intended to implement the LULD Overnight Amendment. Specifically, the proposed rule change would amend the provision of Rule 6190 related to preventing trades to incorporate references to the new Overnight Lower Price Band and Overnight Upper Price Band effective during Overnight Protected Hours under the amended Plan in a manner parallel to the existing requirements for the Lower Price Band and Upper Price Band during Regular Trading Hours.

The proposed rule change would also amend Supplementary Material .01 to Rule 6190 to reference additional defined terms in the LULD Plan—specifically ''Overnight Lower Price Band'' and ''Overnight Upper Price Band.'' These amendments are intended to ensure that the existing requirements for members that are trading centers in NMS Stocks under Rule 6190 with respect to executing trades outside the Price Bands extend to the new Overnight Protected Hours, as required by the amended Plan.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of filing, so FINRA can implement the proposed rule change on December 6, 2026.

[7] *See* Section VIII(A)(5) of the Plan.

[8] *See* Section VIII(C) of the Plan; Approval Order, *supra* note 6, 91 FR 51515, 51515.

[9] *See* Approval Order, *supra* note 6, 91 FR 51515, 51515.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[10] 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 remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposed rule change would amend Rule 6190 to incorporate Overnight Price Bands consistent with amendments to the Plan, which is designed to enhance the stability and integrity of the national market system by implementing price band protections during overnight trading sessions, thereby reducing the risk of extraordinary volatility and erroneous trades during periods of reduced liquidity.

FINRA believes the proposed rule change is necessary to ensure that the new requirements for Overnight Protected Hours clearly apply to FINRA members that are trading centers in NMS Stocks, as required by the Plan. The proposed rule change also would provide for consistent volatility protections across listed and unlisted markets, as is the case today during regular trading hours. The amendment therefore furthers the goals of investor protection and fair and orderly markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change implements conforming changes to Rule 6190 that are required under the LULD Overnight Amendment, which was approved by the Commission, and does not impose obligations on members beyond those set forth in the Plan.

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

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 Act[11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The proposed rule change amends FINRA Rule 6190 to conform to the requirements of the Plan, as amended by the LULD Overnight Amendment, and implements the LULD Plan's requirements for Overnight Protected Hours that have already been approved by the Commission. The proposed rule change provides for consistent volatility protections across listed and unlisted markets, as is the case during regular trading hours today. Waiver of the 30-day operative delay will allow FINRA to implement the proposed rule change in anticipation of the planned commencement of 23/5 Trading on December 6, 2026. For these reasons, and because the proposal raises no new or novel legal or regulatory issues, the Commission finds that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the

[10] 15 U.S.C. 78*o*–3(b)(6).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 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. FINRA has satisfied this requirement.

[13] *Id.*

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–FINRA–2026–028 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–2026–028. 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 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–2026–028 and should be submitted on or before December 18, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Stephanie J. Fouse,

Assistant Secretary.

[FR Doc. 2026–24068 Filed 11–25–26; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12) and (59).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #22080; IDAHO Disaster Number ID–20042 Declaration of Economic Injury]

Administrative Declaration of an Economic Injury Disaster for the State of Idaho

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of an Economic Injury Disaster Loan (EIDL) declaration for the state of Idaho dated November 23, 2026.

Incident: Big Rock Fire, Flooding, and Debris Flow.

DATES: Issued on November 23, 2026.

Incident Period: July 31, 2026 through August 22, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: August 23, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Alfonso Olivas, Office of Disaster Recovery, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the Administrator's EIDL declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary County: Jefferson.

Contiguous Counties:

Idaho: Bingham, Bonneville, Butte, Clark, Fremont, Madison.

The Interest Rates are:

	Percent
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for economic injury is 220800.

The state which received an EIDL declaration is Idaho.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery.

[FR Doc. 2026–24161 Filed 11–25–26; 8:45 am]

BILLING CODE 8026–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36960]

Brookfield Corporation—Corporate Family Transaction Exemption

Brookfield Corporation (Brookfield), a noncarrier holding company, has filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for an intra-corporate family transaction that will restructure the rail carriers under Brookfield's indirect control.

According to Brookfield, it currently controls Snow Rail Holdings, LLC (Snow Rail), which controls G&W Intermediate Holdings LLC (GWIH), which controls Genesse & Wyoming Inc. (G&W). The verified notice states that G&W controls, through direct and indirect equity ownership, 103 rail carriers in the United States.

According to the verified notice, the proposed transaction will restructure the rail carriers under Brookfield's indirect control into three groups, as follows. First, Brookfield will continue to control Snow Rail, which will continue to control GWIH, which in turn will continue to control G&W. Brookfield states that G&W will continue to control 68 of the 103 rail carriers currently under its control.[1] Second, Brookfield will also control a newly formed intermediate holding company, AGL Northeast HoldCo LLC, which will control newly formed AGL Northeast LLC, which in turn will control the newly formed intermediate holding company Atlantic & Great Lakes (AGLT). The verified notice states that AGLT will control 23 of the rail carriers that are currently controlled by G&W. Third, Brookfield will control a newly formed intermediate holding company, C&C Pacific HoldCo LLC, which will control newly formed C&C Pacific LLC, which in turn will control a newly formed intermediate holding company, Canyon & Cascade Transportation Inc. (C&CT). According to the verified notice, C&CT will control 12 of the rail carriers that are currently controlled by

[1] See the Appendix for a list of the rail carriers by post-transaction controlling entity.

G&W. Brookfield explains that it will continue to indirectly control all 103 rail carriers that it currently indirectly controls.

Brookfield states that the transaction is intended to enhance opportunities to acquire or lease additional rail carriers and rail lines, reduce risk, and to create three companies that are more focused on localized business needs and are largely geographically aligned to developing distinct strategies to meet those needs. A draft copy of the resolution governing the transaction was submitted with the verified notice as Exhibit D.

Brookfield states that the transaction does not impose or involve any new interchange commitment under 49 CFR 1180.4(g) by or affecting any of the carriers subject to this transaction. The verified notice states that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the Brookfield corporate family. Therefore, the transactions are exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(3).

Unless stayed, the exemption will be effective on December 12, 2026 (30 days after the verified notice was filed). Brookfield states that it intends to consummate the transaction on or about January 1, 2027.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction involves the control of five Class II as well as Class III rail carriers, the transaction is subject to the labor protection requirements of 49 U.S.C. 11326(a) and *New York Dock Railway—Control—Brooklyn Eastern District Terminal,* 360 I.C.C. 60 (1979).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than December 4, 2026 (at least seven days before the exemption becomes effective).

All pleadings referring to Docket No. FD 36960 must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Brookfield's representative, Justin J. Marks, Clark Hill PLC, 601 13th Street NW, Suite 600, Washington, DC 20004.

According to Brookfield, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: November 23, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Kenyatta Clay,

Clearance Clerk.

Appendix

Genesee & Wyoming Inc. U.S. Railroads [2]

Class II Railroads

1. Chicago, Ft. Wayne & Eastern Railroad
2. Indiana & Ohio Railway Company
3. Rapid City, Pierre & Eastern Railroad, Inc.

Class III Railroads

4. Alabama & Gulf Coast Railway LLC
5. AN Railway, L.L.C.
6. Arkansas Louisiana & Mississippi Railroad Company
7. Arkansas Midland Railroad Company, Inc.
8. Atlantic and Western Railway, Limited Partnership
9. Bauxite & Northern Railway Company
10. The Bay Line Railroad, L.L.C.
11. Carolina Piedmont Railroad
12. The Central Railroad Company of Indiana
13. Central Railroad Company of Indianapolis
14. Chattahoochee Industrial Railroad
15. Chattooga & Chickamauga Railway Co.
16. Chesapeake & Albemarle Railroad
17. Columbus & Chattahoochee Railroad, Inc.
18. Columbus and Greenville Railway Company
19. Commonwealth Railway, Incorporated
20. Conecuh Valley Railway, L.L.C.
21. Dallas, Garland & Northeastern Railroad, Inc.
22. Delphos Terminal Company, Inc.
23. East Tennessee Railway, L.P.
24. Eastern Alabama Railway, LLC
25. First Coast Railroad Inc.
26. Galveston Railroad, L.P.
27. Georgia Central Railway, L.P.
28. Georgia Southwestern Railroad, Inc.
29. Golden Isles Terminal Railroad, Inc.
30. Grand Rapids Eastern Railroad
31. Heart of Georgia Railroad, Inc.
32. Hilton & Albany Railroad, Inc.
33. Huron & Eastern Railway Company, Inc.
34. Illinois & Midland Railroad, Inc.
35. Indiana Southern Railroad, LLC
36. Kiamichi Railroad Company L.L.C.
37. KWT Railway, Inc.
38. Kyle Railroad Company
39. Little Rock & Western Railway, L.P.
40. Louisiana & Delta Railroad, Inc.
41. Luxapalila Valley Railroad, Inc.
42. Marquette Rail, LLC
43. Maryland Midland Railway, Inc.
44. Maryland and Pennsylvania Railroad, LLC
45. Meridian & Bigbee Railroad, L.L.C.
46. Michigan Shore Railroad
47. Mid-Michigan Railroad, Inc.
48. Missouri & Northern Arkansas Railroad Company, Inc.
49. North Carolina & Virginia Railroad Company, LLC
50. Otter Tail Valley Railroad Company, Inc.
51. Point Comfort & Northern Railway Company
52. The Prescott and Northwestern Railroad Company
53. Riceboro Southern Railway, LLC
54. Salt Lake City Southern Railroad Company, Inc.
55. Savannah Port Terminal Railroad, Inc.
56. South Carolina Central Railroad Company, LLC
57. St. Lawrence & Atlantic Railroad Company
58. Tazewell & Peoria Railroad, Inc.
59. Texas Northeastern Railroad
60. Toledo, Peoria & Western Railway Corp.
61. Tomahawk Railway, Limited Partnership
62. Utah Railway Company
63. Valdosta Railway, L.P.
64. Warren & Saline River Railroad Company
65. Wilmington Terminal Railroad, Limited Partnership
66. Wiregrass Central Railway, L.L.C.
67. Yorkrail, LLC
68. York Railway Company

Atlantic & Great Lakes Transportation Inc. Railroads [3]

Class II Railroads

1. Buffalo & Pittsburgh Railroad, Inc.
2. The Columbus & Ohio River Rail Road Company

Class III Railroads

3. The Aliquippa & Ohio River Railroad Co.
4. Allegheny & Eastern Railroad, LLC
5. Berkshire & Eastern Railroad
6. Connecticut Southern Railroad, Inc.
7. The Dansville and Mount Morris Railroad Company
8. Genesee and Wyoming Railroad Company
9. The Mahoning Valley Railway Company
10. The Massena Terminal Railroad Company
11. New England Central Railroad, Inc.
12. Ohio and Pennsylvania Railroad Company
13. Ohio Central Railroad, Inc.
14. Ohio Southern Railroad, Inc.
15. Pittsburg & Shawmut Railroad, LLC
16. The Pittsburgh & Ohio Central Railroad Company

[2] The verified notice states that Maryland and Pennsylvania Railroad, LLC, and Yorkrail, LLC, are non-operating carriers that own rail lines operated by York Railway Company. The verified notice also states that Delphos Terminal Company, Inc., is a non-operating carrier that owns a rail line operated by Chicago, Ft. Wayne & Eastern Railroad.

[3] The verified notice states that Allegheny & Eastern Railroad, LLC, and Pittsburg & Shawmut Railroad, LLC, are non-operating carriers that own rail lines operated by Buffalo & Pittsburgh Railroad, Inc. The verified notice also states that the Dansville and Mount Morris Railroad Company is a non-operating carrier that owns a rail line operated by Rochester & Southern Railroad, Inc.

17. Providence and Worcester Railroad Company
18. Rochester & Southern Railroad, Inc.
19. South Buffalo Railway Company
20. The Warren & Trumbull Railroad Company
21. Wellsboro & Corning Railroad, LLC
22. Youngstown & Austintown Railroad, Inc.
23. The Youngstown Belt Railroad Company

Canyon & Cascade Transportation Inc. Railroads

Class III Railroads

1. Arizona & California Railroad Company
2. Arizona Eastern Railway Company
3. California Northern Railroad Company
4. Cascade and Columbia River Railroad Company
5. Central Oregon & Pacific Railroad, Inc.
6. Olympia & Belmore Railroad, Inc.
7. Portland & Western Railroad, Inc.
8. Puget Sound & Pacific Railroad
9. San Diego & Imperial Valley Railroad Company, Inc.
10. San Joaquin Valley Railroad Co.
11. Ventura County Railroad Company
12. Willamette & Pacific Railroad, Inc.

[FR Doc. 2026–24052 Filed 11–25–26; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36447]

Lake Providence Port Commission—Feeder Line Application—Line of Delta Southern Railroad Located in East Carroll and Madison Parishes, LA

This proceeding involves efforts by the Lake Providence Port Commission (LPPC), a noncarrier political subdivision of the State of Louisiana, to acquire the portion of the McGehee-Tallulah rail corridor owned by Delta Southern Railroad, Inc. (DSRR), a Class III rail carrier, through a feeder line application under 49 U.S.C. 10907 and 49 CFR part 1151.[1] LPPC owns two other segments of the corridor (one, jointly with North Louisiana & Arkansas Railroad, Inc. (NLA)), and Southeast Arkansas Economic Development District owns a third segment. NLA holds operating authority over these three segments and has been designated by LPPC as the proposed operator of DSRR's segment if the feeder line application is granted. (*See, e.g.,* Am. Appl. 1, 19–20, 56, 58–59, Jan. 4, 2023.)

This decision provides notice of LPPC's amended feeder line application and adopts a procedural schedule for the submission of competing applications, comments and verified responses, and verified replies.

Background [2]

LPPC's initial feeder line application, which sought to acquire only part of the Line, was accepted and a procedural schedule established in early 2021. *See Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La.,* FD 36447 (STB served Jan. 15, 2021). On August 23, 2022, the Board granted LPPC's request to file an amended application, *see Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La.,* FD 36447 (STB served Aug. 23, 2022), which LPPC filed on January 4, 2023, seeking to acquire the entire Line. Following an unsuccessful challenge by DSRR to the completeness of the amended application and LPPC's satisfaction of certain technical requirements, *see Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La.* (*Nov. 2023 Decision*), FD 36447, slip op. at 6–13 (STB served Nov. 20, 2023), LPPC's amended application was conditionally accepted, and LPPC was permitted to proceed with valuation discovery under the process specified in the *November 2023 Decision. See Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La.* (*Dec. 2023 Decision*), FD 36447, slip op. at 2 (STB served Dec. 11, 2023). In accordance with that process, LPPC notified the Board that it completed that valuation discovery on May 29, 2024, and submitted supplemental evidence regarding valuation of the Line, based on data provided by DSRR in response to LPPC's discovery requests, in July 2024.

Shortly thereafter, the Board placed this proceeding in abeyance pending resolution of state court litigation relating to LPPC's authority under Louisiana law to pursue the feeder line application. *See Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La. August 2024 Decision*), FD 36447 (STB served Aug. 2, 2024). In a decision served September 25, 2025, the Board, among other things, removed the proceeding from abeyance, noting that the question surrounding LPPC's authority had been resolved by the passage of new state legislation, and directed the parties to confer and submit a proposed procedural schedule by October 9, 2025. *See Sep. 2025 Decision,* FD 36447, slip op. at 6–8.

Thereafter, the parties submitted competing proposals for a procedural schedule, and DSRR filed a motion to strike or compel related to four of LPPC's shipper witnesses, to which LPPC and the shipper witnesses each filed a reply in opposition. In light of these unresolved issues and ongoing disputes, by decision served December 12, 2025, the Board assigned an administrative law judge (ALJ) to handle all remaining discovery matters. *See Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La.* (*Dec. 2025 Decision*), FD 36447, slip op. at 3 (STB served Dec. 12, 2025). Between December 31, 2025, and July 2, 2026, the ALJ issued several decisions addressing discovery disputes.

By decision served May 27, 2026, the Board directed LPPC to file by June 16, 2026, any revisions to its valuation calculations and supporting evidence that LPPC believed were warranted based on the updated information DSRR provided in discovery. *See Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison (May 2026 Decision*), FD 36447, slip op. at 2–3 (STB served May 27, 2026). The *May 2026 Decision* also set a deadline of July 6, 2026, for the close of discovery and stated that notice of the amended feeder line application would thereafter be published in the **Federal Register** and a procedural schedule set. *Id.* at 3. On June 16, 2026, LPPC filed and served various revisions to its valuation calculations and supporting evidence.

On July 2, 2026, the ALJ denied a DSRR motion to compel NLA to respond to certain discovery. *See Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La.* (*July 2026 Decision*), FD 36447 (STB served July 2, 2026). On September 2, 2026, the Board denied DSRR's appeal of two aspects of the ALJ's *July 2026 Decision. See Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La.* (*Sep. 2026 Decision*), FD 36447, slip op. at 3–6 (STB served Sep. 2, 2026).

[1] The McGehee-Tallulah rail corridor extends from milepost 408.9 in McGehee, Ark., where it connects with Union Pacific Railroad Company, south to milepost 498.44 in Tallulah, La., where it connects with Canadian Pacific Kansas City Limited (CPKC). DSRR owns and operates the southernmost segment of the corridor, from milepost 471.0 at Lake Providence, La., south to the connection with CPKC at milepost 498.44 in Tallulah (hereinafter, the Line).

[2] A more detailed description of the procedural history and background of this proceeding is provided in the Board's decision served on September 25, 2025. *See Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La.* (*Sep. 2025 Decision*), FD 36447, slip op. at 2–6 (STB served Sep. 25, 2025).

The Board also authorized DSRR to reopen two depositions for the limited purpose of examination pertaining to an unwritten modification agreement between LPPC and NLA. *See id.* at 7–8. By letter dated September 30, 2026, DSRR informed the Board that it had conducted the reopened depositions. (*See* DSRR Letter, Sep. 30, 2026.) [3]

On October 30, 2026, DSRR filed a motion requesting that the Board issue a procedural schedule, along with a proposed schedule for filings. (*See* DSRR Mot. for Procedural Schedule, Oct. 30, 2026.) LPPC replied to the motion on November 2, 2026. (*See* LPPC Reply, Nov. 2, 2026.)

Discussion and Conclusions

As explained in the *December 2023 Decision,* the Board's acceptance of the amended application was conditional to permit LPPC to seek discovery of DSRR and to file revised valuation calculations and supporting evidence. *Dec. 2023 Decision,* FD 36447, slip op. at 2. Discovery has been completed, and LPPC has filed its updated valuation calculations and supporting evidence. Accordingly, notice of LPPC's amended application will be published in the **Federal Register**.

Procedural Schedule

The *September 2025 Decision* directed the parties to confer and submit (jointly, if possible) a proposed procedural schedule that took into account a reasonable period of time for DSRR to complete discovery and the general timeline for record-building contemplated by the Board's regulations at 49 CFR 1151.2(c), (e), and (f). *Sep. 2025 Decision,* FD 36447, slip op. at 8. The parties submitted separate proposals on November 19, 2025.[4] (*See* DSRR Mot. for Procedural Schedule, Nov. 19, 2025; LPPC Response, Nov. 19, 2025.)

DSRR included a new proposed procedural schedule with its October 30, 2026 motion. DSRR proposes 30 days—the time period specified by 49 CFR 1151.2(c)—for the filing of competing applications. (DSRR Mot. for Procedural Schedule 3, Oct. 30, 2026.) DSRR proposes that verified statements and comments addressing both the amended application and any competing applications be due 60 days thereafter—more than the 30 days contemplated in 49 CFR 1151.2(e). (DSRR Mot. for Procedural Schedule 3, Oct. 30, 2026.) DSRR states it ''expects its filing to be extensive and robust given the substantial record.'' (*Id.*) DSRR also argues the record will show LPPC has failed the public convenience and necessity (PC&N) test [5] so substantially that the Board could benefit from bifurcating the PC&N analysis from consideration of the constitutional minimum value (CMV) of the Line.[6] Finally, DSRR proposes 20 days for the filing of verified replies to responses to the amended application and any competing applications. (DSRR Mot. for Procedural Schedule 3, Oct. 30, 2026.)

In reply, LPPC states that it supports issuance of a procedural schedule and responds to various assertions in DSRR's motion. (*See* LPPC Reply, Nov. 2, 2026.) LPPC generally does not oppose the schedule DSRR proposes; however, LPPC requests 30 days (rather than 20) to file its verified reply, given the anticipated length of DSRR's response to the amended application. (*Id.* at 3–4.) LPPC objects to DSRR's suggestion that the Board consider only whether LPPC has satisfied the PC&N test and delay determining the CMV of the Line. (*Id.* at 2–3.)

DSRR's proposed schedule, modified to permit 30 days for the filing of verified replies, is reasonable and will be adopted. However, to avoid unnecessary delay, DSRR's request to bifurcate will be denied. Accordingly, all filings should address the PC&N standard, the CMV of the Line, and financial responsibility.

For the reasons discussed, DSRR's October 30, 2026 motion for issuance of a procedural schedule will be granted in part, and the following procedural schedule will be adopted for this proceeding:

- Competing applications by other parties seeking to acquire all or any portion of the Line are due by December 28, 2026.
- Verified statements and comments addressing the amended application and competing applications must be filed by February 25, 2027.
- Verified replies by applicants and other interested parties must be filed by March 29, 2027.

It is ordered:

1. Notice of LPPC's amended feeder line application will be published in the **Federal Register**.
2. DSRR's October 30, 2026 motion for issuance of a procedural schedule is granted in part, as explained above.
3. The schedule set forth above will govern this proceeding.
4. This decision is effective on its service date.

Decided: November 24, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Tammy Lowery,

Clearance Clerk.

[FR Doc. 2026–24165 Filed 11–25–26; 8:45 am]

BILLING CODE 4915–01–P

[3] LPPC also filed a letter on September 30 noting that the reopened depositions had concluded and requesting that the Board ''promptly issue a procedural schedule.'' (LPCC Letter, Sep. 30, 2026.) On October 13, 2026, LPPC informed the Board, among other things, that corrected transcripts for the reopened depositions had been served on DSRR's counsel but stated it is not necessary to delay issuance of the procedural schedule to allow time for DSRR to provide those transcripts to the Board. (LPPC Letter, Oct. 13, 2026.) DSRR filed the corrected transcripts with the Board on October 22, 2026.

[4] Because of a lapse in the Board's appropriation, the initial October 9, 2025 deadline for proposals was extended to November 20, 2025. *See Materials Due to Be Submitted During the Fed. Gov't Shutdown,* EP 751, slip op. at 1 (STB served Nov. 13, 2025).

[5] Under 49 U.S.C. 10907, a financially responsible party may obtain a Board order requiring the sale of a rail line in two situations, only one of which is applicable here: when the PC&N require or permit the sale. 49 U.S.C. 10907(b)(1).

[6] To be an eligible purchaser under the feeder line program, an applicant must show it is financially responsible. 49 U.S.C. 10907(b)(1)(B). To be considered financially responsible, the purchaser must be able to (1) pay the CMV for the line and (2) cover the expenses of operating on the line for at least the first three years. *Id.* 10907(a).

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36964]

City of Solon, Ohio—Acquisition Exemption—Norfolk Southern Railway Company

The City of Solon, Ohio (Solon), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Norfolk Southern Railway Company (NSR) all of its residual common carrier interests, including NSR's right to reactivate rail service, on approximately 6.5 miles of rail-banked railroad line extending between milepost RH 15.0± in Cuyahoga County, Ohio, and milepost RH 21.5± at the Geauga-Portage County Line, Ohio (the Line).

In *Norfolk Southern Railway—Abandonment Exemption—in Cuyahoga, Geauga, and Portage Counties, Ohio,* AB 290 (Sub-No. 418X) (STB served June 25, 2025), the Board authorized abandonment of the Line, together with a 0.5-mile connecting segment. Solon states that the Line is currently subject to interim trail use under a trail use agreement between Solon and NSR under the National Trails System Act (Trails Act), 16 U.S.C. 1247(d). *See Norfolk S. Ry.—Aban. Exemption—in Cuyahoga, Geauga, & Portage Cntys., Ohio,* AB 290 (Sub-No. 418X) (STB served Dec. 10, 2025) (reopening the proceeding and issuing a replacement notice of interim train use to allow Solon, as proposed trail

sponsor, to negotiate with NSR for interim trail use/rail banking of the Line's right-of-way).[1]

Solon states that NSR agreed to convey to Solon, as the trail sponsor of the Line, all of NSR's residual common carrier interests in the Line, including NSR's right to terminate trail use and reactivate freight rail service. According to Solon, NSR does not wish to retain any residual rights related to the Line, and Solon is willing to acquire such residual interests. Solon states that it would obtain a contract operator to operate the Line if rail service were to be reactivated and acknowledges that any such operator would require operating authority from the Board.

Solon certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million. Solon further certifies that the proposed transaction does not include an interchange commitment.

The transaction may be consummated on or after December 13, 2026, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than December 4, 2026 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36964, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Solon's representative, Edward Kraus, Mayor, City of Solon, 34200 Bainbridge Road, Solon, OH 44139.

According to Solon, this action is categorically excluded from environmental reporting requirements under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: November 23, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2026–24045 Filed 11–25–26; 8:45 am]

BILLING CODE 4915–01–P

[1] On December 18, 2025, the Board was notified that a trail use/rail banking agreement was reached.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–13804]

Notice of Intent To Designate as Abandoned Felts Field Aviation Supplemental Type Certificate No. SA376NW

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to designate supplemental type certificate as abandoned; request for comments.

SUMMARY: This notice announces the FAA's intent to designate Felts Field Aviation Supplemental Type Certificate (STC) as abandoned and make the related engineering data available upon request. The FAA has received a request to provide engineering data concerning this STC. The FAA has been unsuccessful in contacting Felts Field Aviation concerning the STC. This action is intended to enhance aviation safety.

DATES: The FAA must receive all comments by May 26, 2027.

ADDRESSES: You may send comments on this notice by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Ed Mills, AIR–771, Federal Aviation Administration, West Certification Branch, 2200 216th Street Des Moines, WA 98189.
- *Email: Ed.Mills@faa.gov.* Include ''Docket No. FAA–2026–13804'' in the subject line of the message.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ed Mills, Manager, AIR–771, FAA; telephone: 206–231–3515; email: *Ed.Mills@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested parties to provide comments, written data, views, or arguments relating to this notice. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–13804'' at the beginning of your comments. The FAA will consider all comments received on or before the closing date. All comments received will be available in the docket for examination by interested persons.

Background

The FAA is posting this notice to inform the public that the FAA intends to designate Felts Field Aviation STC No. SA376NW as abandoned and subsequently release the related engineering data. Felts Field Aviation STC No. SA376NW is for installation of a McCauley D3A32C88–XLM/82NC–2 three bladed propeller, Cessna spinner, governor, and associated systems on a Continental I0–520–A engine in accordance with Felts Field Aviation Inc., Installation Instructions No. FFA1000.

The FAA has received a third-party request for the release of the aforementioned engineering data under the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552. The FAA cannot release commercial or financial information under FOIA without the permission of the data owner. However, in accordance with title 49 of the United States Code § 44704(a)(5), the FAA can provide STC ''engineering data'' it possesses for STC maintenance or improvement, upon request, if the following conditions are met:

1. The FAA determines the STC has been inactive for 3 years or more;
2. Using due diligence, the FAA is unable to locate the owner of record or the owner of record's heir; and
3. The availability of such data will enhance aviation safety.

There has been no activity on this STC for more than 3 years.

On August 14, 2026, the FAA sent a certified letter to Mr. Mark Neupert last known record holder of Felts Field Aviation at his last known address: Spokane Felts Field Hangar, 6095 E Rutter Ave, Spokane, Washington 99027. The FAA exchanged 6 electronic messages with Mr. Mark Neupert and the subject STC SA376NW was not a known asset when he acquired Felts Field Aviation. Mr. Mark Neupert gave the FAA the name of Mr. David Klaue an officer of the original Felts Field Aviation. The FAA discovered Mr. David Klaue was deceased. On August 14, 2026, the FAA sent a certified letter to Mr. David Klaue or heir. The letter was returned, unclaimed, and unable to be forwarded. The letters informed Felts Field Aviation that the FAA had received a request for engineering data related to STC No. SA376NW and was conducting a due diligence search to

determine whether the STC was inactive and may be considered abandoned. The letter further requested that Felts Field Aviation respond in writing within 60 days and state whether he is the holder of the STC. The FAA also attempted to make contact with Felts Field Aviation by other means, including telephone communication, without success.

Information Requested

If you are the owner or heir or a transferee of STC No. SA376NW or have any knowledge regarding who may now hold STC No. SA376NW, please contact Ed Mills using a method described in this notice under **FOR FURTHER INFORMATION CONTACT**. If you are the heir of the owner, or the owner by transfer, of STC No. SA376NW, you must provide a notarized copy of your government-issued identification with a letter and background establishing your ownership of the STC and, if applicable, your relationship as the heir to the deceased holder of the STC.

Conclusion

If the FAA does not receive any response by May 26, 2027, the FAA will consider STC No. SA4289WE abandoned, and the FAA will proceed with the release of the requested data. This action is for the purpose of maintaining the airworthiness of an aircraft and enhancing aviation safety.

(Authority: 49 U.S.C. 44704(a)(5).)

Issued on November 18, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–24028 Filed 11–25–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–13829]

Notice of Intent To Designate as Abandoned Martin Slone Supplemental Type Certificate Nos. SA441SW, SA500SW, SA501SW, SA512SW, and SA725SW

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to designate supplemental type certificate as abandoned; request for comments.

SUMMARY: This notice announces the FAA's intent to designate Martin Slone Supplemental Type Certificate (STC) Nos. SA441SW, SA500SW, SA501SW, SA512SW, and SA725SW as abandoned and make the related engineering data available upon request. The FAA has received a request to provide engineering data concerning these STCs. The FAA has been unsuccessful in contacting Martin Slone concerning the STCs. This action is intended to enhance aviation safety.

DATES: The FAA must receive all comments by May 26, 2027.

ADDRESSES: You may send comments on this notice by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Frederick Caplan, AIR–752, Federal Aviation Administration, East Certification Branch, 1701 Columbia Avenue, College Park, GA 30337.
- *Email: frederick.n.caplan@faa.gov.* Include ''Docket No. FAA–2026–13829'' in the subject line of the message.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Frederick Caplan, Aerospace Engineer, AIR–752, FAA; telephone: (404) 474–5507; email: *frederick.n.caplan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested parties to provide comments, written data, views, or arguments relating to this notice. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–13829'' at the beginning of your comments. The FAA will consider all comments received on or before the closing date. All comments received will be available in the docket for examination by interested persons.

Background

The FAA is posting this notice to inform the public that the FAA intends to designate Martin Slone STC Nos. SA441SW, SA500SW, SA501SW, SA512SW, and SA725SW, as abandoned and subsequently release the related engineering data. STC No. SA441SW is for the installation of Flexsteel Landing Gear on Piper Model PA–25–150 and PA–25–235 airplanes. STC No. SA500SW is for the installation of Moore-Left wing tips and extended aileron on Piper Model PA–25 and PA–25–235 airplanes. STC No. SA501SW is for the installation of special ribs and metal skin of the wings on Piper Model PA–25, PA–25–235, and PA–25–260 airplanes. STC No. SA512SW is for the installation of metal ribs and metal covering of the wings on Piper Model PA–25, PA–25–235, PA–18, and PA–18A airplanes. STC No. SA725SW is for the metal fuselage and fin on Piper Model PA–25 airplanes.

Descriptions of the STC design changes and affected aircraft models are available at *https://drs.faa.gov/browse/STC/doctypeDetails.*

The FAA has received a third-party request for the release of the engineering data for these STCs under the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552. The FAA cannot release commercial or financial information under FOIA without the permission of the data owner. However, in accordance with title 49 of the United States Code § 44704(a)(5), the FAA can provide STC ''engineering data'' it possesses for STC maintenance or improvement, upon request, if the following conditions are met:

1. The FAA determines the STC has been inactive for 3 years or more;
2. Using due diligence, the FAA is unable to locate the owner of record or the owner of record's heir; and
3. The availability of such data will enhance aviation safety.

There has been no activity on this STC for more than 3 years.

On July 1, 2026, the FAA sent a certified letter to Martin Slone at his last known address: 401 Lakeview Drive, Oldsmar, FL 34677. The letter informed Martin Slone that the FAA had received a request for engineering data related to STC Nos. SA441SW, SA500SW, SA501SW, SA512SW, and SA725SW and was conducting a due diligence search to determine whether these STCs were inactive and may be considered abandoned. The letter further requested that Martin Slone respond in writing within 60 days and state whether he is the holder of the STCs. The FAA also attempted to make contact with Martin Slone by other means, including telephone communication, internet searches, and email, without success.

Information Requested

If you are the owner or heir or a transferee of STC Nos. SA441SW, SA500SW, SA501SW, SA512SW, and SA725SW or have any knowledge regarding who may now hold STC Nos. SA441SW, SA500SW, SA501SW, SA512SW, and SA725SW, please contact Frederick Caplan using a method described in this notice under **FOR FURTHER INFORMATION CONTACT**. If you are the heir of the owner, or the owner by transfer, of STC Nos. SA441SW, SA500SW, SA501SW, SA512SW, and SA725SW, you must provide a notarized copy of your government-issued identification with a letter and background establishing your ownership of the STCs and, if

applicable, your relationship as the heir to the deceased holder of the STCs.

Conclusion

If the FAA does not receive any response by [INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], the FAA will consider STC Nos. SA441SW, SA500SW, SA501SW, SA512SW, and SA725SW abandoned, and the FAA will proceed with the release of the requested data. This action is for the purpose of maintaining the airworthiness of an aircraft and enhancing aviation safety.

(Authority: 49 U.S.C. 44704(a)(5))

Issued on November 18, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–24022 Filed 11–25–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–7591]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Experimental Permits for Reusable Suborbital Vehicles

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public to make public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The FAA collects information from applicants for experimental permits to determine whether they satisfy the requirements for obtaining an experimental permit.

DATES: Written comments should be submitted by

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Doris Bishop, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Doris Bishop by email at: *doris.d.bishop@faa.gov.*

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0722.

Title: Experimental Permits for Reusable Suborbital Vehicles.

Form Numbers: There are no FAA forms associated with this collection.

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 was published on April 17, 2023 (88 FR 23491). There were no comments. 14 CFR part 437 established requirements for the FAA's authority to issue experimental permits for reusable suborbital rockets to authorize launches for the purpose of research and development, crew training and showing compliance with the regulations. The information collected includes data required for performing a safety review, which includes a technical assessment to determine if the applicant can launch a reusable suborbital rocket without jeopardizing public health and safety and the safety of property. This information collection requirement is intended for incorporating acquired data into the experimental permit, which then becomes binding on the launch or reentry operator. The applicant is required to submit information that enables FAA to determine, before issuing a permit, if issuance of the experimental permit would jeopardize the foreign policy or national security interests of the U.S.

Respondents: Approximately 10 applicants for experimental permits.

Frequency: On occasion.

Estimated Average Burden per Response: 18.6 hours.

Estimated Total Annual Burden: 2,533 hours per year.

Issued in Washington, DC.

James A. Hatt,

Space Policy Division Manager, Office of Commercial Space Transportation.

[FR Doc. 2026–24096 Filed 11–25–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2026–1453]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) to approve a new information collection. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by December 28, 2026.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 1453 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Seema Javeri, *Seema.Javeri@dot.gov,* (202) 836–3554, Office of Infrastructure, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: We published a **Federal Register** Notice with a 60-day public comment period on this information collection on September 15, 2026, at [91 FR 177]. The notice received 2 comments. The comments and FHWA's responses are below:

1—Comment: ''I request the DOT–NIBS award records, the DDSG support contract, and a written conflict review under section 2(a)(1). I oppose OMB approval and unconditioned awards

until that record is public. Full comment and the funding exhibit are attached''.

1—Response: These matters fall outside the scope of this **Federal Register** notice, which addresses the proposed information collection under the Paperwork Reduction Act, including its necessity, practical utility, estimated burden, and opportunities to improve or streamline the collection. The comment does not address the proposed data collection or its associated burden estimates. Accordingly, no revisions to the information collection are warranted in response to this comment. Requests for agency records or concerns regarding contracts, awards, or potential conflicts of interest should be submitted through the appropriate separate administrative process.

2—Comment: ''FHWA currently estimates an average burden of 10 hours to prepare and submit each project proposal and 10 hours annually for project administration and annual progress reports. Based on TxDOT staff experience with similar projects, we recommend increasing both estimates to 15 hours.''

2—Response: After careful consideration, FHWA maintains that 10 hours is sufficient for a State DOT to complete and submit a project proposal, that 10 hours annually is adequate for project administration, and the annual progress report. FHWA has developed and will provide standardized templates for applicants to use for project proposals, annual progress reports, and final reports. Because these templates leverage information State DOT already develop for project planning and management, FHWA anticipates that most will take less time than estimated.

Title: State Transportation Roadway Innovation Deployment Excellence (STRIDE) program proposals, annual reports, and final reports.

Background: The proposed State Transportation Roadway Innovation Deployment Excellence (STRIDE) Program would be administered by the Federal Highway Administration (FHWA) under the Technology and Innovation Deployment Program (TIDP), authorized by 23 U.S.C. 503(c). TIDP supports the implementation and adoption of innovations across highway transportation, including planning, financing, operations, structures, rights-of-way, materials, pavements, environmental activities, construction, and project delivery. Subject to final program approval and the availability of funds, the STRIDE Program will make TIDP funding available to accelerate the implementation and adoption of the following:

- Innovations promoted under Every Day Counts Round 8 (EDC–8); and
- Other significant highway innovations consistent with the U.S. Department of Transportation's strategic priorities and applicable statutory requirements.

Respondents: Eligible applicants and recipients are the transportation departments or equivalent transportation agencies of the 50 States, the District of Columbia, and Puerto Rico. Metropolitan planning organizations, local governments, Tribal governments, Federal Land Management Agencies, and other entities may participate as subrecipients through an eligible State DOT, subject to the requirements set forth in the final STRIDE program guidance. The State DOT would remain the direct applicant and recipient of federal-aid funds. FHWA estimates that about 35 applicants would submit project proposals in each application cycle.

Frequency: Applicants would submit project proposals during the established STRIDE application period. Selected recipients are required to submit an annual progress report for each active project and one final report following project completion.

Estimated Average Burden per Response: FHWA estimates an average burden of:

- 10 hours to prepare and submit each project proposal;
- 10 hours annually for project administration and annual progress reports; and
- 20 hours to prepare and submit each final project report.

Estimated Total Annual Burden Hours: Assuming 35 eligible applicants, the estimated annual burden would be:

- *Project proposals:* 35×10 hours = 350 hours.
- *Annual reporting and project administration:* 35×10 hours = 350 hours.
- *Final reports, assuming approximately one-half of the projects are completed annually:* 17.5×20 hours = 350 hours year 1 and 17.5×20 hours = 350 hours year 2.

For an estimated total average annual burden hours of 1,050 hours for year 1, 350 hours for year 2, and a total for the two-year program being 1,400 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: November 24, 2026.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2026–24123 Filed 11–25–26; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0148]

Commercial Driver's License Standards: Application for Renewal of Exemption; National School Transportation Association

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

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to renew the exemption granted to the National School Transportation Association (NSTA) for a period of two years to permit all commercial driver's license (CDL) applicants seeking a school bus endorsement to forgo the engine compartment portion of the pre-trip vehicle inspection skills testing requirement, known informally as the ''under-the-hood'' testing requirement. Drivers issued CDLs pursuant to the requested exemption are restricted to intrastate operation of school buses only. FMCSA has analyzed the exemption application and the public comments and has determined that the exemption, subject to the terms and conditions set forth below, is likely to achieve a level of safety that is equivalent to or greater than the level that would be achieved in the absence of the exemption.

DATES: The exemption is effective for the period of November 28, 2026, through November 28, 2028.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; *richard.clemente@dot.gov*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2022-0148/document* and choose the document to review. To view comments, click this notice, then click ''Document Comments.'' If you do not have access to the internet, you may view the docket by visiting Dockets Operations in the DOT West Building, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision(s) from which the exempted party will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

Under 49 CFR 383.113(a), CDL applicants are required to possess basic pre-trip vehicle inspection skills for the vehicle class that the applicant operates or expects to operate. For all test vehicles, applicants must be able to identify each safety-related part on the vehicle and explain what needs to be inspected to ensure a safe operating condition of each part, including the engine compartment.

Applicant's Request

The renewal application for exemption from NSTA was described in detail in a **Federal Register** notice published on June 30, 2026 (91 FR 39656) and will not be repeated as the facts have not changed.

IV. Public Comments

The Agency received 38 comments; 35 supported the exemption, two opposed the exemption, and one was neutral. Twenty of the 34 comments in support of the exemption were identical submissions from members of the Pennsylvania School Bus Association (PSBA). Various school bus companies, contractors and industry associations, including NSTA, the National Association of Pupil Transportation, the American Bus Association, and Anderson Coach and Travel were also among commenters supporting the exemption. The 20 identical comments from the PSBA members stated, ''As a member of the Pennsylvania School Bus Association and a provider of student transportation services, I strongly support extending this exemption. The waiver has helped remove an unnecessary barrier in the driver licensing process while maintaining the high safety standards expected in pupil transportation.''

The American Bus Association stated, ''School buses remain one of the safest forms of transportation in the United States, and drivers operating under this exemption continue to meet all applicable training, testing, and operational safety requirements. The exemption simply removes a testing element that does not meaningfully measure the knowledge and skills required for the safe operation of a school bus.''

Anderson Coach and Travel said, ''Removing the under the hood barrier has not come at the expense of safety. School bus transportation continues to be one of the safest modes of transportation available, and drivers licensed under this exemption remain fully accountable for comprehensive pre-trip inspections and safe operation of their vehicles. The exemption has instead helped qualified candidates who would otherwise be discouraged from pursuing school bus driving enter the profession, while also supporting longer term retention within the industry.''

The National Association of Pupil Transportation (NAPT) did not oppose the exemption and commented, ''We are eager to learn more about the impact of the exemption and will work with FMCSA and NSTA to gather more information.''

The Colorado Department of Education opposed the exemption and said, ''Converting this emergency waiver into a long-term exemption directly contradicts the intent of Entry-Level Driver Training (ELDT) regulations (49 CFR part 380), which were specifically created to eliminate competency and educational gaps across the commercial driving industry. Not only that, but it creates a regulatory double standard: property-carrying CDL operators are required to demonstrate engine compartment literacy, while exempting those who are carrying our nation's most precious cargo—children.''

The National Association of State Directors of Pupil Transportation Services (NASDPTS) opposed the exemption and expressed concerns that many public schools rely on school bus drivers to perform pre-trip inspections, and that many rural drivers take their buses home each night, where they must perform pre-trip inspections. NASDPTS additionally noted that there is a shortage of school bus maintenance personnel and if school bus drivers are not capable of performing the pre-trip inspection, districts might be left in a position to compromise safety. NASDPTS added that school bus drivers must be capable of performing tasks that require physical strength during an emergency, including assisting passengers with an emergency evacuation, operating the fire extinguisher, and operating the emergency exits. NASDPTS believes that a driver who is capable of those physical tasks is capable of inspecting under the hood of the bus. Finally, NASDPTS noted that few drivers have used the exemption and questioned the costs incurred by States to implement the exemption. NASDPTS requested that FMCSA release data related to the exemption.

V. FMCSA Decision

FMCSA has evaluated NSTA's application and the public comments and grants the exemption renewal request for a two-year period. Due to the limited scope, terms, conditions, and restrictions of the exemption and the existing regulatory requirements that remain in place, FMCSA has determined that the ''under-the-hood'' exemption will likely achieve a level of safety that is equivalent to the level of safety that would be obtained absent the exemption. The exemption does not apply to the remaining elements of the pre-trip vehicle inspection components of the skills test, as set forth in 49 CFR 383.113(a)(1)(ii–ix). Accordingly, drivers obtaining CDLs under this exemption will have demonstrated the

ability to safely operate the special features of a school bus.

Further, because school buses are typically operated for relatively short distances, mechanics or other qualified personnel can readily provide roadside assistance in the event of an engine malfunction. In response to NASDPTS's concerns about the shortage of vehicle maintenance personnel, the exemption does not change FMCSA's vehicle maintenance requirements in 49 CFR part 396, including that every motor carrier must systematically inspect, repair, and maintain all vehicles (49 CFR 396.3) and that unsafe operations of a CMV are forbidden (49 CFR 396.7). All State or local school bus inspection maintenance standards continue to apply.

In response to concerns about the costs for States to adopt the exemption, FMCSA notes that use of the exemption is optional, as a State may elect to continue to require all CDL applicants to meet the requirements of 49 CFR 383.113(a)(1)(i). This exemption is expressly limited to intrastate operations and drivers obtaining licenses under the exemption must adhere to that restriction. A driver granted a CDL under this exemption would not be eligible to drive a school bus on a route that crosses State lines; to drive on such a route would require a CDL without a K restriction granted upon passing the full skills test. FMCSA acknowledges that only 15 States notified the Agency that they had adopted the exemption, with one State subsequently discontinuing its adoption of the exemption. Most CDL applicants in the States that adopted the exemption who received a CDL with S and P endorsements elected to take the full CDL skills test rather than to use the exemption. The lack of widespread adoption and use of the exemption, on its own, however, does not indicate that the application should be denied.

FMCSA concludes that the exemption, subject to the terms and conditions set forth in section VI, would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, in accordance with 49 U.S.C. 31315(b)(1).

VI. Exemption

A. Applicability of Exemption

This exemption covers States for the period beginning at 12:00 a.m. (ET) on November 28, 2026, through 11:59 p.m. on November 28, 2028. Under this exemption, a State may, but is not required to, waive the engine compartment portion of the pre-trip vehicle inspection skills test, set forth in 49 CFR 383.113(a)(1)(i), only for CDL applicants seeking the S and P endorsements, subject to the K restriction limiting their operation to intrastate commerce. States issuing CDLs pursuant to this exemption are not subject to the requirement in 49 CFR 383.133(c)(1) that this portion of the pre-trip vehicle inspection test be administered in accordance with an FMCSA pre-approved examiner information manual.

B. Terms and Conditions

When operating under this exemption, States issuing CDLs pursuant to this exemption must abide by the following terms and conditions:

1. The State Driver's Licensing Agency, when requested by FMCSA, must submit the names and CDL numbers of drivers who are issued a CDL pursuant to the terms of this exemption, as authorized by 49 CFR 383.73(h) and 384.225(e)(2), monthly to *MCPSD@dot.gov.*

2. The CDL credential must conform to the requirements of 49 CFR part 383, subpart J.

3. When issuing a K-restricted CDL with the S and P endorsements pursuant to this exemption, States must continue to comply with the applicable provisions set forth in 49 CFR 383.73.

4. When issuing a K-restricted CDL with the S and P endorsements pursuant to this exemption, States must place a school bus-only restriction on the CDL, in accordance with 49 CFR 383.153(a)(10)(ix).

5. States must conduct the remaining pre-trip vehicle inspection components of the skills test for drivers subject to this exemption, as set forth in 49 CFR 383.113(a)(1)(ii–ix).

6. This exemption applies only to the intrastate operation of school buses used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events, as defined in 49 CFR 383.5.

C. Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record. However, the exemption will be revoked if: (1) States fail to comply with the terms of the exemption.; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of Title 49, chapter 313 or section 31136.

Derek D. Barrs,

Administrator.

[FR Doc. 2026–24085 Filed 11–25–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2026–1520]

Hours of Service (HOS) of Drivers: Precision Fireworks LLC; Application for Exemption

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

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant an exemption to Precision Fireworks LLC (Precision) (USDOT #3129980) during the designated Independence Day periods. The exemption allows drivers to exclude off-duty and sleeper berth time of any length from the calculation of the 14-hour limit. FMCSA has analyzed the exemption application and the public comments and has determined that the exemption, subject to the terms and conditions set forth below, is likely to achieve a level of safety that is equivalent to or greater than the level that would be achieved in the absence of the exemption.

DATES: The exemption is effective for the period June 28 through July 8, at 11:59 p.m. local time, each year through 2030.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; *pearlie.robinson@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2026-1520/document* and choose the document to review. To view comments, click this notice, then click ''Document Comments.'' If you do not have access to the internet, you may view the docket by visiting Dockets Operations in the DOT West Building, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision(s) from which the exempted party will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

The HOS rule in 49 CFR 395.3(a)(2) prohibits a property-carrying CMV driver from driving a CMV after the 14th hour after coming on duty following 10 consecutive hours off duty.

Applicant's Request

Precision's application for exemption was described in detail in a **Federal Register** notice published on July 30, 2026 (91 FR 48209) and will not be repeated as the facts have not changed.

On June 24, 2026, FMCSA granted a waiver to Precision to cover the 2026 Independence Day period. The waiver provided the Agency time to complete the exemption process.

IV. Public Comments

The Agency received seven comments in response to Precision's request, none supporting the exemption. Among the seven commenters opposing the exemption were Brian Boswell; AWM Associates, LLC, (AWM); a joint filing by the Truck Safety Coalition, Citizens for Reliable and Safe Highways, Parents Against Tired Truckers (TLC); and an anonymous individual. The individual wrote, ''I respectfully oppose this requested exemption. The applicant's rationale is based primarily on operational challenges, workforce availability, and economic considerations rather than any demonstrated deficiency in the underlying safety regulation. While these challenges may be real, they do not justify an exception that could increase risk to the motoring public. The exemption process is intended for situations where an equivalent or greater level of safety can be demonstrated, not where compliance is difficult, costly, or inconvenient.''

Brian Boswell said, ''This is not just any hazmat being considered but fireworks class 1, there are plenty of companies and Owner Operators out here that can meet their requirements and do this within the rules. The company in question does not want to have to pay for a truck and driver sitting around while waiting on the conclusion of show. Any extra burden of expense is well worth the added safety. This seems more like profit over safety''

AWM said, ''The application must be denied avoiding an onslaught of similar exemption request from competitors striving to achieve the same economic benefits in sidestepping the HOS.''

TLC stated, ''Precision Fireworks offers no detail regarding the maximum number of on-duty hours its dual-hatted drivers may have to work in 24 hours, no detail regarding the length of its ''mandatory rest periods, and no substantial justification for how an equivalent level of safety will be achieved if the exemption is granted. Considering the exemption application's documented shortcomings and FMCSA's mission to protect the public safety interest, FMCSA must deny this request.''

V. FMCSA Decision

FMCSA has determined that granting an exemption to Precision will likely achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved absent such exemption. Based on the Agency's experience evaluating exemption requests from fireworks companies responsible for Independence Day celebrations, pyrotechnicians rarely drive the full 11 hours allowed by the current regulations. However, in preparing for these celebrations they may need to be on duty more than 14 consecutive hours and to drive at the end of that tour of duty. Without an exemption, these pyrotechnician/drivers would be stranded, often with a CMV partially loaded with fireworks, at the site of a forthcoming shoot. The fireworks company could employ a second CDL holder, operating on a later schedule, to return the vehicle to a secure location within the 14-hour limit. The first option poses certain risks to public safety and the second would significantly increase the costs and logistical complexity of a shoot.

The operational demands of this unique industry minimize the risk of crashes. In the several days before the Independence Day celebrations, the drivers transport fireworks over relatively short routes from distribution points to the site of the fireworks display and typically do so in the early morning hours when traffic is light. At the site, the drivers spend most of their time installing, wiring, and safety-checking the fireworks displays, followed by several hours off duty in the late afternoon and early evening prior to the event. During this time, the drivers can rest and nap, thereby reducing or eliminating the fatigue accumulated during the day. The drivers then pick up the equipment and return it, and any remaining fireworks, to the licensed storage facility. Before beginning another duty day, these drivers must take 10 consecutive hours off duty, the same as other commercial motor vehicle (CMV) drivers. The individuals spend very little time driving during any work shift and they must adhere to the weekly hours of service limits, which prohibit operating a CMV after accumulating 60 hours on duty within 7 consecutive days, or 70 hours on duty within 8 consecutive days.

Furthermore, FMCSA reviewed Precision's records on file with the Agency to ensure the carrier possesses an active USDOT registration, minimum required levels of insurance, and is not subject to any ''imminent hazard'' or other operational out-of-service (OOS) orders. The Agency also conducted a comprehensive review of the carrier's safety performance history, reviewed its Motor Carrier Management Information System safety records, including inspection and crash reports submitted to FMCSA by State agencies. The carrier has a ''satisfactory'' safety rating issued by FMCSA and valid Hazardous Materials Safety Permits. In addition, the Pipeline and Hazardous Materials Safety Administration reviewed its investigative records and found no adverse data.

VI. Exemption

The exemption from the requirements of 49 CFR 395.3(a)(2) is effective for the period June 28 through July 8 each year from 2027 through 2030.

A. Applicability of Exemption

This exemption is restricted to drivers employed by Precision. Drivers covered

by this exemption will be able to exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour limit.

B. Terms and Conditions

When operating under this exemption, drivers and carriers are subject to the following terms and conditions:

1. Drivers must not drive more than 11 hours after accumulating 14 hours on duty prior to beginning a new driving period.

2. Drivers must have 10 consecutive hours off duty following 14 hours on duty prior to beginning a new driving period.

3. Drivers must maintain a valid CDL with hazardous materials endorsement and not be subject to an out-of-service order or loss of driving privileges.

4. Precision must maintain a Hazardous Materials Safety Permit and Satisfactory safety rating assigned by FMCSA under the procedures in 49 CFR part 385.

5. Precision must ensure its CMVs are properly marked as required by 49 CFR 390.21.

6. Precision must ensure it complies with the requirements for shipping papers, package marking, labeling, and placarding in 49 CFR part 172.

7. Precision and its drivers covered by the exemption must comply with all other applicable provisions of the FMCSRs (49 CFR parts 350–399) and Hazardous Materials Regulations (49 CFR parts 105–180) (HMRs).

8. Prior to the beginning of each Independence Day period this exemption is in effect, FMCSA will ensure that Precision possesses an active USDOT registration, minimum required levels of insurance, and was not subject to any ''imminent hazard'' or other OOS orders. FMCSA will also conduct a comprehensive review of the safety performance history on the carrier during the review process. As part of this process, FMCSA will review its Motor Carrier Management Information System safety records, including inspection and crash reports submitted to FMCSA by State agencies.

9. Precision may be investigated to evaluate compliance with the terms and conditions of this exemption, in addition to the FMCSRs and HMRs.

10. Precision must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's CMVs operating under the terms of this exemption. The notification must include the following information:

a. Identifier of the Exemption ''Precision Fireworks LLC'';

b. Date of the accident;

c. City or town, and State, in which the accident occurred, or closest to the accident scene;

d. Driver's name and license number;

e. Co-driver's name (if any) and license number;

f. Vehicle number and State license number;

g. Number of individuals suffering physical injury;

h. Number of fatalities;

i. The police-reported cause of the crash, if provided by the enforcement agency;

j. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations; and

k. The total on-duty time accumulated during the 7 consecutive days prior to the date of the crash, and the total on-duty time and driving time in the work shift prior to the crash. The motor carrier must provide a copy of the driver's records of duty status for the day of the crash and the prior 7 days upon request.

Reports filed under this provision shall be emailed to *MCPSD@DOT.GOV* with Precision's name and the docket number FMCSA–2026–1520 in the subject line.

C. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

VII. Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record. However, the exemption will be revoked if: (1) Precision or the drivers operating under the exemption fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of Title 49, chapter 313 or section 31136.

Derek D. Barrs,

Administrator.

[FR Doc. 2026–24088 Filed 11–25–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2024–0317]

Commercial Motor Vehicle Marking; Hours of Service of Drivers: Application for Exemption; Colorado Huntsman Transport, Inc.

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

ACTION: Notice of final disposition; denial of application for exemption.

SUMMARY: FMCSA announces its decision to deny the request from Colorado Huntsman Transport, Inc. dba Huntsman Transport, USDOT 4050798 (''Huntsman'') for reconsideration of its application for exemptions from the commercial motor vehicle (CMV) marking requirements and the hours of service (HOS) 60 hour/7-day limit that the Agency denied on February 6, 2026. FMCSA analyzed Huntsman's application for reconsideration and the public comments received and has determined that the applicant did not provide information that would change the Agency's previous decision to deny the exemptions.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; *pearlie.robinson@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2024-0317/document* and choose the document to review. To view comments, click this notice, then click ''Document Comments.'' If you do not have access to the internet, you may view the docket by visiting Dockets Operations in the DOT West Building, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application,

including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and, public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the person or class of persons granted the exemption, the regulatory provision(s) from which the person or class of persons is exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

Under 49 CFR 390.21, CMVs must be marked with the legal name or single trade name and USDOT number of the motor carrier. Under 49 CFR 395.5(b), drivers of passenger-carrying CMVs may not drive after having been on duty 60 hours in any 7 consecutive days if the motor carrier does not operate CMVs every day of the week or after having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates CMVs every day of the week.

Applicant's Request

Huntsman's current application for exemption was described in detail in a **Federal Register** notice on July 17, 2026 (91 FR 44950) and will not be repeated as the facts have not changed. Previously, Huntsman filed an application for these exemptions and FMCSA requested public comment on that application (90 FR 14179). FMCSA subsequently denied Huntsman's initial application for exemption on February 6, 2026 (91 FR 5553).

IV. Public Comments

The Agency received six comments, all of which opposed the exemptions. Submitted comments were from AWM Associates, LLC (AWM), the Commercial Vehicle Safety Alliance (CVSA), a joint filing by the Truck Safety Coalition, Citizens for Reliable and Safe Highways, and Parents Against Tired Truckers, and three individuals. AWM wrote, ''If Colorado Huntsman's duties are too intense for standard vehicles and they're concerned for its employee's and client's safety; they may use smaller vehicles not subject to the FMCSR and add items such as bullet proofing similar to armored cars.''

CVSA stated, ''In the exemption request, Huntsman has not adequately assessed the exemption's potential safety impacts or explained how it would maintain a level of safety equivalent to or greater than the level achieved through compliance with the regulation. Nor does Huntsman address how relief from the marking requirements would reduce the security threat posed to the vehicles. As such, CVSA encourages FMCSA to once again deny the request.''

The Truck Safety Coalition stated, ''Huntsman Transport fails to meet the threshold to qualify for HOS exemption. Its exemption application does not include a single new countermeasure that would help combat its dangerously high risk of driver fatigue under its proposal.''

Steven Meyer said ''This request is utterly ridiculous. Granting this exemption would ultimately cost someone their life.''

V. FMCSA Decision

FMCSA evaluated Huntsman's application for reconsideration and the public comments. The Agency has concluded that Huntsman provided no additional information that would alter its prior, February 6, 2026, decision to deny Huntsman's application for exemptions. Huntsman failed to establish that it would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved without the exemptions. Therefore, the Agency denies this application for exemptions from the HOS and CMV marking requirements and reaffirms its previous denial.

Derek D. Barrs,

Administrator.

[FR Doc. 2026–24087 Filed 11–25–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2026–1521]

Hours of Service; Lone Star Haz Mat Response, LLC; Application for Exemption

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

ACTION: Notice of final disposition; denial of application for exemption.

SUMMARY: FMCSA announces its decision to deny Lone Star Haz Mat Response, LLC's (Lone Star) application for an exemption to allow its ''field response'' drivers to exceed the hours of service (HOS) requirements for the purpose of returning to their normal work reporting location or residence following hazardous materials incident response operations. FMCSA analyzed the application and public comments and determined that the exemption would not likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

FOR FURTHER INFORMATION CONTACT: Ms. Bernadette Walker, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; *Bernadette.walker@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2026-1521/document* and choose the document to review. To view comments, click this notice, then click ''Document Comments.'' If you do not have access to the internet, you may view the docket by visiting Dockets Operations in the DOT West Building, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted,

the notice will identify the person or class of persons granted the exemption, the regulatory provision(s) from which the persons is exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

Under 49 CFR 395.3(a)(1), a property-carrying commercial motor vehicle (CMV) driver may not drive without first taking 10 consecutive hours off duty. Under sections 395.3(a)(2) and 395.3(a)(3)(i), the driver may drive no more than a total of 11 hours during a period of 14 consecutive hours after coming on duty following 10 consecutive hours off duty. Under 49 CFR 395.3(a)(3)(ii), driving is not permitted if more than 8 hours of driving time have passed without at least a consecutive 30-minute interruption in driving status. Under 49 CFR 395.3(b)(1), no motor carrier shall permit or require a driver of a property-carrying CMV to drive, nor shall any driver drive a property-carrying CMV, regardless of the number of motor carriers using the driver's services, for any period after having been on duty 60 hours in any period of 7 consecutive days or having been on duty 70 hours in any period of 8 consecutive days (49 CFR 395.3(b)(2)).

Applicant's Request

Lone Star's application for exemption was described in detail in a **Federal Register** notice published on June 30, 2026 (91 FR 39658) and will not be repeated as the facts have not changed.

IV. Public Comments

The Agency received five comments, one supporting and four opposing the exemption. An anonymous commenter said, ''I support the adoption of the proposed exemption. The circumstances described in the application affect many hazardous materials and emergency response carriers throughout the country and are not unique to Lone Star Hazmat.''

AWM Associates, LLC said, ''Lone Star's application doesn't address fatigue. . . . It appears Lone Star is seeking relief from the regulations to overcome its ability to fulfill its contractual agreements.''

Scott Keane said, ''While I understand the desire to get employees home, the practical effect of this exemption is to reposition personnel and equipment for the company's next response. That primarily benefits the carrier, not public safety.''

The Commercial Vehicle Safety Alliance commented, ''The FMCSR were established to provide a framework of the minimum requirements to operate commercial motor vehicles safely. An exemption to those safety regulations should not be granted simply because they don't comport to a company's or industry's operational model.''

The Truck Safety Coalition (TSC), Citizens for Reliable and Safe Highways, and Parents Against Tired Truckers filed a joint comment and said, ''LoneStar Haz-Mat LLC fails to meet the threshold to qualify for HOS exemption. Its exemption application does not include a single countermeasure that combats driver fatigue.''

V. FMCSA Decision

FMCSA has evaluated Lone Star's application and the public comments and denies the exemption. Lone Star's application does not provide an analysis of the safety impacts the requested exemption from the HOS regulations may cause. It also does not provide any safety countermeasures. FMCSA is therefore unable to determine that the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulations.

For the reasons stated, Lone Star's exemption application is denied.

Derek D. Barrs,

Administrator.

[FR Doc. 2026–24086 Filed 11–25–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2026–0101]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Liberty Bulk Transport, LLC, USDOT No. 3256390

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

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant an application from Liberty Bulk Transport, LLC, USDOT No. 3256390, (Liberty) for an exemption to allow it to operate commercial motor vehicles (CMVs) equipped with a module manufactured by Intellistop, Inc. (Intellistop). The Intellistop module is designed to pulse the required rear clearance, identification, and brake lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds when the brakes are applied and then return the lights to a steady-burning state while the brakes remain engaged. The Agency has determined that granting the exemption to Liberty would likely achieve a level of safety equivalent to, or greater than, the level of safety achieved by the regulation.

DATES: The exemption is effective November 27, 2026 and expires November 28, 2031.

FOR FURTHER INFORMATION CONTACT: Mr. José R. Cestero, Mechanical Engineer, FMCSA Vehicle and Roadside Operations Division, Office of Carrier, Driver and Vehicle Safety Standards; *MCPSV@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2026-0101/document* and choose the document to review. To view comments, click this notice, then click ''Document Comments.'' If you do not have access to the internet, you may view the docket by visiting Dockets Operations in the DOT West Building, 1200 New Jersey Avenue SE, W58–213, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews applications, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision(s) from which the party will

be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

Section 393.25(e) of the FMCSRs requires all exterior lamps (both required lamps and any additional lamps) to be steady-burning, with certain exceptions not relevant here. Two other provisions of the FMCSRs—section 393.11(a) and section 393.25(c)—mandate that required lamps on CMVs meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108 in effect at the time of manufacture. FMVSS No. 108, issued by the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA), requires installed stop lamps, whether original or replacement equipment, to be steady-burning.

Applicant's Request

Liberty applied for an exemption from 49 CFR 393.25(e) to allow it to operate CMVs equipped with Intellistop's module. When the brakes are applied, the Intellistop module is designed to pulse the rear clearance, identification, and brake lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds and then maintain the original equipment manufacturer's (OEM) level of illumination for those lamps until the brakes are released and reapplied. Intellistop asserts that its module is designed to ensure that if the module ever fails, the clearance, identification, and brake lamps will default to normal OEM function and illumination.

Liberty's application followed the Agency's October 7, 2022, denial of Intellistop's application for an industry-wide exemption to allow all interstate motor carriers to operate CMVs equipped with the Intellistop module (87 FR 61133). While the Agency determined that the scope of the exemption Intellistop sought was too broad to ensure that an equivalent level of safety would be achieved, the Agency explained that individual motor carrier applications for exemption may be more closely aligned with FMCSA authorities. Exemptions more limited in scope would allow the Agency to ensure compliance with all relevant FMCSA regulations because the individual exemptee would be easily identifiable and its compliance with applicable regulations could be monitored, thus providing a level of safety equivalent to compliance with 49 CFR 393.25(e).

Liberty asserts that using the Intellistop module would enhance rear signal systems. Liberty submits that pulsing the rear brake lamps of a CMV may significantly increase visibility and reduce the frequency of rear-end crashes, and thus would maintain a level of safety that is equivalent to, or greater than, the level that would be achieved without the requested exemption.

IV. Public Comments

FMCSA published a notice of the Liberty application in the **Federal Register** on February 10, 2026, and asked for public comments (91 FR 5982). The Agency received six comments in response to Liberty's application for exemption. Five commenters supported the request, while one commenter opposed it. Chris Holland, Zachary McMillan, Kris Myers, Starship Services, and the American Trucking Associations supported the application, stating that allowing pulsating brake lamps could improve rear conspicuity and enhance safety by increasing driver awareness and reducing the likelihood of rear-end crashes. Chris Holland cited research indicating that modulated or flashing brake signals are more attention-grabbing than steady-burning lamps, particularly in an environment where distracted driving is prevalent, and referenced prior exemption data showing reductions in rear-end crashes. Zachary McMillan and Kris Myers stated that pulsating brake lamps may improve depth perception and visibility, especially during nighttime or low-visibility conditions, and that even brief modulation could capture a following driver's attention and help prevent collisions. Starship Services and other commenters suggested that the repeated need for individual exemptions indicates that 49 CFR 393.25(e) may warrant reconsideration to accommodate emerging safety technologies. The American Trucking Associations stated that rear-end crashes involving commercial motor vehicles remain a persistent safety concern and that granting the exemption would allow for real-world evaluation of lighting technologies, which could inform best practices and future regulatory actions.

In contrast, David Fountain opposed the exemption, expressing concern that flashing or pulsating lights could create glare or visual discomfort, particularly for drivers operating at night, and argued that such lighting may be distracting and should be limited to emergency vehicles.

V. Equivalent Level of Safety Analysis

Liberty requested that FMCSA grant an exemption from 49 CFR 393.25(e)—requiring certain exterior lamps to be steady burning—to allow it to operate CMVs equipped with Intellistop's module. FMCSA has determined that in order for Liberty to operate vehicles in compliance with the FMCSRs, an exemption from 49 CFR 393.25(e) must be accompanied by limited exemptions from 49 CFR 393.11(a) and 393.25(c), both of which mandate that required lamps on CMVs operated in interstate commerce must, ''at a minimum, meet the applicable requirements of 49 CFR 571.108 (FMVSS No. 108) in effect at the time of manufacture of the vehicle.'' FMCSA grants exemptions only when it determines ''such exemption[s] would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemption[s].''

Rear-end crashes generally account for approximately 30 percent of all crashes. They often result from a failure to respond (or delays in responding) to a stopped or decelerating lead vehicle. Data on crashes that occurred between 2010 and 2016 show that large trucks are consistently three times more likely than other vehicles to be struck in the rear in two-vehicle fatal crashes.[1] [2] FMCSA is deeply interested in the development and deployment of technologies that can reduce the frequency, severity, and risk of rear-end crashes.

Both FMCSA and NHTSA have examined alternative rear-signaling systems to reduce the incidence of rear-end crashes. While research efforts concluded that improvements in the incidence of rear-end crashes could be realized through certain rear-lighting systems that flash,[3] the FMCSRs do not currently permit the use of pulsating, brake-activated lamps on the rear of CMVs. FMCSA believes that the two agencies' previous research programs demonstrate that rear-signaling systems

[1] U.S. Department of Transportation, National Highway Traffic Safety Administration (2012), Traffic Safety Facts—2010 Data; Large Trucks, Report No. DOT HS 811 628, Washington, DC (June 2012).

[2] U.S. Department of Transportation, National Highway Traffic Safety Administration (2018), Traffic Safety Facts—2016 Data; Large Trucks, Report No. DOT HS 812 497, Washington, DC (May 2018).

[3] Expanded Research and Development of an Enhanced Rear Signaling System for Commercial Motor Vehicles: Final Report, William A. Schaudt *et al.* (Apr. 2014) (Report No. FMCSA–RRT–13–009).

may be able to ''improve attention getting'' to reduce the frequency and severity of rear-end crashes. Any possible benefit must be balanced against a possible risk of increased driver distraction and confusion. In balancing these interests, the Agency was compelled to deny the Intellistop application for exemption because the industry-wide scope of the request was too broad for the Agency to effectively monitor for the potential risk of driver distraction or confusion.

The Agency acknowledges the limitations of the research studies completed to date and the overall data deficiencies in this area. Nonetheless, as noted in its Intellistop decision, the Agency recognizes that existing data do suggest a potential safety value in the use of alternative rear-signaling systems, generally. Specifically, FMCSA considered NHTSA's research concerning the development and evaluation of rear-signaling applications designed to reduce the frequency and severity of rear-end crashes via enhancements to rear-brake lighting. The study examined enhancements for (1) redirecting drivers' visual attention to the forward roadway (for cases involving a distracted driver) and (2) increasing the saliency or meaningfulness of the brake signal (for inattentive drivers).[4] The research considered the attention-getting capability and discomfort glare of a set of candidate rear brake lighting configurations using driver judgments and eye-drawing metrics. The results of this research served to narrow the set of candidate lighting configurations to those that would most likely be carried forward for additional on-road study. Based on subjective participant responses, this research indicates some form of flashing or variation in brake light brightness may be more than two times more attention-getting than the baseline, steady-burning brake lights for distracted drivers.[5]

While some of the data collected in the study may not be statistically significant, the study results nonetheless indicate that additional efforts to get drivers' attention when they are approaching the rear of a CMV that is stopping may be helpful to reduce driver distraction and, ultimately, rear-end crashes. This was among several reasons why researchers concluded that the promising nature of enhanced brake lighting systems warranted additional work and research. FMCSA believes the acquisition of relevant data through real-world monitoring is of critical importance as the Agency continues to seek new and innovative options for reducing crashes. This is particularly true given the data limitations noted in previous studies.

Despite finding a potential safety value in the use of alternative rear-signaling technology, in the Intellistop decision the Agency determined that the data presently available did not justify an exemption to allow all interstate motor carriers to alter the performance of an FMVSS-required lighting device (*i.e.,* stop lamps) on any CMV. In contrast, however, Liberty's application requests an exemption from the steady-burning brake lamp requirement for CMV operations by only one interstate motor carrier. As FMCSA noted in its denial of Intellistop's industry-wide exemption application, individual motor carrier exemption requests more closely align with FMCSA and NHTSA authorities to ensure compliance with all other applicable regulations and with the safety performance of the smaller population of affected motor carriers. With an individual motor carrier exemption, the Agency can also more easily monitor compliance with terms and conditions intended to ensure operations conducted under the exemption do in fact provide an equivalent level of safety. Liberty's application demonstrates why this is particularly true, since the vehicles operated by Liberty under the exemption would be easily identifiable, and compliance with NHTSA's ''make inoperative'' prohibition and other related regulations could be readily checked.

FMCSA acknowledges the concern raised by one commenter that the use of pulsating brake-activated lighting may create glare or visual discomfort, particularly for drivers operating at night, and could be perceived as distracting or excessive. The commenter suggested that non-standard lighting devices should be limited to emergency vehicles. FMCSA notes, however, that the Intellistop module does not introduce additional lamps, but instead modulates the operation of existing required lighting equipment, including brake, clearance, and identification lamps, upon brake activation. These lamps are designed to comply with applicable photometric requirements under FMVSS No. 108, and the Intellistop module does not increase their photometric intensity beyond original equipment manufacturer specifications but instead operates them within their normal performance parameters. Because these lamps are subject to the steady-burning requirement in 49 CFR 393.25(e), the use of a pulsating pattern constitutes a deviation from the regulatory requirement, and therefore an exemption is necessary. FMCSA further notes that the pulsation is momentary and designed to return the lamps to a steady-burning state, which limits the potential for prolonged distraction while maintaining the intended signaling function of the required lighting equipment.

The Agency's decision to grant this exemption is based on the data suggesting enhanced rear signal systems, such as pulsing brake lights, may help reduce the frequency and severity of rear-end crashes, as well as on the limited number of vehicles operating under the exemption. Liberty currently operates a fleet of approximately 83 CMVs. The installation of the module on CMVs operated by a single motor carrier provides the opportunity for the Agency to collect data on the effects of pulsing brake lights in real-world conditions. The terms and conditions FMCSA imposes through this exemption will ensure appropriate Federal oversight in the use of these devices on a finite number of CMVs utilizing a phased-in approach.

Initially restricting the application of this exemption to a limited portion of Liberty's fleet will allow for a comparison between the crash involvement of Liberty CMVs equipped with the Intellistop device, those without the device, and the overall crash involvement of CMVs operated by similarly sized motor carriers with similar operations and overall safety performance. Data collected through this exemption and any other similar exemptions the Agency may grant in the future will allow for an evaluation of how the Intellistop module may improve following-vehicle driver responses to CMV braking. Consideration of the scope of any particular carrier's operation and the number and types of vehicles the carrier operates are critical to ensuring FMCSA gathers the most relevant data as the Agency considers safety benefits gained by the deployment of these rear brake lamp systems in CMV operations. The

[4] See NHTSA Study—Evaluation of Enhanced Brake Lights Using Surrogate Safety Metrics, *https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/811127.pdf*.

[5] Ibid. While data demonstrated that brighter flashing lights were the most attention-getting combination for distracted drivers in this study, flashing lights with no increase in brightness were still more effective at capturing a distracted driver's attention than the baseline steady-burning brake lamps. Both look-up (eye drawing) data and interview data supported the hypothesis that simultaneous flashing of all rear lighting combined with increased brightness would be effective in redirecting the driver's eyes to the lead vehicle when the driver is looking away with tasks that involve visual load.

Agency's incremental approach in granting this limited exemption will also allow FMCSA to investigate and respond as appropriate to any incidents of alleged driver confusion attributable to use of the brake lamp systems in CMV operations.

FMCSA acknowledges that, until recently, all pulsating rear lamp exemptions the Agency granted involved the addition of non-mandatory auxiliary lights while the Intellistop module that Liberty seeks to install alters the functionality of original equipment manufacturers' lamps. Nonetheless, those previous exemptions are instructive. Notably, the Groendyke exemption involved auxiliary lamps rather than required lighting, but, like the Intellistop module, the modulation of the auxiliary lamps occurs during braking. More importantly, the Groendyke exemption also involved a technology installed on a number of one carrier's CMVs, which allowed the Agency more realistically to monitor its compliance with other applicable regulations. When granting the exemption, FMCSA found Groendyke's experience with brake-activated pulsating warning lamps, which resulted in a 33.7 percent reduction in rear-end crashes, to be compelling. Through the granting of the Groendyke exemption, the Agency was able to collect additional real-world data about the operation of the module at issue. Similarly, limited exemptions with narrowly tailored terms and conditions permitting the use of the Intellistop module will allow the Agency to collect data about the reliability and safety benefits of an integrated alternative rear-signaling system.

FMCSA notes that Liberty failed to provide any evidence beyond what is publicly available about the integration of the Intellistop module with its CMVs' existing systems or to support the claim that a malfunction of the device would result in the brake lights returning to OEM functionality. Nonetheless, based on the Agency's understanding of the device's design and assertions made in publicly available materials, FMCSA believes concerns about both the reliability and integration of the device are sufficiently alleviated in this instance because of the narrow scope of the exemption and the stringent requirements imposed by the Agency in the terms and conditions. Any evidence that module failure results in anything less than a return to brake light OEM functionality will result in revocation of the exemption.

Likewise, granting this exemption to an easily identifiable carrier alleviates concerns the Agency previously articulated about its inability to monitor compliance with NHTSA's ''make inoperative'' prohibition. FMCSA can monitor compliance with this exemption and ensure that only Liberty installs the module on its own CMVs.

Notwithstanding the promise the Agency sees in this technology, exemptions are warranted only if the applicant can demonstrate that an equivalent level of safety likely will be maintained. For this reason, the Agency believes it is important to consider the safety record of the applicant motor carrier. The Agency carefully considered Liberty's existing on-road safety performance record prior to granting this exemption. As of October 19, 2026, Liberty's out-of-service (OOS) rate is below the national average, with a vehicle OOS rate of only 5.2 percent (national average—22.3 percent), a driver OOS rate of 0 percent (national average—6.7 percent), and hazardous material OOS rate of 0 percent (national average—4.4 percent). Liberty maintains a Satisfactory safety rating.

FMCSA has authority to grant temporary exemptions from the FMCSRs only to motor carriers and not to CMV manufacturers or vehicle alterers. FMCSA acknowledges that the research described above did not fully address all of the implications of allowing pulsating stop lamps, especially by automobiles where stop lamp design is stylized and often brand-specific, and that it remains unclear whether deviation from the uniform brake-light patterns of CMVs may cause confusion among highway users when the lamps are pulsated during braking. When Intellistop sought an industry-wide exemption, FMCSA concluded that the potential risks of widespread adoption outweighed the potential benefits. But FMCSA reaches a different conclusion here, where any risks will be more limited and easier to monitor. FMCSA notes, moreover, that the research suggests that the use of rear-signaling systems may be a means to reduce the frequency and severity of rear-end crashes involving CMVs, as do the reductions in rear-end crashes reported by Groendyke (84 FR 17910, April 26, 2019) utilizing an auxiliary flashing rear-signaling system. These facts and the specific safety record of the applicant motor carrier support the conclusion that permitting the use of Intellistop's pulsating-lamp module among a limited and known population of vehicles of a single motor carrier, subject to terms and conditions for monitoring, is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

VI. Exemption Decision

A. Grant of Exemption

FMCSA has evaluated Liberty's exemption application and the comments received. The Agency believes that granting Liberty a temporary exemption from 49 CFR 393.25(e) and temporary limited exemptions from 49 CFR 393.11(a) and 393.25(c) to allow Liberty to operate a limited number of its CMVs equipped with Intellistop's pulsating-brake module will likely achieve a level of safety equivalent to, or greater than, the level of safety achieved without the exemption.

This exemption is restricted to vehicles in Liberty's fleet and provides relief from the steady burning requirement for rear clearance, identification, and brake lamp activation for 2 seconds following brake activation. All other FMVSS No. 108 requirements cross-referenced or incorporated in the FMCSRs remain in effect, with a limited exception to the requirement exempted here in sections 393.11(a) and 393.25(c) for only the first two seconds of brake engagement. In addition, through the terms and conditions, FMCSA will be able to monitor performance of these CMVs to determine whether they were involved in a crash and whether they appear to be overrepresented in crashes compared to a control group (comprised of Liberty vehicles that are not equipped with the Intellistop unit but are operating on similar routes with similar schedules, etc., as further described in the Terms and Conditions).

The Agency has evaluated the application and hereby grants the exemption for a 5-year period, effective November 27, 2026 through November 28, 2031. During the temporary exemption period, Liberty (Applicant) may operate CMVs equipped with Intellistop's module that pulses the rear stop, clearance, and identification lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds. This grant applies only to the ''steady-burning'' requirement specified in FMVSS No. 108 S7.3 and Tables I–a, I–b, and I–c. All other photometric and requirements for stop lamps specified in FMVSS No. 108 must still be met.

B. Terms and Conditions

(i) Installation of the Intellistop Module

The Applicant is responsible for installing the Intellistop module. This exemption applies only to CMVs owned and operated by the Applicant. THE PRODUCT MUST BE INSTALLED

ONLY BY THE OWNER OF THE VEHICLE. IN ACCORDANCE WITH FEDERAL LAW (49 U.S.C. 30112(a)(1) AND 49 U.S.C. 30122), THE PRODUCT MAY NOT BE INSTALLED BY ANY MANUFACTURER, DISTRIBUTOR, DEALER, RENTAL COMPANY, OR MOTOR VEHICLE REPAIR BUSINESS.

The Applicant may not install the Intellistop module on more than 25% of its power units, and 25% of its trailers during the first year of operation under the exemption, or on more than 50% of its power units, and 50% of its trailers during the second year. The Applicant must provide the Agency the vehicle identification numbers for the power units and trailers that will be operating under the exemption.

The Applicant must maintain a control group of equal size to the group of power units and trailers equipped with the Intellistop unit during the first year of the exemption. And the CMVs in the control group must operate on routes with schedules that are similar to those of the Intellistop-equipped vehicles.

Installed modules may be used only to modulate rear clearance, identification, and stop lamps.

Within 30 business days of its first installation of the Intellistop module, the Applicant must notify the Agency via email at *MCPSV@dot.gov* of the number(s) and type(s) of CMVs it is operating, or intends to operate, with the Intellistop module installed; the module type and/or subtype; and any troubleshooting, repair, or other use of an Intellistop module covered by this exemption. Amended installation information, including CMVs on which the device is installed or uninstalled, may then be submitted via the quarterly submission specified in sub-paragraph (iv) *Recurring Reporting Requirements* below.

If the Applicant sells or transfers ownership of any CMV equipped with an Intellistop module under this exemption, or if the exemption is terminated for any reason, the Applicant must remove the module and restore the CMV to full compliance with the FMCSRs and FMVSSs prior to the transfer of ownership, or upon termination of the exemption. The Applicant must also certify in writing to the purchaser or transferee and FMCSA that the CMV has been restored to compliance with the FMCSRs and FMVSSs.

(ii) Driver Pre-Trip Vehicle Inspections

The Applicant must ensure that each driver of an Intellistop-equipped CMV performs a pre-trip inspection to confirm that the Intellistop module operates only for 2 seconds and does not interfere with the normal operation of lamps after 2 seconds. If the lamps are not steady burning after 2 seconds, the CMV must not be dispatched until repairs are made. At the end of each work shift, drivers must note any problems observed by or reported to them concerning the Intellistop module on a driver vehicle inspection report (see 49 CFR 396.11), and the motor carrier must correct the problem before the vehicle is dispatched again.

(iii) Safety Notification to FMCSA

The Applicant must notify FMCSA within 5 business days after it becomes aware, or otherwise determines, that the continued use of a module or entire type or subtype of module covered by this exemption is no longer likely to maintain a level of safety that is at least equivalent to the level that would be achieved absent this exemption. Notification must be made by sending an email to FMCSA at *MCPSV@dot.gov.*

(iv) Recurring Reporting Requirements

During the exemption period, the Applicant must provide quarterly submissions to FMCSA of the data described below. The Applicant's first quarterly submission is due on March 1, 2027, and thereafter will be due every 3 months, on the first business day of the month. The first quarterly submission must include the required data beginning 60 days prior to the date of module installation. All quarterly submissions must include data through at least the 14th day (inclusive) of the month immediately preceding the submission. Unless otherwise agreed to by FMCSA, quarterly submissions must be sent via email to FMCSA at *MCPSV@dot.gov.* If the Applicant does not have one or more categories of information described below, it must, within 20 days of the effective date of this exemption, discuss with FMCSA other available information. If the Agency accepts such alternative information, the Applicant must submit that data in lieu of the information specified below.

In the quarterly submission, the Applicant must provide FMCSA the following information known to the Applicant regarding all crashes and other incidents (''crash or incident'') involving a CMV equipped with an Intellistop module covered by this exemption where the Intellistop module is potentially implicated. Crashes involving a CMV equipped with an Intellistop module that are ''head-on'' or otherwise involve only the front of the Intellistop-equipped CMV impacting some other object (such that the Intellistop module, without question, could not be implicated) are not subject to this condition. For the first quarterly submission, data must include any crash or incident occurring in the 60 days prior to installation of the Intellistop module that would have been contained in this reporting category had the module been installed at the time of the crash or incident. The Applicant's knowledge includes, but is not limited to: (1) outreach from a consumer, lawyer, or any other person or organization (via letter, email, fax, telephone call, social media, or any other medium); (2) lawsuits to which the Applicant is a party, or otherwise knows exist where an Intellistop module covered by this exemption is an issue in the litigation; and (3) insurance claims against the Applicant related to use of the Intellistop module. When in the Applicant's possession, information provided to FMCSA shall include:

1. The date of first contact regarding, or the Applicant's first awareness of, the crash or incident;
2. The date of the most recent follow-up contact, if any, between the Applicant and the other party;
3. The date, time, and location of the crash or incident;
4. A brief description of the crash or incident;
5. The Intellistop module type and/or subtype(s) involved in the crash or incident; and
6. Information, if any, indicating that the Intellistop module is, or was, not working as intended, or caused confusion or a roadway hazard for either the consumer or other motorists.

Annual data. At the end of each 12-month period this exemption is in effect, the Applicant shall, within 60 days, submit a report detailing all information in its possession regarding crash rates and vehicle miles traveled by CMVs equipped with a module covered by this exemption. Additionally, the report shall specify the number and type of CMVs the Applicant is operating under the exemption, the module type or subtype installed on each CMV, the affected lamps (rear clearance, identification, and/or brake lamps), the number of covered vehicles sold or transferred in ownership during the 12-month reporting period, and a statement certifying that any sold or transferred vehicle(s) have been restored to compliance with applicable FMVSSs and FMCSRs.

Meetings. The Applicant shall, at FMCSA's request, meet with FMCSA to answer questions regarding data and information provided by the Applicant under this exemption.

(v) Early Termination

The exemption is valid for 5 years from the date of issuance unless rescinded earlier by FMCSA. FMCSA will terminate the exemption if: (1) the Applicant fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of Title 49, chapter 313 or section 31136.

(vi) Notification From the Public

Interested parties possessing information that would demonstrate that Liberty's CMVs equipped with Intellistop's pulsating rear-light module may not be achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

(vii) Non-Endorsement

This limited and conditional exemption does not constitute an endorsement of the Intellistop product by FMCSA, NHTSA, the U.S. DOT, or any of their components, or by any of these agencies' employees or agents. As a condition of the continued effectiveness of this exemption, Intellistop is expressly prohibited from describing its product as approved by, endorsed by, or otherwise authorized by FMCSA, NHTSA, or U.S. DOT, or as compliant with Federal safety regulations.

VII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Derek D. Barrs,

Administrator.

[FR Doc. 2026–24094 Filed 11–25–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on New Technologies in Retirement Plans

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 January 26, 2027 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. 1545–1632'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: 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: New Technologies in Retirement Plans.

OMB Control Number: 1545–1632.

Regulation Project Number: TD 8873, TD 9294.

Abstract: Treasury Regulations section 1.402(f)–1 requires that plan administrators and employers provide recipients of certain distributions from qualified retirement plans timely written explanations of certain provisions. This regulation provides that if a full written paper explanation was previously given, a written paper or electronic summary of the explanation may be provided to participants in lieu of the full explanation within the requisite time. Treasury Regulations section 1.411(a)–11 requires employers or plan administrators of qualified retirement plans to provide certain notices to and obtain consents and elections from distributees. Treasury Regulations section 1.411(a)–11 requires that a confirmation of the terms of the distribution be provided to each participant who consents to a distribution through an electronic medium.

Current Actions: There is no change to the previously approved information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 455,625.

Estimated Number of Responses: 11,700,000.

Estimated Time per Response: 2 minutes.

Estimated Total Annual Burden Hours: 477,563.

Dated: November 24, 2026.

Jon R. Callahan,

Senior Tax Analyst.

[FR Doc. 2026–24116 Filed 11–25–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on TD 8612—Income, Gift and Estate Tax

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 January 26, 2027 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. 1545–1360'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: 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: TD 8612—Income, Gift and Estate Tax.

OMB Control Number: 1545–1360.

Regulation Project Number: TD 8612.

Abstract: This regulation explains the availability of the gift and estate tax marital deduction when the donee spouse or the surviving spouse is not a United States citizen. The regulation provides guidance to individuals or fiduciaries: (1) For making a qualified domestic trust election on the estate tax return of a decedent whose surviving spouse is not a United States citizen in order that the estate may obtain the marital deduction, and (2) for filing the annual returns that such an election may require. The IRS uses this information to determine eligibility for the marital deduction and administer the applicable estate tax requirements.

Current Actions: There is no change to the previously approved information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and households.

Estimated Number of Responses: 2,300.

Estimated Time per Response: 2 hours, 40 minutes.

Estimated Total Annual Burden Hours: 6,150.

Dated: November 24, 2026.

Jon R. Callahan,

Senior Tax Analyst.

[FR Doc. 2026–24117 Filed 11–25–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on Form To Submit Civil Rights Complaint

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 January 26, 2027 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–NEW Civil Rights Complaint'' 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 be viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Civil Rights Complaint.

OMB Control Number: 1545–XXXX.

Form Number: 14652.

Abstract: Form 14652 is used to assist individuals when filing a civil rights complaint with the Department of the Treasury—Internal Revenue Service. Under no circumstances will the Internal Revenue Service tolerate discrimination by its employees, grantees, contractors or subcontractors. Any person who believes he or she has been discriminated against in programs and activities assisted or conducted by the Internal Revenue Service may file a complaint by completing and submitting this form or may file a letter with the necessary complaint information.

Current Actions: This is a new information request submission.

Type of Review: New collection. Request for OMB number.

Affected Public: Individuals.

Estimated Number of Respondents: 40.

Estimated Time per Response: 25 minutes.

Estimated Total Annual Burden Hours: 200.

Dated: November 24, 2026.

Kerry Dennis,

Tax Analyst.

[FR Doc. 2026–24133 Filed 11–25–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before December 28, 2026 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

1. Title: Regulations Governing the Performance of Actuarial Services under the Employee Retirement Income Security Act of 1974 (20 CFR 901).

OMB Control Number: 1545–0951.

Type of Request: Extension without change of a currently approved collection.

Description: The information relates to the granting of enrollment status to actuaries admitted (licensed) by the Joint Board for the Enrollment of Actuaries to perform actuarial services under the Employee Retirement Income Security Act of 1974. Form 5434 is used to apply for enrollment to perform actuarial services and Form 5434–A is used to renew enrollment every three years to perform actuarial services under (ERISA). The information is used by the Joint Board for the Enrollment of Actuaries to determine the eligibility of the applicant to perform actuarial services. The regulations require that records be kept that verify satisfaction of requirements, and certificates of completion education requirements.

Affected Public: Individuals or households.

Estimated Total Number of Annual Responses: 2,482.

Estimated Time per Response: 1 hour (Form 5434); 30 minutes (Form 5434–A); 15 minutes (regulatory recordkeeping).

Estimated Total Annual Burden Hours: 1,025.

2. Title: Capitalization of Interest.

OMB Control Number: 1545–1265.

Type of Request: Extension of a currently approved collection.

Description: The regulations require taxpayers to maintain contemporaneous written records of estimates, to file a ruling request to segregate activities in applying the interest capitalization rules, and to request the consent of the Commissioner to change their methods of accounting for the capitalization of interest.

Affected Public: Individuals or Households.

Estimated Number of Responses: 500,050.

Estimated Time per Response: 2 hours and 14 minutes.

Estimated Total Annual Burden Hours: 116,767.

3. Title: Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 1545–2256.

Type of Request: Extension of a currently approved collection.

Description: This collection of information is necessary to enable the IRS to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the IRS's programs.

Affected Public: Individuals or Households.

Estimated Number of Responses: 175,000.

Estimated Time per Response: 17.5 minutes.

Estimated Total Annual Burden Hours: 10,000.

4. Title: Tax-Exempt Organization Complaint (Referral).

OMB Control Number: 1545–2314.

Type of Request: Extension of a currently approved collection.

Description: This request covers the taxpayer burden with Form 13909, Tax-Exempt Organization Complaint (Referral). Form 13909 is used by individuals to submit a complaint about tax-exempt organizations. The information provided on this form will help the Internal Revenue Service (IRS) determine if there has been a violation of federal tax law.

Estimated Number of Responses: 8,000.

Estimated Time per Response: 48 minutes.

Estimated Total Annual Burden Hours: 6,400.

5. Title: Improving Customer Experience (OMB Circular A–11, Section 280 Implementation).

OMB Control Number: 1545–2290.

Type of Request: Extension of a currently approved collection.

Description: The Internal Revenue Service (IRS) collects voluntary feedback from individuals, businesses, and organizations to evaluate and improve customer service, in accordance with OMB Circular A–11 and multiple executive orders. Information is gathered through surveys, interviews, focus groups, and usability testing to assess customer satisfaction, identify barriers to accessing and using IRS services, and evaluate forms, websites, and other service delivery tools. The IRS uses this information to identify areas for improvement, enhance the accessibility and effectiveness of its services, and measure customer experience and service performance.

Affected Public: Individuals or Households.

Estimated Number of Responses: 2,001,550.

Estimated Time per Response: Varies from 3 minutes to 90 minutes depending on type of information collection (*e.g.* feedback survey, user testing, customer interview, focus group).

Estimated Total Annual Burden Hours: 101,125.

Authority: 44 U.S.C. 3501 *et seq.*

Juliana L. Pearson,

Treasury PRA Clearance Officer.

[FR Doc. 2026–24146 Filed 11–25–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF VETERANS AFFAIRS

[Docket No. VA–2026–VACO–0001]

Enhanced-Use Lease (EUL) of Department of Veterans Affairs (VA) Real Property at the Clement J. Zablocki VA Medical Center, Milwaukee, Wisconsin

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The purpose of this **Federal Register** notice is to provide the public with notice that the Secretary of Veterans Affairs intends to enter into an EUL of the Ward Memorial Hall Theater, Governor's Mansion, and Chapel on approximately 4.76 acres of underutilized land on the campus of the Clement J. Zablocki VA Medical Center.

FOR FURTHER INFORMATION CONTACT: C. Brett Simms, Executive Director, Office of Asset Enterprise Management, Office of Management, 202–502–0262.

SUPPLEMENTARY INFORMATION: Pursuant to title 38 United States Code (U.S.C.) 8161, *et seq.* as amended by Public Law (Pub. L.) 117–168, the Secretary of Veterans Affairs is authorized to enter into an EUL, for a term of up to 99 years, that (a) provides supportive housing for veterans and their families, or (b) enhances the use of the leased property by directly or indirectly benefitting veterans. In addition, the EUL must not be inconsistent with and not adversely affect VA's mission or the operation of VA's facilities, programs, and services in the area of the leased property. Consistent with this authority, the Secretary of Veterans Affairs intends to enter into an EUL for the purpose of outleasing the Ward Memorial Hall Theater, Governor's Mansion, and Chapel on approximately 4.76 acres of underutilized land. The selected EUL lessee/developer, National Soldiers Home Commercial I, LLC, will finance, design, develop, renovate, construct, manage, maintain, and operate the three historic buildings. In addition, the lessee/developer will be required to provide supportive services and programming for veterans and their families.

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on November 13, 2026, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Gabriela DeCuir,

Alternate Federal Register Liaison Officer, Department of Veterans Affairs.

[FR Doc. 2026–24160 Filed 11–25–26; 8:45 am]

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FEDERAL REGISTER

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Part II

Environmental Protection Agency

40 Parts 124, 260, 261, et al.

Technical Updates to the RCRA Hazardous Waste Permitting Regulations—Permitting Technical Updates Rule; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 124, 260, 261, 262, 263, 264, 265, 266, 267, 268, 270, 271, 273, and 279

[EPA–HQ–OLEM–2024–0124; FRL–9376–01–OLEM]

RIN 2050–AH30

Technical Updates to the RCRA Hazardous Waste Permitting Regulations—Permitting Technical Updates Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing technical updates to the regulations implementing the Resource Conservation and Recovery Act (RCRA) governing hazardous waste treatment, storage, and disposal facilities (TSDFs), as well as associated permitting requirements. The proposal also includes a few conforming technical updates to the generator and transporter regulations. The RCRA hazardous waste TSDF permitting regulations have remained largely unchanged for over three decades, despite evolving standards and practices. Collectively, these revisions are intended to address inadvertent errors, remove obsolete references, reflect current information and standards, and implement targeted updates to the RCRA permitting regulations to improve clarity, consistency, and efficiency in the hazardous waste TSDF permitting program. Through a separate **Federal Register** document, EPA will be seeking input on areas in the RCRA permitting program and permitting regulations to consider for permitting policy or regulatory reform. This proposed rule helps clear the way for potential future regulatory actions that could improve implementation of the RCRA hazardous waste permitting program. It serves as a maintenance action and does not preclude the possibility of future permitting reform.

DATES: Comments must be received on or before December 28, 2026. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before December 28, 2026.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OLEM–2024–0124, by any of the following methods:

- *Federal Rulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email:* ''*docket_OLEM@epa.gov*.'' In the email, include Docket ID No. EPA–HQ–OLEM–2024–0124 in the subject line of the message.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Office of Resource Conservation and Recovery Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. to 4:30 p.m., Monday-Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, refer to the ''Public Participation'' heading of the

FOR FURTHER INFORMATION CONTACT: For general information about this document please reach out to the following contacts from the Waste and Chemical Implementation Division, Office of Resource Conservation and Recovery, Environmental Protection Agency, 1200 Pennsylvania Avenue, Mail Code 5303T, Washington, DC 20460:

- Tab Sommer; telephone number: (202) 566–0363, email address: *sommer.tab@epa.gov.*
- Nadja Solis-Marcano; telephone number: (202) 566–0356, email address: *solismarcano.nadja@epa.gov.*
- Lilybeth Colón; telephone number: (202) 566–0320, email address: *colon.lilybeth@epa.gov.*

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For a more detailed Table of Contents with the subtopics in section V.A. of this preamble, refer to the document titled ''List of Preamble Topics and Regs Covered'' available in the docket for this action.

I. Public Participation

Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2024–0124, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the

official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

For the reader's convenience, EPA has provided a background description of existing requirements in several places throughout this preamble. In the absence of a specific request for comment and proposed change to the identified provisions, these descriptions do not reopen any of the described provisions nor reconsider the underlying regulations. The scope of this proposal is limited to the changes specifically identified and EPA is not reconsidering, reopening, or soliciting comment on other RCRA regulations.

Due to the length and complexity of the proposal, EPA requests that commenters identify the relevant topic and section number in their comments by using comments codes. For example, use ''PM–6b'' for section V.A.6 Permit Modification comments for V.A.6.b. Notification of Modification Requests. The codes are given at the end of each section.

Through this action, EPA is soliciting comment on targeted technical updates. EPA will be seeking input on topics for RCRA permitting reform through a separate **Federal Register** document.

II. General Information

A. Does this action apply to me?

This action applies to owners and operators of facilities that treat, store, or dispose of hazardous waste. A small subset of proposed changes which relate to the land disposal restriction regulations and requirements relating to contingency planning, incident reporting, and manifesting would also apply to generators of hazardous waste. In addition, a small subset of proposed changes which relate to transfer facilities would also apply to transporters of hazardous waste. 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: (NAICS codes) 562—Waste Management and Remediation Services; 325—Chemical Manufacturing; 928—National Security and International Affairs; 331—Primary Metal Manufacturing; 324—Petroleum and Coal Products Manufacturing; 332—Fabricated Metal Product Manufacturing; 336—Transportation Equipment Manufacturing; 321—Wood Product Manufacturing; 424—Merchant Wholesalers, Nondurable Goods; 327—Nonmetallic Mineral Product Manufacturing; 611—Educational Services; 334—Computer and Electronic Product Manufacturing; 541—Professional, Scientific, and Technical Services; 221—Utilities; 333—Machinery Manufacturing; and, 339—Miscellaneous Manufacturing. To determine whether your entity is affected by this action, you should carefully examine the proposed changes to the regulatory text, as well as applicability provisions in 40 CFR parts 124, 260, 261, 262, 263, 264, 265, 266, 267, 268, 270, 271, 273, and 279. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the Agency taking?

EPA is proposing various technical updates to the RCRA hazardous waste treatment, storage, disposal and permitting standards. These proposed changes intend to reflect current information or standards, improve understanding and compliance with the regulations, and make over 400 technical corrections and other conforming changes to address inadvertent errors and remove obsolete references.

Please note that in this proposal, EPA is not reconsidering, proposing to reopen, or otherwise soliciting comment on any other provisions of the existing RCRA regulations beyond those specifically identified in this proposal. At the same time, this action does not preclude the possibility of future permitting reform to improve implementation of the RCRA hazardous waste permitting program.

C. What is the Agency's authority for taking this action?

EPA is proposing these regulations under the authority of sections 1006, 2002(a), 3002, 3003, 3004, 3005, 3010, 3013, and 7004 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976, as amended, by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6905, 6912(a), 6922, 6923, 6924, 6925, 6930, 6934, and 6974. These public laws combined are commonly referred to as the ''Resource Conservation and Recovery Act'' (RCRA) and will be referred to as such for the remainder of this document. RCRA section 1006 provides EPA with the authority to integrate RCRA's requirements with other Acts. Section 2002(a) provides EPA the general authority to prescribe regulations to carry out the functions of RCRA. Section 3002 provides EPA the authority to establish standards applicable to generators of hazardous waste. Section 3003 provides EPA the authority to establish standards applicable to transporters of hazardous waste. Section 3004 provides EPA the authority to establish standards applicable to owners and operators of facilities for the treatment, storage, or disposal of hazardous waste. Section 3005 provides EPA the authority to establish regulations requiring each person owning or operating a hazardous waste treatment, storage, and disposal facility (TSDF) to have a permit. Section 3010 makes regulations promulgated pursuant to RCRA effective in the manner described in the Act. Section 3014 provides EPA with the authority to require monitoring, testing, or analysis for hazardous waste. Section 7004 provides EPA with the authority to review petitions as well as to require and develop standards for public participation.

D. What are the incremental costs and benefits of this action?

Based on the universe of affected facilities, permits, and activities, as well as the estimated labor and non-labor costs associated with complying with the provisions of the proposed rule, EPA estimates that the universe of permitted facilities and new applicants, on average, will have a total of approximately $0.42 million per year (2025 dollars) in labor and non-labor cost savings (under a 3 percent discount rate). In addition, permitting authorities are expected to realize annual cost savings of $0.50 million (2025 dollars, under a 3 percent discount rate). The annualized cost savings of the proposed rule for permitted facilities, new applicants, and permitting authorities combined are $0.92 million per year (2025 dollars, under a 3 percent discount rate).

For a detailed description of costs and benefits of regulatory revisions proposed in this action, refer to the Economic Assessment available in the docket.

III. Background

When the Resource Conservation and Recovery Act was enacted in 1976,

Congress recognized that hazardous waste should be treated, stored, or disposed of in a manner that minimizes present and future threats to human health and the environment. To address these risks, EPA promulgated extensive technical standards for the design and safe operation of hazardous waste management units (HWMUs) at TSDFs. These standards are codified in Title 40 of the Code of Federal Regulations (CFR) parts 124 and 260 through 279.

Parts 270 and 124 provide requirements pertaining to the hazardous waste permitting process.[1] Part 264 sets minimum national standards for managing hazardous waste at fully permitted TSDFs, while requirements for interim status facilities are included in part 265.[2] Most changes being proposed in this action are located in parts 264, 265, and 270.

This action also proposes revisions to parts that are not core to hazardous waste permitting: parts 124, 260, 261, 262, 263, 266, 267, 268, 271, 273, and 279. Revisions to these parts are included in this proposal because standards and requirements described in these parts may be referenced by the RCRA permit, or because conforming changes in these parts would be needed to ensure consistency with revisions to the TSDF and/or permitting regulations. Part 124 describes the general requirement to obtain a RCRA permit and defines public notice requirements. Part 260 includes general provisions relating to the hazardous waste management system under RCRA, including definitions that apply to parts 260–273. Part 261 discusses identification and listing of hazardous waste. Part 262 describes standards applicable to generators of hazardous waste. Part 263 describes standards applicable to transporters of hazardous waste. Parts 266 and 267 discuss standards that apply to specific activities, types of waste, or types of waste management facilities; these standards often include provisions that must be cited in the operating permit. Part 268 describes land disposal restrictions that apply to TSDFs, as well as other regulated entities. Part 271 describes requirements for the authorization of state hazardous waste programs. Part 273 describes the standards for universal waste management. Part 279 describes the standards for the management of used oil.

Permitted facilities. TSDFs are required to obtain a permit, which provides TSDF owners and operators with the legal authority to treat, store, or dispose of hazardous waste and details how the facility must comply with the regulations. The permit is a legally binding document that establishes the administrative and technical conditions under which hazardous waste at the facility must be managed. In this document, the term ''permit'' generally refers to the RCRA TSDF permits described here, unless otherwise specified. Permits also serve as an implementation mechanism and as a means by which EPA can track waste management at facilities that handle hazardous waste. Owners and operators of facilities that do not comply with permit provisions are subject to RCRA enforcement actions, including financial penalties.

Permits can be issued by EPA or authorized state RCRA programs. The permitting authority and TSDF owners or operators engage with each other throughout all stages of the permitting process, from preparation of the permit application, through permit issuance, including permit modifications and renewals, until permit termination. The process also includes public participation at each stage, as applicable. For new TSDFs seeking a permit, and facilities seeking a permit renewal, the owner and operator must submit a comprehensive permit application that addresses all applicable regulatory standards, including general facility provisions, unit-specific requirements, closure and post-closure requirements, financial assurance standards, and any applicable groundwater monitoring and air emissions provisions. The permit application must demonstrate that the permittee's methods of handling the waste are consistent with the level of protection of human health and the environment required by RCRA. The permit application is divided into two parts, Part A and Part B. The Part A application requires basic information about the facility. The Part B application includes site-specific information associated with the waste management activities that will be conducted at the facility, such as chemical and physical analyses of the hazardous waste, and includes geologic, hydrologic, and engineering data. This process provides a mechanism for the permitting authority to request additional information through a notice of deficiency and includes an opportunity for public review and comment. Ultimately, the permitting authority makes the decision to issue or deny the permit.

EPA views permits as living documents that can be modified to allow facilities to implement technological improvements, comply with new environmental standards, respond to changing waste streams or conditions, and generally improve waste management practices. Once a permit has been issued, changes may be necessary. Permit modification procedures provide owners and operators and the permitting authority with flexibility to change permit conditions, with public notification and participation, as applicable.

Interim status facilities. Many TSDFs were already in existence and operating when they became subject to RCRA regulatory requirements as a result of a statutory or regulatory change. These owners and operators were immediately subject to the RCRA requirements, including the requirement to obtain an operating permit. Such facilities were allowed to obtain ''interim status,'' which allowed them to continue operating until they were either issued a permit or until applicable closure and post-closure responsibilities are fulfilled.

Under interim status, a facility can operate without a permit as long as it complies with certain general facility and unit-specific TSDF standards in 40 CFR part 265, until the permitting agency makes a final permit determination. Currently, fewer than 10 facilities are operating under interim status and actively managing hazardous waste.

Through this action, the Agency is proposing several technical updates to address inadvertent errors and remove obsolete references; reflect current information and standards; and incrementally improve clarity, consistency, and efficiency in the hazardous waste TSDF permitting program.

IV. Methodology

EPA developed this proposal from ideas compiled from numerous sources over several years regarding potential revisions to the RCRA permitting regulations. While some cited materials are older, the issues they address remain current. The primary source of potential

[1] Unless otherwise noted, the references to ''parts'' or ''sections''(''§ '') in this preamble are to Title 40 of the Code of Federal Regulations (CFR); for example, ''part 270'' means 40 CFR part 270. Regulatory requirements for TSDFs are laid out in part 264 and provide the framework and technical standards used to develop a site-specific RCRA permit.

[2] RCRA ''interim status'' allows existing hazardous waste TSDFs to operate while their permit is processed if they were in existence on the effective date of the applicable regulations, notified EPA (or the authorized state), and submitted a timely Part A application, and they comply with interim-status standards (*e.g.,* part 265). Interim status continues until a final permit is issued or denied, or it terminates for noncompliance or other applicable reasons.

revisions was through ongoing implementation of the RCRA hazardous waste permitting program, wherein issues and suggestions for improvement from EPA implementation staff, authorized state and territories, and regulated entities have been collected and documented over time. Many of these items have been previously considered and clarified by EPA through issuance of program guidance and policy available publicly on the EPA website and RCRA Online.[3]

Additional sources included issues identified by the Office of Enforcement and Compliance Assurance (OECA) through EPA's National Enforcement and Compliance Initiative to Reduce Hazardous Air Emissions for Hazardous Waste Facilities; regulatory revisions made in previous EPA rulemakings, such as EPA's 2016 Generator Improvements Rule (81 FR 85732, November 28, 2016); public comments received through the Executive Order (E.O.) Enforcing the Regulatory Reform Agenda (E.O. 13777[4] of February 24, 2017); and numerous technical corrections received from a firm that delivers training on the RCRA regulations.

V. Discussion of Proposed Changes

EPA's proposed changes focus mainly on the RCRA hazardous waste treatment, storage, and disposal, and permitting regulations, in 40 CFR parts 264, 265, and 270. Additionally, this action proposes changes to regulations located in other parts of the CFR related to hazardous waste permitting, transportation, and generation, located in parts 124, 260, 261, 262, 263, 266, 267, 268, 271, 273, and 279.

EPA is requesting comment on each of the proposed changes discussed in the following subsections, which include proposed changes to clarify language, codify longstanding policy, update standards, and make technical corrections. EPA will use the public comments it receives to make decisions on whether and how to finalize revisions.

To assist public commenter's review, EPA has included two files in the docket to aid in review of this relatively large proposal:

- ''List of Preamble Topics and Regs Covered.pdf.''
- ''Redline Comparison Between Existing and Proposed Regulation Changes.pdf.''

First, the document titled ''List of Preamble Topics and Regs Covered'' lists each topic in the preamble and the regulations covered in each topic. There are hundreds of paragraphs in the regulations that are being revised, and a regulation can be revised for more than one preamble topic. Second, the document titled ''Redline Comparison Between Existing and Proposed Regulation Changes'' presents the proposed changes in a red-line format compared to the existing regulations. Public commenters may find this red-line document particularly helpful in understanding how EPA is proposing to amend the regulations.

A. Technical Updates

EPA is proposing several changes to improve the clarity of various regulatory provisions, reflect current information and standards, enhance clarity, consistency, and efficiency in the hazardous waste TSDF permitting program, and update references to standards established by regulatory programs other than RCRA that are incorporated into the RCRA regulations. These changes are supported by existing policy and analysis established or communicated in EPA memoranda, guidance, or other documents.

This section describes proposed changes organized by the following subjects:

- Permit application (V.A.1),
- Preparedness and prevention, contingency plan and emergency procedures (V.A.2),
- Financial assurance (V.A.3),
- RCRA organic air emission standards (V.A.4),
- General language clarification (V.A.5),
- Permit modification (V.A.6),
- Modernizing public notice (V.A.7),
- Location standards regulatory comments (V.A.8),
- Transfer facility storage period (V.A.9),
- Drip pads (V.A.10).

1. Permit Application

EPA is proposing several changes relating to permit applications for initial permits and permit renewals.

The permit application consists of two parts: Part A and Part B. Part A includes basic facility information, such as location, contact information, and process descriptions. Part B of the RCRA permit application contains both general and specific information that is necessary for EPA to assess whether the applicant will be in compliance with the regulatory standards outlined in 40 CFR part 264. Part B is comprehensive and may contain technical data, drawings, studies, and other descriptive or analytical information, which is the main focus of this section.

The proposed changes described in this section aim to ensure that permit applications provide permitting authorities with the complete information necessary to process RCRA permit applications effectively. The permitting authority needs this information before drafting permit conditions that, if followed, promote compliance with the regulations and protect human health and the environment over the permit term. A permit application must be complete and technically adequate for the permitting authority to conduct a thorough evaluation. For further details, refer to 40 CFR 124.3(a)(2).

Incomplete or insufficient permit applications are a major factor contributing to delays in issuing RCRA permits and renewals. When an incomplete or technically inadequate permit application is submitted, both the permitting authority(ies) and permittee often have to invest significant time and resources to gather the necessary details. This process can involve discussions, requests for additional information, and multiple reviews of resubmitted applications. According to a report by the Association of State and Territorial Solid Waste Management Officials (ASTSWMO),[5] application review accounted for 25% of the total permitting program costs borne by states, surpassing the costs associated with permit issuance, which stood at 21% (while this is from an older report, it is still relevant and informative). EPA anticipates that the proposed clarifications to the regulations will enhance the initial quality and completeness of permit applications. This improvement should reduce the number of iterations required, thereby shortening the overall time needed to complete the permitting process.

The proposed revisions focus on the following permit-application topics:

[3] RCRA Online is an electronic database that indexes thousands of letters, memoranda, publications, and questions and answers issued by EPA's Office of Resource Conservation and Recovery (ORCR). These documents represent past EPA Headquarters interpretations of the RCRA regulations governing the management of solid, hazardous, and medical waste. Available at: *https://rcrapublic.epa.gov/rcraonline/*.

[4] The E.O. was revoked on January 20, 2021, through E.O. 13992 (86 FR 7049). However, the feedback received in response to this order continues to be relevant and informative.

[5] ASTSWMO is an organization representing the 50 States, 5 Territories and the District of Columbia. ASTSWMO published a report January 22, 2007: ''State RCRA Subtitle C Core Hazardous Waste Management Program Implementation Costs,'' available at: *https://astswmo.org/state-rcra-subtitle-c-core-hazardous-waste-management-program-implementation-costs/*. This is also referred to as the ''2007 ASTSWMO Core Report.''

- Permit application information and technical requirements, and
- Permit application submittal timeframe.

EPA is requesting comment on the following proposed changes.

a. Permit Application Information and Technical Requirements

EPA is proposing revisions to several regulatory provisions that reference the application requirements and list the CFR Parts containing technical requirements to be addressed in the application. These proposed revisions are described below for §§ 124.3(a)(2), 270.2, 270.10(c), 270.10(d), 270.14(a), 270.51(a)(1). Additionally, similar updates to § 270.1(a)(3) are discussed.

EPA emphasizes that none of the proposed changes concerning information and technical requirements will limit the permitting authority's ability, allowed under current regulations, to request additional information during the permit drafting process. According to the existing regulations in § 124.3(c), even after an application is deemed complete, the Regional Administrator may request further information from an applicant, but only when necessary to clarify, modify, or supplement previously submitted material. Such requests for additional information will not render an application incomplete.

EPA is proposing to amend § 124.3(a)(2) to reference the full scope of RCRA permit application requirements. Currently, § 124.3(a)(2) outlines the information needed for the permitting authority to begin processing a permit application, but it only references §§ 270.10 (General application requirements) and 270.13 (Contents of Part A of the permit application), which represent just a portion of the applicable requirements. To address this, EPA is proposing to add references to § 270.14 (Contents of Part B; General requirements), and §§ 270.15 through 270.28 (Specific Part B information requirements), as applicable. The current language may leave applicants unaware of the full scope of RCRA information requirements necessary for a complete application, potentially leading to incomplete applications and subsequent delays. The proposed language is expected to improve applicant awareness of required information requirements, and result in more complete and higher quality permit applications. By improving the initial quality of permit applications, the need for resubmissions or revisions may be reduced, potentially shortening the overall timeframe from application submission to permit decision.

EPA proposes to modify § 270.1(a)(3) to clarify that 40 CFR parts 260 and 261 contain technical requirements applicable to the hazardous waste permit program. Currently, § 270.1(a)(3) references the technical requirements ''[. . .] used by permit issuing authorities to determine what requirements must be placed in permits [. . .].'' However, while parts 260 and 261 include technical requirements applicable to exemptions, variances, and exclusions, which are essential for determining permit conditions, § 270.1(a)(3) does not reference them. The proposed amendment to include references to 40 CFR parts 260 and 261 in § 270.1(a)(3) aims to provide greater clarity for permit applicants.

EPA is proposing to amend the definition of ''Application'' in § 270.2 (Definitions) to explicitly state that the information in the permit application must reflect the standards set forth in specific CFR Parts. This proposed change, which includes adding the text ''and the information necessary for EPA to assess whether the applicant is in compliance with the technical requirements of parts 260, 261, 264, 266, 267, 268, and 270,'' clarifies the full scope of information required in a permit application for the permitting authority to make an informed permitting decision. The amendment emphasizes that the application must include current, correct, technically adequate, and complete information for all owner's and operator's activities at the facility, including any claimed exemptions, variances, and exclusions (primarily from parts 260, 261, and 270).

The proposed revision for the definition of ''Application'' in § 270.2 would align the list of application or technical requirements with the revisions proposed for §§ 124.3(a)(2) and 270.1(a)(3), ensuring consistency across these regulatory provisions. Through this amendment, EPA aims to reduce misunderstandings about permit application requirements that could complicate the permitting process, thereby improving clarity and understanding of the requirements and facilitating a more efficient permit application process. Additionally, EPA is proposing minor changes to the definition of ''Application'' to include language describing states authorized by EPA to implement the RCRA program, as well as references to the contents of Part A of the RCRA application (per § 270.13). These minor revisions aim to enhance clarity and make the regulations easier to read. For other revisions to this definition in § 270.2, refer to EPA's proposed technical correction described in section V.B.1., which clarifies that the contents of Part B of the RCRA application are found in §§ 270.14 through 270.28 (and not § 270.29).

EPA is proposing to amend § 270.10(c) ''Completeness'' to clarify that a complete application must include all of the information required under the regulations for both Part A and Part B of the RCRA permit application. Specifically, EPA is proposing to add language explicitly referencing the contents of the Part B portion of the permit application, which reflects the standards promulgated in parts 260, 261, 264, 266, 267, 268, and 270. In addition, EPA is proposing to rephrase the last sentence to add ''or if the applicant fails to submit'' to the existing sentence on denying a permit before receiving a complete application. The proposed sentence would read ''The Director may deny a permit for the active life of a hazardous waste management facility or unit before receiving, or if the applicant fails to submit, a complete application for a permit.'' This addition clarifies that the absence of an application can prompt the same response as an incomplete application.

EPA is proposing to amend § 270.10(d) ''Information requirements'' under the general application requirements to clarify the scope of information required in a permit application. The revisions aim to enhance clarity in the language. Specifically, the amendment clarifies that the forms provided by the Director include both the Part A form and supplemental forms. Additionally, the proposed revision specifies that the required information should include all the information necessary to demonstrate compliance with the technical requirements of parts 260, 261, 264, 266, 267, 268, and 270 and adds a reference to § 270.1(a)(3). This provision is also amended by a proposed technical correction, described in section V.B.1., which states that the contents of Part B of the RCRA application are in §§ 270.14 through 270.28 (and not § 270.29).

EPA proposes to amend § 270.14(a) (Contents of part B: General requirements) to clarify the contents of Part B of the permit application must reflect all applicable standards in the RCRA regulations. Specifically, EPA is proposing to state that the Part B information requirements must reflect the standards promulgated in parts 260, 261, 266, 267, 268, and 270, in addition to part 264, which is already referenced in the existing regulation. As stated

above regarding similar revisions to identify the CFR Parts, EPA aims to minimize misunderstandings about permit application requirements that could complicate the permitting process, thereby improving clarity and facilitating a more efficient permit application process. Additional edits are proposed to provide clarity in § 270.14(a).

EPA is also proposing non-substantive wording changes in § 270.14(a) to improve readability. This provision is also amended by a proposed technical correction, described in section V.B.1., which states that the contents of Part B of the RCRA application are in §§ 270.14 through 270.28 (and not § 270.29), and also corrects the spelling of ''cannot.''

EPA is proposing to revise § 270.51(a)(1) to clarify that the demonstration of technical requirements is also included within the existing requirement for a timely application in order for the facility to continue to operate under an expired permit. Specifically, EPA is proposing to state that the permittee includes the ''information necessary to assess whether the permittee is in compliance with all applicable RCRA technical requirements of parts 260, 261, 264, 266, 267, 268, and 270 which are required for a complete application (under § 270.10).'' As stated above regarding similar revisions to identify the CFR Parts, EPA aims to minimize misunderstandings about permit application requirements that could complicate the permitting process, thereby improving clarity and facilitating a more efficient permit application process. This provision is also amended by a proposed technical correction, described in section V.B.1., which states that the contents of Part B of the RCRA application are in §§ 270.14 through 270.28 (and not § 270.29).

EPA requests comment on these proposed revisions in §§ 124.3(a)(2), 270.1(a)(3), 270.2, 270.10(c), 270.10(d), 270.14(a), and 270.51(a)(1). (Reference comment code ''PA–1a.'')

b. Permit Application Submittal Timeframe

EPA proposes to revise § 270.10(h) to clarify that the permit renewal application is not optional for a permit renewal (as required). EPA is proposing to revise § 270.10(h)(1)–(2) to explicitly require applicants to submit applications for permit renewal no later than 180 days prior to the expiration date of the existing effective permit, or an alternate date as allowed by the permitting authority. Section 270.10(h)(1)–(2) currently states that facility owners or operators ''may'' submit a new application at least 180 days before the permit's expiration date. EPA finds that the use of ''may'' in the sentence implies that submitting a renewal application at least 180 days before permit expiration is optional. It is not optional, but was worded as such since the Director can adjust the timeframe. Submissions of permit applications less than 180 days before permit expiration typically does not allow permitting authorities sufficient time to process renewals before the scheduled permit expiration date.

EPA is including flexibility in the proposed revisions to § 270.10(h)(1)–(2) that would allow EPA and authorized states to require or allow submission on an alternate date. EPA expects this revision would enable the permitting authority to require the submittal of permit applications earlier than 180 days before the permit expiration date (this is already a common practice in many states). The earlier review time will increase the likelihood of permit issuance occurring on the permit expiration date and thus reduce the need to administratively continue a permit.

The proposed alternate date (either prior to or after the 180 days before the expiration date) will also enable the Director to allow a later date if circumstances necessitate an abbreviated submission time. EPA anticipates that such circumstances will be rare, occurring only in exceptional cases.

A formatting revision (italicizing the paragraph title) to be consistent with the other related paragraphs is also proposed.

EPA requests comment on these revisions (reference comment code ''PA–1b'').

2. Preparedness and Prevention, Contingency Plan and Emergency Procedures

EPA is proposing several amendments with respect to preparedness and prevention and contingency planning for TSDFs. Specifically, EPA is proposing amendments under the following areas:

- Storage of preparedness and prevention equipment
- Clarification of meaning of ''immediate access''
- Clarifications for preparedness, prevention, and emergency procedures
- Contingency plan

Many of these amendments are consistent with the amendments EPA made to contingency plan requirements for hazardous waste generators in the 2016 Generators Improvement Rule.[6] Where applicable, EPA is also proposing amendments for large quantity generators (LQGs) to be consistent with proposed amendments for TSDFs.

a. Storage of Preparedness and Prevention Equipment

EPA is proposing to modify §§ 264.32 and 265.32 (Required equipment) to incorporate flexibility to store preparedness and prevention equipment in other areas of the facility in situations where it is infeasible or inappropriate for safety reasons to have the equipment located immediately next to hazardous waste treatment, storage, and disposal areas. ''Required equipment'' includes an internal communications or alarm system; a device, such as a telephone or two-way radio; portable fire extinguishers, fire control, spill control, and decontamination equipment; and water at adequate volume and pressure.

In the preamble to the Hazardous Waste Generator Improvements Rule (81 FR 85732, November 28, 2016), EPA noted that existing regulations associated with preparedness and prevention were unclear regarding whether the required equipment must be placed in those areas where hazardous waste is generated or accumulated, or other parts of the facility where hazardous waste is not being managed. EPA stated that it may not always be appropriate or safe to store equipment in the actual waste management area even though the equipment requirements in part 262 apply only to the generation, accumulation, and (if relevant) generator treatment of hazardous waste. Therefore, EPA concluded the generator should have the flexibility to store this equipment in other areas of the facility in situations where it is infeasible or inappropriate for safety reasons to have the equipment located immediately next to hazardous waste generation or accumulation.

In this rule, EPA is applying analogous logic to the hazardous waste treatment, storage, and disposal regulations in §§ 264.32 and 265.32. EPA is proposing to clarify that, while the equipment provisions under parts 264 and 265 apply to only those areas where hazardous waste is either being treated, stored, or disposed of, the facility owner or operator may determine the most appropriate locations within its facility to locate equipment necessary to prepare for and respond to emergencies. This proposed amendment is consistent with

[6] 81 FR 85732, November 28, 2016. *Hazardous Waste Generator Improvements Rule;* Final Rule.

regulatory language that currently applies to small quantity generators (SQGs) and LQGs in §§ 262.16(b)(8)(ii) and 262.252, respectively. EPA requests public comment on this proposed amendment (reference comment code ''PP–2a'').

b. Clarify the Meaning of ''Immediate Access''

EPA is proposing to modify §§ 264.34(a)–(b) and 265.34(a)–(b) (Access to communications or alarm system) to clarify the meaning of ''immediate access.''

The preparedness and prevention provisions in §§ 264.34 and 265.34 include the condition that, whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required. These provisions are almost identical to the preparedness and prevention provisions in § 262.254, which EPA amended in the Hazardous Waste Generator Improvements Rule (81 FR 85732, November 28, 2016), to include the parenthetical ''(*e.g.,* direct or unimpeded access)'' after the phrase ''immediate access'' to clarify its meaning in that rulemaking. Similarly, EPA is proposing to add the same parenthetical amendment after the phrase ''immediate access'' in §§ 264.34 and 265.34 to achieve similar clarification for the meaning of this same phrase. EPA requests public comment on this proposed amendment (reference comment code ''PP–2b'').

c. Clarifications for Preparedness, Prevention, and Emergency Procedures

EPA is proposing several amendments to modify §§ 264.37 and 265.37 (Arrangements with local authorities), as related to preparedness, prevention, and emergency procedures in 40 CFR parts 264 and 265. These amendments aim to align with language currently applicable to LQGs in § 262.256(a)–(b), as amended in the 2016 Generator Improvements Rule (81 FR 85732, November 28, 2016). The proposed amendments include: (1) allowing owners and operators of facilities to make and document arrangements with the Local Emergency Planning Committee (LEPC), when appropriate; (2) clarifying that owners or operators must document arrangements with organizations or local authorities necessary to respond to an emergency and, in cases where no arrangements exist, they must document that attempts to make arrangements were made; and (3) implementing other amendments that improve organization and readability of the provision.

When § 262.256 was amended in the Hazardous Waste Generator Improvements Rule (81 FR 85732, November 28, 2016), EPA recognized the need to update the requirements associated with emergency planning and notification, as related to preparedness, prevention and emergency procedures for small and LQGs. The amendments were necessary to reflect developments in the national, state and local infrastructure for emergency planning and response, including the passage of the Emergency Planning and Community Right-To-Know Act (EPCRA) in 1986 and the roles and responsibilities of LEPCs under EPCRA.

EPA also acknowledged that documentation regarding attempts to make arrangements with the local fire department, as well as any other organization necessary to respond to an emergency, would be beneficial in ensuring that necessary steps to prepare for an emergency are taken. Therefore, EPA clarified that generators must document either the attempts or, if successful, the final arrangements.

EPA is proposing to make conforming amendments to the standards for hazardous waste TSDFs in parts 264 and 265. EPA requests public comment on the proposed amendments to §§ 264/265.37(a), 264/265.37(a)(1)–(3), and 264/265.37(b). (Reference comment code ''PP–2c.'')

d. Contingency Plan

EPA is proposing several amendments associated with contingency plan requirements included in §§ 264.52 and 265.52 (Content of contingency plan) and §§ 264.53 and 265.53 (Copies of contingency plan).

First, EPA is proposing amendments to §§ 264.52(c) and 265.52(c) to improve clarity and, as described above, include arrangements with an LEPC, when appropriate. EPA's proposed language in this section is consistent with requirements currently applicable for LQGs in § 262.261(c).

Second, the Agency is proposing amendments to §§ 264.52(d) and 265.52(d) to allow owners or operators the flexibility to eliminate unnecessary employee personal information in the contingency plan in order to protect those individuals' privacy while still providing necessary information to address emergencies. Specifically, while retaining the name of persons qualified to act as emergency coordinators, the Agency is proposing to remove references to addresses and change the reference to home and office telephone numbers to ''emergency telephone number.'' EPA's proposed amendments in this section are consistent with requirements currently applicable to LQGs in § 262.261(d).

Third, EPA is proposing to add language to §§ 264.52(d) and 265.52(d) stating that, in situations where the facility has an emergency coordinator continuously on duty because it operates 24 hours a day, every day of the year, the plan may list the staffed position (*e.g.,* operations manager, shift coordinator, shift operations supervisor, or similar position). Additionally, the plan must include an emergency telephone number that can be guaranteed to be answered at all times. EPA's proposed amendments in this section are consistent with requirements currently applicable to LQGs in § 262.261(d).

Fourth, EPA is proposing to amend §§ 264.53 and 265.53 to require the physical copy of the contingency plan at the facility to be stored away from fire and explosive hazards. EPA is also proposing a conforming amendment to § 262.262 to apply this revision to LQGs.

Lastly, EPA is proposing to amend §§ 264.53 and 265.53 to clarify the flexibility for submitting electronic copies of the contingency plan to all local emergency responders. This amendment encourages the use of electronic formats while allowing the decision on format to be made on a facility-by-facility basis. EPA is also proposing a conforming amendment to § 262.262 to apply this revision to LQGs.

EPA is requesting public comment on these proposed amendments, specifically at §§ 264.52(c)–(d); 264.53 introductory text, 264.53(a); 265.52(c)–(d); 265.53 introductory text, 265.53(a); and conforming amendments at §§ 262.262(a), 262.262(c), and the addition of 262.262(d). (Reference comment code ''PP–2d'').

3. Financial Assurance

EPA is proposing several technical updates to the RCRA financial assurance standards. The RCRA closure and post-closure care requirements are designed to protect human health and the environment from the long-term threats associated with hazardous waste management and permanent disposal. Many of these detailed unit and facility requirements apply at the end of a facility's waste management operations and can be very expensive. To prevent a facility from ceasing operations and failing to provide for the potentially costly closure and post-closure care requirements, EPA promulgated

regulations requiring TSDFs to demonstrate that they have the financial resources to properly conduct closure and post-closure in a manner that protects human health and the environment. The TSDF general facility standards include precautions to prepare a facility for accidents, spills, and any resulting emergency responses. Such unexpected events could damage third parties by impacting human health or property outside the facility. In order to compensate third parties for injury or damage that might result from such events, the RCRA regulations require TSDF owners and operators to demonstrate that they have the financial resources to pay for bodily injury or property damage that might result from unexpected events during waste management (known as the third-party liability requirements).

Since the financial assurance requirements came into effect, commercial and financial practice and standards have evolved. EPA has provided technical updates via guidance and memo to account for these changing practices and standards, while the regulations have largely remained unchanged. EPA is proposing to codify some of these technical updates in the regulations to better account for the evolution of commercial and financial practices over the past several decades. EPA expects these codifications will reduce confusion for program implementers, and owners and operators as the regulations will better align with contemporary commercial practice.

EPA is proposing the following changes:

- Replacing the requirement for a ''negative assurance'' in the financial test
- Clarifying acceptable financial test bond ratings
- Clarifying appropriate inflation factors for closure cost estimates
- Adding limited liability corporations as an accepted organizational structure
- Updating the governing rules for standby letters of credit

a. Replace the Requirement for a ''Negative Assurance'' in the Financial Test

EPA is proposing to remove the requirement for a ''negative assurance'' to be included in the accountant's report requirement for financial tests in §§ 264.143(f)(3)(iii), 264.145(f)(3)(iii), 264.147(f)(3)(iii), 265.143(e)(3)(iii), 265.145(e)(3)(iii), and 265.147(f)(3)(iii), and replace it with a standard that conforms with current accounting standards. This proposed change would impact several regulatory provisions related to the financial test.

In using the financial test or corporate guarantee in the current regulations in subpart H of parts 264 or 265, the owner or operator must submit to the EPA Regional Administrator: (1) a letter signed by the owner's or operator's chief financial officer (CFO) using the language specified in 40 CFR 264.151 to report financial information and test results, (2) a copy of the independent certified public accountant (CPA) report on the examination of the owner's or operator's financial statements for the latest completed fiscal year, and (3) A special report from the owner's or operator's independent CPA to the owner or operator. The CPA's special report presents the procedures performed and findings based on the CPA's comparison of the data which the chief financial officer's letter specifies as coming from the independently audited year-end financial report with the amounts in the audited financial statements. The regulations also require the CPA's report to state that ''[i]n connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted'' (see, for example, § 264.143(f)(3)(iii)(B)). This is referred to by the auditing profession as a ''negative assurance.''

The CFO's letter must discuss any adjustments made in the data to report the results of the financial test that differ from the amounts in the audited financial statements. The purpose of the CPA's special report on the CFO's letter is to ensure that information provided in the financial test is consistent with information in the firm's audited financial statements. This is particularly important when information cannot be checked directly against the financial report because of adjustments by the CFO.

In performing audits and other types of work, CPAs must follow certain professional standards. The American Institute of Certified Public Accountants, Inc.'s (AICPA's) Statement on Auditing Standards no longer permits independent auditors to express ''negative assurance'' (*i.e.,* ''no matter came to his attention which caused him to believe that the specified data should be adjusted''). The new professional standards require the auditor to present the results of procedures performed in the form of findings and explicitly disallow issuing ''negative assurance.'' This has left many accountants, corporations and states uncertain how to fulfill the RCRA regulatory requirement for using the financial test at, for example, § 264.143(f)(3)(iii)(B).

The Agency is proposing to change the RCRA regulations to remove the requirement for a ''negative assurance'' in the CPA's special report for financial tests in §§ 264.143(f)(3)(iii)(B) (financial assurance for closure), 264.145(f)(3)(iii)(B) (financial assurance for post-closure care), 264.147(f)(3)(iii)(B) (third-party liability), and the analogous interim status regulations (§§ 265.143(e)(3)(iii)(B) (financial assurance for closure), 265.145(e)(3)(iii)(B) (financial assurance for post-closure care), and 265.147(f)(3)(iii)(B) (third-party liability)). EPA is proposing to replace the regulatory language requiring a ''negative assurance'' with a standard that conforms with current accounting standards. Specifically, instead of a ''negative assurance'' requirement, EPA is proposing to require the special report from the owner's or operator's independent CPA include a description of the procedures performed and related findings, including whether or not there were discrepancies found in the comparison. In an agreed-upon procedures engagement, an accountant is engaged by a client to issue a report of findings based on specific procedures performed on the specific items of a financial statement. For example, under the new regulations, EPA would accept a CPA's report describing the procedures performed and related findings, including whether or not there were discrepancies found in the comparison, based on an agreed-upon procedures engagement performed in accordance with AICPA's Statement on Standards for Auditing Engagements No.19, Agreed-Upon Procedures Engagements (or any superseding requirements developed by the AICPA).

In practice, the Agency has been accepting Agreed-Upon Procedure Engagements since 1997. This change is intended only to update the regulations to conform with existing practice both in the accounting industry and EPA's hazardous waste financial assurance program.

EPA is requesting comment on this proposed change (in §§ 264.143(f)(3)(iii), 264.143(f)(3)(iii)(A)–(B), 264.145(f)(3)(iii), 264.145(f)(3)(iii)(A)–(B), 264.147(f)(3)(iii), 264.147(f)(3)(iii)(A)–(B), 265.143(e)(3)(iii), 265.143(e)(3)(iii)(A)–(B), 265.145(e)(3)(iii), 265.145(e)(3)(iii)(A)–(B), 265.147(f)(3)(iii), and 265.147(f)(3)(iii)(A)–(B)). (Reference comment code ''FA–3a.'')

b. Clarifying Acceptable Financial Test Bond Ratings

EPA is proposing a change to the financial test regulations to clarify the appropriate treatment of bond rating suffixes in determining whether or not a firm passes the financial test. Specifically, EPA is clarifying that in order to pass alternative II of the financial test, a firm must have a current rating for its most recent bond issuance by Standard and Poor's of BBB—or better or a Moody's rating of Baa3 or better. This proposed change would amend §§ 264.143(f)(1)(ii)(A), 264.145(f)(1)(ii)(A), 264.147(f)(1)(ii)(A), 265.143(e)(1)(ii)(A), 265.145(e)(1)(ii)(A), and 265.147(f)(1)(ii)(A).

The current parts 264 and 265, subpart H financial test regulations, relating to the bond rating alternative of the financial test, specify that the owner or operator must have a bond rating ''of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's.'' At the time these regulations were promulgated, S&P had not yet begun the practice of adding a ''+'' or ''−'' suffix to bond ratings, and Moody's had not yet begun adding a ''1,'' ''2,'' or ''3'' suffix. The bond rating suffix indicates the relative standing of a bond within a major rating category. In other words, a BBB—bond has a lower relative standing than a BBB bond or a BBB+ bond, but all three bonds fall within the major rating category of BBB bonds. The BBB—bond would have been rated as a BBB bond prior to the time when S&P began adding a rating suffix. Similarly, a bond rated Baa3 by Moody's would have been rated Baa prior to the time when Moody's began adding the rating suffix. In summary, pursuant to current regulations, a Moody's rating of Baa3 or better, or a S&P rating of BBB—or better satisfies the legal requirements of the financial test. EPA has been accepting ratings from Moody's of Baa3 or better and S&P ratings of BBB—or better since the two National Recognized Statistical Ratings Organizations (NRSROs) added the suffixes. This proposed regulatory change simply updates the regulations to reflect current nomenclature and practice.

EPA is requesting comment on this proposed change (reference comment code ''FA–3b'').

c. Clarify Appropriate Inflation Factors for Closure and Post-Closure Cost Estimates

EPA is proposing to clarify language in §§ 264.142(b), 264.144(b), 265.142(b), and 265.144(b) that describes the inflation factor that should be used for annual adjustment of the closure and post-closure cost estimates. The existing regulations provide instructions on how to adjust closure cost estimates on an annual basis through one of two methods; either recalculating the maximum costs of closure or post-closure care cost estimate in current dollars, or using an inflation factor to bring the estimate into current dollars. This inflation factor is derived from the Implicit Price Deflator (IDP) for Gross National Product (GNP) published by the U.S. Department of Commerce in its Survey of Current Business. The method of using the inflation factor to adjust the closure and post-closure cost estimates is employed by the majority of facilities that have RCRA financial assurance requirements.

The Deflator is a statistical series that measures inflation in the economy. Since the RCRA Subtitle C financial assurance regulations were promulgated, the Gross National Product Deflator has largely been supplanted by the Gross Domestic Product Deflator. When financial assurance regulations were originally promulgated, the Department of Commerce used GNP figures to calculate the IPD, but in recent years has favored Gross Domestic Product (GDP) as a basis for the IPD because the data better represent national output. The IDP based on GDP produces similar results to the IPD based on GNP; however, the IDP based on GDP is available to owners/operators two months before the IDP based on GNP. The IDP based on GDP was not available at the time this regulation was issued. In EPA's March 8, 1996, memorandum, EPA stated that the Gross Domestic Product was appropriate to use to calculate the inflation factor.[7]

EPA is proposing to codify allowance of the IPD based on either GNP or GDP, with the requirement that the owner/operator must use only that type for all cost estimates and adjustments, since each deflator is based on different data. An owner/operator may choose to switch deflators, but must adjust previous cost estimates accordingly.

EPA is requesting comment on this proposed change (reference comment code ''FA–3c'').

d. Adding Limited Liability Corporations as an Accepted Organizational Structure

EPA is proposing to add limited liability corporation (or LLC) as an option for organizational structure of an owner or operator in instrument language where the organization structure is required.

The mechanisms for demonstrating financial assurance under RCRA described and specified at § 264.151 include some prompts and instructions for completing blank fields in the mechanism text. In those cases, the instructions in brackets are to be replaced with the relevant information and the brackets deleted. One example is that some of the mechanisms require the organizational structure of the owner or operator (*e.g.,* corporation, partnership) to be specified. Specifically, the trust fund for closure and post-closure care, the trust fund for liability coverage, and the payment and performance bonds for closure and post-closure care require this information. For these mechanisms, the bracketed instructions include several options of organization structure. EPA is today proposing to add ''limited liability company'' to the options for organizational structure that may be specified in the instrument language.

Some owners and operators of hazardous waste facilities are limited liability companies. The absence of ''limited liability company'' as an option for the owner or operator's organizational structure has raised implementation questions and generated some confusion. The omission of limited liability company as an option was not intentional and should not and does not prevent limited liability companies from demonstrating financial assurance. The omission likely simply reflects the fact that limited liability companies were not as common in the late 1970s and early 1980s when the instrument language was first developed. EPA believes adding this will reduce implementation questions going forward. Specifically, EPA is proposing to amend §§ 264.151(a)(1), 264.151(b), 264.151(c), and 264.151(m)(1) to add limited liability company as an organizational structure for the owner or operator, and to make a minor editorial capitalization correction. EPA is requesting comment on this proposed change (reference comment code ''FA–3d'').

e. Governing Rules for Standby Letters of Credit

EPA is proposing to add International Standby Practices (ISP98, or subsequent updates) as an option for the governing rules for standby letters of credit at §§ 264.151(d) and (k).

The required wording for standby letters of credit at §§ 264.151(d) and (k) to include a specification of the set of

[7] US EPA memorandum from the Office of Solid Waste to Addressees on *New Inflation Factors for Updating Financial Responsibility Cost Estimates.* (March 1996). Available at: *https://rcrapublic.epa.gov/files/11981.pdf.*

governing rules to which the standby letter of credit will be subject. At present, the regulations allow the choice between the most recent edition of the Uniform Customs and Practice (UCP) for Documentary Credits, published and copyrighted by the International Chamber of Commerce, or the Uniform Commercial Code (U.C.C.). The bodies of rules and standards provide ''default'' provisions when the parties involved in the production of the letter of credit have neglected to include them. Since the required RCRA closure, post-closure, and third-party liability letter of credit wording addresses the major key points, EPA expects the choice of governing rules provision to not have a major impact on the functioning of the mechanism or the program.

Nonetheless, letters of credit can seem to be subject to ''a bewildering array of rules and laws.'' [8] Since the promulgation of this required wording, other sets of governing rules have been developed. Namely, International Standby Practices published by the International Chamber of Commerce has emerged and appears to be the regime of choice for some major banks—in particular for the issuance of standby letters of credit.[9] Adding International Standby Practices as an option for issuers of letters of credit to select should help keep EPA's regulations consistent with contemporary commercial practice. Maintaining consistency with commercial practice is important, lest financial institutions become discouraged from participating in the market for RCRA closure and post-closure care letters of credit.

EPA has previously conducted a review of literature related to these choices of governing rules, which did not identify one as superior to the others.[10] The International Standby Practices actually emerged from a recognition of the necessity for specific rules of practice for standby letters of credit. For example, the International Chamber of Commerce observed that ''[a] new set of Rules was required for this workhorse of commerce and finance, which, in terms of value, exceeds commercial credits by a ratio of 5: 1.[11] In 1998, the International Chamber of Commerce published a separate set of governing rules especially for standby letters of credit. The International Standby Practices (''ISP98'') rules were written primarily by the Institute of International Banking Law and Practice and endorsed by the International Chamber of Commerce. Since the RCRA closure and post-closure letters of credit resemble standby letters of credit, the International Standby Practices 98 rules should operate effectively as governing rules. EPA does not foresee this change impacting how letters of credit function in the program or the level of assurance provided by the letters of credit.

Today, EPA is revising the regulations at §§ 264.151(d) and (k) to the most recent edition of the International Standby Practices as published and copyrighted by the International Chamber of Commerce as an option for the set of governing rules to which the standby letter of credit will be subject. This change is being proposed by EPA as a means to help keep the regulations consistent with commercial practice, rules and standards.

EPA is requesting comment on these proposed revisions (reference comment code ''FA–3e'').

4. RCRA Organic Air Emission Standards

EPA is proposing two updates related to the RCRA Organic Air Emission Standards in 40 CFR parts 264 and 265, subparts BB and CC to clarify certain provisions. Specifically, EPA is proposing amendments under the following areas:

- Clarification of waste analysis plan applicability for LQGs
- Instances where use of Method 21 is not required

a. Clarification of Waste Analysis Plan Applicability for Large Quantity Generators

EPA is proposing to add language to §§ 264.1063(d) and 265.1063(d) (Test methods and procedures in subpart BB—Air Emission Standards for Equipment Leaks) to reflect the standard in § 268.7(a)(5).

Under § 262.17(a)(1)(i) (Conditions for exemption for a large quantity generator that accumulates hazardous waste), LQGs must comply with the ''applicable'' RCRA air requirements of subparts AA, BB, and CC of 40 CFR part 264 and part 265, including air emission standards for equipment leaks in subpart BB. Section 264.1063(d) of subpart BB states: ''In accordance with the waste analysis plan required by § 264.13(b), an owner or operator of a facility must determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with organic concentrations that equals or exceeds 10 percent by weight. . . .'' However, this language does not reflect that LQGs are not required to develop a waste analysis plan unless they are treating waste to meet the land disposal restriction treatment standards established in § 268.7(a)(5).

Section 268.7(a)(5) currently specifies: ''If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under 40 CFR 262.15, 262.16, and 262.17 to meet applicable LDR treatment standards found at § 268.40, the generator must develop and follow a written waste analysis plan which describes the procedures they will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of table 1 to § 268.45, however, are not subject to these waste analysis requirements.)'' Therefore, while some LQGs must determine organic concentrations by following one of the options prescribed in §§ 264.1063(d) or 265.1063(d), they are not required to document this determination in a waste analysis plan unless they are treating waste to meet specific LDR treatment standards.

EPA is proposing to amend §§ 264.1063(d) and 265.1063(d) to reflect how the test methods and procedures requirements for determining organics concentration apply to LQGs that are not required to develop a waste analysis plan. EPA believes these amendments will improve understanding and compliance with the regulations.

EPA requests public comment on this proposed change (reference comment code ''RO–4a'').

b. Instances Where Use of Method 21 Is Not Required

EPA is proposing to add language to the definition of ''no detectable organic emissions'' used in § 265.1081 (Definitions in subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers) to clarify that Method 21 is not always required in subpart CC. Specifically,

[8] C. Pealer, ''*Use of Standby Letters of Credit in Public and Affordable Housing Projects*'' (2014).

[9] Standby letters of credit are issued by financial institutions and guarantee payment to a beneficiary if the institution's client fails to fulfill an obligation. RCRA closure and post-closure letters of credit operate similarly to a standby letter of credit in that the regulator may draw upon the credit after a determination that the owner or operator failed to perform. See, for example, 264.143(d)(8).

[10] US EPA *CERCLA 108(b) Instrument Specification Background Document.* (2016). Available at *https://www.regulations.gov* (document ID: EPA–HQ–SFUND–2015–0781–0503).

[11] Report of the United Nations Commission on International Trade Law on the work of its thirty-third session, ''International Standby Practices (ISP98): Report of the Secretary General. (2000). Available at: *https://docs.un.org/en/A/CN.9/477#:~:text=The%20International%20Standby%20Practices%20(ISP98)%20reflects%20generally,and%20usage%20of%20standby%20letters%20of%20credit.*

Method 21 is not required when a spring-loaded pressure relief device, conservation vent or similar type of pressure relief device operates with no detectable emissions when in the closed position.

The current definition in § 265.1081 states that ''no detectable organic emissions'' means ''no escape of organics to the atmosphere as determined using the procedure specified in § 265.1084(d) of this subpart.'' Section 265.1084(d) requires use of Method 21. However, the definition does not currently reflect that Method 21 is not required for a spring-loaded pressure-vacuum relief valve, conservation vent or similar type of pressure relief device to operate with no detectable organic emissions. Therefore, EPA is proposing to amend the definition by adding the text ''unless that procedure is not specifically required'' after ''no escape of organics to the atmosphere as determined using the procedure specified in § 265.1084(d) of this subpart.'' This amendment would ensure that the procedure specified in § 265.1084(d) (Method 21) is only required as applicable under the subpart CC regulations.

EPA notes that, where Method 21 is not required by subpart CC, the owner or operator must still ensure the device operates with no detectable organic emissions when secured in the closed position (*e.g.,* §§ 264.1084(c)(3)(ii), 264.1086(c)(3)(iv), and 264.1086(d)(3)(iv)). This proposed clarification reflects the Agency's position issued in a memorandum from EPA's Office of Resource Conservation and Recovery on December 21, 2021,[12] that stated that:

> ''Under Subpart BB, owners and operators of facilities must monitor via Method 21 a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device or safety device in gas/vapor service within five calendar days of a pressure release to confirm the device has returned to a condition of no detectable emissions [. . .] In contrast, under Subpart CC, the owner or operator must visually inspect (*e.g.,* visual monitoring for gaps, holes, cracks) the closure devices associated with Level 1 emission controls for tanks and containers at least once a year, and first efforts to repair must occur within five calendar days and generally must be completed within 45 calendar days.''

EPA also notes that authorized states may be more stringent. In addition, permit writers may use RCRA's omnibus authority to require Method 21 monitoring if it is determined that such a permit condition is necessary, at that specific facility, to protect human health and the environment. EPA and state inspectors may also use Method 21 to test for suspected leaks.

EPA requests public comments on these proposed changes (reference comment code ''RO–4b'').

5. General Language Clarification

Proposed revisions under this category consist of clarification of definitions and updates of word usage to ensure consistency with previous regulatory revisions.

a. Facility Definition

EPA is proposing to update the ''Facility'' definition in § 260.10 by replacing the term ''operational units,'' which is usually associated with CERCLA, with ''hazardous waste management units,'' a term associated with RCRA, and which is defined in § 260.10. The RCRA hazardous waste regulations do not have a definition for operational units and rarely make use of the term, except within the facility definition at § 260.10, and a few mentions in part 270. This could lead to some ambiguity as to which types of sites are brought under the definition of facility. In contrast, hazardous waste management unit is a defined and widely used term in the RCRA regulations and unlike operational units, its definition accounts for post-closure facilities. EPA believes this proposed revision will improve the intended meaning of the definition, as well as provide increased clarity.

EPA requests comment on this proposed definition (reference comment code ''GL–5a'').

b. Qualified Professional Engineer

EPA is proposing to revise and replace several regulations in §§ 267 (Standards for Owners and Operators of Hazardous Waste Facilities Operating under a Standardized Permit) that use outdated terminology relating to professional engineer with the term ''qualified professional engineer'' to be consistent with the term finalized in the Resource Conservation and Recovery Act Burden Reduction Initiative (71 FR 16862, April 4, 2006).

EPA is proposing to replace several variations with ''qualified professional engineer'' that were used in the Hazardous Waste Management System; Standardized Permit for RCRA Hazardous Waste Management Facilities final rule (70 FR 53419, September 8, 2005). That standardized permit rule used at least three different terms that EPA is proposing to be replaced by ''qualified professional engineer'':

- ''Independent registered professional engineer'' used in §§ 267.117, 267.143(j), and 267.147(e)
- ''Independent qualified registered professional engineer'' used in §§ 267.191, 267.192(a), 267.200(f), and 270.305(a)
- ''Qualified registered professional engineer'' used in §§ 267.1101(h) and 267.1106(c).

The ''qualified professional engineer'' terminology was finalized in the Resource Conservation and Recovery Act Burden Reduction Initiative (71 FR 16862, April 4, 2006) and used throughout the part 264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities and part 270 EPA Administered Permit Programs: The Hazardous Waste Permit Program. However, it was EPA's oversight not to use the term in the part 267 Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit and in § 270.305(a) as that provision was a new addition in the 2005 standardized permit rule (70 FR 53419, September 8, 2005). Refer to 71 FR 16862 pages 16868–16870 for the preamble discussion and rationale for removing 'independent' and 'registered' in some of the engineer descriptions.

EPA requests comment on these proposed changes (reference comment code ''GL–5b'').

c. Overview of the RCRA Permit Program

EPA is proposing to revise and update the ''Overview of the RCRA Permit Program'' in § 270.1(b). Many aspects of this provision are outdated. For example, § 270.1(b) refers to superseded requirements for units prior to the 1980s, prior form names, and old terminology. EPA is proposing to update § 270.1(b) to: improve the description of the applicability of the requirement to file a notification of hazardous waste activity for existing or newly identified waste under part 261 and add the applicability to newly regulated activities identified in other promulgated parts; update form names; clarify the prohibition on hazardous waste treatment, storage, or disposal unless conducted in accordance with the applicable requirements; clarify interim status applicability; refer to the definitions in § 270.2 for the terms ''existing hazardous waste management (HWM) facility'' and ''new HWM facility'' (based on status as of November 19, 1980); and clarify permit application requirements (Part A and Part B). EPA is also proposing to reorganize this provision.

[12] *Subpart BB versus Subpart CC.* (December 2021). Available at: *https://rcrapublic.epa.gov/files/14940.pdf.*

EPA is requesting comment on these proposed changes (reference comment code ''GL–5c'').

6. Permit Modification

Through program management and oversight, EPA has heard from state programs and regulated entities that improvements to the RCRA permit modifications process are needed to increase efficiency and allow hazardous waste facilities to more rapidly address changes in business operations, technology, or other changes, such as to respond to new waste streams that need to be stored and managed.

To improve the permit modifications process, EPA is proposing the following technical updates:

- Clarify that continued permits can be modified and that renewals can include changes (that would otherwise be modifications); and
- Update the regulations for notice of modification requests to (1) align the regulatory language with related proposed changes to notifications using the mailing lists and (2) correct errors in citations.

These changes are discussed in more detail immediately below.

a. Modifications for Continued Permits and Reissuances

EPA is proposing to amend § 270.51 (Continuation of expiring permits) to add a new paragraph at § 270.51(f) to clarify that permits continued after expiration (meaning, permits that are administratively continued until the permit is reissued) can be modified under §§ 270.41 and 270.42. The proposed paragraph at § 270.51(f) also clarifies that changes can be incorporated in the permit reissuance (renewal) that would otherwise constitute permit modification under §§ 270.41 and 270.42.

While EPA promotes permit reissuance by the expiration date, it is not uncommon for a permit to be continued (per § 270.51) until the permit is reissued. EPA acknowledges that urgent changes, such as transfer of ownership, may require more timely permitting action and that the permit modification process may be a more expedient option than the pending reissuance, given the time needed for the permitting agency to review an entire permit application and process a permit renewal. In addition, facilities may experience permit renewal delays while the permitting agency resolves legal matters while processing permit modifications. Although the existing regulations do not preclude the permitting agency from modifying an administratively continued permit (and such modifications are standard practice in many states), EPA believes that a clarification would improve the understanding and application of the regulations.

EPA is also proposing to clarify in the new paragraph at § 270.51(f) that the permitting agency may include changes in the permit renewal that would otherwise qualify for a permit modification. This is an existing practice that is alluded to in 40 CFR part 124, subpart B, ''Specific Procedures Applicable to RCRA Permits,'' in § 124.31(a). The section states: ''. . .The requirements of this section shall also apply to RCRA Part B applications seeking renewal of permits for such units, where the renewal application is proposing a significant change in facility operations.'' For the purposes of this section, a ''significant change'' is any change that would qualify as a Class 3 modification under §§ 270.42.

EPA requests public comment on these proposed changes (reference comment code ''PM–6a'').

b. Notification of Modification Requests

EPA is proposing two revisions to the regulations governing permit modification requests at §§ 270.42(a)(1)(ii), 270.42(b)(2), and 270.42(c)(2) to improve consistency across the Class 1, Class 2, and Class 3 permit modification request requirements.

First, EPA is proposing to revise the mailing list notice language to indicate that the facility mailing list notice may be provided ''by postal or electronic mail.'' This proposed revision is intended to promote consistency across the three classes of permit modification requests. For further discussion of the rationale for this proposed change, see section V.A.7.b., Modernizing Public Notice.

Second, EPA is proposing to revise these provisions to cite § 124.10(c)(1). The current cross-reference omits paragraph ''(1),'' and in all cases it should clearly indicate that notice must be provided to the other groups in addition to ''persons on a mailing list,'' consistent with § 124.10(c)(1)(ix).[13]

EPA is also proposing similar revisions at §§ 270.42(b)(6)(iv)(A), 270.42(e)(2)(iii), and 270.42(f)(1) to reference the mailing list definition and to clarify that electronic mail can satisfy the notification requirement for permit modification requests.

EPA is requesting comment on whether the phrase ''postal or electronic mail'' would be overly restrictive for future use and, if so, what terminology would best capture the intended scope. In particular, EPA requests comment on whether alternative terms such as ''electronic formats'' or ''electronic messages'' would offer greater flexibility to better accommodate future electronic communication methods. For example, the term ''electronic messages'' [14] is inclusive and encompasses electronic mail.

EPA requests comment on these proposed changes (at §§ 270.42(a)(1)(ii), 270.42(b)(2), 270.42(b)(6)(iv)(A), 270.42(c)(2), 270.42(e)(2)(iii), and 270.42(f)(1)). (Reference comment code ''PM–6b.'')

7. Modernizing Public Notice

EPA is proposing technical revisions to modernize public notice requirements for RCRA permitting by allowing or clarifying, as appropriate, the use of alternative methods, particularly electronic alternatives, in the following areas:

- Newspaper notice requirements,
- Mailing lists and notices to the mailing list, and
- In-person hearings and meetings.

This proposal responds to requests to recognize and clarify the use of electronic alternatives in order to improve the effectiveness and efficiency of the permitting process, reduce burden, and reflect current communication practices. These proposed changes also reflect the Agency's position and the majority of public comments received by EPA in response to the December 2021 **Federal Register** document titled ''Modernizing Public Notice for RCRA Hazardous Waste Permitting and Other Actions'' (86 FR 71482, December 16, 2021).

Importantly, with respect to the terms ''newspaper'' and ''mail,'' and with respect to the flexibility available for meetings and public hearings, EPA considers the regulatory changes proposed today to constitute clarifications of the flexibility available under the existing part 124 regulations that pertain to RCRA Subtitle C. Following EPA's December 2021 document, and in light of the comments received in response to that document, EPA is taking the opportunity to propose clarifying these points in the Subtitle C permitting regulations, so as to ensure that both regulators and the regulated community are fully aware of the available flexibility. These

[13] See related technical corrections that restore the order for § 124.10(c)(1)(vi)–(xi).

[14] This term was codified for recordkeeping and disclosure purposes (44 U.S.C. 2209(c)(2)) as follows: ''The term ''electronic messages'' means electronic mail and other electronic messaging systems that are used for purposes of communicating between individuals.''

clarifications should not be construed as bearing on the interpretation of the same terms as used elsewhere in the regulations.

In its December 2021 **Federal Register** document, EPA stated that it interprets RCRA section 7004(b)(2), which requires newspaper notice of the Agency's intent to issue a RCRA Subtitle C permit, as allowing notice in qualifying online newspapers. EPA also requested public comment in the December 2021 document on whether online mechanisms that may not typically be considered newspapers, such as bulletins or newsletters published online by state environmental authorities, could also satisfy section 7004(b)(2) and its implementing regulations.

Overall, EPA intends to provide the full range of flexibility allowed by RCRA and the Agency's regulations to satisfy the public notice requirements and emphasizes that permitting authorities can ultimately choose which public notice mechanisms would be most effective among the methods authorized by statute and regulation, based on the characteristics of the individual community. In addition, when notice is required by newspaper and radio, the Director is encouraged to use additional methods to ensure that public notice effectively informs all interested communities, and since print newspaper and radio are not always locally available or effective in all communities, additional methods may be needed. EPA also notes that public participation plans [15] developed by permitting authorities should identify the best and most efficient methods to deliver the public notice for a given community (within the regulatory constraints). The plans can be reviewed subsequently, every time the permit needs notice for permit modification, renewals, and other actions. Refer to EPA's December 2021 document for more discussion on this point.

EPA's proposed changes, described below, are aimed at improving effectiveness and efficiency in the permitting program while continuing to support more modern public participation.

a. Newspaper Notice Requirements

RCRA section 7004(b)(2), 42 U.S.C. 6974(b)(2), states: ''Before the issuing of a permit to any person with respect to any facility for the treatment, storage, or disposal of hazardous wastes under section 3005, the Administrator shall—(A) cause to be published in major local newspapers of general circulation and broadcast over local radio stations notice of the Agency's intention to issue such permit. . . .'' EPA recognizes that when this provision was added to RCRA in 1980, local print newspapers were widely available, but according to research (as described in the December 2021 document), local print newspapers are not available in all communities, newspaper circulations are declining, and where they are available, they are often not representative of how most members of the public prefer to consume news and obtain information. Newspaper content is increasingly being published on the internet, as discussed in the December 2021 document. Since the December 2021 document was published, the Public Notice Resource Center, as of February 7, 2023, stated ''Bills have been introduced in at least 15 states allowing or requiring official notice to be published on various platforms other than local newspapers.'' [16] This is a continuation of a state trend and, in addition to the points made in the December 2021 document, provides additional support for clarifying existing flexibilities in EPA's regulations and, where the regulations are unduly restrictive, making them more flexible.

Furthermore, both state agencies and the regulated community have requested that EPA provide flexibility in how to satisfy this requirement. EPA is therefore proposing two categories of amendments: ''Amendments to the Newspaper Notice Requirements in Part 124'' and ''Amendments to the Newspaper Notice Definition in Part 260,'' as well as conforming edits.

Amendments to the Newspaper Notice Requirements in Part 124

EPA is proposing to revise the main newspaper notice requirement for RCRA permits in part 124 as follows:

- Revise § 124.10(c)(2)(ii) to codify the existing interpretation that a newspaper can be published in print and/or online; include a definition of ''newspaper notice'' for this requirement, which includes qualifying agency publications as an option; and add a parenthetical that encourages additional methods to be used.
- Revise § 124.207(b)(1) for issuance of a Standardized Permit to reference the newspaper notice criteria in the revised paragraph at § 124.10(c)(2)(ii).
- Revise § 124.31(d)(1)(i) to align the pre-application public meeting notice requirements with the newspaper notice requirements in § 124.10(c)(2)(ii).

First, EPA is proposing amendments to § 124.10(c)(2)(ii), which implements RCRA section 7004(b)(2) by requiring newspaper notice of the intent to issue a permit (including renewals). This section also applies to a range of other permitting actions that are not governed by section 7004(b)(2), such as permit modifications. Currently, the regulation at § 124.10(c)(2)(ii) requires notice by ''publication of a notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.'' In its December 2021 document, EPA stated its interpretation that online newspapers can qualify as ''newspapers'' within the meaning of RCRA section 7004(b)(2) and EPA's regulations.[17] Public commenters expressed their support for this interpretation. Some commenters suggested that EPA codify this interpretation in the regulations to improve transparency. After reviewing the public comments, EPA agrees with suggestions to identify in the regulatory language that both paper and online versions can qualify as newspapers within the meaning of RCRA section 7004(b)(2) and EPA's regulations. Thus, EPA is proposing to specify in § 124.10(c)(2)(ii)), that newspaper notices ''can be published print and/or online.''

EPA is also proposing to revise § 124.10(c)(2)(ii)) to provide that, for the purposes of this provision, newspaper notice means a notice published in a regularly issued collection of articles or informational postings that provides updates on current events and matters of interest, is accessible to the public, can include agency publications, and can be published in print and/or online. EPA requested public comment in the December 2021 document regarding whether Agency publications such as bulletins or newsletters published online by state environmental authorities, could qualify as newspapers for newspaper notice, and thus satisfy section 7004(b)(2) and its implementing regulations. In general, public

[15] US EPA (2016). *Resource Conservation and Recovery Act Public Participation Manual* (530–R–16–013), Chapter 5. Available at: *https://www.epa.gov/sites/default/files/2019-09/documents/final_rcra_ppm_updated.pdf.* Refer to the more recent website for ''*RCRA Public Participation Tools and Resources*'' at *https://www.epa.gov/hwpermitting/rcra-public-participation-tools-and-resources.*

[16] Public Notice Resource Center (February 7, 2023). *Newspaper notice targeted in multiple states* available at: *https://www.pnrc.net/2023/02/07/bills-undermining-newspaper-notice-introduced-in-multiple-states/.*

[17] In 86 FR 71482, December 16, 2021, *Modernizing Public Notice for RCRA Hazardous Waste Permitting and Other Actions,* the Agency stated ''EPA sees no reason that an online newspaper cannot qualify as a newspaper of general circulation. Nor is EPA aware of a reason that an online newspaper cannot qualify as 'major' and 'local.' '' Refer to page 71490.

comments supported the Agency providing flexibility rather than no flexibility. While it was beyond the scope of the question, several commenters suggested that multiple methods be mandated. (Refer to the full list of comments in the docket EPA–HQ–OLEM–2021–0348.) In view of the comments, and on further consideration, EPA is proposing to define newspaper for the purposes of newspaper notice in this provision not as a list of specific types of publications, such as newsletters and bulletins, but by codifying criteria to flexibly define what can qualify as a newspaper. EPA has chosen not to require that a newspaper must be ''daily or weekly'' to qualify as a newspaper, as those words do not appear in RCRA 7004(b)(2), and EPA does not believe that publication frequency is necessary for a publication to qualify as a newspaper or to effectively provide notice.

EPA believes this approach will maximize regulatory flexibility while adhering to RCRA's statutory requirements and will ensure the language is amenable to future public communication preferences. The Agency is also proposing that if publication on an agency website is used to satisfy the notice requirement, then the notice must be posted for the duration of the comment period. This is consistent with how EPA has recently codified similar changes to other permitting programs (as discussed below).

EPA is also proposing to add the following sentence to § 124.10(c)(2)(ii): ''The Director may use other methods, in addition to newspaper and local radio, to ensure that the methods of public notice effectively inform all interested communities.'' EPA finds that including this language in the regulations emphasizes that permitting agencies should consider whether additional methods of public notice are necessary to effectively communicate the facility-specific plans and would be based on the specific characteristics of a community. EPA notes that similar language was promulgated for the National Pollutant Discharge Elimination System (NPDES) permit program as a note to paragraph § 124.10(c)(2)(iv).

Second, EPA is proposing to revise § 124.207(b)(1) to reference the revised paragraph at § 124.10(c)(2)(ii) for the permit issuance notice criteria (instead of separate criteria) for RCRA Standardized Permits.

Third, EPA is proposing to revise the notice requirements for the pre-application public meeting in § 124.31(d)(1)(i) to be consistent with the newspaper notice criteria specified in the revised paragraph at § 124.10(c)(2)(ii). This revision does not alter the applicant's responsibility to comply with the notice requirement for the pre-application meeting. The proposed language removes the outdated requirement that the notice ''must be published as a display advertisement,'' as this terminology is no longer relevant to modern notification methods. Additionally, this requirement pertains specifically to the pre-application meeting and is separate from the notice for final permit issuance; as such, it does not fall under the definitions in § 260.10 and is listed independently.

The newspaper notice flexibility for the permit issuance, described above, also applies to other newspaper notice regulations in this proposal. This includes, for example, newspaper notice related to permit modifications and pre-application meetings. These actions are not subject to section 7004(b)(2) of RCRA and include notice requirements for both the permitting agency and the applicant or permittee. Thus, the primary method to communicate the flexibility (aside from the permit decision making regulations in part 124) is by adding a new ''newspaper notice'' definition in part 260 as described below.

Amendments to the Newspaper Notice Definition in Part 260

EPA is proposing the following changes with respect to the newspaper notice definition in part 260:

- Add a definition to § 260.10 for ''Newspaper Notice.'' The § 260.10 definitions define terms used in parts 260 through 273. The following regulations already refer to ''newspaper notice'' so the definition will apply to the following sections with no revisions to them: §§ 264.113(e)(7)(ii), 264.113(e)(7)(iv), 265.112(d)(4), 265.113(e)(7)(ii), 265.113(e)(7)(iv), 265.118(f), 265.118(g)(1)(ii), 265.118(g)(2)(i), 265.193(h)(4), and 270.1(c)(6)(i).
- Revise the reference to ''Newspaper Notice'' and add a reference to the § 260.10 definition in the following sections: §§ 265.352(b)(2), 265.383(b)(2), 270.42(b)(2), 270.42(b)(5) 270.42(c)(2), 270.42(c)(5), 270.42(i), 270.145(a)(2), 271.20(a)(1)(i), 271.21(b)(3)(i)(B), 271.21(b)(4)(i)(B), and 271.23(a)(3).

EPA is proposing to add a definition of ''Newspaper Notice'' to § 260.10 and for the regulations that do not already specify ''newspaper notice,'' make conforming changes to reference the proposed defined term. EPA proposes to define ''Newspaper Notice'' to mean ''a notice in a regularly issued collection of articles or informational postings that provides updates on current events and matters of interest, is accessible to the public, can include agency publications, and can be published in print and/or online.'' For the purposes of this definition, the ''online'' aspect refers to any electronic or internet-accessible newspaper.

This proposed § 260.10 definition would only apply to the public notice requirements for notices of draft permit actions requiring newspaper notice (other than permit issuance [18]). EPA is proposing to amend the following regulations to be applicable to the newspaper notice definition: §§ 265.352(b)(2), 265.383(b)(2), 270.42(b)(2), 270.42(b)(5), 270.42(c)(2), 270.42(c)(5), 270.42(i), 270.145(a)(2), 271.20(a)(1)(i), 271.21(b)(3)(i)(B), 271.21(b)(4)(i)(B), and 271.23(a)(3).

Requests for Comment on Newspaper Notices

EPA requests comment relating to all proposed changes in this section (section V.A.7.a.). (Reference comment code ''MP–7a'' for all comments in this section.)

Additionally, EPA is requesting comment on whether EPA should promulgate more flexible requirements for the permit issuance public notice. Specifically, should EPA allow greater flexibility in the use of alternative methods for publishing the permit issuance public notice, for example, to include notices on agency or public websites, irrespective of whether they meet the new criteria proposed in § 124.10(c)(2)(ii)? Because these proposed changes would apply to actions other than permit issuance, the Agency is not limited to the language in RCRA 7004(b)(2) and thus has greater flexibility in considering more modern and effective notice mechanisms. EPA's proposed changes for these types of actions are more in line with changes the Agency has codified for other permitting programs at § 124.10(c)(2)(iii)–(iv). Specifically, the Office of Air rulemaking for Prevention of Significant Deterioration (PSD) permits (81 FR 71613, October 18, 2016) and EPA Office of Water's rulemaking for NPDES permits (84 FR 3324, February 12, 2019) addressed newspaper notice requirements. In those rulemakings, the Agency described the basis for the regulatory change from

[18] The 40 CFR 260.10 definitions are not applicable to part 124 (which includes the notice requirements for the Agency's notice of a draft permit for permit issuance). The § 260.10 definitions define terms used in parts 260 through 273.

newspaper notice to internet postings to satisfy public notice requirements and the decision to replace or provide an alternative to the newspaper requirement, supported by data and rationale presented in the preambles of those rulemakings.[19]

In its December 2021 document, EPA requested comment on whether it should modify its RCRA hazardous waste regulations that require newspaper notice in order to allow the Agency more flexibility for notices that are not governed by section 7004(b)(2) (for example, permit modifications). EPA is not proposing to codify specific methods of notice, such as agency newsletters and bulletins, in the definition at § 260.10; this approach is informed by public comments received on the December 2021 public notice. EPA was persuaded by commenters who said that would be too prescriptive.

The majority of the public response to the 2021 request for comment indicated that EPA should amend its regulations to provide more flexibility for notice of actions other than the intent to issue a permit, but not codify specific methods. For example, the Michigan Department of Environment commented,

''[i]t is always better to make a regulation straightforward than rely on interpretation memos or guidance. To that end RCRA regulations should be amended to allow for equivalent alternative means of public noticing. However, the amendments should not be so specific as to limit those alternative notification methods given the advances that are likely to occur [in] terms of electronic communication.'' [20]

Since the promulgation of the PSD and NPDES rules that allow for notice on public or agency websites, EPA has been requested by states to include flexibility for the RCRA program.[21]

b. Mailing List Notification of Permit Actions

EPA is proposing to codify, and thereby clarify, its interpretation regarding the flexibility for mailing list notifications in the following provisions. Specifically, EPA is proposing to:

- Add new paragraphs at § 124.10(c)(1)(xii) to recognize that electronic mail may satisfy notices requirements for mailing list notifications for RCRA permit actions and provide for updated methods of maintaining mailing lists. Refer to proposed related technical corrections to restore the order for § 124.10(c)(1)(vi)–(xi).
- Revise the definition of ''facility mailing list'' in § 270.2 [22] to reference § 124.10(c)(1)(xii) and to clarify that the contact information included on mailing lists may consist of electronic mail addresses.
- Make conforming edits to §§ 124.32(b)(1), 124.204(d)(10), 124.207(a)(4), and 124.212(b)(2) to cross-reference the new paragraph at § 124.10(c)(1)(xii).

First, EPA is proposing to add new paragraphs § 124.10(c)(1)(xii)(A) and (B), which would apply only to RCRA permits. Section 124.10, ''Public notice of permit actions and public comment period,'' sets forth the mail notification requirements applicable to permit actions, including notice to persons on a mailing list under § 124.10(c)(1)(ix).[23] Although part 124, ''Procedures for Decision Making,'' applies broadly across other EPA permitting programs, EPA has in some instances added program-specific provisions to this part to provide greater flexibility and to modernize public notice requirements. Consistent with those precedents, EPA is proposing to add § 124.10(c)(1)(xii)(A) and (B) to codify, for RCRA permit actions, that notice to persons on the facility mailing list may be satisfied by either postal mail or electronic mail and to provide updated methods for maintaining mailing lists.

Proposed § 124.10(c)(1)(xii)(A) would clarify that the mail notification requirements in paragraph (c)(1) may be satisfied by either postal or electronic mail when using the facility mailing list.

Proposed § 124.10(c)(1)(xii)(B) is modeled on the PSD permit regulation at § 124.10(c)(2)(iii)(A) regarding maintenance of the mailing list. This proposed revision would allow the use of internet-based approaches, among other methods, for periodic updates to the facility mailing list in lieu of the requirements in § 124.10(c)(1)(ix)(B) and (C), while continuing to provide the public with opportunities to respond and indicate whether they wish to remain on the list. EPA is specifically soliciting comment on whether the changes based on the PSD program are appropriate for the RCRA program.

Second, EPA is proposing to revise the definition of ''facility mailing list'' in § 270.2 to reference new § 124.10(c)(1)(xii) and to specify that the contact information on the mailing list may include postal and/or electronic mail addresses. EPA is also proposing to remove the reference to ''EPA'' maintaining the list, because § 124.10(c)(1)(xii) sufficiently identifies the mailing list and the entity responsible for maintaining it.

These proposed regulatory revisions would serve two purposes: first, to modernize the methods available for updating mailing lists; and second, to clarify that the mail notification requirements associated with mailing lists for the covered RCRA permit actions may be satisfied by electronic mail. EPA's rationale for these changes is informed by the basis for the corresponding PSD provision promulgated at 81 FR 71613 (October 18, 2016).

With respect to the second purpose, these amendments would codify a practice already used by many state programs, under which email may be used in lieu of postal mail for mailing list notifications where appropriate, consistent with EPA's RCRA Public Participation Manual—Tools Mailing Lists (EPA–530–F–20–001).[24] The use of alternatives to postal mail may better

[19] The EPA RCRA, PSD and NPDES permitting programs have regulatory requirements under ''Public notice of permit actions and public comment period'' at 40 CFR 124.10. The PSD notice at § 124.10(c)(2)(iii)(B) now requires notification to the public for the duration of the public comment period, on a ''public website'' identified by the Director (in lieu of the requirement for publication of a notice in a daily or weekly newspaper in § 124.10(c)(2)(i)). The information includes the following: A notice of availability of the draft permit for public comment (or the denial of the permit application), the draft permit, information on how to access the administrative record, and information on how to request and/or attend a public hearing on the draft permit. The NPDES notice at § 124.10(c)(2)(iv) now states that, for NPDES major permits and NPDES general permits, the Director may publish all notices of activities (described in § 124.10(a)(1)) to the permitting authority's public website in lieu of the requirement for publication of a notice in a daily or weekly newspaper (as described in § 124.10(c)(2)(i)). If the Director selects this option for a draft permit, they will include the public notice contents in § 124.10(d) and post the draft permit and fact sheet on the website for the duration of the public comment period.

[20] Michigan Department of Environment, Great Lakes, and Energy. (February 2, 2022). Public comment on EPA's notice: *Modernizing Public Notice for Resource Conservation and Recovery Act Hazardous Waste Permitting and Other Actions https://www.regulations.gov* (Comment ID: EPA–HQ–OLEM–2021–0348–0026).

[21] For example, in 2017 the Alabama Department of Environmental Management (ADEM) requested that EPA follow PSD's lead in their comment on E.O. 13777, (Docket ID: EPA–HQ–OA–2017–0190), then in 2022 ADEM reiterated this comment for 86 FR 71482, December 16, 2021 (Comment ID: EPA–HQ–OLEM–2021–0348–0037).

[22] The 40 CFR 270.2 Definitions apply to parts 270, 271 and 124. There are permit modification mailing list notification requirements in § 270.42 in addition to the notification requirements in part 124.

[23] See related technical corrections that restore the order for § 124.10(c)(1)(vi)–(xi).

[24] Refer to US EPA's website for *RCRA Public Participation Tools and Resources* at *https://www.epa.gov/hwpermitting/rcra-public-participation-tools-and-resources,* and specifically US EPA's *RCRA Public Participation Manual—Tools Mailing Lists* (EPA–530–F–20–001) at *https://www.epa.gov/sites/default/files/2021-04/documents/mailing_lists-rcra_tools-508_compliant_12-20-19_updated.pdf.*

serve communities that prefer to receive information electronically and may also reduce costs and time associated with the permitting process for both permitting authorities and permit applicants. EPA has received recommendations supporting these changes from regulated entities [25] and state agencies,[26] including comments submitted in response to EPA's December 2021 document.

EPA emphasizes that these proposed amendments would simply clarify the available options for mailing list notifications; permitting authorities would retain discretion to determine the format that is most appropriate for a particular community. Some communities may prefer postal mail for notices concerning facility-related actions, while others may prefer electronic notice. EPA has also heard that some community members often object to receiving multiple postal mail notices for permit modifications and would prefer fewer notices. (The information EPA has received pertains specifically to permit modifications, presumably because a facility may receive multiple modifications in a given year, whereas permit issuance actions occur less frequently due to the maximum 10-year permit term.)

EPA is requesting comment on all proposed changes to §§ 124.10(c)(1)(xii), 124.10(c)(1)(xii)(A) and (B), the definition of ''facility mailing list'' in § 270.2, and the conforming changes to §§ 124.32(b)(1), 124.204(d)(10), 124.207(a)(4), and 124.212(b)(2). EPA also requests comment on whether RCRA public notice-by-mail requirements for mailing lists may be satisfied by email, and more generally, by other electronic formats. EPA further seeks comment on whether more flexible terminology—such as ''electronic messages''—should be used to describe these communications, with the understanding that such term would encompass email. (Reference comment code ''MP–7b.'')

c. Clarify Virtual Hearings/Meetings Are Allowed in Permitting Process

EPA is proposing to codify the flexibility for hearings and meetings in the permitting process to be conducted either in person or by remote means (for example, as a ''virtual'' meeting) in the following regulations:

- For the Agency's public hearings on draft permits, in § 124.12(a)(3)(ii)
- For the applicant's public meetings on the permit application, in § 124.31(b)
- For the permittee's Class 2 and Class 3 modification meetings on the permit modification request, in §§ 270.42(b)(4) and 270.42(c)(4)

EPA notes that the practice of allowing hearings and meetings to be conducted by remote means is not limited to these regulations, and this proposed clarification reflects the Agency's position as described in a memorandum from EPA's Office of General Counsel on April 16, 2020.[27] The April 2020 memorandum confirmed the Agency's position that virtual hearings and meetings are a permissible tool that provide for public participation in lieu of in person public hearings and meetings. Although EPA published the April 2020 memorandum in response to the COVID–19 pandemic, which raised many questions about whether EPA and states could satisfy public participation requirements under various federal environmental statutes by conducting virtual rather than in-person public hearings and meetings, the memorandum remains EPA's current position on this issue.

The April 2020 memo states that conducting virtual hearings or meetings can satisfy public participation requirements. The RCRA Public Participation Manual toolkit also recognizes the existing acceptability of virtual meetings [28] and hearings.[29] EPA also reiterated this policy in its December 2021 public notice.[30] Other EPA programs have detailed guidance on virtual public hearings, for example, refer to ''Modernizing Public Hearings for Water Quality Standard Decisions Consistent with 40 CFR 25.5,'' EPA 823–F–19–005 (June 2019).

Because technology and terminology may change over time, EPA proposes to allow meetings and hearings to use any format or technology that permits remote attendance, so long as the event constitutes a ''meeting'' or ''hearing.'' It need not necessarily be described as a ''virtual meeting'' or ''virtual hearing.''

EPA is soliciting comment on the proposed changes to these regulations (§§ 124.12(a)(3)(ii), 124.31(b), 270.42(b)(4), 270.42(c)(4)). EPA is specifically requesting comment on the wording—whether to state that a meeting may be ''virtual, for example,'' or instead to state only that a meeting may be conducted by ''remote means,'' noting that EPA does not intend the proposed regulation to be limited by current technologies. (Reference comment code ''MP–7c.'')

8. Location Standards Regulatory Comments

EPA is proposing to revise § 264.18(a) and (b) to move language currently noted as a ''comment'' into the body of the regulatory text since regulatory content is recommended to be in the CFR sections rather than in a ''note'' or ''comment.'' This change is intended to improve clarity of these location standards. Furthermore, because of the comment's placement outside of the regulatory text structure, it can be difficult to tell what provision the comment applies to. For these reasons, EPA believes incorporating ''comment'' language into the standard regulatory text structure will eliminate confusion and facilitate understanding of and compliance with requirements.

For the comment following § 264.18(b)(1)(ii)(D) (Floodplains), EPA is proposing to incorporate the comment language into the existing paragraph § 264.18(b)(1)(i), for more logical placement of the criteria for an appropriate location where wastes can be moved before flood waters can reach the facility.

For the comment following § 264.18(b)(2)(iii) (Floodplains), EPA is proposing to place the existing language into new paragraph § 264.18(b)(3) and to revise the guidance from ''are advised to'' to ''should,'' thereby affirmatively informing the applicant that they should consider these other federal laws in considering facility sighting.

Lastly, EPA is proposing to incorporate a statement from the comment following § 264.18(a)(2)(iii) (Seismic considerations) by adding the first sentence ''Procedures for

[25] This flexibility was supported by 86 FR 71482, Dec 16, 2021 *Modernizing Public Notice for RCRA Hazardous Waste Permitting,* and commenters for regulated entities to the docket (Docket ID: EPA–HQ–OLEM–2021–0348): Coalition for Responsible Waste Incineration (Comment ID: EPA–HQ–OLEM–2021–0348–0031), Environmental Technology Council (Comment ID: EPA–HQ–OLEM–2021–0348–0033), and possibly others.

[26] For example, Georgia Department of Natural Resources comment on E.O. 13777 (Comment ID: EPA–HQ–OA–2017–0190–32400) recommends codifying the ability to use email for mailing list notices per § 124.10(c)(1).

[27] US EPA memorandum from the Office of General Counsel to EPA Administrators on *Virtual Public Hearings and Meetings.* (April 16, 2020). Available at: *https://www.epa.gov/sites/production/files/2020-04/documents/ogc_virtual_hearing_memo_4-16-2020.pdf.*

[28] US EPA. *RCRA Public Participation Manual—Tools for Public Meetings.* Available at: *https://www.epa.gov/sites/default/files/2020-04/documents/public_meetings-rcra_tools-508_compliant_12-20-191.pdf.*

[29] US EPA. *RCRA Public Participation Manual—Tools for Public Hearings.* Available at: *https://www.epa.gov/sites/default/files/2020-04/documents/public_hearings-rcra_tools-508_compliant_12-20-191.pdf.*

[30] 86 FR 71482, December 16, 2021. *Modernizing Public Notice for RCRA Hazardous Waste Permitting and Other Actions;* Notice.

demonstrating compliance with this standard in Part B of the permit application are specified in § 270.14(b)(11)'' to the regulatory text at the new paragraph § 264.18(a)(3). Note that the comment itself is not being removed or amended, since it contains additional information that is not being incorporated into the regulatory text.

EPA requests comments on these proposed changes (reference comment code ''LS–8'').

9. Transfer Facility Storage Period

EPA is proposing revisions to the transporter requirements at § 263.12, and the universal waste management standards at §§ 273.9 and 273.53 to extend the storage period that a hazardous waste may be held at transfer facilities during the normal course of transportation from ''ten (10) days'' to ''14 consecutive calendar days.'' EPA is also proposing conforming changes in §§ 264.1(g)(9), 265.1(c)(12), and 270.1(c)(2)(vi) where the existing 10-day storage period is referenced. The Environmental Technology Council (ETC), a trade association representing the hazardous waste treatment, storage, and disposal industry, raised concerns about the insufficiency of the current 10-day storage period.[31] Specifically, ETC has indicated that the hazardous waste industry has changed since the regulations were promulgated in 1980 and because a national marketplace for hazardous waste services presently exists, shipments travel longer distances and take more time. In addition, the Department of Transportation's motor carrier rules limit the time that drivers can operate, compounding the problem. To comply with the 10-day limit, ETC indicated that shipments often must be routed from one 10-day transfer facility to another transfer facility, perhaps multiple times. ETC also indicated that, because ''days'' under the current rule does not distinguish between business days and non-business days, transporters may only have five or six days available to transport hazardous waste shipments that originate late in the week if drivers do not operate over the weekends. For these reasons, ETC recommended that EPA increase the storage time limit for transfer facilities to 14 days, indicating that this would be consistent with modern transportation practices, or interpret the current 10-day limit as 10 business days rather than calendar days.

EPA does not interpret the existing 10-day storage period to mean 10 business days rather than 10 calendar days. EPA explained in the 2016 Hazardous Waste Generator Improvements final rule (81 FR 85732) that due to differences in business schedules, use of the term ''business days'' rather than ''calendar days'' becomes difficult to define in a rule.[32]

Therefore, EPA is proposing to revise paragraph (a) of § 263.12 by extending the storage period at a transfer facility from ''ten (10) days'' to ''14 consecutive calendar days,'' and conforming changes to §§ 264.1(g)(9), 265.1(c)(12), and 270.1(c)(2)(vi). If finalized, the regulatory amendments would allow transporters to hold manifested hazardous waste shipments for up to 14 consecutive calendar days at a transfer facility without a RCRA permit and without complying with the standards applicable to hazardous waste storage facilities.

EPA is also proposing to extend the storage period listed in the standards for universal waste management in §§ 273.9 and 273.53(a)–(b) from ten (10) days to 14 consecutive calendar days to be consistent with the storage period for other hazardous waste shipments. Hazardous waste is considered to be in transportation or in transit from the time the initial transporter accepts custody of the manifested shipment from the generator until the designated facility signs the manifest at the time of receipt of the waste from the delivering transporter, even when the waste is not actively on the road. Accordingly, hazardous waste stored temporarily on a truck sitting idle at a transfer facility is still considered to be in transportation, and the 14 consecutive calendar days begins when the hazardous waste arrives at the transfer facility.

EPA requests comment on this proposed change (reference comment code ''TF–9'').

10. Drip Pads

EPA is proposing to remove outdated distinctions between ''new'' and ''existing'' drip pads and related changes in the following regulations: §§ 264.570(a), 264.571, 264.572, 264.573(a)(4)(i), 264.575(c)(1), 265.440(a), 265.441, 265.442, 265.443(a)(4)(i), 265.445(c)(1), and 270.26(c).

The ''existing'' drip pads in the current regulations are defined as drip pads constructed before December 6, 1990, and those for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 6, 1990. All other drip pads are ''new'' in the existing regulations.

In order to address outdated distinctions between ''new'' and ''existing'' drip pads, EPA proposes to make revisions to ''subpart W Dip Pads'' in part 264 and in part 265. Specifically, EPA proposes to remove the ''new'' and/or ''existing'' drip pad terms in §§ 264.570(a), 264.572 section heading and introductory text, 264.573(a)(4)(i), 264.575(c)(i), 265.440(a), 265.442 section heading and introductory text, 265.443(a)(4)(i), and 265.445(c)(1).

EPA proposes to remove and reserve §§ 264.571 and 265.441 referring to existing drip pad integrity since this is covered by § 264.573 or § 265.443, and is redundant after the outdated distinctions between ''new'' and ''existing'' drip pads are removed.

Because of subsequent changes to the subpart W requirements, the initial subpart W rule's designation of what are ''existing'' and new'' drip pads became no longer important. The final 1992 rule (57 FR 61492, December 24, 1992) eliminated the previous requirements to change all drip pads to a liner and leak detection system within a prescribed time frame and added a section that allowed existing or new drip pads to be either low surface hydraulic conductivity drip pads or liner and leak detection system drip pads. Consequently, the applicability sections of the regulations are now being updated. Owners or operators of drip pads would be expected to comply with the respective standards of § 264.573 or § 265.443, regardless of when the drip pads were originally built. As the 1992 final rule described, drip pad owners and operators may elect to comply with subpart W by choosing between liners and leak detection and surface protection. Removing the distinctions are expected to simplify and clarify the regulations for the regulated community. Absent the distinction between new and existing drip pads, the Agency recognizes there may be instances where a drip pad needs to be upgraded to include either a liner and leak detection system or provided with surface protection. In such cases, it is not the Agency's intent to remove the existing requirement for the owner or operator to develop and submit a written plan. Additionally, it is not the Agency's intent to impose additional burden at closure on owners or operators of what the 1992 final rule called new drip pads by requiring them to comply with requirements originally

[31] Memorandum from David Case, Environmental Technology Council to EPA RCRA Permit Team on *RCRA Regulatory and Policy Improvements.* (March 8, 2023).

[32] 81 FR 85732, November 28, 2016. *Hazardous Waste Generator Improvements Rule.* Refer to page 85765.

designed for existing drip pads that did not comply with the liner requirements of § 264.573(b)(1) or § 265.443(b)(1). Also, by removing the distinction between new and existing drip pads, the Agency does not intend to eliminate the requirement that owners or operators of drip pads previously defined as ''existing'' that are seeking to upgrade, modify, or repair drip pads to current standards by installing a liner and leak detection system develop and submit written plans to the Regional Administrator no later than two (2) years before the date that those changes will be complete. We are proposing language that clarifies that owners or operators of certain drip pads needing to upgrade, repair, or modify are still required to submit written plans. In addition, the Agency does not intend to eliminate the requirement for owners and operators to submit as-built drawings and certifications to the Regional Administrator or state Director following completion of any upgrades, repairs, or modifications and is proposing language that clarifies this requirement. The Agency's intent is to make the subpart W provisions clearer while maintaining the protections envisioned in the 1992 rule.

EPA proposes to make a conforming edit in 270.26(c) to reference the standards in § 264.573 instead of § 264.571.

EPA requests comment on these proposed changes (reference comment code ''DP–10'').

B. Technical Corrections

EPA is proposing many technical corrections that would fix errors related to:

- Incorrect regulatory citations and references;
- References to regulatory text that has been removed;
- Spelling and typographical errors;
- Clarifying the responsible person; and
- Other corrections such as notation or punctuation errors.

In total, EPA is proposing technical corrections to the RCRA regulations in 40 CFR parts 124, 260, 261, 263, 264, 265, 266, 267, 268, 270, 271, and 279.

The following two sets of technical corrections are being proposed; first, the general technical corrections and second the technical corrections related to clarifying the responsible person.

1. General Technical Corrections

EPA is proposing the following technical corrections to 40 CFR parts 124, 260, 261, 263, 264, 265, 266, 267, 268, 270, 271, and 279. A description of each technical correction is below. Note that other technical corrections are proposed within the topics addressed in section V.A. above.

Part 124 proposed technical correction:

- Modify § 124.10(c)(1) to add and reserve (vi) to restore the order of paragraphs (vi) through (xi) since the numbering was inadvertently changed with a removal in § 124.10(c)(1)(vi) that should have ''reserved'' paragraph (vi) (89 FR 103500, December 18, 2024).

Part 260 proposed technical correction:

- Modify § 260.2(c)(2) to change cited regulation from ''§§ 264.71(a)(6) or 265.71(a)(6)'' to correct cite ''§§ 264.71(a)(2) or 265.71(a)(2).''
- Modify § 260.10 definition for Hazardous secondary material generator to remove a reference to § 261.2(a)(2)(ii), since this provision was removed and reserved in 2015 (80 FR 1736, footnote 37).

Part 261 proposed technical correction:

- Modify §§ 261.1034(b)(1), 261.1035(c)(10)(iv), 261.1063(b)(1), 261.1083(d)(1), 261.1083(d)(3)–(4), and 261.1083(d)(6)–(7) to correct Method 21 reference from ''part 60,'' to ''part 60, appendix A–7.''
- Modify § 261.1089(a) to change the cited paragraphs in the first sentence from ''paragraphs (b) through (j)'' to ''paragraphs (b) through (h).'' Delete the remaining next three sentences which discuss implementation of paragraphs (i) and (j) of that section. Paragraphs (i) and (j) were proposed, but not finalized and do not exist in the part 261 regulations. Section 261.1089 was developed to mirror many of the technical requirements for hazardous waste in § 264.1089, with certain provisions related to hazardous waste permits and recordkeeping removed. (Refer to 80 FR 1718, January 11, 2015.) The language in § 264.1089(i) and (j) was not carried over to § 261.1089, but the reference to these paragraphs in § 261.1089(a) was inadvertently published.

Part 263 proposed technical corrections:

- Modify § 263.20(a)(6)(i) to change cited regulation from ''paragraph (a)(4)(iii)(A)'' to correct cite ''paragraph (a)(4)(iii).''
- Modify § 263.20(a)(7) to change cited regulation from ''paragraph (a)(4)(iii)(A)'' to correct cite ''paragraph (a)(4)(iii).''

Part 264 proposed technical corrections:

- Modify § 264.13(b)(7)(iii)(B) to remove a part 268 Land Disposal Restrictions cite that is no longer relevant and consolidate the remaining information in § 264.13(b)(7)(iii)(B) from § 264.13(b)(7)(iii)(B)*(1)–(2).*
- Modify § 264.18(b)(1) to correct typographical error in ''or.'' The phrase ''prevent washout or any hazardous waste'' would be revised to read ''prevent washout of any hazardous waste.''
- Modify § 264.51 and § 264.53 to move the text from a comment at § 264.53 into a new paragraph at 264.51(c) since the information is better suited in § 264.51 and because **Federal Register** style standards no longer encourage use of comments.
- Modify § 264.56(g) to move the text from a comment at § 264.56 (Emergency procedures) into § 264.56(g) because it is better suited in the regulation text and **Federal Register** style standard no longer encourages use of comments.
- Modify § 264.73(b) to change cited regulation from ''§ 264.56(j)'' to correct cite ''§ 264.56(i);'' to omit seven references to ''§ 268.8'' that no longer exist (including associated text); take the hyphen out of ''groundwater'' and to address punctuation in the list. Revisions are specifically in §§ 264.73(b)(3)–(4), 264.73(b)(6)–(8), and 264.73(b)(10)–(18).
- Modify § 264.77(a) to change cited regulation from § 264.56(j) to correct cite § 264.56(i).
- Modify § 264.90(f)(2) to add ''the'' before ''alternative requirements.''
- Modify 264.94(a)(2) table 1 to correct the RCRA groundwater monitoring constituent concentration levels with a direct reference to the Safe Drinking Water Act (SDWA) National Primary Drinking Water Regulations (NPDWR) at 40 CFR part 141, removal of the unnecessary footnote, and conforming changes to paragraphs (a)(2) and (b). This update would be consistent with the intent of the 1982 Rule (47 FR 32274) to establish drinking water's Maximum Contaminant Levels as RCRA groundwater protection standards, and would also ensure that the groundwater constituents reflect the current SDWA concentrations over time, as updated by EPA, without requiring further amendments to the RCRA regulations. Additionally, silver is being removed as a constituent since it is no longer classified as a NPDWR standard.
- Modify § 264.112(c)(2)(iii) to add an ''or'' at the end of the statement since it is part of a list.
- Modify § 264.117(a)(2) to remove ''partial'' since this is not a correct term to apply to a unit (''partial closure'' is for the facility).
- Modify § 264.280(c)(7) to correct the spelling of ''except.''
- Modify subpart X—Miscellaneous Units source citation and § 264.600 to

correct FR citation in two places. From ''52 FR 46964'' to ''52 FR 46946.''

• Modify § 264.600 to add a missing ''s.'' The phrase would be revised from ''except as 264.1 provide otherwise'' to ''except as 264.1 provides otherwise.''

• Modify § 264.1034(b)(1) to correct Method 21 reference from ''part 60,'' to ''part 60, appendix A–7.''

• Modify § 264.1035(c)(10)(iv) to correct Method 21 reference from ''part 60, appendix A,'' to ''part 60, appendix A–7.''

• Modify § 264.1063(b)(1) to correct Method 21 reference from ''part 60,'' to ''part 60, appendix A–7.''

• Modify § 264.1080 to delete and reserve citations §§ 264.1080(f)–(g) since they applied to a single facility (commonly referred to as GE Silicones OSi Specialties Plant, located on State Route 2, Sistersville, West Virginia) and because those provisions are no longer applicable to the facility. This action deletes many subsections.

Part 265 proposed technical corrections:

• Modify § 265.13(b)(7)(iii)(B) to remove a part 268 Land Disposal Restrictions cite (§ 268.33(f)) and statement that is no longer relevant and consolidate the remaining information in § 265.13(b)(7)(iii)(B) *(1)–(2).*

• Modify § 265.56(g) to move the text from a comment after § 265.56(g) into § 265.56(g) regulatory text because it is better suited in the regulation text and **Federal Register** style standard no longer encourages use of comments.

• Modify § 265.73(b) to change cited regulation from ''§ 265.56(j)'' to correct cite § 265.56(i); Correct typographical error (move ''data'' to be after ''corrective action''), remove an extra ''265,'' add ''of this part,'' and take the hyphen out of ''groundwater'' (in § 265.73(b)(6)); omit seven references to ''§ 268.8'' that no longer exists; address punctuation in the list. The revisions cover paragraphs (3)–(4), (6), (8)–(14).

• Modify § 265.77(a) to change cited regulation from ''§ 265.56(j)'' to correct cite ''§ 265.56(i).''

• Modify § 265.92(a) to update groundwater monitoring references in comment. Replace the 1970's references with the current ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW–846)'' for discussion of recommended sampling and analysis procedures.

• Modify § 265.94(a)(2)(i) to indicate that the MCLs are ''specified'' in the referenced regulation and not ''listed.''

• Modify § 265.112(c)(1)(iii) to add an ''or'' at end of statement since it is part of a list.

• Modify § 265.112 to change cited FR reference from ''54 FR 37935'' to ''53 FR 37935.''

• Modify § 265.352(a) and (b)(1)–(3) to change all references of ''Solid Waste and Emergency Response'' to ''the Office of Land and Emergency Management.''

• Modify § 265.383(a) and (b)(1)–(3) to change all references of ''Solid Waste and Emergency Response'' to ''the Office of Land and Emergency Management.''

• Modify § 265.1034(b)(1) to correct Method 21 reference from ''part 60'' to ''part 60, appendix A–7.''

• Modify § 265.1035(c)(10)(iv) to correct Method 21 reference from ''part 60, appendix A'' to ''part 60, appendix A–7.''

• Modify § 265.1063(b)(1) to correct Method 21 reference from ''part 60'' to ''part 60, appendix A–7.''

• Modify § 265.1080 to delete and reserve § 265.1080(f)–(g) since they applied to a single facility (commonly referred to as GE Silicones OSi Specialties Plant, located on State Route 2, Sistersville, West Virginia) and because those provisions are no longer applicable to the facility. This action deletes many subsections.

• Modify §§ 265.1084(d)(1), 265.1084(d)(3)–(4), 265.1084(d)(6)–(7) to correct Method 21 reference from ''part 60, appendix A,'' to ''part 60, appendix A–7.''

• Modify the table in appendix III to part 265 to reference the SDWA National Primary Drinking Water Regulations (NPDWR) Maximum Contaminant Level (MCLs) at 40 CFR part 141. This update would be consistent with the intent of the 1982 Rule (47 FR 32274) to base the RCRA groundwater monitoring constituents on drinking water contaminant levels. It would also ensure that the groundwater constituents reflect current SDWA concentrations over time, as updated by EPA, without requiring further amendments to the RCRA regulations. Other proposed corrections include: appendix heading correction (removing ''Interim'' and adding ''National''); revising the parameter ''2,4,5–TP Silver'' to ''2,4,5–TP (Silvex)''; removing from the appendix, both ''silver'' (which is no longer classified as an NPDWR constituent) and coliform bacteria (which, as of the 2013 Rule, no longer has a MCL value, see 78 FR 10269).

Part 266 proposed technical correction:

• Modify appendix IX to part 266 in section 8.3 ''APCS RE Default Values for Ash'' and changed the referenced table from ''table 8.1–4'' to ''table 8.2–1.''

Part 267 proposed technical correction:

• Modify § 267.71(b)(2) to change cited regulation from ''§ 267.13(c)'' to correct cite ''§ 267.13(b).''

Part 268 proposed technical corrections:

• Modify § 268.1(c)(3)(i) to change cited regulation from ''§ 146.6(a)'' to correct cite ''§ 146.5(a).''

• Modify § 268.7(a)(9)(iii) to change ''D001–D043'' to ''D001–D008 and D010–D043'' (since lab packs cannot contain D009 and be incinerated per § 268.42(c)).

• Modify § 268.40 table ''Treatment Standards For Hazardous Wastes'' in the ''D009'' category row at the ''All D009 wastewaters'' subcategory row by removing ''mg/L TCLP'' from the ''wastewater'' column at that row since it is already included in the header.

• Modify § 268.40 table ''Treatment Standards For Hazardous Wastes'' in the ''F039'' category row in the table ''Treatment Standards For Hazardous Wastes'' for the first entry which is Acenaphthylene (CAS# 208–96–8) and revise the concentration (in the last column) to have a decimal place instead of a comma.

• Modify § 268.40, table ''Treatment Standards For Hazardous Wastes,'' to correct the common name for CAS number 108–45–2. This replaces the second use of ''2,4-Dimethylaniline (2,4-xylidine)'' under ''Common name'' in the table under F039 Waste Code and corrects the common name to be ''1,3-Phenylenediamine'' which is correct for CAS number 108–45–2 and the related data on that line. This information is under ''F039'' in the Waste Code column.[33]

• Modify § 268.40 under ''F039'' mercury nonwastewater treatment standard in the table ''Treatment Standards For Hazardous Wastes'' by correcting the decimal place in the nonwastewater column from ''0.25'' to ''0.025.''

• Modify § 268.40 for U037 chlorobenzene in the table ''Treatment Standards For Hazardous Wastes'' by correcting the decimal place in the

[33] Refer to 70 FR 9138, Feb. 24, 2005, *Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Dyes and/or Pigments Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities; Designation of Five Chemicals as Appendix VIII Constituents; Addition of Four Chemicals to the Treatment Standards of F039 and the Universal Treatment Standards,* page 9178, and the NIH National Library of Medicine website (*https://pubchem.ncbi.nlm.nih.gov/compound/m-Phenylenediamine*) indicating that the 1,3-Phenylenediamine common name has CAS #108–45–2. Note that there are other synonyms for that chemical compound (*e.g.,* M-Phenylenediamine).

nonwastewaters column from ''60'' to ''6.0.''

• Modify § 268.48 footnote number 3 to the table in order to use the correct spelling for ''in part.''

Part 270 proposed technical corrections:

• Modify § 270.1(c)(3)(i)(D) to add a missing ''s'' to ''explosive.''

• Modify § 270.2 ''Application'' definition to change the permit application scope from ending at § 270.29 (permit denial) to § 270.28.

• Modify § 270.10(d) to change § 270.29 to § 270.28.

• Modify § 270.10(e)(1)(iii) Note by changing ''45 FR 33006'' to correct reference ''45 FR 33066.''

• Modify § 270.14(a) to correct citations (from ''0.14'' to ''270.15''; from ''270.29'' to ''270.28'') and use correct spelling of ''cannot.''

• Modify § 270.14(b)(7) to correct citations from ''§ 264.255, and § 264.200'' to the appropriate citation ''§ 264.253, and § 264.196.'' (§ 264.255 is reserved and § 264.200 addresses the applicability of the RCRA organic air emissions standards unrelated to specific contingency plan requirements.)

• Modify § 270.14(b)(11)(iii) and following comment to correct ''Federal Insurance Administration (FIA)'' to ''Federal Insurance and Mitigation Administration (FIMA)'' and add the Federal Emergency Management Agency acronym ''(FEMA).''

• Modify § 270.14(c)(7) to change citation from ''§ 264.98(h)(5)'' to correct cite ''§ 264.98(g)(5).''

• Modify § 270.27(a)(6) to correct Method 21 reference to from ''part 60, appendix A'' to ''part 60, appendix A–7.''

• Modify § 270.42(a)(2) to replace ''an asterisk'' with ''footnote 1'' since the footnotes are now numbers and not asterisks.

• Modify § 270.42(b)(6)(iii) and (v) to replace ''265'' with ''264 (and other parts as applicable)'' in two instances. Also replaced ''appropriate'' with ''applicable.''

• Modify § 270.42 ''appendix I to § 270.42—Classification of Permit Modification'' to remove the § 268.8(a)(2)(ii) citation and associated regulatory language in five places since § 268.8(a)(2)(ii) was previously removed and reserved (revisions in appendix at F.1.c, F.4.a, G.1.e, G.5.c, H.5.c., J.6.c., and L.10. in the appendix, remove the § 269.8(a)(2)(ii) citation and associated regulatory language (that should have originally been listed as § 268.8(a)(2)(ii), but is now irrelevant). At L.10 in the appendix, add a missing modification class type for ''Class 1 with prior approval'' based on 70 FR 59578 indicating the intended class.

• Modify § 270.51(a)(1) to reflect the contents of Part B of the RCRA application are in §§ 270.14 through 270.28 (and not § 270.29).

• Modify § 270.280(a)(2) to change citation from ''§ 277.315'' to correct cite ''§ 270.315.''

• Modify § 270.280(a)(3) to change citation from ''§ 277.315'' to correct cite ''§ 270.315.''

• Modify § 270.290(l) to change citation from ''§ 267.16(a)(3)'' to correct cite ''§ 267.16(d)(3).''

• Modify § 270.315(f) to correct Method 21 reference from ''part 60, appendix A,'' to ''part 60, appendix A–7.''

Part 271 proposed technical corrections:

• Modify § 271.1(f) to change citation from ''§ 271.3(a)(3)'' to correct cite ''§ 271.3(b)(3).''

• Modify note in § 271.1(j)(2) to remove the citation ''§ 271.121(c)(3)'' since it no longer exists.

• Modify § 271.1 table 1 at the row for ''Listing of Inorganic Chemical Manufacturing Wastes'' (Oct. 31, 2001) by changing ''67 FR 58299'' to ''66 FR 58299.''

• Modify § 271.1 table 2 entry for ''Prohibition on land disposal of K176, K177, and K178 wastes, and prohibition on land disposal of radioactive waste mixed with K176, K177, and K178 wastes, including soil and debris'' (May 20, 2002) by changing the **Federal Register** date and reference from ''Nov. 20, 2002, 66 FR 28299'' to ''Nov. 20, 2001, 66 FR 58299.''

• Modify § 271.1 table 2 entry for ''Elimination of LDR Treatment Standards Exemption for K061 Derived Fertilizers'' (Jan. 24, 2003) by changing ''66 FR 48414'' to ''67 FR 48414.''

• Modify § 271.14(x) to remove citation § 124.10(a)(1)(v) from the list of part 124 references. There is no § 124.10(a)(1)(v) and no need for a replacement.

• Modify § 271.16(e) to change citation from ''§ 265.90(d)'' to correct cite ''§ 265.90(f).''

• Modify § 271.21(f) to change citation from ''§ 271.3(f)'' to correct cite ''§ 271.3(c).''

Part 279 proposed technical corrections:

• Modify §§ 279.42(b), (b)(1)–(2); 279.51(b), (b)(1)–(2); and 279.62(b), (b)(1)–(2) notification paragraphs to remove outdated information on methods to obtain an EPA Identification number.

In addition to the technical corrections listed above, other technical corrections are included within other topics discussed in this proposal in section V.A.

EPA requests comment on these proposed changes (reference comment code ''TC–1'').

2. Clarify the Responsible Person

EPA is proposing to update language in parts 260, 264, 265 and 270 (over 280 citations) to replace general placeholders for nouns (*e.g.,* ''he'') with the specific and corresponding position title, such as ''owner or operator,'' or ''Regional Administrator'' among others. EPA finds this will improve clarity in the regulations specifically as general placeholders could be mistaken to refer to more than one role. Necessary additional revisions were made in some cases to ensure subject-verb agreement.

The amended regulations are listed under the CFR Parts below.

In part 260, EPA proposes to clarify the responsible person in: §§ 260.10 [definitions for ''Administrator,'' ''Corrosion expert,'' ''Installation inspector,'' ''On-site,'' and ''Regional Administrator'']; §§ 260.20(d); 260.21(c); 260.22(a)(2); 260.22(b); 260.22(c)(2); 260.22(d)(2); 260.22(e)(2); 260.22(i)(12); 260.22(j); 260.22(l); 260.33(b); and 260.41(b).

In part 264, EPA proposes to clarify the responsible person in: §§ 264.1(f)(3); 264.1(g)(4); 264.3; 264.12(b); 264.12 [Comment]; 264.13(a)(1); 264.13(b); 264.14(a); 264.15(a); 264.15(b)(2); 264.15(d); 264.51(a); 264.52(b); 264.56(a); 264.56(b); 264.56(d); 264.56(d)(1); 264.56(d)(2); 264.56(i); 264.71(a)(2); 264.71(b); 264.73(a); 264.73(b)(9); 264.76(a)(6); 264.90(b)(2); 264.90(b)(5); 264.93(b); 264.94(b); 264.98(g)(6)(i); 264.99(i)(1); 264.99(j); 264.100(f); 264.100(h); 264.112(d)(1); 264.112(d)(2); 264.112(d)(2)(i); 264.112(d)(2)(ii); 264.113(a)(1)(ii)(B); 264.113(a)(2); 264.113(b)(1)(ii)(B); 264.113(b)(2); 264.113(e)(7); 264.113(e)(7)(iv); 264.115; 264.117(a)(2)(i); 264.117(a)(2)(ii); 264.119(a); 264.119(b)(2); 264.119(c); 264.120; 264.142(a)(2); 264.143; 264.143(a)(4); 264.143(a)(5); 264.143(a)(8); 264.143(a)(10); 264.143(b)(9); 264.143(e)(5); 264.143(e)(10); 264.143(f)(1); 264.143(f)(3); 264.143(f)(6); 264.143(f)(8); 264.143(g); 264.143(i); 264.145 [introductory text]; 264.145(a)(4); 264.145(a)(5); 264.145(a)(8); 264.145(a)(11); 264.145(b)(9); 264.145(e)(5); 264.145(e)(11); 264.145(f)(1); 264.145(f)(1)(i)(D); 264.145(f)(1)(ii)(D); 264.145(f)(3); 264.145(f)(6); 264.145(f)(8); 264.145(g); 264.145(i); 264.147(d); 264.147(e); 264.147(f)(1), 264.147(f)(1)(i)(C)(1);

264.147(f)(1)(ii)(D)(1); 264.147(f)(3); 264.147(f)(3)(i); 264.147(f)(6); 264.147(f)(7); 264.148(a); 264.149(a)(2); 264.150(a)(2); 264.193(h)(1); 264.195(b) Note; 264.258(b); 264.272(b); 264.276(a)(4); 264.278(a)(2); 264.278(f); 264.278(f)(3); 264.278(g); 264.278(h); 264.278(h)(1); 264.341(b); 264.344(a); 264.575(b); 264.1102(b); appendix I to part 264 [introductory text]; and appendix V to part 264 [introductory text].

In part 265, EPA proposes to clarify the responsible person in: §§ 265.1(c)(4)(ii); 265.1(c)(8); 265.12 [Comment]; 265.13(a)(1); 265.13(b); 265.14(a); 265.15(a); 265.15(b)(2); 265.15(d); 265.51(a); 265.52(b); 265.56(a); 265.56(b); 265.56(d); 265.56(d)(1); 265.56(d)(2); 265.56(i); 265.71(a)(2); 265.71(b); 265.73(a); 265.76(a)(6); 265.90(d); 265.92(a); 265.92(c)(1); 265.93(d)(5); 265.93(d)(6); 265.112(d)(1); 265.112(d)(2); 265.112(d)(2)(i); 265.112(d)(2)(ii); 265.112(d)(3); 265.112(d)(4); 265.113(a)(1)(ii)(B); 265.113(a)(2); 265.113(b)(1)(ii)(B); 265.113(b)(2); 265.113(e)(7); 265.113(e)(7)(iv); 265.115; 265.117(a)(2)(i); 265.117(a)(2)(ii); 265.118(e); 265.118(f); 265.118(g)(1)(ii); 265.118(g)(1)(iii); 265.118(g)(2); 265.118(g)(2)(ii); 265.119(a); 265.119(b)(2); 265.119(c); 265.120; 265.142(a)(2); 265.143 [introductory text]; 265.143(a)(4); 265.143(a)(5); 265.143(a)(8); 265.143(a)(10); 265.143(b)(9); 265.143(d)(5); 265.143(d)(10); 265.143(e)(1); 265.143(e)(3); 265.143(e)(4)(ii); 265.143(e)(4)(v); 265.143(e)(6); 265.143(e)(8); 265.143(f); 265.143(h); 265.145(a)(4); 265.145(a)(5); 265.145(a)(8); 264.145(a)(11); 265.145(b)(9); 265.145(d)(5); 265.145(d)(11); 265.145(e)(1); 265.145(e)(1)(i)(D); 265.145(e)(1)(ii)(D); 265.145(e)(3); 265.145(e)(4)(ii); 265.145(e)(4)(v); 265.145(e)(6); 265.145(e)(8); 265.145(f); 265.145(h); 265.147(c); 265.147(d); 265.147(e); 265.147(f)(1); 265.147(f)(1)(i)(C)(1); 265.147(f)(1)(ii)(D)(1); 265.147(f)(3); 265.147(f)(3)(i); 265.147(f)(4)(ii); 265.147(f)(4)(v); 265.147(f)(6); 265.147(f)(7); 265.148(a); 265.149(a)(2); 265.150(a)(2); 265.193(h)(1); 265.195(a) Note; 265.221(g); 265.226(b)(3) [Comment]; 265.229(b)(2); 265.258(b); 265.278(c); 265.278(d); 265.341 [introductory text]; 265.351 [Comment]; 265.373; 265.375; 265.381 [Comment]; 265.403(b) [Comment]; 265.404 [Comment]; 265.445(b); 265.1102(b); and appendix I to part 265; appendix V to part 265.

In part 270, EPA proposes to clarify the responsible person in: §§ 270.10(c); 270.10(e)(2); 270.14(b)(20); 270.14(c)(8); 270.17(d); 270.19(d); 270.22(a)(6); 270.23(b); 270.32(b)(3); 270.62(a)(2); 270.62(b)(4); 270.62(b)(5); 270.62(c)(2); 270.63(a)(1); 270.63(a)(2); 270.63(b); 270.63(c); 270.63(d); 270.63(d)(2); 270.65(c); 270.66(b)(3)(i); 270.70(b); 270.72(a)(4); 270.110(h); 270.140 [introductory text]; 270.145(a)(1); 270.145(a)(3); 270.145(a)(4); 270.145(d); 270.150(b); 270.150(c); 270.150(d); 270.150(e); 270.160(a); 270.175(a); 270.175(b); 270.180(a); 270.185; 270.215(d); and 270.220(b).

In addition to the revisions listed in this section, section V.A. discusses comprehensive revisions to other regulations, and within those revisions, clarifications are made to the responsible party for the rationale presented in this section.

EPA requests comment on these proposed changes (reference comment code ''TC–2'').

VI. State Authorization

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize a state hazardous waste program to operate in lieu of the federal program within the state. Following authorization, EPA maintains its enforcement authorities, although authorized states have primary enforcement responsibility for their authorized programs. The standards and requirements for state authorization are found in 40 CFR part 271.

Prior to the enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), an authorized state hazardous waste program operated entirely in lieu of the federal program in that state. The federal requirements no longer applied in the authorized state, and EPA could not issue permits for any facilities in that state. When new, more stringent or broader federal requirements were promulgated, the state was obligated to adopt equivalent or more stringent authorities under state law within specified time frames. However, new requirements did not take effect in an authorized state until the state adopted such equivalent authorities, and these requirements did not become part of the authorized program enforceable by EPA until EPA authorized them.

In contrast, with the enactment of RCRA section 3006(g), which was added by HSWA, new federal requirements and prohibitions imposed pursuant to HSWA authority take effect in authorized states at the same time that they take effect in unauthorized states. EPA is directed by section 3006(g) to implement HSWA-based requirements and prohibitions in authorized states until EPA authorizes equivalent state authorities. While states must still adopt state-law equivalents to HSWA-based requirements and prohibitions to retain final authorization, until the states do so, and EPA authorizes the state-law equivalents, EPA implements and enforces these provisions in authorized states.

Authorized states are required to modify their programs when EPA promulgates federal requirements that are more stringent or broader in scope than existing federal requirements. RCRA section 3009 allows the states to impose standards more stringent than those in the federal program (refer also to § 271.1). If EPA promulgates a federal requirement that is less stringent or narrower in scope than an existing requirement or of equivalent stringency, authorized states may, but are not required to, adopt a new equivalent requirement regardless of whether it is promulgated under HSWA authority.

B. Effect on State Authorization

Some proposed amendments in this document are promulgated under the authority of HSWA and would be more stringent or broader in scope than the existing federal regulations. Thus, these standards would be applicable on the rule's effective date in all states and would be implemented and enforced by EPA until the states receive authorization. In contrast, some proposed amendments in this document are promulgated under non-HSWA authority and would be applicable on the effective date only in those states that do not have final authorization of their base RCRA programs. As stated above, authorized states are required to modify their programs when EPA promulgates federal regulations that are more stringent or broader in scope than the authorized state regulations. Because some amendments in this proposed rule would be considered more stringent than the existing federal requirements, authorized states would be required to modify their programs to adopt regulations equivalent to these amendments contained in this proposed rule. In contrast, some amendments in this proposed rule are less stringent than the current hazardous waste regulations. Thus, authorized states may, but are not required to, adopt these changes. The following discussion identifies which proposed amendments would be promulgated under the authority of HSWA and which amendments would be promulgated under non-HSWA authority. In addition, EPA identifies the relative stringency of proposed amendments as

compared to the current hazardous waste regulations.

Permit application—Regulatory amendments discussed in section V.A.1. that would be promulgated under non-HSWA authority include Permit Application Information and Technical Requirements and Permit Application Submittal Timeframe. Permit Application Information and Technical Requirements and Permit Application Submittal Timeframe would be equivalent in stringency to the current regulations.

Preparedness and prevention/ contingency plan and emergency procedures—Regulatory amendments discussed in section V.A.2. would be promulgated under non-HSWA authority. Of these, all are more stringent than the current regulations, except Storage of Preparedness and Prevention Equipment which is equivalent in stringency to the current regulations.

Financial assurance—Regulatory amendments discussed in section V.A.3. would all be promulgated under non-HSWA authority. Amendments that would be equivalent to the current regulations include Clarifying Acceptable Financial Test Bond Ratings, Governing Rules for Standby Letters of Credit and Clarifying Appropriate Inflation Factors for Closure Cost Estimates. The amendment Removing the Requirement for a ''Negative Assurance'' in the Financial Test and Adding Limited Liability Corporations as an Accepted Organizational Structure would be less stringent than the current regulations.

RCRA organic air emission standards—Regulatory amendments discussed in section V.A.4. would all be promulgated under HSWA authority. These amendments would be less stringent than the current regulations: Clarification of Waste Analysis Plan (WAP) Applicability; and Instances Where Use of Method 21 Is Not Required.

General language clarification—Regulatory amendments discussed in section V.A.5. that would be promulgated under non-HSWA authority include: Facility Definition and Qualified Professional Engineer. Facility Definition would be more stringent than the current regulations, and Qualified Professional Engineer would be less stringent. The Overview of the RCRA Permit Program would be promulgated under HSWA authority and would be equivalent in stringency to the current regulations.

Permit modification—The regulatory amendment discussed in section V.A.6. that would be promulgated under HSWA authority is Modifications for Continued Permits and Reissuances, which would be equivalent in stringency to the current regulations. Notification of Modification Requests would be promulgated under non-HSWA authority, and this amendment is equivalent in stringency to current regulations.

Modernizing public notice—Regulatory amendments discussed in section V.A.7. would all be promulgated under non-HSWA authority and would all be less stringent or equivalent to the current regulations.

Location standards regulatory comments—Regulatory amendments discussed in section V.A.8. would be promulgated under non-HSWA authority. This provision would be of equivalent stringency to the current regulations.

Transfer facility storage period—Regulatory amendments discussed in section V.A.9. would be promulgated under non-HSWA authority. *Transfer Facility Storage Period* (Adjustment of the current 10-day storage period) would be less stringent than the current regulations.

Drip pads—Regulatory amendments discussed in section V.A.10. would all be promulgated under HSWA authority and be equivalent to the current regulations.

General technical corrections—Regulatory amendments discussed in section V.B.1. are equivalent to the current regulations.

Clarify the responsible person—Regulatory amendments discussed in section V.B.2. are equivalent to the current regulations.

Based on the determinations of stringency and authority discussed above, application of the revisions proposed in this action would be required as follows. All permits, including initial permits, permit modifications (as applicable), and permit renewals, issued after the effective date of the final rule would be required to incorporate final rule amendments promulgated under HSWA authority that are more stringent than the current regulations. EPA would issue EPA-administered portions of joint permits to implement these final amendments in the interim before a State adopts and becomes authorized for these amendments.

Amendments promulgated under HSWA authority that are less stringent than current regulations, as well as amendments promulgated under non-HSWA authority, take effect once a state becomes authorized for the amendment.

For permitted facilities, the proposed revisions, if finalized, would be incorporated upon modification or renewal of a facility's permit. Per § 270.4(a)(1)(iv), facilities would have to comply with requirements promulgated under subparts AA, BB, or CC of parts 265 (air emissions) immediately upon the effective date of the final rule, regardless of whether the new final requirements are incorporated into the facility's permit. When new regulations are promulgated after the issuance of a permit, EPA or authorized states may reopen a permit to incorporate the new requirements as stated in § 270.41.

Facilities, including interim status facilities, that have submitted an application for an initial permit, renewal permit, or (applicable) modified permit and which have not yet received their final permits as of the effective date of the final standards (*i.e.,* the effective date of the final rule for HSWA, more stringent amendments or the effective date of state authorization for all other amendments) would be required to modify their permit applications by the respective effective date to incorporate new final rule regulations.

C. Summary and Request for Comment

Some revisions in this document are being proposed under HSWA authority, and others are being proposed under non-HSWA authority. The amendments proposed today, whether under HSWA or non-HSWA authority, which are more stringent would require authorized state programs to modify their programs to adopt regulations equivalent to the provisions contained in this proposed rule once finalized. The amendments promulgated under non-HSWA authority would be applicable on the effective date of the final rule only in those states that do not have final authorization of their base RCRA programs. The amendments promulgated under the authority of HSWA would be applicable on the effective date of the final rule in all states. For revisions which are less stringent or equivalent in stringency, adoption by authorized states or territories would not be required. While not required, EPA strongly encourages authorized state and territorial programs to adopt all the proposed revisions, as finalized, to ease implementation, consistency, and compliance within the RCRA program. EPA requests comment on the state authorization approach for this proposed rule.

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be

found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review. EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, Economic Assessment of the Permitting Technical Updates Proposed Rule, is available in the docket for this action.

B. Executive Order 14192 on Unleashing Prosperity Through Deregulation

This action is expected to be an Executive Order 14192 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR numbers 1573.17 and 1688.12. You can find a copy of the ICRs in the docket for this rule, and they are briefly summarized here.

The reporting and recordkeeping requirements reflected in these ICRs are necessary for EPA to oversee the generation and management of hazardous waste. Through this action, the Agency is proposing improvements to the permitting requirements, as well as soliciting information to expand the Agency's understanding of these issues to inform future policy decisions.

(ICR #1) Part B Permit Application, Permit Modifications, and Special Permits (Revision); OMB Control No. 2050–0009; EPA ICR number 1573.17.

Respondents/affected entities: The respondents will be permittees and permit applicants which are primarily composed of companies in the waste management, transportation, and remediation services and chemical manufacturing industry sectors, with various other manufacturing sectors also making up a large share of affected facilities.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: EPA estimates that there will be approximately one respondent per year affected by recordkeeping requirements related to permit applications. The number of respondents affected by other provisions varies.

Frequency of response: EPA estimates that average facility will submit permit applications or renewals once every 10 years. Other activities may be performed on a more or less frequent basis.

Total estimated burden reduction: 1 hour (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost savings: $20 (per year), includes $0 in annualized capital or operation and maintenance costs.

(ICR #2) RCRA Expanded Public Participation (Revision)—OMB Control No. 2050–0149; EPA ICR number 1688.12.

Respondents/affected entities: The respondents will be permit applicants which are primarily composed of companies in the waste management, transportation, and remediation services and chemical manufacturing industry sectors, with various other manufacturing sectors also making up a large share of affected facilities.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: EPA estimates that there will be approximately 265 respondents per year affected by recordkeeping requirements related to permit applications. The number of respondents affected by other provisions varies.

Frequency of response: EPA estimates that average facility will submit permit applications or renewals once every 10 years. Other activities may be performed on a more or less frequent basis.

Total estimated burden reduction: No change in burden. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost savings: $417,880 (per year), all from annualized capital or operation and maintenance cost savings.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. The EPA will respond to any ICR-related comments in the final rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. OMB must receive comments no later than December 28, 2026.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule. This conclusion is detailed in the associated Economic Assessment. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million (adjusted for inflation) or more (in 1995 dollars) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action is estimated to result in an annual cost savings of $0.42 million (2025 dollars) for regulated facilities and an annual cost savings of $0.50 million (2025 dollars) for permitting authorities (both under a 3 percent discount rate). The costs involved in this action are projected not to exceed $193 million in 2025 dollars ($100 million in 1995$ adjusted for inflation using the GDP implicit price deflator) or more in any one year.

F. Executive Order 13132: Federalism

This action does not have federalism implications. This action 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 because it does not have substantial direct effects 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.

Thus, Executive Order 13175 does not apply to this action.

EPA expects that this action will have no direct Tribal implications other than amendments made to already regulated entities, and does not expect that this action would result in any adverse impacts on Tribal entities.

Therefore, Executive Order 13175 does not apply to this action. Consistent with the EPA's Policy on Consultation with Indian Tribes, the EPA conducted coordination efforts with federally recognized Tribes to announce the proposed rule and provide information regarding permitting activities located at or near Tribal lands. Additionally, the EPA intends to consult with and request comments from Tribal officials when finalizing this rule.

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

Executive Order 13045 directs federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in federal health and safety standards and explains why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. EPA does not believe that this proposal created risks for Adults or children.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

List of Subjects

40 CFR Part 124

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous waste, Indians—lands, Reporting and recordkeeping requirements, Water pollution control, and Water supply.

40 CFR Part 260

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Hazardous waste, Intergovernmental relations, Licensing and registration, and Reporting and recordkeeping requirements.

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, and Reporting and recordkeeping requirements.

40 CFR Part 262

Environmental protection, Exports, Hazardous materials transportation, Hazardous waste, Imports, Labeling, Packaging and containers, and Reporting and recordkeeping requirements.

40 CFR Part 263

Environmental protection, Hazardous materials transportation, Hazardous waste, and Reporting and recordkeeping requirements.

40 CFR Part 264

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, and Surety bonds.

40 CFR Part 265

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, and Water supply.

40 CFR Part 266

Environmental protection, Energy, Hazardous waste, Recycling, and Reporting and recordkeeping requirements.

40 CFR Part 267

Environmental protection, Hazardous waste, and Reporting and recordkeeping requirements.

40 CFR Part 268

Environmental protection, Hazardous waste, and Reporting and recordkeeping requirements.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, and Water supply.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, and Reporting and recordkeeping requirements.

40 CFR Part 273

Environmental protection, Hazardous materials transportation, and Hazardous waste.

40 CFR Part 279

Environmental protection, Petroleum, Recycling, and Reporting and recordkeeping requirements.

Lee Zeldin,

Administrator.

For the reasons set forth in the preamble, the EPA proposes to amend 40 CFR parts 124, 260, 261, 262, 263, 264, 265, 266, 267, 268, 270, 271, 273, and 279 as follows:

PART 124—PROCEDURES FOR DECISIONMAKING

■ 1. The authority citation for part 124 continues to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.;* Safe Drinking Water Act, 42 U.S.C. 300f *et seq.;* Clean Water Act, 33 U.S.C. 1251 *et seq.;* Clean Air Act, 42 U.S.C. 7401 *et seq.*

Subpart A—General Program Requirements

■ 2. Amend § 124.3 by revising the second sentence of paragraph (a)(2) to read as follows:

§ 124.3 Application for a permit.

(a) * * *

(2) * * * See §§ 270.10, 270.13, 270.14, and, as applicable, 270.15 through 270.28 (RCRA), § 144.31 (UIC), 40 CFR 52.21 (PSD), and § 122.21 (NPDES).

* * * * *

■ 3. Amend § 124.10 by:

■ a. Redesignating paragraphs (c)(1)(vi) through (x) as paragraphs (c)(1)(vii) through (xi);

■ b. Adding and reserving paragraph (c)(1)(vi);

■ c. Adding paragraph (c)(1)(xii); and

■ d. Revising paragraph (c)(2)(ii).

The additions and revision read as follows:

§ 124.10 Public notice of permit actions and public comment period.

* * * * *

(c) * * *

(1) * * *

(vi) [Reserved]

(xii) For RCRA permits:

(A) Mail notification requirements specified in paragraph (c)(1) using the

facility mailing list may be satisfied by either postal or electronic mail.

(B) In updating the facility mailing list developed under paragraph (c)(1)(ix) of this section, the Director may use generally accepted methods (*e.g.,* hyperlink sign-up function or radio button on an agency website, sign-up sheet at a public hearing) in lieu of the methods specified in paragraphs (c)(1)(ix)(B) and (C). The Director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Director may delete from the list the name of any person who fails to respond to such a request within a reasonable timeframe or who has requested not to be included on the mailing list.

(2) * * *

(ii) For all RCRA permit actions subject to this section, comply with the following applicable public notice requirements: publication of a notice in a major local newspaper of general circulation and broadcast over local radio stations. ''Newspaper notice,'' for purposes of this provision, means a notice published in a regularly issued collection of articles or informational postings that provides updates on current events and matters of interest, is accessible to the public, can include agency publications, and can be published in print and/or online. If this notice is published on an agency website, then it must be posted for the duration of the comment period. The Director may use other methods, in addition to newspapers and local radio, to ensure that public notice methods effectively inform all interested communities.

* * * * *

■ 4. Amend § 124.12 by revising paragraph (a)(3)(ii) to read as follows:

§ 124.12 Public hearings.

(a) * * *

(3) * * *

(ii) when the Director schedules an in-person hearing under this section, the hearing shall, where possible, be held at a location convenient to the nearest population center to the proposed facility; for a hearing held by remote means, the Director will choose a method suited to the nearest population center;

* * * * *

Subpart B—Specific Procedures Applicable to RCRA Permits

■ 5. Amend § 124.31 by revising paragraphs (b) and (d)(1)(i) to read as follows:

§ 124.31 Pre-application public meeting and notice.

* * * * *

(b) Prior to the submission of a part B RCRA permit application for a facility, or a written Notice of Intent to be covered by a RCRA standardized permit (see 40 CFR part 270, subpart J), the applicant must hold at least one meeting with the public to solicit questions from the community and inform the community of proposed hazardous waste management activities. The meeting may be held in person or by remote means (for example, as a virtual meeting). The applicant shall post a sign-in sheet or otherwise provide attendees a voluntary opportunity to provide their names and addresses.

* * * * *

(d) * * *

(1) * * *

(i) *A newspaper notice.* The applicant shall publish a notice, fulfilling the requirements in paragraph (d)(2) of this section, in a newspaper of general circulation (online and/or print) in the county or equivalent jurisdiction that hosts the proposed location of the facility. ''Newspaper notice,'' for purposes of this provision, means a notice published in a regularly issued collection of articles or informational postings that provides updates on current events and matters of interest, is accessible to the public, can include agency publications, and can be published in print and/or online. If this notice is a publication on an agency website, then it must be posted for the duration of the comment period. In addition, if only print newspaper notice is used, the Director may instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Director determines that such publication is necessary to inform the affected public.

* * * * *

■ 6. Amend § 124.32 by revising paragraph (b)(1) to read as follows:

§ 124.32 Public notice requirements at the application stage.

* * * * *

(b) * * *

(1) The Director shall provide public notice as set forth in § 124.10(c)(1)(ix) and (xii), and notice to appropriate units of State and local government as set forth in § 124.10(c)(1)(x), that a part B permit application has been submitted to the Agency and is available for review.

* * * * *

Subpart G—Procedures for RCRA Standardized Permit

■ 7. Amend § 124.204 by revising the second sentence of paragraph (d)(10) to read as follows:

§ 124.204 What must I do as the Director of the regulatory agency to prepare a draft standardized permit?

* * * * *

(d) * * *

(10) * * * Only § 124.10(c)(1)(ix), (xii) and (c)(1)(x)(A) apply to the RCRA standardized permit. * * *

■ 8. Amend § 124.207 by revising paragraphs (a)(4) and (b)(1) to read as follows:

§ 124.207 What are the requirements for public notices?

(a) * * *

(4) To everyone on the facility mailing list developed according to the requirements in § 124.10 (c)(1)(ix) and (xii); and

* * * * *

(b) * * *

(1) Public notice using methods described in § 124.10(c)(2)(ii);

* * * * *

■ 9. Amend § 124.212 by revising paragraph (b)(2) to read as follows:

§ 124.212 What procedures must I follow to make routine changes?

* * * * *

(b) * * *

(2) Provide notice of the changes to the facility mailing list and to state and local governments in accordance with the procedures in § 124.10(c)(1)(ix), (x), and (xii).

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

■ 10. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, 6939g, and 6974.

Subpart A—General

■ 11. Amend § 260.2 by revising the first sentence of paragraph (c)(2) to read as follows:

§ 260.2 Availability of information; confidentiality of information.

* * * * *

(c) * * *

(2) EPA will make any electronic manifest that is prepared and used in accordance with § 262.20(a)(3), or any paper manifest that is submitted to the system under §§ 264.71(a)(2) or 265.71(a)(2) of this chapter available to the public under this section when the

electronic or paper manifest is a complete and final document. * * *

* * * * *

Subpart B—Definitions

■ 12. Amend § 260.10 by:
■ a. Revising the definition ''Administrator'';
■ b. Revising the first sentence for the definition ''Corrosion expert'';
■ c. Revising paragraph (1) in the definition ''Facility'';
■ d. Adding the definition ''Hazardous secondary material generator'' in alphabetical order;
■ e. Revising the definition ''Installation inspector'';
■ f. Adding the definition ''Newspaper notice'' in alphabetical order;
■ g. Revising the second sentence for the definition ''On-site''; and
■ h. Revising the definition ''Regional Administrator''.

The revisions and additions read as follows:

§ 260.10 Definitions.

* * * * *

Administrator means the Administrator of the Environmental Protection Agency, or the Administrator's designee.

* * * * *

Corrosion expert means a person who, by reason of the person's knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. * * *

* * * * *

Facility means:

(1) All contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal hazardous waste management units (*e.g.,* one or more landfills, surface impoundments, or combinations of them).

* * * * *

Hazardous secondary material generator means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this paragraph, ''generating facility'' means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. For the purposes of § 261.4(a)(23), a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

* * * * *

Installation inspector means a person who, by reason of the person's knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

* * * * *

Newspaper notice means a notice in a regularly issued collection of articles or informational postings that provides updates on current events and matters of interest, is accessible to the public, can include agency publications, and can be published in print and/or online.

* * * * *

On-site * * * Non-contiguous properties owned by the same person but connected by a right-of-way which this person controls and to which the public does not have access, is also considered on-site property.

* * * * *

Regional Administrator means the Regional Administrator for the EPA Region in which the facility is located, or the Regional Administrator's designee.

* * * * *

Subpart C—Rulemaking Petitions

■ 13. Amend § 260.20 by revising the first and third sentences of paragraph (d) to read as follows:

§ 260.20 General.

* * * * *

(d) Upon the written request of any interested person, the Administrator may, at the Administrator's discretion, hold an informal public hearing to consider oral comments on the tentative decision. * * * The Administrator may in any case decide on the Administrator's own motion to hold an informal public hearing.

* * * * *

■ 14. Amend § 260.21 by revising paragraph (c) to read as follows:

§ 260.21 Petitions for equivalent testing or analytical methods.

* * * * *

(c) After receiving a petition for an equivalent method, the Administrator may request any additional information on the proposed method which the Administrator may reasonably require to evaluate the method.

* * * * *

■ 15. Amend § 260.22 by:
■ a. Revising the first sentence of paragraph (a)(2);
■ b. Revising the fourth sentence of paragraph (b);
■ c. Revising the first sentence of paragraph (c)(2);
■ d. Revising paragraph (d)(2);
■ e. Revising paragraph (e)(2);
■ f. Revising the first sentence of paragraph (i)(12);
■ g. Revising paragraph (j); and
■ h. Revising paragraph (l).

The revisions read as follows:

§ 260.22 Petitions to amend part 261 to exclude a waste produced at a particular facility.

(a) * * *

(2) Based on a complete application, the Administrator must determine, where the Administrator has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. * * *

(b) * * * Where the waste is a mixture of solid waste and one or more listed hazardous wastes or is derived from one or more hazardous wastes, the petitioner's demonstration must be made with respect to the waste mixture as a whole; analyses must be conducted for not only those constituents for which the listed waste contained in the mixture was listed as hazardous, but also for factors (including additional constituents) that could cause the waste mixture to be a hazardous waste. * * *

(c) * * *

(2) Based on a complete application, the Administrator must determine, where the Administrator has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. * * *

(d) * * *

(2) Based on a complete application, the Administrator must determine, where the Administrator has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste; and

* * * * *

(e) * * *

(2) Based on a complete application, the Administrator must determine, where the Administrator has a reasonable basis to believe that additional factors (including additional constituents) other than those for which

the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste; and

* * * * *

(i) * * *

(12) The following statement signed by the generator of the waste or their authorized representative: * * *

(j) After receiving a petition for an exclusion, the Administrator may request any additional information which the Administrator may reasonably require to evaluate the petition.

* * * * *

(l) The Administrator may exclude only part of the waste for which the demonstration is submitted where the Administrator has reason to believe that variability of the waste justifies a partial exclusion.

■ 16. Amend § 260.33 by revising the third sentence of paragraph (b) to read as follows:

§ 260.33 Procedures for variances from classification as a solid waste, for variances to be classified as a boiler, or for non-waste determinations.

* * * * *

(b) * * * The Administrator will accept comment on the tentative decision for 30 days, and may also hold a public hearing upon request or at the Administrator's discretion. * * *

* * * * *

■ 17. Amend § 260.41 by revising the third sentence of paragraph (b) to read as follows:

§ 260.41 Procedures for case-by-case regulation of hazardous waste recycling activities.

* * * * *

(b) * * * If the owner or operator of the facility wishes to challenge the Regional Administrator's decision, the owner or operator may do so in the permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 18. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

Subpart AA—Air Emission Standards for Process Vents

■ 19. Amend § 261.1034 by revising paragraph (b)(1) to read as follows:

§ 261.1034 Test methods and procedures.

* * * * *

(b) * * *

(1) Monitoring shall comply with Reference Method 21 in 40 CFR part 60, appendix A–7.

* * * * *

■ 20. Amend § 261.1035 by revising paragraph (c)(10)(iv) to read as follows:

§ 261.1035 Recordkeeping requirements.

* * * * *

(c) * * *

(10) * * *

(iv) Maximum instrument reading measured by Method 21 of 40 CFR part 60, appendix A–7 after it is successfully repaired or determined to be nonrepairable.

* * * * *

Subpart BB—Air Emission Standards for Equipment Leaks

■ 21. Amend § 261.1063 by revising paragraph (b)(1) to read as follows:

§ 261.1063 Test methods and procedures.

* * * * *

(b) * * *

(1) Monitoring shall comply with Reference Method 21 in 40 CFR part 60, appendix A–7.

* * * * *

Subpart CC—Air Emission Standards for Tanks and Containers

■ 22. Amend § 261.1083 by:

■ a. Revising the first sentence of paragraph (d)(1);

■ b. Revising paragraph (d)(3);

■ c. Revising paragraph (d)(4);

■ d. Revising paragraph (d)(6); and

■ e. Revising the first sentence of paragraph (d)(7).

The revisions read as follows:

§ 261.1083 Material determination procedures.

* * * * *

(d) * * *

(1) The test shall be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A–7. * * *

* * * * *

(3) The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A–7, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the organic constituents in the hazardous secondary material placed in the hazardous secondary management unit, not for each individual organic constituent.

(4) The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A–7.

* * * * *

(6) The background level shall be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A–7.

(7) Each potential leak interface shall be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21 of 40 CFR part 60, appendix A–7. * * *

* * * * *

■ 23. Amend § 261.1089 by revising paragraph (a) to read as follows:

§ 261.1089 Recordkeeping requirements.

(a) Each remanufacturer or other person that stores or treats the hazardous secondary material subject to requirements of this subpart shall record and maintain the information specified in paragraphs (b) through (h) of this section, as applicable to the facility.

* * * * *

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

■ 24. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, 6938 and 6939g.

Subpart M—Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators

■ 25. Amend § 262.262 by:

■ a. Revising the first sentence of paragraph (a);

■ b. Revising paragraph (c); and

■ c. Adding paragraph (d).

The revisions and addition read as follows:

§ 262.262 Copies of contingency plan.

* * * * *

(a) The large quantity generator must submit a copy (either a paper or electronic copy, per the preference of the parties) of the contingency plan and all revisions to all local emergency responders (*i.e.,* police departments, fire departments, hospitals and State and local emergency response teams that may be called upon to provide emergency services). * * *

* * * * *

(c) Generators must update, if necessary, the generator's quick reference guides, whenever the contingency plan is amended and submit these documents (either a paper or electronic copy, per the preference of the parties) to the local emergency responders identified at paragraph (a) of

this section or, as appropriate, the Local Emergency Planning Committee; and,

(d) Maintained away from fire and explosive hazards.

PART 263—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

■ 26. The authority citation for part 263 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, 6938, and 6939g.

Subpart A—General

■ 27. Amend § 263.12 by revising paragraph (a) to read as follows:

§ 263.12 Transfer facility requirements.

(a) A transporter who stores manifested shipments of hazardous waste in containers meeting the independent requirements of § 262.30 of this chapter at a transfer facility for a period of 14 consecutive calendar days or less is not subject to regulation under parts 264, 265, 267, 268, and 270 of this chapter with respect to the storage of those hazardous wastes.

* * * * *

Subpart B—Compliance With the Manifest System and Recordkeeping

■ 28. Amend § 263.20 by:

■ a. Revising the first sentence of paragraph (a)(6)(i); and

■ b. Revising after the italicized subject heading the first sentence of paragraph (a)(7).

The revisions read as follows:

§ 263.20 The manifest system.

(a) * * *

(6) * * *

(i) The transporter in possession of the hazardous waste when the electronic manifest becomes unavailable shall reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to paragraph (a)(4)(iii) of this section, or obtain and complete another paper manifest for this purpose. * * *

* * * * *

(7) * * * If a transporter using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter shall sign the electronic manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with paragraph (a)(4)(iii) of this section. * * *

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

■ 29. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6939g.

Subpart A—General

■ 30. Amend § 264.1 by:

■ a. Revising the first sentence of paragraph (f)(3);

■ b. Revising paragraphs (g)(4) and (9).

The revisions read as follows:

§ 264.1 Purpose, scope and applicability.

* * * * *

(f) * * *

(3) To a person who treats, stores, or disposes of hazardous waste in a State which is authorized under subpart A or B of part 271 of this chapter if the State has not been authorized to carry out the requirements and prohibitions applicable to the treatment, storage, or disposal of hazardous waste at the person's facility which are imposed pursuant to the Hazardous and Solid Waste Amendments of 1984. * * *

* * * * *

(g) * * *

(4) A farmer disposing of waste pesticides from the farmer's own use in compliance with § 262.70 of this chapter; or

* * * * *

(9) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 40 CFR 262.30 at a transfer facility for a period of 14 consecutive calendar days or less.

* * * * *

■ 31. Amend § 264.3 by revising the introductory text to read as follows:

§ 264.3 Relationship to interim status standards.

A facility owner or operator who has fully complied with the requirements for interim status—as defined in section 3005(e) of RCRA and regulations under § 270.70 of this chapter—must comply with the regulations specified in part 265 of this chapter in lieu of the regulations in this part, until final administrative disposition of the owner's or operator's permit application is made, except as provided under 40 CFR part 264, subpart S.

* * * * *

Subpart B—General Facility Standards

■ 32. Amend § 264.12 by:

■ a. Revising the first sentence of paragraph (b); and

■ b. Revising the paragraph ''Comment:'' following paragraph (c).

The revisions read as follows:

§ 264.12 Required notices.

* * * * *

(b) The owner or operator of a facility that receives hazardous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that the owner or operator of the receiving facility have the appropriate permit(s) for, and will accept, the waste the generator is shipping. * * *

(c) * * *

[*Comment:* An owner's or operator's failure to notify the new owner or operator of the requirements of this part in no way relieves the new owner or operator obligation to comply with all applicable requirements.]

■ 33. Amend § 264.13 by:

■ a. Revising the first sentence of paragraph (a)(1);

■ b. Revising the first and second sentences of paragraph (b) introductory text;

■ c. Revising paragraph (b)(7)(iii)(B) introductory text; and

■ d. Removing paragraphs (b)(7)(iii)(B)(*1*) and (*2*).

The revisions read as follows:

§ 264.13 General waste analysis.

(a) * * *

(1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or nonhazardous wastes if applicable under § 264.113(d), the owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the wastes. * * *

* * * * *

(b) The owner or operator must develop and follow a written waste analysis plan which describes the procedures which the owner or operator will carry out to comply with paragraph (a) of this section. The owner or operator must keep this plan at the facility. * * *

* * * * *

(7) * * *

(iii) * * *

(B) Where no treatment standards have been established, such residues are prohibited from land disposal under § 268.32 or RCRA section 3004(d).

* * * * *

■ 34. Amend § 264.14 by revising paragraph (a) introductory text to read as follows:

§ 264.14 Security.

(a) The owner or operator must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of the facility, *unless* the owner or operator can demonstrate to the Regional Administrator that:

* * * * *

■ 35. Amend § 264.15 by:

■ a. Revising paragraph (a) introductory text;

■ b. Revising paragraph (b)(2); and

■ c. Revising the second sentence of paragraph (d).

The revisions read as follows:

§ 264.15 General inspection requirements.

(a) The owner or operator must inspect the facility for malfunctions and deterioration, operator errors, and discharges which may be causing—or may lead to—

* * * * *

(b) * * *

(2) The owner or operator must keep this schedule at the facility.

* * * * *

(d) * * * The owner or operator must keep these records for at least three years from the date of inspection. * * *

■ 36. Amend § 264.18 by:

■ a. Adding paragraph (a)(3);

■ b. Revising paragraphs (b)(1) introductory text and (b)(1)(i);

■ c. Removing the paragraph ''Comment:'' following paragraph (b)(1)(ii)(D);

■ d. Removing the paragraph ''Comment:'' following paragraph (b)(2)(iii); and

■ e. Adding paragraph (b)(3).

The additions and revisions read as follows:

§ 264.18 Location standards.

(a) * * *

(3) Procedures for demonstrating compliance with this standard in Part B of the permit application are specified in § 270.14(b)(11).

(b) * * *

(1) A facility located in a 100-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a flood, *unless* the owner or operator can demonstrate to the Regional Administrator's satisfaction that:

(i) Procedures are in effect which will cause the waste to be removed safely, before flood waters can reach the facility, to a location where the wastes will not be vulnerable to flood waters. The location where wastes are moved must be a facility which is either permitted by EPA under part 270 of this chapter, authorized to manage hazardous waste by a State with a hazardous waste management program authorized under part 271 of this chapter, or in interim status under parts 270 and 265 of this chapter; or

* * * * *

(3) Requirements pertaining to other Federal laws which affect the location and permitting of facilities are found in § 270.3 of this chapter. For details relative to these laws, see EPA's manual for SEA (special environmental area) requirements for hazardous waste facility permits. Though EPA is responsible for complying with these requirements, applicants should consider them in planning the location of a facility to help prevent subsequent project delays.

* * * * *

Subpart C—Preparedness and Prevention

■ 37. Amend § 264.32 by revising the introductory text to read as follows:

§ 264.32 Required equipment.

All facilities must be equipped with the following, *unless* it can be demonstrated to the Regional Administrator that none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below or the actual hazardous waste treatment, storage or disposal area does not lend itself for safety reasons to have a particular kind of equipment specified in paragraphs (a)–(d) below. The facility owner or operator may determine the most appropriate locations within its facility to locate equipment necessary to prepare for and respond to emergencies.

* * * * *

■ 38. Amend § 264.34 by revising paragraphs (a) and (b) to read as follows:

§ 264.34 Access to communications or alarm system.

(a) Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access (*e.g.,* direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless the Regional Administrator has ruled that such a device is not required under § 264.32.

(b) In the event there is just one employee on the premises while the facility is operating, the employee must have immediate access (*e.g.,* direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless the Regional Administrator has ruled that such a device is not required under § 264.32.

■ 39. Amend § 264.37 by revising paragraphs (a) and (b) to read as follows:

§ 264.37 Arrangements with local authorities.

(a) The owner or operator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if it is determined to be the appropriate organization with which to make arrangements.

(1) The owner or operator attempting to make arrangements with their local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals.

(2) As part of this coordination, the owner or operator shall attempt to make arrangements, as necessary, to familiarize the above organizations with the layout of the facility, the properties of the hazardous waste handled at the facility and associated hazards, places where personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes as well as the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

(3) Where more than one police or fire department might respond to an emergency, the owner or operator shall attempt to make arrangements designating primary emergency authority to a specific fire or police department, and arrangements with any others to provide support to the primary emergency authority.

(b) The owner or operator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

Subpart D—Contingency Plan and Emergency Procedures

■ 40. Amend § 264.51 by:
■ a. Revising paragraph (a); and
■ b. Adding paragraph (c).

The revision and addition read as follows:

§ 264.51 Purpose and implementation of contingency plan.

(a) Each owner or operator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

* * * * *

(c) The contingency plan must be submitted to the Regional Administrator with Part B of the permit application under part 270 of this chapter and, after approval or modification, will become a condition of any permit issued.

■ 41. Amend § 264.52 by:
■ a. Revising the first sentence of paragraph (b); and
■ b. Revising paragraphs (c) and (d).

The revisions read as follows:

§ 264.52 Content of contingency plan.

* * * * *

(b) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with part 112 of this chapter, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this part. * * *

(c) The plan must describe arrangements agreed to with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals or, if applicable, the Local Emergency Planning Committee, pursuant to § 264.37.

(d) The plan must list names, and emergency telephone numbers of all persons qualified to act as emergency coordinator (see § 264.55), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator, and others must be listed in the order in which they will assume responsibility as alternates. In situations where the facility has an emergency coordinator continuously on duty because it operates 24 hours per day, every day of the year, the plan may list the staffed position (*e.g.,* operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times. *For new facilities,* this information must be supplied to the Regional Administrator at the time of certification, rather than at the time of permit application.

* * * * *

■ 42. Amend § 264.53 by:
■ a. Revising the introductory text;
■ b. Revising paragraph (a); and
■ c. Removing the paragraph ''Comment:'' following paragraph (b).

The revisions read as follows:

§ 264.53 Copies of contingency plan.

A paper copy of the contingency plan and all revisions to the plan must be maintained at the facility and away from fire and explosive hazards; and

(a) The owner or operator must submit a copy (either a paper or electronic copy, per the preference of the parties) of the contingency plan and all revisions to all local emergency responders (*i.e.,* police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services). This document may also be submitted to the Local Emergency Planning Committee, as appropriate.

* * * * *

■ 43. Amend § 264.56 by:
■ a. Revising paragraph (a) introductory text;
■ b. Revising the second sentence to paragraph (b);
■ c. Revising paragraph (d) introductory text;
■ d. Revising paragraph (d)(1);
■ e. Revising the first sentence of paragraph (d)(2) introductory text;
■ f. Adding a second sentence to paragraph (g);
■ g. Removing the paragraph ''Comment:'' following paragraph (g); and
■ h. Revising the second sentence of paragraph (i) introductory text.

The revisions and additions read as follows:

§ 264.56 Emergency procedures.

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or a designee when the emergency coordinator is on call) must immediately:

* * * * *

(b) * * * The emergency coordinator may do this by observation or review of facility records or manifests, and, if necessary, by chemical analysis. * * *

* * * * *

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, the emergency coordinator must report the emergency coordinator's findings as follows:

(1) If the assessment indicates that evacuation of local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated; and

(2) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll free number 800–424–8802). * * *

* * * * *

(g) * * * Unless the owner or operator can demonstrate, in accordance with § 261.3(c) or (d) of this chapter, that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of parts 262, 263, and 264 of this chapter.

* * * * *

(i) * * * Within 15 days after the incident, the owner or operator must submit a written report on the incident to the Regional Administrator. * * *

* * * * *

Subpart E—Manifest System, Recordkeeping, and Reporting

■ 44. Amend § 264.71 by:
■ a. Revising paragraph (a)(2) introductory text; and
■ b. Revising paragraph (b) introductory text.

The revisions read as follows:

§ 264.71 Use of manifest system.

(a) * * *

(2) If the facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or the owner's or operator's agent must:

* * * * *

(b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or the owner's or operator's agent, must:

* * * * *

■ 45. Amend § 264.73 by:

■ a. Revising paragraph (a);
■ b. Revising paragraphs (b)(3), (4), (6), and (7);
■ c. Revising the second sentence of paragraph (b)(8);
■ d. Revising paragraph (b)(9);
■ e. Revising the first sentence of paragraph (b)(10); and
■ f. Revising paragraphs (b)(11), (12), (13), (14), (15), (16), (17), and (18).

The revisions read as follows:

§ 264.73 Operating record.

(a) The owner or operator must keep a written operating record at the facility.

(b) * * *

(3) Records and results of waste analyses and waste determinations performed as specified in §§ 264.13, 264.17, 264.314, 264.341, 264.1034, 264.1063, 264.1083, 268.4(a), and 268.7 of this chapter;

(4) Summary reports and details of all incidents that require implementing the contingency plan as specified in § 264.56(i);

* * * * *

(6) Monitoring, testing or analytical data, and corrective action where required by subpart F of this part and §§ 264.19, 264.191, 264.193, 264.195, 264.222, 264.223, 264.226, 264.252–264.254, 264.276, 264.278, 264.280, 264.302–264.304, 264.309, 264.602, 264.1034(c)–264.1034(f), 264.1035, 264.1063(d)–264.1063(i), 264.1064, and 264.1082 through 264.1090 of this part. Maintain in the operating record for three years, except for records and results pertaining to groundwater monitoring and cleanup which must be maintained in the operating record until closure of the facility;

(7) For off-site facilities, notices to generators as specified in § 264.12(b);

(8) * * * This information must be maintained in the operating record until closure of the facility;

(9) A certification by the permittee no less often than annually, that the permittee has a program in place to reduce the volume and toxicity of hazardous waste that the permittee generates to the degree determined by the permittee to be economically practicable; and the proposed method of treatment, storage or disposal is that practicable method currently available to the permittee which minimizes the present and future threat to human health and the environment;

(10) Records of the quantities and date of placement for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to § 268.5 of this chapter, a petition pursuant to § 268.6 of this chapter, and the applicable notice required by a generator under § 268.7(a) of this chapter. * * *

(11) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under § 268.7;

(12) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under § 268.7;

(13) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under § 268.7;

(14) For an on-site land disposal facility, the information contained in the notice required by the generator or owner or operator of a treatment facility under § 268.7, except for the manifest number, and the certification and demonstration if applicable;

(15) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under § 268.7;

(16) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under § 268.7;

(17) Any records required under § 264.1(j)(13);

(18) Monitoring, testing or analytical data where required by § 264.347 must be maintained in the operating record for five years; and

* * * * *

■ 46. Amend § 264.76 by revising paragraph (a)(6) to read as follows:

§ 264.76 Unmanifested waste report.

(a) * * *

(6) The certification signed by the owner or operator of the facility or the owner or operator's authorized representative; and,

* * * * *

■ 47. Amend § 264.77 by revising paragraph (a) to read as follows:

§ 264.77 Additional reports.

* * * * *

(a) Releases, fires, and explosions as specified in § 264.56(i);

* * * * *

Subpart F—Releases From Solid Waste Management Units

■ 48. Amend § 264.90 by revising paragraphs (b)(2) introductory text, (b)(5), and (f)(2) to read as follows:

§ 264.90 Applicability.

* * * * *

(b) * * *

(2) The owner or operator operates a unit which the Regional Administrator finds:

* * * * *

(5) The owner or operator designs and operates a pile in compliance with § 264.250(c).

* * * * *

(f) * * *

(2) It is not necessary to apply the groundwater monitoring and corrective action requirements of §§ 264.91 through 264.100 because the alternative requirements will protect human health and the environment.

■ 49. Amend § 264.93 by revising the first sentence of paragraph (b) introductory text to read as follows:

§ 264.93 Hazardous constituents.

* * * * *

(b) The Regional Administrator will exclude an appendix VIII constituent from the list of hazardous constituents specified in the facility permit if the Regional Administrator finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. * * *

* * * * *

■ 50. Amend § 264.94 by:
■ a. Revising paragraph (a)(2) introductory text;
■ b. Revising table 1 in paragraph (a)(2); and
■ c. Revising the first sentence of paragraph (b) introductory text.

The revisions read as follows:

§ 264.94 Concentration limits.

(a) * * *

(2) For any of the constituents listed in Table 1, must not exceed the respective value set by the National Primary Drinking Water Regulations found at 40 CFR part 141 as referenced in the table if the background level of the constituent is below that value in 40 CFR part 141. In the case that the constituent concentration can no longer be found at the referenced citation in Table 1, refer to the overall National Primary Drinking Water Regulations at 40 CFR part 141; or

TABLE 1—MAXIMUM CONCENTRATION OF CONSTITUENTS FOR GROUND-WATER PROTECTION

Constituent	Concentration found at
Arsenic	§ 141.62(b).
Barium	§ 141.62(b).
Cadmium	§ 141.62(b).
Chromium	§ 141.62(b).
Lead	§ 141.80(c).
Mercury	§ 141.62(b).
Selenium	§ 141.62(b).
Endrin (1,2,3,4,10,10-hexachloro-1,7-epoxy 1,4,4a,5,6,7,8,9a-octahydro-1, 4-endo, endo-5,8-dimethano naphthalene)	§ 141.61(c).
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)	§ 141.61(c).
Methoxychlor (1,1,1-Trichloro-2,2-bis (p-methoxyphenylethane)	§ 141.61(c).
Toxaphene ($C_{10}H_{10}C_{16}$, Technical chlorinated camphene, 67–69 percent chlorine)	§ 141.61(c).
2,4–D (2,4-Dichlorophenoxyacetic acid)	§ 141.61(c).
2,4,5–TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	§ 141.61(c).

* * * * *

(b) The Regional Administrator will establish an alternate concentration limit for a hazardous constituent if the Regional Administrator finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. * * *

* * * * *

■ 51. Amend § 264.98 by revising paragraph (g)(6)(i) to read as follows:

§ 264.98 Detection monitoring program.

* * * * *

(g) * * *

(6) * * *

(i) Notify the Regional Administrator in writing within seven days of determining statistically significant evidence of contamination at the compliance point that the owner or operator intends to make a demonstration under this paragraph;

* * * * *

■ 52. Amend § 264.99 by revising paragraphs (i)(1) and (j) to read as follows:

§ 264.99 Compliance monitoring program.

* * * * *

(i) * * *

(1) Notify the Regional Administrator in writing within seven days that the owner or operator intends to make a demonstration under this paragraph;

* * * * *

(j) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, the owner or operator must, within 90 days, submit an application for a permit modification to make any appropriate changes to the program.

■ 53. Amend § 264.100 by:

■ a. Revising the second and third sentences of paragraph (f); and

■ b. Revising paragraph (h).

The revisions read as follows:

§ 264.100 Corrective action program.

* * * * *

(f) * * * If the owner or operator is conducting corrective action at the end of the compliance period, the owner or operator must continue that corrective action for as long as necessary to achieve compliance with the ground-water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if the owner or operator can demonstrate, based on data from the ground-water monitoring program under paragraph (d) of this section, that the ground-water protection standard of § 264.92 has not been exceeded for a period of three consecutive years.

* * * * *

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, the owner or operator must, within 90 days, submit an application for a permit modification to make any appropriate changes to the program.

Subpart G—Closure and Post-Closure

■ 54. Amend § 264.112 by:

■ a. Revising paragraph (c)(2)(iii);

■ b. Revising paragraph (d)(1);

■ c. Revising paragraph (d)(2) introductory text;

■ d. Revising the second sentence of paragraph (d)(2)(i); and

■ e. Revising the second sentence of paragraph (d)(2)(ii).

The revisions read as follows:

§ 264.112 Closure plan; amendment of plan.

* * * * *

(c) * * *

(2) * * *

(iii) In conducting partial or final closure activities, unexpected events require a modification of the approved closure plan, or

* * * * *

(d) * * *

(1) The owner or operator must notify the Regional Administrator in writing at least 60 days prior to the date on which the owner or operator expects to begin closure of a surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the Regional Administrator in writing at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed. The owner or operator must notify the Regional Administrator in writing at least 45 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace, whichever is earlier.

(2) The date when the owner or operator ''expects to begin closure'' must be either:

(i) * * * If the owner or operator of a hazardous waste management unit can demonstrate to the Regional Administrator that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and the owner or operator has taken all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the Regional Administrator may approve an extension to this one-year limit; or

(ii) * * * If the owner or operator can demonstrate to the Regional Administrator that the hazardous waste management unit has the capacity to receive additional non-hazardous wastes and the owner or operator has taken, and will continue to take, all steps to prevent threats to human health and the environment, including

compliance with all applicable permit requirements, the Regional Administrator may approve an extension to this one-year limit.

* * * * *

■ 55. Amend § 264.113 by:
■ a. Revising paragraph (a)(1)(ii)(B);
■ b. Revising paragraph (a)(2);
■ c. Revising paragraph (b)(1)(ii)(B);
■ d. Revising paragraph (b)(2);
■ e. Revising paragraph (e)(7) introductory text; and
■ f. Revising the first sentence of paragraph (e)(7)(iv).

The revisions read as follows:

§ 264.113 Closure; time allowed for closure.

(a) * * *

(1) * * *

(ii) * * *

(B) There is a reasonable likelihood that the owner or operator or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

* * * * *

(2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements.

(b) * * *

(1) * * *

(ii) * * *

(B) There is reasonable likelihood that the owner or operator or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

* * * * *

(2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable permit requirements.

* * * * *

(e) * * *

(7) If the owner or operator fails to implement corrective measures as required in paragraph (e)(4) of this section, or if the Regional Administrator determines that substantial progress has not been made pursuant to paragraph (e)(6) of this section the Regional Administrator shall:

* * * * *

(iv) If the Regional Administrator receives written comments on the decision, the Regional Administrator shall make a final decision within 30 days after the end of the comment period, and provide the owner or operator in writing and the public through a newspaper notice, a detailed statement of reasons for the final decision. * * *

* * * * *

■ 56. Amend § 264.115 by revising the last sentence to read as follows:

§ 264.115 Certification of closure.

* * * Documentation supporting the Professional Engineer's certification must be furnished to the Regional Administrator upon request until the Regional Administrator releases the owner or operator from the financial assurance requirements for closure under § 264.143(i).

■ 57. Amend § 264.117 by revising paragraph (a)(2) to read as follows:

§ 264.117 Post-closure care and use of property.

(a) * * *

(2) Any time preceding closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular unit, the Regional Administrator may, in accordance with the permit modification procedures in parts 124 and 270:

(i) Shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if the Regional Administrator finds that the reduced period is sufficient to protect human health and the environment (*e.g.,* leachate or ground-water monitoring results, characteristics of the hazardous wastes, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the hazardous waste management unit or facility is secure); or

(ii) Extend the post-closure care period applicable to the hazardous waste management unit or facility if the Regional Administrator finds that the extended period is necessary to protect human health and the environment (*e.g.,* leachate or ground-water monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

* * * * *

■ 58. Amend § 264.119 by:
■ a. Revising paragraph (a);
■ b. Revising paragraph (b)(2); and
■ c. Revising the first and fourth sentences of paragraph (c) introductory text.

The revisions read as follows:

§ 264.119 Post-closure notices.

(a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Regional Administrator, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous wastes to the best of the owner's or operator's knowledge and in accordance with any records the owner or operator has kept.

(b) * * *

(2) Submit a certification signed by the owner or operator that the owner or operator has recorded the notation specified in paragraph (b)(1) of this section, including a copy of the document in which the notation has been placed, to the Regional Administrator.

(c) If the owner or operator or any subsequent owner or operator of the land upon which a hazardous waste disposal unit is located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, or contaminated soils, the owner or operator must request a modification to the post-closure permit in accordance with the applicable requirements in parts 124 and 270. * * * If the owner or operator is granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the Regional Administrator approve either:

* * * * *

■ 59. Amend § 264.120 by revising the last sentence to read as follows:

§ 264.120 Certification of completion of post-closure care.

* * * Documentation supporting the Professional Engineer's certification must be furnished to the Regional Administrator upon request until the Regional Administrator releases the owner or operator from the financial assurance requirements for post-closure care under § 264.145(i).

Subpart H—Financial Requirements

■ 60. Amend § 264.142 by:
■ a. Revising the fourth sentence of paragraph (a)(2); and
■ b. Revising paragraph (b) introductory text.

The revisions read as follows:

§ 264.142 Cost estimate for closure.

(a) * * *

(2) * * * The owner or operator may use costs for on-site disposal if the owner or operator can demonstrate that

on-site disposal capacity will exist at all times over the life of the facility.

* * * * *

(b) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with § 264.143. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Regional Administrator as specified in § 264.143(f)(3). The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product or Gross Domestic Product published by the U.S. Department of Commerce in its *Survey of Current Business,* as specified in paragraphs (b)(1) and (2) of this section. The owner or operator must use the selected Gross National Product or Gross Domestic Product Implicit Price Deflator consistently for each subsequent inflation update. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

* * * * *

■ 61. Amend § 264.143 by:
■ a. Revising the second sentence of the introductory text;
■ b. Revising paragraph (a)(4), (5), and (8);
■ c. Revising the fourth and fifth sentences of paragraph (a)(10);
■ d. Revising paragraph (b)(9);
■ e. Revising the fourth and fifth sentences of paragraph (e)(5);
■ f. Revising paragraph (e)(10) introductory text;
■ g. Revising the first sentence of paragraph (f)(1) introductory text;
■ h. Revising paragraph (f)(1)(ii)(A);
■ i. Revising paragraphs (f)(3) introductory text, (f)(3)(iii) introductory text, (f)(3)(iii)(A), and (f)(3)(iii)(B);
■ j. Revising the first sentence of paragraph (f)(6);
■ k. Revising the first sentence of paragraph (f)(8);
■ l. Revising the fifth sentence of paragraph (g); and
■ m. Revising paragraph (i).

The revisions read as follows:

§ 264.143 Financial assurance for closure.

* * * The owner or operator must choose from the options as specified in paragraphs (a) through (f) of this section.

(a) * * *

(4) The owner or operator may accelerate payments into the trust fund or the owner or operator may deposit the full amount of the current closure cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in paragraph (a)(3) of this section.

(5) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in this section or in § 265.143 of this chapter, the owner's or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this paragraph and § 265.143(a) of this chapter, as applicable.

* * * * *

(8) If an owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, the owner or operator may submit a written request to the Regional Administrator for release of the amount in excess of the current closure cost estimate covered by the trust fund.

* * * * *

(10) * * * If the Regional Administrator has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, the Regional Administrator may withhold reimbursements of such amounts as the Regional Administrator deems prudent until the Regional Administrator determines, in accordance with § 264.143(i) that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Regional Administrator does not instruct the trustee to make such reimbursements, the Regional Administrator will provide the owner or operator with a detailed written statement of reasons.

* * * * *

(b) * * *

(9) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on the receipt of evidence of alternate financial assurance as specified in this section.

* * * * *

(e) * * *

(5) * * * If the Regional Administrator has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the face amount of the policy, the Regional Administrator may withhold reimbursements of such amounts as the Regional Administrator deem prudent until the Regional Administrator determine, in accordance with § 264.143(i), that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Regional Administrator does not instruct the insurer to make such reimbursements, the Regional Administrator will provide the owner or operator with a detailed written statement of reasons.

* * * * *

(10) The Regional Administrator will give written consent to the owner or operator that the owner or operator may terminate the insurance policy when:

* * * * *

(f) * * *

(1) An owner or operator may satisfy the requirements of this section by demonstrating that the owner or operator passes a financial test as specified in this paragraph. * * *

* * * * *

(ii) * * *

(A) A current rating for the owner's or operator's most recent bond issuance of BBB- or better as issued by Standard and Poor's or Baa3 or better as issued by Moody's; and

* * * * *

(3) To demonstrate that the owner or operator meets this test, the owner or operator must submit the following items to the Regional Administrator:

* * * * *

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator including:

(A) A statement that the independent certified public accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, a description of the procedures performed and related findings, including whether or not there were discrepancies found in the comparison.

* * * * *

(6) If the owner or operator no longer meets the requirements of paragraph (f)(1) of this section, the owner or operator must send notice to the Regional Administrator of intent to establish alternate financial assurance as specified in this section. * * *

* * * * *

(8) The Regional Administrator may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see paragraph (f)(3)(ii) of this section). * * *

* * * * *

(g) * * * If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, the owner or operator may use the trust fund as the standby trust fund for the other mechanisms. * * *

* * * * *

(i) *Release of the owner or operator from the requirements of this section.* Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator will notify the owner or operator in writing that the owner or operator is no longer required by this section to maintain financial assurance for final closure of the facility, unless the Regional Administrator has reason to believe that final closure has not been in accordance with the approved closure plan. The Regional Administrator shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.

■ 62. Amend § 264.144 by revising paragraph (b) introductory text to read as follows:

§ 264.144 Cost estimate for post-closure care.

* * * * *

(b) During the active life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with § 264.145. For owners and operators using the financial test or corporate guarantee, the post-closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Regional Administrator as specified in § 264.143(f)(5). The adjustment may be made by recalculating the post-closure costs estimate in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product or Gross Domestic Product published by the U.S. Department of Commerce in its *Survey of Current Business,* as specified in paragraphs (b)(1) and (2) of this section. The owner or operator must use the selected Gross National Product or Gross Domestic Product Implicit Price Deflator consistently for each subsequent inflation update. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

* * * * *

■ 63. Amend § 264.145 by:

■ a. Revising the second sentence of the introductory text;

■ b. Revising paragraphs (a)(4) and (5);

■ c. Revising paragraph (a)(8);

■ d. Revising the third sentence of paragraph (a)(11);

■ e. Revising paragraph (b)(9);

■ f. Revising the third sentence of paragraph (e)(5);

■ g. Revising paragraph (e)(11) introductory text;

■ h. Revising the first sentence of paragraph (f)(1) introductory text;

■ i. Revising paragraph (f)(1)(i)(D);

■ j. Revising paragraphs (f)(1)(ii)(A), and (f)(1)(ii)(D);

■ k. Revising paragraph (f)(3) introductory text;

■ l. Revising paragraphs (f)(3)(iii) introductory text, (f)(3)(iii)(A), and (f)(3)(iii)(B);

■ m. Revising the first sentence of paragraph (f)(6);

■ n. Revising the first sentence of paragraph (f)(8);

■ o. Revising after the italicized subject heading the fourth sentence of paragraph (g); and

■ p. Revising paragraph (i).

The revisions read as follows:

§ 264.145 Financial Assurance for post-closure care.

* * * The owner or operator must choose from the following options:

(a) * * *

(4) The owner or operator may accelerate payments into the trust fund or the owner or operator may deposit the full amount of the current post-closure cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in paragraph (a)(3) of this section.

(5) If the owner or operator establishes a post-closure trust fund after having used one or more alternate mechanisms specified in this section or in § 265.145 of this chapter, the owner's or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this paragraph and § 265.145(a) of this chapter, as applicable.

* * * * *

(8) If an owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, the owner or operator may submit a written request to the Regional Administrator for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.

* * * * *

(11) * * * If the Regional Administrator does not instruct the trustee to make such reimbursements, the Regional Administrator will provide the owner or operator with a detailed written statement of reasons.

* * * * *

(b) * * *

(9) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on the Regional Administrator's receipt of evidence of alternate financial assurance as specified in this section.

* * * * *

(e) * * *

(5) * * * If the Regional Administrator does not instruct the insurer to make such reimbursements, the Regional Administrator will provide the owner or operator with a detailed written statement of reasons.

* * * * *

(11) The Regional Administrator will give written consent to the owner or operator that the owner or operator may terminate the insurance policy when:

* * * * *

(f) * * *

(1) An owner or operator may satisfy the requirements of this section by demonstrating that the owner or operator passes a financial test as specified in this paragraph. * * *

(i) * * *

(D) Assets in the United States amounting to at least 90 percent of the owner's or operator's total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(ii) * * *

(A) A current rating for the owner's or operator's most recent bond issuance of BBB- or better as issued by Standard and Poor's or Baa3 or better as issued by Moody's; and

* * * * *

(D) Assets located in the United States amounting to at least 90 percent of the owner's or operator's total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

* * * * *

(3) To demonstrate that the owner or operator meets this test, the owner or

operator must submit the following items to the Regional Administrator:

* * * * *

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator including:

(A) A statement that the independent certified public accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, a description of the procedures performed and related findings, including whether or not there were discrepancies found in the comparison.

* * * * *

(6) If the owner or operator no longer meets the requirements of paragraph (f)(1) of this section, the owner or operator must send notice to the Regional Administrator of intent to establish alternate financial assurance as specified in this section. * * *

* * * * *

(8) The Regional Administrator may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see paragraph (f)(3)(ii) of this section). * * *

* * * * *

(g) * * * If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, the owner or operator may use the trust fund as the standby trust fund for the other mechanisms. * * *

* * * * *

(i) *Release of the owner or operator from the requirements of this section.* Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer that the post-closure care period has been completed for a hazardous waste disposal unit in accordance with the approved plan, the Regional Administrator will notify the owner or operator that the owner or operator is no longer required to maintain financial assurance for post-closure of that unit, unless the Regional Administrator has reason to believe that post-closure care has not been in accordance with the approved post-closure plan. The Regional Administrator shall provide the owner or operator a detailed written statement of any such reason to believe that post-closure care has not been in accordance with the approved post-closure plan.

■ 64. Amend § 264.147 by:

■ a. Revising after the italicized subject heading the third sentence of paragraph (d);

■ b. Revising after the italicized subject heading the first sentence of paragraph (e);

■ c. Revising the first sentence of paragraph (f)(1) introductory text;

■ d. Revising paragraph (f)(1)(i)(C)(*1*);

■ e. Revising paragraphs (f)(1)(ii)(A) and (f)(1)(ii)(D)(*1*);

■ f. Revising paragraph (f)(3) introductory text;

■ g. Revising the second sentence of paragraph (f)(3)(i);

■ h. Revising paragraphs (f)(3)(iii) introductory text, (f)(3)(iii)(A), and (f)(3)(iii)(B);

■ i. Revising the first sentence of paragraph (f)(6); and

■ j. Revising the first sentence of paragraph (f)(7).

The revisions read as follows:

§ 264.147 Liability requirements.

* * * * *

(d) * * * In addition, if the Regional Administrator determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, the Regional Administrator may require that an owner or operator of the facility comply with paragraph (b) of this section. * * *

(e) * * * Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator will notify the owner or operator in writing that the owner and operator are no longer required by this section to maintain liability coverage for that facility, unless the Regional Administrator has reason to believe that closure has not been in accordance with the approved closure plan.

(f) * * *

(1) An owner or operator may satisfy the requirements of this section by demonstrating that the owner or operator passes a financial test as specified in this paragraph. * * *

(i) * * *

(C) * * *

(*1*) At least 90 percent of the owner or operator seeking to pass the financial test's total assets; or

* * * * *

(ii) * * *

(A) A current rating for the owner's or operator's most recent bond issuance of BBB- or better as issued by Standard and Poor's, or Baa3 or better as issued by Moody's; and

* * * * *

(D) * * *

(*1*) At least 90 percent of the owner or operator seeking to pass the financial test's total assets; or

* * * * *

(3) To demonstrate that the owner or operator meets this test, the owner or operator must submit the following three items to the Regional Administrator:

(i) * * * If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by §§ 264.143(f), 264.145(f), 265.143(e), and 265.145(e), and liability coverage, the owner or operator must submit the letter specified in § 264.151(g) to cover both forms of financial responsibility; a separate letter as specified in § 264.151(f) is not required.

* * * * *

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator including:

(A) A statement that the independent certified public accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, a description of the procedures performed and related findings, including whether or not there were discrepancies found in the comparison.

* * * * *

(6) If the owner or operator no longer meets the requirements of paragraph (f)(1) of this section, the owner or operator must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in this section. * * *

(7) The Regional Administrator may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see paragraph (f)(3)(ii) of this section). * * *

* * * * *

■ 65. Amend § 264.148 by revising the second sentence of paragraph (a) to read as follows:

§ 264.148 Incapacity of owners or operators, guarantors, or financial institutions.

(a) * * * A guarantor of a corporate guarantee as specified in §§ 264.143(f) and 264.145(f) must make such a notification if the guarantor is named as debtor, as required under the terms of the corporate guarantee (§ 264.151(h)).

* * * * *

■ 66. Amend § 264.149 by revising the second and fifth sentences of paragraph (a)(2) to read as follows:

§ 264.149 Use of State-required mechanisms.

(a) * * *

(2) * * * The Regional Administrator may also consider other factors as the Regional Administrator deems appropriate. * * * The Regional Administrator will notify the owner or operator of the determination regarding the mechanism's acceptability in lieu of financial mechanisms specified in this subpart. * * *

* * * * *

■ 67. Amend § 264.150 by revising the second and fifth sentences of paragraph (a)(2) to read as follows:

§ 264.150 State assumption of responsibility.

(a) * * *

(2) * * * The Regional Administrator may also consider other factors as the Regional Administrator deems appropriate. * * * The Regional Administrator will notify the owner or operator of the determination regarding the acceptability of the State's guarantee in lieu of financial mechanisms specified in this subpart. * * *

* * * * *

■ 68. Amend § 264.151 by:

■ a. In paragraph (a)(1), revising the first sentence in the section ''Trust Agreement'';

■ b. In paragraph (b), revising the fourth entry in the section ''Financial Guarantee Bond'';

■ c. In paragraph (c), revising the fourth entry in the section ''Performance Bond'';

■ d. In paragraph (d), revising the last sentence in the section ''Irrevocable Standby Letter of Credit'';

■ e. In paragraph (k), revising the last sentence in the section ''Certificate of Valid Claim''; and

■ f. In paragraph (m)(1), revising the first sentence in the section ''Trust Agreement''.

The revisions read as follows:

§ 264.151 Wording of the instruments.

(a) * * *

(1) * * *

Trust Agreement

Trust Agreement, the ''Agreement,'' entered into as of [date] by and between [name of the owner or operator], a [name of State] [insert ''corporation,'' ''partnership,'' ''association,'' ''limited liability company,'' or ''proprietorship''], the ''Grantor,'' and [name of corporate trustee], [insert ''incorporated in the State of____'' or ''a national bank''], the ''Trustee.''

* * * * *

(b) * * *

Financial Guarantee Bond

* * * * *

Type of organization: [insert ''individual,'' ''joint venture,'' ''partnership,'' ''limited liability company,'' or ''corporation'']

* * * * *

(c) * * *

Performance Bond

* * * * *

Type of organization: [insert ''individual,'' ''joint venture,'' ''partnership,'' ''limited liability company,'' or ''corporation'']

* * * * *

(d) * * *

Irrevocable Standby Letter of Credit

* * * * *

This credit is subject to [insert ''the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce,'' ''the most recent edition of the International Standby Practices as published and copyrighted by the International Chamber of Commerce,'' or ''the Uniform Commercial Code'']. * * * * *

(k) * * *

Certificate of Valid Claim

* * * * *

This credit is subject to [insert ''the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce,'' ''the most recent edition of the International Standby Practices, published and copyrighted by the International Chamber of Commerce,'' or ''the Uniform Commercial Code'']. * * * * *

(m) * * *

(1) * * *

Trust Agreement

Trust Agreement, the ''Agreement,'' entered into as of [date] by and between [name of the owner or operator] a [name of State] [insert ''corporation,'' ''partnership,'' ''association,'' ''limited liability company,'' or ''proprietorship''], the ''Grantor,'' and [name of corporate trustee], [insert, ''incorporated in the State of____'' or ''a national bank''], the ''trustee.''

* * * * *

Subpart J—Tank Systems

■ 69. Amend § 264.193 by revising paragraph (h)(1) introductory text to read as follows:

§ 264.193 Containment and detection of releases.

* * * * *

(h) * * *

(1) The Regional Administrator must be notified in writing by the owner or operator that the owner or operator intends to conduct and submit a demonstration for a variance from secondary containment as allowed in paragraph (g) of this section according to the following schedule:

* * * * *

■ 70. Amend § 264.195 by revising the first sentence of the note to paragraph (b) to read as follows:

§ 264.195 Inspections.

* * * * *

(b) * * *

Note: Section 264.15(c) requires the owner or operator to remedy any deterioration or malfunction the owner or operator finds. * * *

* * * * *

Subpart L—Waste Piles

■ 71. Amend § 264.258 by revising paragraph (b) to read as follows:

§ 264.258 Closure and post-closure care.

* * * * *

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in paragraph (a) of this section, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, the owner or operator must close the facility and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (§ 264.310).

* * * * *

Subpart M—Land Treatment

■ 72. Amend § 264.272 by revising the second sentence of paragraph (b) to read as follows:

§ 264.272 Treatment demonstration.

* * * * *

(b) * * * If the owner or operator intends to conduct field tests or laboratory analyses in order to make the demonstration required under paragraph (a) of this section, the owner or operator must obtain a treatment or disposal permit under § 270.63. * * *

* * * * *

■ 73. Amend § 264.276 by revising paragraph (a)(4) to read as follows:

§ 264.276 Food-chain crops.

* * * * *

(a) * * *

(4) If the owner or operator intends to conduct field tests or greenhouse studies in order to make the demonstration required under this paragraph, the owner or operator must obtain a permit for conducting such activities.

* * * * *

■ 74. Amend § 264.278 by:

■ a. Revising the third sentence of paragraph (a)(2);

■ b. Revising paragraph (f) introductory text;

■ c. Revising the second sentence of paragraph (f)(3) introductory text;

■ d. Revising paragraph (g) introductory text;

■ e. Revising the first and second sentences of paragraph (h) introductory text; and

■ f. Revising paragraph (h)(1).

The revisions read as follows:

§ 264.278 Unsaturated zone monitoring.

* * * * *

(a) * * *

(2) * * * The Regional Administrator will establish PHCs if the Regional Administration finds, based on waste analyses, treatment demonstrations, or other data, that effective degradation, transformation, or immobilization of the PHCs will assure treatment at at least equivalent levels for the other hazardous constituents in the wastes.

* * * * *

(f) The owner or operator must determine whether there is a statistically significant change over background values for any hazardous constituent to be monitored under paragraph (a) of this section below the treatment zone each time the owner or operator conducts soil monitoring and soil-pore liquid monitoring under paragraph (d) of this section.

* * * * *

(3) * * * The Regional Administrator will specify a statistical procedure in the facility permit that the Regional Administrator finds:

* * * * *

(g) If the owner or operator determines, pursuant to paragraph (f) of this section, that there is a statistically significant increase of hazardous constituents below the treatment zone, the owner or operator must:

* * * * *

(h) If the owner or operator determines, pursuant to paragraph (f) of this section, that there is a statistically significant increase of hazardous constituents below the treatment zone, the owner or operator may demonstrate that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this paragraph in addition to, or in lieu of, submitting a permit modification application under paragraph (g)(2) of this section, the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in paragraph (g)(2) of this section unless the demonstration made under this paragraph successfully shows that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. * * *

(1) Notify the Regional Administrator in writing within seven days of determining a statistically significant increase below the treatment zone that the owner or operator intends to make a determination under this paragraph;

* * * * *

■ 75. Amend § 264.280 by revising paragraph (c)(7) to read as follows:

§ 264.280 Closure and post-closure care.

* * * * *

(c) * * *

(7) Continue unsaturated zone monitoring in compliance with § 264.278, except that soil-pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone.

* * * * *

Subpart O—Incinerators

■ 76. Amend § 264.341 by revising paragraph (b) to read as follows:

§ 264.341 Waste analysis.

* * * * *

(b) Throughout normal operation the owner or operator must conduct sufficient waste analysis to verify that waste feed to the incinerator is within the physical and chemical composition limits specified in the permit (under § 264.345(b)).

■ 77. Amend § 264.344 by revising paragraph (a) introductory text to read as follows:

§ 264.344 Hazardous waste incinerator permits.

(a) The owner or operator of a hazardous waste incinerator may burn only wastes specified in the permit and only under operating conditions specified for those wastes under § 264.345, except:

* * * * *

Subpart W—Drip Pads

■ 78. Amend § 264.570 by revising paragraph (a) to read as follows:

§ 264.570 Applicability.

(a) The requirements of this subpart apply to owners and operators of facilities that use drip pads to convey treated wood drippage, precipitation, and/or surface water run-off to an associated collection system. The requirement at § 264.573(b)(3) to install a leak collection system applies only to those drip pads that are constructed after December 24, 1992, except for those constructed after December 24, 1992, for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 24, 1992.

* * * * *

§ 264.571 [Removed and Reserved]

■ 79. Remove and reserve § 264.571.

■ 80. Amend § 264.572 by revising the section heading and the introductory text to read as follows:

§ 264.572 Design and installation of drip pads.

Owners or operators of drip pads constructed prior to December 6, 1990, and those for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 6, 1990, that need to upgrade, repair, or modify their drip pad to comply with 264.573(b) must develop and submit a written plan to the Regional Administrator 2 years prior to completion of the upgrade. The plan must document compliance with 264.573. Upon completion of upgrades, repairs, and modifications, owners and operators must submit to the Regional Administrator or state Director, as-built drawings and a certification by a Qualified Professional Engineer attesting that the drip pad conforms to the drawings. Owners and operators of any drip pads (regardless of construction date) must ensure that the pads are designed, installed, and

operated in accordance with one of the following:

* * * * *

■ 81. Amend § 264.573 by revising paragraph (a)(4)(i) to read as follows:

§ 264.573 Design and operating requirements.

(a) * * *

(4) * * *

(i) Have a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second, *e.g.,* concrete drip pads must be sealed, coated, or covered with a surface material with a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system. This surface material must be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity, and the material must be chemically compatible with the preservatives that contact the drip pad. The requirements of this provision apply only to those drip pads for which the owner or operator elects to comply with § 264.572(b) instead of § 264.572(a).

* * * * *

■ 82. Amend § 264.575 by:

■ a. Revising the first sentence of paragraph (b); and

■ b. Revising paragraph (c)(1) introductory text.

The revisions read as follows:

§ 264.575 Closure.

* * * * *

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in paragraph (a) of this section, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, the owner or operator must close the facility and perform post-closure care in accordance with closure and post-closure care requirements that apply to landfills (§ 264.310). * * *

(c) * * *

(1) The owner or operator of a drip pad that was built before December 6, 1990, and those for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 6, 1990, that does not comply with the liner requirements of § 264.573(b)(1) must:

* * * * *

Subpart X—Miscellaneous Units

■ 83. Amend subpart X by revising the source citation to read as follows:

Source: 52 FR 46946, Dec. 10, 1987, unless otherwise noted.

■ 84. Amend § 264.600 by:

■ a. Revising the introductory text; and

■ b. Revising the FR citation.

The revisions read as follows:

§ 264.600 Applicability.

The requirements in this subpart apply to owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units, except as § 264.1 provides otherwise.

[52 FR 46946, Dec. 10, 1987, as amended at 71 FR 40274, July 14, 2006]

Subpart AA—Air Emission Standards for Process Vents

■ 85. Amend § 264.1034 by revising paragraph (b)(1) to read as follows:

§ 264.1034 Test methods and procedures.

* * * * *

(b) * * *

(1) Monitoring shall comply with Reference Method 21 in 40 CFR part 60, appendix A–7.

* * * * *

■ 86. Amend § 264.1035 by revising paragraph (c)(10)(iv) to read as follows:

§ 264.1035 Recordkeeping requirements.

* * * * *

(c) * * *

(10) * * *

(iv) Maximum instrument reading measured by Method 21 of 40 CFR part 60, appendix A–7 after it is successfully repaired or determined to be nonrepairable.

* * * * *

Subpart BB—Air Emission Standards for Equipment Leaks

■ 87. Amend § 264.1063 by:

■ a. Revising paragraph (b)(1); and

■ b. Revising paragraph (d) introductory text.

The revisions read as follows:

§ 264.1063 Test methods and procedures.

* * * * *

(b) * * *

(1) Monitoring shall comply with Reference Method 21 in 40 CFR part 60, appendix A–7.

* * * * *

(d) An owner or operator of a facility must determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight using the methods described in (1), (2), and (3) below. This determination shall also be made in accordance with the waste analysis plan required by § 264.13(b) or § 268.7(a)(5), if applicable.

* * * * *

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

§ 264.1080 [Amended]

■ 88. Amend § 264.1080 by removing and reserving paragraphs (f) and (g).

Subpart DD—Containment Buildings

■ 89. Amend § 264.1102 by revising the first sentence of paragraph (b) to read as follows:

§ 264.1102 Closure and post-closure care.

* * * * *

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in paragraph (a) of this section, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, the owner or operator must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (§ 264.310). * * *

■ 90. Amend Appendix I to Part 264 by revising the first sentence of the introductory text to read as follows:

Appendix I to Part 264—Recordkeeping Instructions

The recordkeeping provisions of § 264.73 specify that an owner or operator must keep a written operating record at the facility.

* * *

* * * * *

■ 91. Amend appendix V to part 264 by revising the second sentence of the third paragraph in the introductory text to read as follows:

Appendix V to Part 264—Examples of Potentially Incompatible Waste

* * * * *

* * * An owner or operator must, as the regulations require, adequately analyze the owner's or operator's wastes so that the owner or operator can avoid creating uncontrolled substances or reactions of the type listed below, whether the wastes are listed below or not.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES.

■ 92. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, 6937, and 6939g.

Subpart A—General

■ 93. Amend § 265.1 by:
■ a. Revising the first sentence of paragraph (c)(4)(ii); and
■ b. Revising paragraphs (c)(8) and (12).
The revisions read as follows:

§ 265.1 Purpose, scope, and applicability.

* * * * *

(c) * * *

(4) * * *

(ii) To a person who treats, stores, or disposes of hazardous waste in a State authorized under subpart A or B of part 271 of this chapter if the State has not been authorized to carry out the requirements and prohibitions applicable to the treatment, storage, or disposal of hazardous waste at the person's facility which are imposed pursuant to the Hazardous and Solid Waste Act Amendments of 1984. * * *

* * * * *

(8) A farmer disposing of waste pesticides from the farmer's own use in compliance with § 262.70 of this chapter; or

* * * * *

(12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 40 CFR 262.30 at a transfer facility for a period of 14 consecutive calendar days or less.

* * * * *

Subpart B—General Facility Standards

■ 94. Amend § 265.12 by revising the paragraph ''Comment:'' following paragraph (b) to read as follows:

§ 265.12 Required notices.

* * * * *

(b) * * *

[*Comment:* An owner's or operator's failure to notify the new owner or operator of the requirements of this part in no way relieves the new owner or operator obligation to comply with all applicable requirements.]

■ 95. Amend § 265.13 by:
■ a. Revising the first sentence of paragraph (a)(1);
■ b. Revising the first and second sentences of paragraph (b) introductory text;
■ c. Revising paragraph (b)(7)(iii)(B) introductory text; and
■ d. Removing and reserving paragraphs (b)(7)(iii)(B)(*1*) and (*2*).
The revisions read as follows:

§ 265.13 General waste analysis

(a) * * *

(1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or nonhazardous wastes if applicable under § 265.113(d), the owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the wastes. * * *

* * * * *

(b) The owner or operator must develop and follow a written waste analysis plan which describes the procedures which the owner or operator will carry out to comply with paragraph (a) of this section. The owner or operator must keep this plan at the facility. * * *

* * * * *

(7) * * *

(iii) * * *

(B) Where no treatment standards have been established such residues are prohibited from land disposal under § 268.32 or RCRA section 3004(d).

* * * * *

■ 96. Amend § 265.14 by revising paragraph (a) introductory text to read as follows:

§ 265.14 Security.

(a) The owner or operator must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of the owner or operator's facility, *unless:*

* * * * *

■ 97. Amend § 265.15 by:
■ a. Revising paragraph (a) introductory text;
■ b. Revising paragraph (b)(2); and
■ c. Revising the second sentence of paragraph (d).
The revisions read as follows:

§ 265.15 General inspection requirements.

(a) The owner or operator must inspect the facility for malfunctions and deterioration, operator errors, and discharges which may be causing—or may lead to:

* * * * *

(b) * * *

(2) The owner or operator must keep this schedule at the facility.

* * * * *

(d) * * * The owner or operator must keep these records for at least three years from the date of inspection. * * *

■ 98. Amend § 265.32 by revising the introductory text to read as follows:

§ 265.32 Required equipment.

All facilities must be equipped with the following, *unless* it can be demonstrated to the Regional Administrator that none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below or the actual hazardous waste treatment, storage or disposal area does not lend itself for safety reasons to have a particular kind of equipment specified in paragraphs (a)–(d) below. The facility owner or operator may determine the most appropriate locations within its facility to locate equipment necessary to prepare for and respond to emergencies.

* * * * *

■ 99. Amend § 265.34 by revising paragraphs (a) and (b) to read as follows:

§ 265.34 Access to communications or alarm system.

(a) Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access (*e.g.,* direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under § 265.32.

(b) In the event there is just one employee on the premises while the facility is operating, the employee must have immediate access (*e.g.,* direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under § 265.32.

■ 100. Amend § 265.37 by:
■ a. Revising paragraphs (a) introductory text, (a)(1), (2), and (3);
■ b. Removing paragraph (a)(4); and
■ c. Revising paragraph (b).
The revisions read as follows:

§ 265.37 Arrangements with local authorities.

(a) The owner or operator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if it is determined to be the appropriate organization with which to make arrangements.

(1) The owner or operator attempting to make arrangements with the local fire

department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals.

(2) As part of this coordination, the owner or operator shall attempt to make arrangements, as necessary, to familiarize the above organizations with the layout of the facility, the properties of the hazardous waste handled at the facility and associated hazards, places where personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes as well as the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

(3) Where more than one police or fire department might respond to an emergency, the owner or operator shall attempt to make arrangements designating primary emergency authority to a specific fire or police department, and arrangements with any others to provide support to the primary emergency authority.

(b) The owner or operator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

Subpart D—Contingency Plan and Emergency Procedures

■ 101. Amend § 265.51 by revising paragraph (a) to read as follows:

§ 265.51 Purpose and implementation of contingency plan.

(a) Each owner or operator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

* * * * *

■ 102. Amend § 265.52 by:
■ a. Revising the first sentence of paragraph (b); and
■ b. Revising paragraphs (c) and (d).

The revisions read as follows:

§ 265.52 Content of contingency plan.

* * * * *

(b) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with Part 112 of this chapter, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this Part. * * *

(c) The plan must describe arrangements agreed to with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals or, if applicable, the Local Emergency Planning Committee, pursuant to § 265.37.

(d) The plan must list names, and emergency telephone numbers of all persons qualified to act as emergency coordinator (see § 265.55), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator, and others must be listed in the order in which they will assume responsibility as alternates. In situations where the facility has an emergency coordinator continuously on duty because it operates 24 hours per day, every day of the year, the plan may list the staffed position (*e.g.,* operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times.

* * * * *

■ 103. Revise § 265.53 to read as follows:

§ 265.53 Copies of contingency plan.

A paper copy of the contingency plan and all revisions to the plan must be maintained at the facility and away from fire and explosive hazards; and

(a) The owner or operator must submit a copy (either a paper or electronic copy, per the preference of the parties) of the contingency plan and all revisions to all local emergency responders (*i.e.,* police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services). This document may also be submitted to the Local Emergency Planning Committee, as appropriate.

* * * * *

■ 104. Amend § 265.56 by:
■ a. Revising paragraph (a) introductory text;
■ b. Revising the second sentence to paragraph (b);
■ c. Revising paragraphs (d) introductory text and (d)(1);
■ d. Revising the first sentence of paragraph (d)(2) introductory text;
■ e. Adding a second sentence of paragraph (g) and removing the paragraph ''Comment:'' following paragraph (g); and
■ f. Revising the second sentence of paragraph (i) introductory text;

The revisions and addition read as follows:

§ 265.56 Emergency procedures.

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or a designee when the emergency coordinator is on call) must immediately:

* * * * *

(b) * * * The emergency coordinator may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.

* * * * *

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, the emergency coordinator must report the findings as follows:

(1) If the assessment indicates that evacuation of local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated; and

(2) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using the 24-hour toll free number 800–424–8802). * * *

* * * * *

(g) * * * Unless the owner or operator can demonstrate, in accordance with § 261.3(c) or (d) of this chapter, that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of parts 262, 263, and 265 of this chapter.

* * * * *

(i) * * * Within 15 days after the incident, the owner or operator must submit a written report on the incident to the Regional Administrator. * * *

* * * * *

Subpart E—Manifest System, Recordkeeping, and Reporting

■ 105. Amend § 265.71 by revising paragraphs (a)(2) introductory text and (b) introductory text to read as follows:

§ 265.71 Use of manifest system.

(a) * * *

(2) If the facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or the owner's or operator's agent must:

* * * * *

(b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or the owner's or operator's agent, must:

* * * * *

■ 106. Amend § 265.73 by:

■ a. Revising paragraph (a); and

■ b. Revising paragraphs (b)(3), (4), (6) introductory text, (8), (9), (10), (11), (12), (13), and (14).

The revisions read as follows:

§ 265.73 Operating record.

(a) The owner or operator must keep a written operating record at the facility.

(b) * * *

(3) Records and results of waste analysis, waste determinations, and trial tests performed as specified in §§ 265.13, 265.200, 265.225, 265.252, 265.273, 265.314, 265.341, 265.375, 265.402, 265.1034, 265.1063, 265.1084, 268.4(a), and 268.7 of this chapter;

(4) Summary reports and details of all incidents that require implementing the contingency plan as specified in § 265.56(i);

* * * * *

(6) Monitoring, testing or analytical, and corrective action data where required by subpart F of this part and by §§ 265.19, 265.94, 265.191, 265.193, 265.195, 265.224, 265.226, 265.255, 265.260, 265.276, 265.278, 265.280(d)(1), 265.302, 265.304, 265.347, 265.377, 265.1034(c) through 265.1034(f), 265.1035, 265.1063(d) through 265.1063(i), 265.1064, and 265.1083 through 265.1090 of this part. Maintain in the operating record for three years, except for records and results pertaining to groundwater monitoring and cleanup, and response action plans for surface impoundments, waste piles, and landfills, which must be maintained in the operating record until closure of the facility.

* * * * *

(8) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to § 268.5 of this chapter, monitoring data required pursuant to a petition under § 268.6 of this chapter, and the applicable notice required by a generator under § 268.7(a) of this chapter. All of this information must be maintained in the operating record until closure of the facility.

(9) For an off-site treatment facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under § 268.7;

(10) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under § 268.7;

(11) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under § 268.7;

(12) For an on-site land disposal facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under § 268.7.

(13) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under § 268.7; and

(14) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under § 268.7.

* * * * *

■ 107. Amend § 265.76 by revising paragraph (a)(6) to read as follows:

§ 265.76 Unmanifested waste report.

(a) * * *

(6) The certification signed by the owner or operator of the facility or the owner or operator's authorized representative; and

* * * * *

■ 108. Amend § 265.77 by revising paragraph (a) to read as follows:

§ 265.77 Additional reports.

* * * * *

(a) Releases, fires, and explosions as specified in § 265.56(i);

* * * * *

Subpart F—Ground—Water Monitoring

■ 109. Amend § 265.90 by revising paragraph (d) introductory text to read as follows:

§ 265.90 Applicability.

* * * * *

(d) If an owner or operator assumes (or knows) that ground-water monitoring of indicator parameters in accordance with §§ 265.91 and 265.92 would show statistically significant increases (or decreases in the case of pH) when evaluated under § 265.93(b), the owner or operator may install, operate, and maintain an alternate ground-water monitoring system (other than the one described in §§ 265.91 and 265.92). If the owner or operator decides to use an alternate ground-water monitoring system the owner or operator must:

* * * * *

■ 110. Amend § 265.92 by:

■ a. Revising the third sentence of paragraph (a) introductory text;

■ b. Revising the paragraph ''Comment:'' following paragraph (a)(4); and

■ c. Revising the second sentence of paragraph (c)(1).

The revisions read as follows:

§ 265.92 Sampling and analysis.

(a) * * * The owner or operator must keep this plan at the facility. * * *

* * * * *

(4) * * *

[*Comment:* Refer to ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW–846)'' for discussions of recommended sampling and analysis procedures.]

* * * * *

(c) * * *

(1) * * * The owner or operator must do this quarterly for one year.

* * * * *

■ 111. Amend § 265.93 by:

■ a. Revising the first sentence of paragraph (d)(5); and

■ b. Revising paragraph (d)(6).

The revisions read as follows:

§ 265.93 Preparation, evaluation, and response.

* * * * *

(d) * * *

(5) The owner or operator must make the first determination under paragraph (d)(4) of this section, as soon as technically feasible, and prepare a report containing an assessment of ground-water quality. * * *

(6) If the owner or operator determines, based on the results of the first determination under paragraph (d)(4) of this section, that no hazardous waste or hazardous waste constituents from the facility have entered the ground water, then the owner or operator may reinstate the indicator evaluation program described in § 265.92 and paragraph (b) of this section. If the owner or operator reinstates the indicator evaluation program, the owner or operator must so

notify the Regional Administrator in the report submitted under paragraph (d)(5) of this section.

* * * * *

■ 112. Amend § 265.94 by revising the second sentence of paragraph (a)(2)(i) to read as follows:

§ 265.94 Recordkeeping and reporting.

(a) * * *

(2) * * *

(i) * * * The owner or operator must separately identify for each monitoring well any parameters whose concentration or value has been found to exceed the maximum contaminant levels specified in appendix III.

* * * * *

Subpart G—Closure and Post-Closure

■ 113. Amend § 265.112 by:
■ a. Revising paragraph (c)(1)(iii);
■ b. Revising paragraph (d)(1);
■ c. Revising paragraph (d)(2) introductory text;
■ d. Revising the second sentence of paragraph (d)(2)(i);
■ e. Revising the second sentence of paragraph (d)(2)(ii);
■ f. Revising paragraph (d)(3) introductory text;
■ g. Revising the second and sixth sentences of paragraph (d)(4); and
■ h. Revising the FR citation following paragraph (e).

The revisions read as follows:

§ 265.112 Closure plan; amendment of plan.

* * * * *

(c) * * *

(1) * * *

(iii) In conducting partial or final closure activities, unexpected events require a modification of the closure plan, or

* * * * *

(d) * * *

(1) The owner or operator must submit the closure plan to the Regional Administrator at least 180 days prior to the date on which the owner or operator expects to begin closure of the first surface impoundment, waste pile, land treatment, or landfill unit, or final closure if it involves such a unit, whichever is earlier. The owner or operator must submit the closure plan to the Regional Administrator at least 45 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace. The owner or operator must submit the closure plan to the Regional Administrator at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only tanks, container storage, or incinerator units. Owners or operators with approved closure plans must notify the Regional Administrator in writing at least 60 days prior to the date on which the owners or operators expect to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit. Owners or operators with approved closure plans must notify the Regional Administrator in writing at least 45 days prior to the date on which the owners or operators expect to begin partial or final closure of a boiler or industrial furnace. Owners or operators with approved closure plans must notify the Regional Administrator in writing at least 45 days prior to the date on which the owners or operators expect to begin final closure of a facility with only tanks, container storage, or incinerator units.

(2) The date when the owner or operator ''expects to begin closure'' must be either:

(i) * * * If the owner or operator of a hazardous waste management unit can demonstrate to the Regional Administrator that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and the owner or operator has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all interim status requirements, the Regional Administrator may approve an extension to this one-year limit; or

(ii) * * * If the owner or operator can demonstrate to the Regional Administrator that the hazardous waste management unit has the capacity to receive additional nonhazardous wastes and the owner or operator has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable interim status requirements, the Regional Administrator may approve an extension to this one-year limit.

* * * * *

(3) The owner or operator must submit the closure plan to the Regional Administrator no later than 15 days after:

* * * * *

(4) * * * The Regional Administrator will also, in response to a request or at the Regional Administrator's own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. * * * If the Regional Administrator does not approve the plan, the Regional Administrator shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator must modify the plan or submit a new plan for approval within 30 days after receiving such written statement. * * *

* * * * *

[51 FR 16451, May 2, 1986, as amended at 53 FR 37935, Sept. 28, 1988; 56 FR 7207, Feb. 21, 1991; 56 FR 42512, Aug. 27, 1991; 57 FR 37267, Aug. 18, 1992; 63 FR 56734, Oct. 22, 1998; 71 FR 40275, July 14, 2006]

■ 114. Amend § 265.113 by:
■ a. Revising paragraph (a)(1)(ii)(B);
■ b. Revising paragraph (a)(2);
■ c. Revising paragraph (b)(1)(ii)(B);
■ d. Revising paragraph (b)(2);
■ e. Revising paragraph (e)(7) introductory text;
■ f. Revising the first sentence of paragraph (e)(7)(iv).

The revisions read as follows:

§ 265.113 Closure; time allowed for closure.

(a) * * *

(1) * * *

(ii) * * *

(B) There is a reasonable likelihood that the owner or operator, or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

* * * * *

(2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable interim status requirements.

(b) * * *

(1) * * *

(ii) * * *

(B) There is reasonable likelihood that the owner or operator, or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

* * * * *

(2) The owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable interim status requirements.

* * * * *

(e) * * *

(7) If the owner or operator fails to implement corrective measures as required in paragraph (e)(4) of this section, or if the Regional Administrator determines that substantial progress has not been made pursuant to paragraph (e)(6) of this section the Regional Administrator shall:

* * * * *

(iv) If the Regional Administrator receives written comments on the decision, the Regional Administrator shall make a final decision within 30 days after the end of the comment period, and provide the owner or operator in writing and the public through a newspaper notice, a detailed statement of reasons for the final decision. * * *

* * * * *

■ 115. Amend § 265.115 by revising the last sentence to read as follows:

§ 265.115 Certification of closure.

* * * Documentation supporting the Professional Engineer's certification must be furnished to the Regional Administrator upon request until the Regional Administrator releases the owner or operator from the financial assurance requirements for closure under § 265.143(h).

■ 116. Amend § 265.117 by revising paragraphs (a)(2)(i) and (ii) to read as follows:

§ 265.117 Post-closure care and use of property.

(a) * * *

(2) * * *

(i) Shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if the Regional Administrator finds that the reduced period is sufficient to protect human health and the environment (*e.g.,* leachate or ground-water monitoring results, characteristics of the hazardous waste, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the hazardous waste management unit or facility is secure); or

(ii) Extend the post-closure care period applicable to the hazardous waste management unit or facility, if the Regional Administrator finds that the extended period is necessary to protect human health and the environment (*e.g.,* leachate or ground-water monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

* * * * *

■ 117. Amend § 265.118 by:

■ a. Revising the first and second sentences of paragraph (e) introductory text;

■ b. Revising the second and sixth sentences of paragraph (f);

■ c. Revising the second, third, and sixth sentences of paragraph (g)(1)(ii);

■ d. Revising paragraph (g)(1)(iii);

■ e. Revising paragraphs (g)(2) introductory text and (g)(2)(i); and

■ f. Revising the first sentence of paragraph (g)(2)(ii).

The revisions read as follows:

§ 265.118 Post-closure plan; amendment of plan.

* * * * *

(e) The owner or operator of a facility with hazardous waste management units subject to these requirements must submit the post-closure plan to the Regional Administrator at least 180 days before the date the owner or operator expects to begin partial or final closure of the first hazardous waste disposal unit. The date the owner or operator ''expects to begin closure'' of the first hazardous waste disposal unit must be either within 30 days after the date on which the hazardous waste management unit receives the known final volume of hazardous waste or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous wastes. * * *

* * * * *

(f) * * * The Regional Administrator will also, in response to a request or at the Regional Administrator's own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a post-closure plan. * * * If the Regional Administrator does not approve the plan, the Regional Administrator shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator must modify the plan or submit a new plan for approval within 30 days after receiving such written statement. * * *

(g) * * *

(1) * * *

(ii) * * * Whenever the Regional Administrator is considering a petition, the Regional Administrator will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice. The Regional Administrator will also, in response to a request or at the Regional Administrator's own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the post-closure plan. * * * After considering the comments, the Regional Administrator will issue a final determination, based upon the criteria set forth in paragraph (g)(1) of this section.

(iii) If the Regional Administrator denies the petition, the Regional Administrator will send the petitioner a brief written response giving a reason for the denial.

(2) The Regional Administrator may tentatively decide to modify the post-closure plan if the Regional Administrator deems it necessary to prevent threats to human health and the environment. The Regional Administrator may propose to extend or reduce the post-closure care period applicable to a hazardous waste management unit or facility based on cause or alter the requirements of the post-closure care period based on cause.

(i) The Regional Administrator will provide the owner or operator and the affected public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice and the opportunity for a public hearing as in paragraph (g)(1)(ii) of this section. After considering the comments, the Regional Administrator will issue a final determination.

(ii) The Regional Administrator will base the final determination upon the same criteria as required for petitions under paragraph (g)(1)(i) of this section.

* * *

* * * * *

■ 118. Amend § 265.119 by:

■ a. Revising paragraph (a);

■ b. Revising paragraph (b)(2); and

■ c. Revising the first sentence of paragraph (c) introductory text.

The revisions read as follows:

§ 265.119 Post-closure notices.

(a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Regional Administrator, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location and quantity of the hazardous wastes to the best of the owner's or operator's knowledge and in accordance with any records the owner or operator has kept.

(b) * * *

(2) Submit a certification signed by the owner or operator that the owner or operator has recorded the notation specified in paragraph (b)(1) of this section and a copy of the document in which the notation has been placed, to the Regional Administrator.

(c) If the owner or operator or any subsequent owner of the land upon which a hazardous waste disposal unit was located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, and all contaminated

structures, equipment, and soils, the owner or operator must request a modification to the approved post-closure plan in accordance with the requirements of § 265.118(g). * * *

* * * * *

■ 119. Amend § 265.120 by revising the last sentence to read as follows:

§ 265.120 Certification of completion of post-closure care.

* * * Documentation supporting the Professional Engineer's certification must be furnished to the Regional Administrator upon request until the Regional Administrator releases the owner or operator from the financial assurance requirements for post-closure care under § 265.145(h).

Subpart H—Financial Requirements

■ 120. Amend § 265.142 by:
■ a. Revising the fourth sentence of paragraph (a)(2); and
■ b. Revising paragraph (b) introductory text.

The revisions read as follows:

§ 265.142 Cost estimate for closure.

(a) * * *

(2) * * * The owner or operator may use costs for on-site disposal if the owner or operator can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.

* * * * *

(b) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with § 265.143. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Regional Administrator as specified in § 265.143(e)(3). The adjustment may be made by recalculating the closure cost estimate in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product or Gross Domestic Product published by the U.S. Department of Commerce in its *Survey of Current Business,* as specified in paragraphs (b)(1) and (2) of this section. The owner or operator must use the selected Gross National Product or Gross Domestic Product Implicit Price Deflator consistently for each subsequent inflation update. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

* * * * *

■ 121. Amend § 265.143 by:
■ a. Revising the second sentence of the introductory text;
■ b. Revising paragraphs (a)(4), (5), and (8);
■ c. Revising the fourth and fifth sentences of paragraph (a)(10);
■ d. Revising paragraph (b)(9);
■ e. Revising the fourth and fifth sentences of paragraph (d)(5);
■ f. Revising paragraph (d)(10) introductory text;
■ g. Revising the first sentence of paragraph (e)(1) introductory text;
■ h. Revising paragraph (e)(1)(ii)(A);
■ i. Revising paragraph (e)(3) introductory text;
■ j. Revising paragraphs (e)(3)(iii); (e)(3)(iii)(A), and (e)(3)(iii)(B);
■ k. Revising paragraphs (e)(4)(ii) and (e)(4)(v);
■ l. Revising the first sentence of paragraph (e)(6);
■ m. Revising the first sentence of paragraph (e)(8);
■ n. Revising after the italicized subject heading the fourth sentence of paragraph (f); and
■ o. Revising paragraph (h).

The revisions read as follows:

§ 265.143 Financial assurance for closure.

* * * The owner or operator must choose from the options as specified in paragraphs (a) through (e) of this section.

(a) * * *

(4) The owner or operator may accelerate payments into the trust fund or the owner or operator may deposit the full amount of the current closure cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in paragraph (a)(3) of this section.

(5) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in this section, the owner's or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in paragraph (a)(3) of this section.

* * * * *

(8) If an owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, the owner or operator may submit a written request to the Regional Administrator for release of the amount in excess of the current closure cost estimate covered by the trust fund.

* * * * *

(10) * * * If the Regional Administrator has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, the Regional Administrator may withhold reimbursements of such amounts as the Regional Administrator deems prudent until the Regional Administrator determine, in accordance with § 265.143(h) that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Regional Administrator does not instruct the trustee to make such reimbursements, the Regional Administrator will provide to the owner or operator a detailed written statement of reasons.

* * * * *

(b) * * *

(9) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on the receipt of evidence of alternate financial assurance as specified in this section.

* * * * *

(d) * * *

(5) * * * If the Regional Administrator has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the face amount of the policy, the Regional Administrator may withhold reimbursement of such amounts as the Regional Administrator deem prudent until the Regional Administrator determine, in accordance with § 265.143(h), that the owner or operator is no longer required to maintain financial assurance for final closure of the particular facility. If the Regional Administrator does not instruct the insurer to make such reimbursements, the Regional Administrator will provide to the owner or operator a detailed written statement of reasons.

* * * * *

(10) The Regional Administrator will give written consent to the owner or operator that the owner or operator may terminate the insurance policy when:

* * * * *

(e) * * *

(1) An owner or operator may satisfy the requirements of this section by demonstrating that the owner or operator passes a financial test as specified in this paragraph. * * *

* * * * *

(ii) * * *

(A) A current rating for their most recent bond issuance of BBB- or better

as issued by Standard and Poor's or Baa3 or better as issued by Moody's; and
* * * * *

(3) To demonstrate that the owner or operator meets this test, the owner or operator must submit the following items to the Regional Administrator:
* * * * *

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator including:

(A) A statement that the independent certified public accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, a description of the procedures performed and related findings, including whether or not there were discrepancies found in the comparison.

(4) * * *

(ii) Certify that the owner's or operator's chief financial officer has grounds to believe that the owner or operator meets the criteria of the financial test;
* * * * *

(v) Specify the date, no later than 90 days after the end of such fiscal year, when the chief financial officer will submit the documents specified in paragraph (e)(3) of this section; and
* * * * *

(6) If the owner or operator no longer meets the requirements of paragraph (e)(1) of this section, the owner or operator must send notice to the Regional Administrator of intent to establish alternate financial assurance as specified in this section. * * *
* * * * *

(8) The Regional Administrator may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see paragraph (e)(3)(ii) of this section). * * *
* * * * *

(f) * * * If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, the owner or operator may use the trust fund as the standby trust fund for the other mechanisms. * * *
* * * * *

(h) *Release of the owner or operator from the requirements of this section.* Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator will notify the owner or operator in writing that the owner or operator is no longer required by this section to maintain financial assurance for final closure of the facility, unless the Regional Administrator has reason to believe that final closure has not been in accordance with the approved closure plan. The Regional Administrator shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.

■ 122. Amend § 265.144 by revising paragraph (b) introductory text to read as follows:

§ 265.144 Cost estimate for post-closure care.

* * * * *

(b) During the active life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with § 265.145. For owners and operators using the financial test or corporate guarantee, the post-closure care cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Regional Administrator as specified in § 265.145(e)(5). The adjustment may be made by recalculating the post-closure cost estimate in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product or Gross Domestic Product published by the U.S. Department of Commerce in its *Survey of Current Business,* as specified in paragraphs (b)(1) and (2) of this section. The owner or operator must use the selected Gross National Product or Gross Domestic Product Implicit Price Deflator consistently for each subsequent inflation update. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.
* * * * *

■ 123. Amend § 265.145 by:
■ a. Revising paragraphs (a)(4) and (5);
■ b. Revising paragraph (a)(8);
■ c. Revising the third sentence to paragraph (a)(11);
■ d. Revising paragraph (b)(9);
■ e. Revising the third sentence to paragraph (d)(5);
■ f. Revising paragraph (d)(11) introductory text;
■ g. Revising the first sentence of paragraph (e)(1) introductory text;
■ h. Revising paragraph (e)(1)(i)(D);
■ i. Revising paragraphs (e)(1)(ii)(A) and (e)(1)(ii)(D);
■ j. Revising paragraph (e)(3) introductory text;
■ k. Revising paragraphs (e)(3)(iii) introductory text, (e)(3)(iii)(A), and (e)(3)(iii)(B);
■ l. Revising paragraphs (e)(4)(ii) and (e)(4)(v);
■ m. Revising the first sentence of paragraph (e)(6);
■ n. Revising the first sentence of paragraph (e)(8);
■ o. Revising after the italicized subject heading the fourth sentence of paragraph (f); and
■ p. Revising paragraph (h).

The revisions read as follows:

§ 265.145 Financial assurance for post-closure care.

* * * * *

(a) * * *

(4) The owner or operator may accelerate payments into the trust fund or the owner or operator may deposit the full amount of the current post-closure cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in paragraph (a)(3) of this section.

(5) If the owner or operator establishes a post-closure trust fund after having used one or more alternate mechanisms specified in this section, the owner's or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in paragraph (a)(3) of this section.
* * * * *

(8) If an owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, the owner or operator may submit a written request to the Regional Administrator for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.
* * * * *

(11) * * * If the Regional Administrator does not instruct the trustee to make such reimbursements, the Regional Administrator will provide the owner or operator with a detailed written statement of reasons.
* * * * *

(b) * * *

(9) The owner or operator may cancel the bond if the Regional Administrator has given prior written consent based on the Regional Administrator's receipt of

evidence of alternate financial assurance as specified in this section.

* * * * *

(d) * * *

(5) * * * If the Regional Administrator does not instruct the insurer to make such reimbursements, the Regional Administrator will provide a detailed written statement of reasons.

* * * * *

(11) The Regional Administrator will give written consent to the owner or operator that the owner or operator may terminate the insurance policy when:

* * * * *

(e) * * *

(1) An owner or operator may satisfy the requirements of this section by demonstrating that the owner or operator passes a financial test as specified in this paragraph. * * *

(i) * * *

(D) Assets in the United States amounting to at least 90 percent of the owner's or operator's total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(ii) * * *

(A) A current rating for the most recent bond issuance of BBB- or better as issued by Standard and Poor's or Baa3 or better as issued by Moody's; and

* * * * *

(D) Assets located in the United States amounting to at least 90 percent of the owner's or operator's total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

* * * * *

(3) To demonstrate that the owner or operator meets this test, the owner or operator must submit the following items to the Regional Administrator:

* * * * *

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator including:

(A) A statement that the independent certified public accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, a description of the procedures performed and related findings, including whether or not there were discrepancies found in the comparison.

(4) * * *

(ii) Certify that the owner's or operator's chief financial officer has grounds to believe that the owner or operator meets the criteria of the financial test;

* * * * *

(v) Specify the date, no later than 90 days after the end of such fiscal year, when the owner's or operator's chief financial officer will submit the documents specified in paragraph (e)(3) of this section; and

* * * * *

(6) If the owner or operator no longer meets the requirements of paragraph (e)(1) of this section, the owner or operator must send notice to the Regional Administrator of intent to establish alternate financial assurance as specified in this section. * * *

* * * * *

(8) The Regional Administrator may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see paragraph (e)(3)(ii) of this section). * * *

* * * * *

(f) * * * If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, the owner or operator may use the trust fund as the standby trust fund for the other mechanisms. * * *

* * * * *

(h) *Release of the owner or operator from the requirements of this section.* Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer that the post-closure care period has been completed for a hazardous waste disposal unit in accordance with the approved plan, the Regional Administrator will notify the owner or operator in writing that the owner or operator is no longer required to maintain financial assurance for post-closure care of that unit, unless the Regional Administrator has reason to believe that post-closure care has not been in accordance with the approved post-closure plan. The Regional Administrator shall provide the owner or operator a detailed written statement of any such reason to believe that post-closure care has not been in accordance with the approved post-closure plan.

■ 124. Amend § 265.147 by:

■ a. Revising after the italicized subject heading the sixth sentence of paragraph (c);

■ b. Revising after the italicized subject heading the third and sixth sentences of paragraph (d);

■ c. Revising after the italicized subject heading the first sentence of paragraph (e);

■ d. Revising the first sentence of paragraph (f)(1);

■ e. Revising paragraph (f)(1)(i)(C)(*1*);

■ f. Revising paragraphs (f)(1)(ii)(A) and (f)(1)(ii)(D)(*1*);

■ g. Revising paragraph (f)(3) introductory text;

■ h. Revising the second sentence of paragraph (f)(3)(i);

■ i. Revising paragraphs (f)(3)(iii) introductory text, (f)(3)(iii)(A), and (f)(3)(iii)(B);

■ j. Revising paragraphs (f)(4)(ii) and (f)(4)(v);

■ k. Revising the first sentence of paragraph (f)(6); and

■ l. Revising the first sentence of paragraph (f)(7).

The revisions read as follows:

§ 265.147 Liability requirements.

* * * * *

(c) * * * Notwithstanding any other provision, the Regional Administrator may hold a public hearing at the Regional Administrator's discretion or whenever the Regional Administrator finds, on the basis of requests for a public hearing, a significant degree of public interest in a tentative decision to grant a variance.

(d) * * * In addition, if the Regional Administrator determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, the Regional Administrator may require that an owner or operator of the facility comply with paragraph (b) of this section. * * * Notwithstanding any other provision, the Regional Administrator may hold a public hearing at the Regional Administrator's discretion or whenever the Regional Administrator finds, on the basis of requests for a public hearing, a significant degree of public interest in a tentative decision to adjust the level or type of required coverage.

(e) * * * Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator will notify the owner or operator in writing that the owner and operator are no longer required by this section to maintain liability coverage for that facility, unless the Regional Administrator has reason to believe that closure has not been in accordance with the approved closure plan.

(f) * * *

(1) An owner or operator may satisfy the requirements of this section by demonstrating that the owner or operator passes a financial test as specified in this paragraph. * * *

(i) * * *

(C) * * *

(*1*) At least 90 percent of the owner or operator seeking to pass the financial test's total assets; or

* * * * *

(ii) * * *

(A) A current rating for the owner or operator seeking to pass the financial test's most recent bond issuance of BBB- or better as issued by Standard and Poor's, or Baa3 or better as issued by Moody's; and

* * * * *

(D) * * *

(*1*) At least 90 percent of the owner or operator seeking to pass the financial test's total assets; or

* * * * *

(3) To demonstrate that the owner or operator meets this test, the owner or operator must submit the following three items to the Regional Administrator:

(i) * * * If an owner or operator is using the financial test to demonstrate both assurance for closure or post-closure care, as specified by §§ 264.143(f), 264.145(f), 265.143(e), and 265.145(e), *and* liability coverage, the owner or operator must submit the letter specified in § 264.151(g) to cover both forms of financial responsibility; a separate letter as specified in § 264.151(f) is not required.

* * * * *

(iii) A special report from the owner's or operator's independent certified public accountant to the owner or operator including:

(A) A statement that the independent certified public accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

(B) In connection with that procedure, a description of the procedures performed and related findings, including whether or not there were discrepancies found in the comparison.

(4) * * *

(ii) Certify that the owner's or operator's chief financial officer has grounds to believe that the owner or operator meets the criteria of the financial test;

* * * * *

(v) Specify the date, no later than 90 days after the end of such fiscal year, when the owner's or operator's chief financial officer will submit the documents specified in paragraph (f)(3) of this section; and

* * * * *

(6) If the owner or operator no longer meets the requirements of paragraph (f)(1) of this section, the owner or operator must obtain insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in this section. * * *

(7) The Regional Administrator may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see paragraph (f)(3)(ii) of this section). * * *

* * * * *

■ 125. Amend § 265.148 by revising the second sentence of paragraph (a) to read as follows:

§ 265.148 Incapacity of owners or operators, guarantors, or financial institutions.

(a) * * * A guarantor of a corporate guarantee as specified in §§ 265.143(e) and 265.145(e) must make such a notification if the guarantor is named as debtor, as required under the terms of the corporate guarantee (§ 264.151(h)).

* * * * *

■ 126. Amend § 265.149 by revising the second and fifth sentences of paragraph (a)(2) to read as follows:

§ 265.149 Use of State-required mechanisms.

(a) * * *

(2) * * * The Regional Administrator may also consider other factors as the Regional Administrator deems appropriate. * * * The Regional Administrator will notify the owner or operator of the determination regarding the mechanism's acceptability in lieu of financial mechanisms specified in this subpart. * * *

* * * * *

■ 127. Amend § 265.150 by revising the second and fifth sentences of paragraph (a)(2) to read as follows:

§ 265.150 State assumption of responsibility.

(a) * * *

(2) * * * The Regional Administrator may also consider other factors as the Regional Administrator deems appropriate. * * * The Regional Administrator will notify the owner or operator of the determination regarding the acceptability of the State's guarantee in lieu of financial mechanisms specified in this subpart. * * *

* * * * *

Subpart J—Tank Systems

■ 128. Amend § 265.193 by revising paragraph (h)(1) introductory text to read as follows:

§ 265.193 Containment and detection of releases.

* * * * *

(h) * * *

(1) The Regional Administrator must be notified in writing by the owner or operator that the owner or operator intends to conduct and submit a demonstration for a variance from secondary containment as allowed in paragraph (g) of this section according to the following schedule:

* * * * *

■ 129. Amend § 265.195 by revising the note to paragraph (a) to read as follows:

§ 265.195 Inspections.

(a) * * *

Note: Section 265.15(c) requires the owner or operator to remedy any deterioration or malfunction the owner or operator finds. Section 265.196 requires the owner or operator to notify the Regional Administrator within 24 hours of confirming a release. Also, 40 CFR part 302 may require the owner or operator to notify the National Response Center of a release.

* * * * *

Subpart K—Surface Impoundments

■ 130. Amend § 265.221 by revising the first sentence of paragraph (g) to read as follows:

§ 265.221 Design and operating requirements.

* * * * *

(g) A freeboard level less than 60 centimeters (two feet) may be maintained if the owner or operator obtains certification by a qualified engineer that alternate design features or operating plans will, to the best of the qualified engineer's knowledge and opinion, prevent overtopping of the dike. * * *

* * * * *

■ 131. Amend § 265.226 by revising the paragraph ''Comment:'' following paragraph (b)(3) to read as follows:

§ 265.226 Monitoring and inspection.

* * * * *

(b) * * *

(3) * * *

[*Comment:* As required by § 265.15(c), the owner or operator must remedy any deterioration or malfunction found.]

■ 132. Amend § 265.229 by revising paragraph (b)(2) to read as follows:

§ 265.229 Special requirements for ignitable or reactive waste.

* * * * *

(b) * * *

(2) The owner or operator obtains a certification from a qualified chemist or engineer that, to the best of the qualified chemist's or engineer's knowledge and opinion, the design features or operating plans of the facility will prevent ignition or reaction; and

* * * * *

Subpart L—Waste Piles

■ 133. Amend § 265.258 by revising paragraph (b) to read as follows:

§ 265.258 Closure and post-closure care.

* * * * *

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in paragraph (a) of this section, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, the owner or operator must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (§ 265.310).

Subpart M—Land Treatment

■ 134. Amend § 265.278 by revising paragraphs (c) introductory text and (d) to read as follows:

§ 265.278 Unsaturated zone (zone of aeration) monitoring.

* * * * *

(c) To comply with paragraph (a)(1) of this section, the owner or operator must demonstrate in the unsaturated zone monitoring plan that:

* * * * *

(d) The owner or operator must keep at the facility the unsaturated zone monitoring plan, and the rationale used in developing this plan.

* * * * *

Subpart O—Incinerators

■ 135. Amend § 265.341 by revising the first sentence of the introductory text to read as follows:

§ 265.341 Waste analysis.

In addition to the waste analyses required by § 265.13, the owner or operator must sufficiently analyze any waste which the owner or operator has not previously burned in the incinerator to enable the owner or operator to establish steady state (normal) operating conditions (including waste and auxiliary fuel feed and air flow) and to determine the type of pollutants which might be emitted. * * *

* * * * *

■ 136. Amend § 265.351 by revising the paragraph ''Comment:'' following the introductory text to read as follows:

§ 265.351 Closure.

* * * * *

[*Comment:* At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with § 261.3(d) of this chapter, that the residue removed from the owner's or operator's incinerator is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of parts 262 through 266 of this chapter.]

■ 137. Revise § 265.352 to read as follows:

§ 265.352 Interim status incinerators burning particular hazardous wastes.

(a) Owners or operators of incinerators subject to this subpart may burn EPA Hazardous Wastes FO20, FO21, FO22, FO23, FO26, or FO27 if they receive a certification from the Assistant Administrator for the Office of Land and Emergency Management that they can meet the performance standards of subpart O of part 264 when they burn these wastes.

(b) * * *

(1) The owner or operator will submit an application to the Assistant Administrator for the Office of Land and Emergency Management containing applicable information in §§ 270.19 and 270.62 demonstrating that the incinerator can meet the performance standards in subpart O of part 264 when they burn these wastes.

(2) The Assistant Administrator for the Office of Land and Emergency Management will issue a tentative decision as to whether the incinerator can meet the performance standards in subpart O of part 264. Notification of this tentative decision will be provided by a newspaper notice (as defined in § 260.10) and radio broadcast in the jurisdiction where the incinerator is located. The Assistant Administrator for the Office of Land and Emergency Management will accept comment on the tentative decision for 60 days. The Assistant Administrator for the Office of Land and Emergency Management also may hold a public hearing upon request or at the Assistant Administration's discretion.

(3) After the close of the public comment period, the Assistant Administrator for the Office of Land and Emergency Management will issue a decision whether or not to certify the incinerator.

Subpart P—Thermal Treatment

■ 138. Revise § 265.373 to read as follows:

§ 265.373 General operating requirements.

Before adding hazardous waste, the owner or operator must bring the thermal treatment process to steady state (normal) conditions of operation—including steady state operating temperature—using auxiliary fuel or other means, unless the process is a non—continuous (batch) thermal treatment process which requires a complete thermal cycle to treat a discrete quantity of hazardous waste.

■ 139. Amend § 265.375 by revising the first sentence of the introductory text to read as follows:

§ 265.375 Waste analysis.

In addition to the waste analyses required by § 265.13, the owner or operator must sufficiently analyze any waste which the owner or operator has not previously treated in the thermal process to enable the owner or operator to establish steady state (normal) or other appropriate (for a non—continuous process) operating conditions (including waste and auxiliary fuel feed) and to determine the type of pollutants which might be emitted. * * *

* * * * *

■ 140. Amend § 265.381 by revising the paragraph ''Comment:'' following the introductory text to read as follows:

§ 265.381 Closure.

* * * * *

[*Comment:* At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with § 261.3(c) or (d) of this chapter, that any solid waste removed from the thermal treatment process or equipment is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of parts 262, 263, and 265 of this chapter.]

■ 141. Revise § 265.383 to read as follows:

§ 265.383 Interim status thermal treatment devices burning particular hazardous waste.

(a) Owners or operators of thermal treatment devices subject to this subpart may burn EPA Hazardous Wastes FO20, FO21, FO22, FO23, FO26, or FO27 if they receive a certification from the Assistant Administrator for the Office of

Land and Emergency Management that they can meet the performance standards of subpart O of part 264 when they burn these wastes.

(b) * * *

(1) The owner or operator will submit an application to the Assistant Administrator for the Office of Land and Emergency Management containing the applicable information in §§ 270.19 and 270.62 demonstrating that the thermal treatment unit can meet the performance standard in subpart O of part 264 when they burn these wastes.

(2) The Assistant Administrator for the Office of Land and Emergency Management will issue a tentative decision as to whether the thermal treatment unit can meet the performance standards in subpart O of part 264. Notification of this tentative decision will be provided by a newspaper notice (as defined in § 260.10) and radio broadcast in the jurisdiction where the thermal treatment device is located. The Assistant Administrator for the Office of Land and Emergency Management will accept comment on the tentative decision for 60 days. The Assistant Administrator for the Office of Land and Emergency Management also may hold a public hearing upon request or at the Assistant Administrator's discretion.

(3) After the close of the public comment period, the Assistant Administrator for the Office of Land and Emergency Management will issue a decision whether or not to certify the thermal treatment unit.

Subpart Q—Chemical, Physical, and Biological Treatment

■ 142. Amend § 265.403 by revising the paragraph ''Comment:'' following paragraph (b) to read as follows:

§ 265.403 Inspections.

* * * * *

(b) * * *

[*Comment:* As required by § 265.15(c), the owner or operator must remedy any deterioration or malfunction found.]

■ 143. Amend § 265.404 by revising the paragraph ''Comment:'' following the introductory text to read as follows:

§ 265.404 Closure.

* * * * *

[*Comment:* At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with § 261.3 (c) or (d) of this chapter, that any solid waste removed from the treatment process or equipment is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of parts 262, 263, and 265 of this chapter.]

Subpart W—Drip Pads

■ 144. Amend § 265.440 by revising paragraph (a) to read as follows:

§ 265.440 Applicability.

(a) The requirements of this subpart apply to owners and operators of facilities that use drip pads to convey treated wood drippage, precipitation, and/or surface water run—off to an associated collection system. The requirement at § 265.443(b)(3) to install a leak collection system applies only to those drip pads that are constructed after December 24, 1992, except for those constructed after December 24, 1992 for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 24, 1992.

* * * * *

§ 265.441 [Removed and Reserved]

■ 145. Remove and reserve § 265.441.

■ 146. Amend § 265.442 by revising the section heading and introductory text to read as follows:

§ 265.442 Design and installation of drip pads.

Owners or operators of drip pads constructed prior to December 6, 1990, and those for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 6, 1990, that need to upgrade, repair, or modify their drip pad to comply with § 265.443(b) must develop and submit a written plan to the Regional Administrator 2 years prior to completion of the upgrade. The plan must document compliance with § 265.443. Upon completion of upgrades, repairs, and modifications, owners and operators must submit to the Regional Administrator or state Director, as—built drawings and a certification by a Qualified Professional Engineer attesting that the drip pad conforms to the drawings. Owners and operators of any drip pads (regardless of construction date) must ensure that the pads are designed, installed, and operated in accordance with one of the following:

* * * * *

■ 147. Amend § 265.443 by revising paragraph (a)(4)(i) to read as follows:

§ 265.443 Design and operating requirements.

(a) * * *

(4) * * *

(i) Have a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second, *e.g.,* concrete drip pads must be sealed, coated, or covered with a surface material with a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system. This surface material must be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity, and the material must be chemically compatible with the preservatives that contact the drip pad. The requirements of this provision apply only to those drip pads for which the owner or operator elects to comply with § 265.442(b) instead of § 265.442(a).

* * * * *

■ 148. Amend § 265.445 by:

■ a. Revising the first sentence of paragraph (b); and

■ b. Revising paragraph (c)(1) introductory text.

The revisions read as follows:

§ 265.445 Closure.

* * * * *

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in paragraph (a) of this section, the owner or operator finds that not all contaminated subsoils can be practically removed or decontaminated, the owner or operator must close the facility and perform post—closure care in accordance with closure and post—closure care requirements that apply to landfills (§ 265.310). * * *

(c) * * *

(1) The owner or operator of a drip pad that was built before December 6, 1990, and those for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 6, 1990, that does not comply with the liner requirements of § 265.443(b)(1) must:

* * * * *

Subpart AA—Air Emission Standards for Process Vents

■ 149. Amend § 265.1034 by revising paragraph (b)(1) to read as follows:

§ 265.1034 Test methods and procedures.

* * * * *

(b) * * *

(1) Monitoring shall comply with Reference Method 21 in 40 CFR part 60, appendix A–7.

* * * * *

■ 150. Amend § 265.1035 by revising paragraph (c)(10)(iv) to read as follows:

§ 265.1035 Recordkeeping requirements.

* * * * *

(c) * * *

(10) * * *

(iv) Maximum instrument reading measured by Method 21 of 40 CFR part 60, appendix A–7 after it is successfully repaired or determined to be nonrepairable.

* * * * *

Subpart BB—Air Emission Standards for Equipment Leaks

■ 151. Amend § 265.1063 by revising paragraphs (b)(1) and (d) to read as follows:

§ 265.1063 Test methods and procedures.

* * * * *

(b) * * *

(1) Monitoring shall comply with Reference Method 21 in 40 CFR part 60, appendix A–7.

* * * * *

(d) An owner or operator of a facility must determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10 percent by weight using the methods described in (1), (2), and (3) below. This determination shall also be made in accordance with the waste analysis plan required by § 265.13(b) or § 268.7(a)(5), if applicable.

* * * * *

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

§ 265.1080 [Amended]

■ 152. Amend § 265.1080 by removing and reserving paragraphs (f) and (g).

■ 153. Amend § 265.1081 by revising the definition ''No detectable organic emissions'' to read as follows:

§ 265.1081 Definitions.

* * * * *

No detectable organic emissions means no escape of organics to the atmosphere as determined using the procedure specified in § 265.1084(d) of this subpart unless that procedure is not specifically required.

* * * * *

■ 154. Amend § 265.1084 by:

■ a. Revising the first sentence of paragraph (d)(1);

■ b. Revising paragraphs (d)(3), (4), and (6); and

■ c. Revising the first sentence of paragraph (d)(7).

The revisions read as follows:

§ 265.1084 Waste determination procedures.

* * * * *

(d) * * *

(1) The test shall be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A–7. * * *

* * * * *

(3) The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A–7, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the organic constituents in the hazardous waste placed in the waste management unit, not for each individual organic constituent.

(4) The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A–7.

* * * * *

(6) The background level shall be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A–7.

(7) Each potential leak interface shall be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21 of 40 CFR part 60, appendix A–7. * * *

* * * * *

Subpart DD—Containment Buildings

■ 155. Amend § 265.1102 by revising the first sentence of paragraph (b) to read as follows:

§ 265.1102 Closure and post-closure care.

* * * * *

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in paragraph (a) of this section, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, the owner or operator must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (§ 265.310). * * *

■ 156. Amend appendix I to part 265 by revising the first sentence of the introductory text to read as follows:

Appendix I to Part 265—Recordkeeping Instructions

The recordkeeping provisions of § 265.73 specify that an owner or operator must keep a written operating record at the owner's or operator's facility. * * *

* * * * *

■ 157. Amend appendix III to part 265 by revising the appendix heading and the table to read as follows:

Appendix III to Part 265—EPA Primary National Drinking Water Standards

Parameter	Concentration found at
Arsenic	§ 141.62(b).
Barium	§ 141.62(b).
Cadmium	§ 141.62(b).
Chromium	§ 141.62(b).
Fluoride	§ 141.62(b).
Lead	§ 141.80(c).
Mercury	§ 141.62(b).
Nitrate (as N)	§ 141.62(d).
Selenium	§ 141.62(b).
Endrin	§ 141.61(c).
Lindane	§ 141.61(c).
Methoxychlor	§ 141.61(c).
Toxaphene	§ 141.61(c).
2,4-D	§ 141.61(c).
2,4,5-TP (Silvex)	§ 141.61(c).

Parameter	Concentration found at
Radium	§ 141.66(b).
Gross Alpha	§ 141.66(c).
Gross Beta	§ 141.66(d).
Turbidity	§ 141.13.

* * * * *

■ 158. Amend appendix V to part 265 by revising the second sentence of the third paragraph of the introductory text to read as follows:

Appendix V to Part 265—Examples of Potentially Incompatible Waste

* * * * *

* * *An owner or operator must, as the regulations require, adequately analyze the waste so that the owner or operator can avoid creating uncontrolled substances or reactions of the type listed below, whether they are listed below or not.

* * * * *

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

■ 159. The authority citation for part 266 continues to read as follows:

Authority: 42 U.S.C. 1006, 2002(a), 3001–3009, 3014, 3017, 6905, 6906, 6912, 6921, 6922, 6924–6927, 6934, and 6937.

■ 160. Amend appendix IX to part 266 by revising the first sentence of section 8.3 to read as follows:

Appendix IX to Part 266—Methods Manual for Compliance With the BIF Regulations

* * * * *

8.3 APCS RE Default Values for Ash

Default assumptions for APCS RE for PM are also shown in Table 8.2–1. * * *

* * * * *

PART 267—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT

■ 161. The authority citation for part 267 continues to read as follows:

Authority: 42 U.S.C. 6902, 6912(a), 6924–6926, and 6930.

Subpart E—Recordkeeping, Reporting, and Notifying

■ 162. Amend § 267.71 by revising the second sentence of paragraph (b)(2) to read as follows:

§ 267.71 Use of the manifest system.

* * * * *

(b) * * *

(2) * * * Note that the Agency does not intend that the owner or operator of a facility whose procedures under § 267.13(b) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. * * *

* * * * *

Subpart G—Closure

■ 163. Amend § 267.117 by revising the second and third sentences of the introductory text to read as follows:

§ 267.117 How do I certify closure?

* * * Both you and a qualified professional engineer must sign the certification. You must furnish documentation supporting the qualified professional engineer's certification to the Director upon request until the Director releases you from the financial assurance requirements for closure under § 267.143(i).

Subpart H—Financial Requirements

■ 164. Amend § 267.143 by revising after the italicized subject heading the first sentence of paragraph (j) to read as follows:

§ 267.143 Financial assurance for closure.

* * * * *

(j) * * * Within 60 days after receiving certifications from the owner or operator and a qualified professional engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator will notify the owner or operator in writing that the owner or operator is no longer required by this section to maintain financial assurance for final closure of the facility, unless the Regional Administrator has reason to believe that final closure has not been completed in accordance with the approved closure plan. * * *

■ 165. Amend § 267.147 by revising paragraph (e) to read as follows:

§ 267.147 Liability requirements.

* * * * *

(e) *Period of coverage.* Within 60 days after receiving certifications from the owner or operator and a qualified professional engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator will notify the owner or operator in writing that the owner and operator are no longer required by this section to maintain liability coverage from that facility, unless the Regional Administrator has reason to believe that closure has not been in accordance with the approved closure plan.

* * * * *

Subpart J—Tank Systems

■ 166. Amend § 267.191 by revising the second sentence of the introductory text to read as follows:

§ 267.191 What are the required design and construction standards for new tank systems or components?

* * * You must obtain a written assessment, reviewed and certified by a qualified professional engineer, following 40 CFR 270.11(d), attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. * * *

* * * * *

■ 167. Amend § 267.192 by revising the second sentence of paragraph (a) introductory text to read as follows:

§ 267.192 What handling and inspection procedures must I follow during installation of new tank systems?

(a) * * * Before placing a new tank system or component in use, an independent, qualified installation inspector or a qualified professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

* * * * *

■ 168. Amend § 267.200 by revising paragraph (f) introductory text to read as follows:

§ 267.200 What must I do in case of a leak or a spill?

* * * * *

(f) If you have made extensive repairs to a tank system in accordance with paragraph (e) of this section (for example, installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), you may not return the tank system to service unless the repair is certified by a qualified professional

engineer in accordance with 40 CFR 270.11(d).

* * * * *

Subpart DD—Containment buildings

■ 169. Amend § 267.1101 by revising paragraph (h) to read as follows:

§ 267.1101 What design and operating standards must my containment building meet?

* * * * *

(h) You must obtain certification by a qualified professional engineer that the containment building design meets the requirements of §§ 267.1102, 267.1103, and paragraphs (a) through (f) of this section.

■ 170. Amend § 267.1106 by revising paragraph (c) to read as follows:

§ 267.1106 What do I do if I detect a release?

* * * * *

(c) Upon completing all repairs and cleanup, you must notify the Regional Administrator in writing and provide a verification, signed by a qualified professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with paragraph (a)(4) of this section.

PART 268—LAND DISPOSAL RESTRICTIONS

■ 171. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart A—General

■ 172. Amend § 268.1 by revising paragraph (c)(3)(i) to read as follows:

§ 268.1 Purpose, scope, and applicability.

* * * * *

(c) * * *

(3) * * *

(i) Are disposed into a nonhazardous or hazardous injection well as defined under 40 CFR 146.5(a); and

* * * * *

■ 173. Amend § 268.7 by revising paragraph (a)(9)(iii) to read as follows:

§ 268.7 Testing, tracking, and recordkeeping requirements for generators, reverse distributors, treaters, and disposal facilities.

(a) * * *

(9) * * *

(iii) If the lab pack contains characteristic hazardous wastes (D001–D008 and D010–D043), underlying hazardous constituents (as defined in § 268.2(i)) need not be determined.

* * * * *

Subpart D—Treatment Standards

■ 174. Amend § 268.40 by revising in the table in paragraph (j) entitled ''Treatment Standards For Hazardous Wastes'' the entries ''D009''; ''F039''; and ''U037'' to read as follows:

§ 268.40 Applicability of treatment standards.

* * * * *

(j) * * *

TREATMENT STANDARDS FOR HAZARDOUS WASTES

[*Note:* NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration [3] in mg/L; or technology code [4]	Concentration [5] in mg/kg unless noted as ''mg/L TCLP''; or technology code [4]
*	* *	*	*	*	*
D009 [9]	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain greater than or equal to 260 mg/kg total mercury that also contain organics and are not incinerator residues. (High Mercury-Organic Subcategory).	Mercury	7439–97–6	NA	IMERC; OR RMERC.
	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain greater than or equal to 260 mg/kg total mercury that are inorganic, including incinerator residues and residues from RMERC. (High Mercury-Inorganic Subcategory).	Mercury	7439–97–6	NA	RMERC.
	Nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain less than 260 mg/kg total mercury and that are residues from RMERC only. (Low Mercury Subcategory).	Mercury	7439–97–6	NA	0.20 mg/L TCLP and meet § 268.48 standards. [8]
	All other nonwastewaters that exhibit, or are expected to exhibit, the characteristic of toxicity for mercury based on the toxicity characteristic leaching procedure (TCLP) in SW846; and contain less than 260 mg/kg total mercury and that are not residues from RMERC. (Low Mercury Subcategory).	Mercury	7439–97–6	NA	0.025 mg/L TCLP and meet § 268.48 standards. [8]
	All D009 wastewaters	Mercury	7439–97–6	0.15 and meet § 268.48 standards [8].	NA.
	Elemental mercury contaminated with radioactive materials. (*Note:* This subcategory consists of nonwastewaters only.).	Mercury	7439–97–6	NA	AMLGM.
	Hydraulic oil contaminated with Mercury Radioactive Materials Subcategory. (*Note:* This subcategory consists of nonwastewaters only.).	Mercury	7439–97–6	NA	IMERC.
	Radioactively contaminated mercury containing batteries. (*Note:* This subcategory consists of nonwastewaters only).	Mercury	7439–97–6	NA	Macroencapsulation in accordance with 40 CFR 268.45.

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

[*Note:* NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration [3] in mg/L; or technology code [4]	Concentration [5] in mg/kg unless noted as "mg/L TCLP"; or technology code [4]
*	* *	*	*	*	*
F039 ...	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under subpart D of this part. (Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Wastes retains its EPA Hazardous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.).	Acenaphthylene	208–96–8	0.059	3.4.
		Acenaphthene	83–32–9	0.059	3.4.
		Acetone	67–64–1	0.28	160.
		Acetonitrile	75–05–8	5.6	NA.
		Acetophenone	96–86–2	0.010	9.7.
		2-Acetylaminofluorene	53–96–3	0.059	140.
		Acrolein	107–02–8	0.29	NA.
		Acenaphthene	83–32–9	0.059	3.4.
		Acetone	67–64–1	0.28	160.
		Acetonitrile	75–05–8	5.6	NA.
		Acetophenone	96–86–2	0.01	9.7.
		2-Acetylaminofluorene	53–96–3	0.059	140.
		Acrolein	107–02–8	0.29	NA.
		Acrylonitrile	107–13–1	0.24	84.
		Aldrin	309–00–2	0.021	0.066.
		4-Aminobiphenyl	92–67–1	0.13	NA.
		Aniline	62–53–3	0.81	14.
		o-Anisidine (2-methoxyaniline).	90–04–0	0.01	0.66.
		Anthracene	120–12–7	0.059	3.4.
		Aramite	140–57–8	0.36	NA.
		alpha-BHC	319–84–6	0.00014	0.066.
		beta-BHC	319–85–7	0.00014	0.066.
		delta-BHC	319–86–8	0.023	0.066.
		gamma-BHC	58–89–9	0.0017	0.066.
		Benzene	71–43–2	0.14	10.
		Benz(a)anthracene	56–55–3	0.059	3.4.
		Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene).	205–99–2	0.11	6.8.
		Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene).	207–08–9	0.11	6.8.
		Benzo(g,h,i)perylene	191–24–2	0.0055	1.8.
		Benzo(a)pyrene	50–32–8	0.061	3.4.
		Bromodichloromethane	75–27–4	0.35	15.
		Methyl bromide (Bromomethane).	74–83–9	0.11	15.
		4-Bromophenyl phenyl ether.	101–55–3	0.055	15.
		n-Butyl alcohol	71–36–3	5.6	2.6.
		Butyl benzyl phthalate	85–68–7	0.017	28.
		2-sec-Buty-4,6-dinitrophenol (Dinoseb).	88–85–7	0.066	2.5.
		Carbon disulfide	75–15–0	3.8	NA.
		Carbon tetrachloride	56–23–5	0.057	6.0.
		Chlordane (alpha and gamma isomers).	57–74–9	0.0033	0.26.
		p-Chloroaniline	106–47–8	0.46	16.
		Chlorobenzene	108–90–7	0.057	6.0.
		Chlorobenzilate	510–15–6	0.10	NA.
		2-Chloro-1,3-butadiene	126–99–8	0.057	NA.
		Chlorodibromomethane	124–48–1	0.057	15.
		Chloroethane	75–00–3	0.27	6.0.
		bis(2-Chloroethoxy) methane.	111–91–1	0.036	7.2.
		bis(2-Chloroethyl)ether	111–44–4	0.033	6.0.
		Chloroform	67–66–3	0.046	6.0.
		bis(2-Chloroisopropyl)ether	39638–32–9	0.055	7.2.
		p-Chloro-m-cresol	59–50–7	0.018	14.
		Chloromethane (Methyl chloride).	74–87–3	0.19	30.
		2-Chloronaphthalene	91–58–7	0.055	5.6.
		2-Chlorophenol	95–57–8	0.044	5.7.
		3-Chloropropylene	107–05–1	0.036	30.
		Chrysene	218–01–9	0.059	3.4.
		o-Cresol	95–48–7	0.11	5.6.
		p-Cresidine	120–71–8	0.010	0.66.
		m-Cresol (difficult to distinguish from p-cresol).	108–39–4	0.77	5.6.
		p-Cresol (difficult to distinguish from m-cresol).	106–44–5	0.77	5.6.
		Cyclohexanone	108–94–1	0.36	NA.

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

[*Note:* NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration [3] in mg/L; or technology code [4]	Concentration [5] in mg/kg unless noted as "mg/L TCLP"; or technology code [4]
		1,2-Dibromo-3-chloro propane.	96–12–8	0.11	15.
		Ethylene dibromide (1,2-Dibromoethane).	106–93–4	0.028	15.
		Dibromomethane	74–95–3	0.11	15.
		2,4-D (2,4-Dichlorophenoxy acetic acid).	94–75–7	0.72	10.
		o,p′-DD	53–19–0	0.023	0.087.
		p,p′-DDD	72–54–8	0.023	0.087.
		o,p′-DDE	3424–82–6	0.031	0.087.
		p,p′-DDE	72–55–9	0.031	0.087.
		o,p′-DDT	789–02–6	0.0039	0.087.
		p,p′-DDT	50–29–3	0.0039	0.087.
		Dibenz(a,h)anthracene	53–70–3	0.055	8.2.
		Dibenz(a,e)pyrene	192–65–4	0.061	NA.
		m-Dichlorobenzene	541–73–1	0.036	6.0.
		o-Dichlorobenzene	95–50–1	0.088	6.0.
		p-Dichlorobenzene	106–46–7	0.09	6.0.
		Dichlorodifluoromethane	75–71–8	0.23	7.2.
		1,1-Dichloroethane	75–34–3	0.059	6.0.
		1,2-Dichloroethane	107–06–2	0.21	6.0.
		1,1-Dichloroethylene	75–35–4	0.025	6.0.
		trans-1,2-Dichloroethylene	156–60–5	0.054	30.
		2,4-Dichlorophenol	120–83–2	0.044	14.
		2,6-Dichlorophenol	87–65–0	0.044	14.
		1,2-Dichloropropane	78–87–5	0.85	18.
		cis-1,3-Dichloropropylene	10061–01–5	0.036	18.
		trans-1,3-Dichloropropylene.	10061–02–6	0.036	18.
		Dieldrin	60–57–1	0.017	0.13.
		Diethyl phthalate	84–66–2	0.20	28.
		2,4-Dimethylaniline (2,4-xylidine).	95–68–1	0.010	0.66.
		2–4-Dimethyl phenol	105–67–9	0.036	14.
		Dimethyl phthalate	131–11–3	0.047	28.
		Di-n-butyl phthalate	84–74–2	0.057	28.
		1,4-Dinitrobenzene	100–25–4	0.32	2.3.
		4,6-Dinitro-o-cresol	534–52–1	0.28	160.
		2,4-Dinitrophenol	51–28–5	0.12	160.
		2,4-Dinitrotoluene	121–14–2	0.32	140.
		2,6-Dinitrotoluene	606–20–2	0.55	28.
		Di-n-octyl phthalate	117–84–0	0.017	28.
		Di-n-propylnitrosamine	621–64–7	0.40	14.
		1,4-Dioxane	123–91–1	12.0	170.
		Diphenylamine (difficult to distinguish from diphenylnitrosamine).	122–39–4	0.92	NA.
		Diphenylnitrosamine (difficult to distinguish from diphenylamine).	86–30–6	0.92	NA.
		1,2-Diphenylhydrazine	122–66–7	0.087	NA.
		Disulfoton	298–04–4	0.017	6.2.
		Endosulfan I	939–98–8	0.023	0.066.
		Endosulfan II	33213–6–5	0.029	0.13.
		Endosulfan sulfate	1031–07–8	0.029	0.13.
		Endrin	72–20–8	0.0028	0.13.
		Endrin aldehyde	7421–93–4	0.025	0.13.
		Ethyl acetate	141–78–6	0.34	33.
		Ethyl cyanide (Propanenitrile).	107–12–0	0.24	360.
		Ethyl benzene	100–41–4	0.057	10.
		Ethyl ether	60–29–7	0.12	160.
		bis(2-Ethylhexyl) phthalate	117–81–7	0.28	28.
		Ethyl methacrylate	97–63–2	0.14	160.
		Ethylene oxide	75–21–8	0.12	NA.
		Famphur	52–85–7	0.017	15.
		Fluoranthene	206–44–0	0.068	3.4.
		Fluorene	86–73–7	0.059	3.4.
		Heptachlor	76–44–8	0.0012	0.066.
		Heptachlor epoxide	1024–57–3	0.016	0.066.
		1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD).	35822–46–9	0.000035	0.0025.

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

[*Note:* NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration [3] in mg/L; or technology code [4]	Concentration [5] in mg/kg unless noted as "mg/L TCLP"; or technology code [4]
		1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF).	67562–39–4	0.000035	0.0025.
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF).	55673–89–7	0.000035	0.0025.
		Hexachlorobenzene	118–74–1	0.055	10.
		Hexachlorobutadiene	87–68–3	0.055	5.6.
		Hexachlorocyclopentadiene.	77–47–4	0.057	2.4.
		HxCDDs (All Hexachlorodibenzo-p-dioxins).	NA	0.000063	0.001.
		HxCDFs (All Hexachlorodibenzofurans).	NA	0.000063	0.001.
		Hexachloroethane	67–72–1	0.055	30.
		Hexachloropropylene	1888–71–7	0.035	30.
		Indeno (1,2,3-c,d) pyrene	193–39–5	0.0055	3.4.
		Indomethane	74–88–4	0.019	65.
		Isobutyl alcohol	78–83–1	5.6	170.
		Isodrin	465–73–6	0.021	0.066.
		Isosafrole	120–58–1	0.081	2.6.
		Kepone	143–50–8	0.0011	0.13.
		Methacylonitrile	126–98–7	0.24	84.
		Methanol	67–56–1	5.6	NA.
		Methapyrilene	91–80–5	0.081	1.5.
		Methoxychlor	72–43–5	0.25	0.18.
		3-Methylcholanthrene	56–49–5	0.0055	15.
		4,4-Methylene bis(2-chloroaniline).	101–14–4	0.50	30.
		Methylene chloride	75–09–2	0.089	30.
		Methyl ethyl ketone	78–93–3	0.28	36.
		Methyl isobutyl ketone	108–10–1	0.14	33.
		Methyl methacrylate	80–62–6	0.14	160.
		Methyl methanesulfonate	66–27–3	0.018	NA.
		Methyl parathion	298–00–0	0.014	4.6.
		Naphthalene	91–20–3	0.059	5.6.
		2-Naphthylamine	91–59–8	0.52	NA.
		p-Nitroaniline	100–01–6	0.028	28.
		Nitrobenzene	98–95–3	0.068	14.
		5-Nitro-o-toluidine	99–55–8	0.32	28.
		p-Nitrophenol	100–02–7	0.12	29.
		N-Nitrosodiethylamine	55–18–5	0.40	28.
		N-Nitrosodimethylamine	62–75–9	0.40	NA.
		N-Nitroso-di-n-butylamine	924–16–3	0.40	17.
		N-Nitrosomethylethylamine	10595–95–6	0.40	2.3.
		N-Nitrosomorpholine	59–89–2	0.40	2.3.
		N-Nitrosopiperidine	100–75–4	0.013	35.
		N-Nitrosopyrrolidine	930–55–2	0.013	35.
		1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD).	3268–87–9	0.000063	0.005.
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF).	39001–02–0	0.000063	0.005.
		Parathion	56–38–2	0.014	4.6.
		Total PCBs (sum of all PCB isomers, or all Aroclors).	1336–36–3	0.10	10.
		Pentachlorobenzene	608–93–5	0.055	10.
		PeCDDs (All Pentachlorodibenzo-p-dioxins).	NA	0.000063	0.001.
		PeCDFs (All Pentachlorodibenzofurans).	NA	0.000035	0.001.
		Pentachloronitrobenzene	82–68–8	0.055	4.8.
		Pentachlorophenol	87–86–5	0.089	7.4.
		Phenacetin	62–44–2	0.081	16.
		Phenanthrene	85–01–8	0.059	5.6.
		Phenol	108–95–2	0.039	6.2.
		1,3-Phenylenediamine	108–45–2	0.010	0.66.
		Phorate	298–02–2	0.021	4.6.
		Phthalic anhydride	85–44–9	0.055	NA.
		Pronamide	23950–58–5	0.093	1.5.
		Pyrene	129–00–0	0.067	8.2.
		Pyridine	110–86–1	0.014	16.
		Safrole	94–59–7	0.081	22.
		Silvex (2,4,5–TP)	93–72–1	0.72	7.9.
		2,4,5–T	93–76–5	0.72	7.9.

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

[*Note:* NA means not applicable]

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration [3] in mg/L; or technology code [4]	Concentration [5] in mg/kg unless noted as "mg/L TCLP"; or technology code [4]
		1,2,4,5-Tetrachloro benzene.	95–94–3	0.055	14.
		TCDDs (All Tetrachloro dibenzo-p-dioxins).	NA	0.000063	0.001.
		TCDFs (All Tetrachloro dibenzofurans).	NA	0.000063	0.001.
		1,1,1,2-Tetrachloroethane	630–20–6	0.057	6.0.
		1,1,2,2-Tetrachloroethane	79–34–6	0.057	6.0.
		Tetrachloroethylene	127–18–4	0.056	6.0.
		2,3,4,6-Tetrachlorophenol	58–90–2	0.030	7.4.
		Toluene	108–88–3	0.080	10.
		Toxaphene	8001–35–2	0.0095	2.6.
		Bromoform (Tribromo methane).	75–25–2	0.63	15.
		1,2,4-Trichlorobenzene	120–82–1	0.055	19.
		1,1,1-Trichloroethane	71–55–6	0.054	6.0.
		1,1,2-Trichloroethane	79–00–5	0.054	6.0.
		Trichloroethylene	79–01–6	0.054	6.0.
		Trichlorofluoromethane	75–69–4	0.020	30.
		2,4,5-Trichlorophenol	95–95–4	0.18	7.4.
		2,4,6-Trichlorophenol	88–06–2	0.035	7.4.
		1,2,3-Trichloropropane	96–18–4	0.85	30.
		1,1,2-Trichloro-1,2,2-trifluoroethane.	76–13–1	0.057	30.
		tris(2,3-Dibromopropyl) phosphate.	126–72–7	0.11	NA.
		Vinyl chloride	75–01–4	0.27	6.
		Xylenes-mixed isomers (sum of o-, m-, and p-xylene concentrations).	1330–20–7	0.32	30.
		Antimony	7440–36–0	1.9	1.15 mg/L TCLP.
		Arsenic	7440–38–2	1.4	5.0 mg/L TCLP.
		Barium	7440–39–3	1.2	21 mg/L TCLP.
		Beryllium	7440–41–7	0.82	NA.
		Cadmium	7440–43–9	0.69	0.11 mg/L TCLP.
		Chromium (Total)	7440–47–3	2.77	0.60 mg/L TCLP.
		Cyanides (Total) [7]	57–12–5	1.2	590.
		Cyanides (Amenable) [7]	57–12–5	0.86	NA.
		Fluoride	16984–48–8	35	NA.
		Lead	7439–92–1	0.69	0.75 mg/L TCLP.
		Mercury	7439–97–6	0.15	0.025 mg/L TCLP.
		Nickel	7440–02–0	3.98	11 mg/L TCLP.
		Selenium	7782–49–2	0.82	5.7 mg/L TCLP.
		Silver	7440–22–4	0.43	0.14 mg/L TCLP.
		Sulfide	8496–25–8	14	NA.
		Thallium	7440–28–0	1.4	NA.
		Vanadium	7440–62–2	4.3	NA.
*	* *	*	*	*	*
U037	Chlorobenzene	Chlorobenzene	108–90–7	0.057	6.0.
*	* *	*	*	*	*

Footnotes to Treatment Standard Table 268.40

[1] The waste descriptions provided in this table do not replace waste descriptions in 40 CFR 261. Descriptions of Treatment/Regulatory Subcategories are provided, as needed, to distinguish between applicability of different standards.

[2] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only.

[3] Concentration standards for wastewaters are expressed in mg/L and are based on analysis of composite samples.

[4] All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in 40 CFR 268.42 Table 1—Technology Codes and Descriptions of Technology-Based Standards.

[5] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR part 264 Subpart O or Part 265 Subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

[6] [Reserved]

[7] Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010C or 9012B, found in "Test Methods' for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846, as incorporated by reference in 40 CFR 260.11, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

[8] These wastes, when rendered nonhazardous and then subsequently managed in CWA, or CWA-equivalent systems are not subject to treatment standards. (See § 268.1(c0(3) and (4)).

[9] These wastes, when rendered nonhazardous and then subsequently injected in a Class SDWA well, are not subject to treatment standards. (See § 148.1(d)).

[10] The treatment standard for this waste may be satisfied by either meeting the constituent concentrations in this table or by treating the waste by the specified technologies: combustion, as defined by the technology code CMBST at § 268.42 Table 1 of this Part, for nonwastewaters; and biodegradation as defined by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at § 268.42 Table 1 of this Part, for wastewaters.

[11] For these wastes, the definition of CMBST is limited to: (1) combustion units operating under 40 CFR 266, (2) combustion units permitted under 40 CFR part 264, subpart O, or (3) combustion units operating under 40 CFR 265, Subpart O, which have obtained a determination of equivalent treatment under 268.42(b).

[12] Disposal of K175 wastes that have complied with all applicable 40 CFR 268.40 treatment standards must also be macroencapsulated in accordance with 40 CFR 268.45 Table 1 unless the waste is placed in: (1) A Subtitle C monofill containing only K175 wastes that meet all applicable 40 CFR 268.40 treatment standards; or (2) A dedicated Subtitle C landfill cell in which all other wastes being co-disposed are at pH≤6.0.

■ 175. Amend § 268.48 by revising in the table in paragraph (a) entitled ''Universal Treatment Standards'' footnote number 3 to read as follows:

§ 268.48 Universal treatment standards.

* * * * *

Universal Treatment Standards

* * * * *

[3] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR part 264, subpart O or 40 CFR part 265, subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

■ 176. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

Subpart A—General Information

■ 177. Amend § 270.1 by:
■ a. Revising after the italicized subject heading the third sentence of paragraph (a)(3);
■ b. Revising paragraph (b) introductory text;
■ c. Revising paragraph (c)(2)(vi); and
■ d. Revising paragraph (c)(3)(i)(D).

The revisions read as follows:

§ 270.1 Purpose and scope of the regulations in this part.

(a) * * *

(3) * * * These separate regulations are located in 40 CFR parts 260, 261, 264, 266, 267, and 268.

(b) *Overview of the RCRA Permit Program.* Generators and transporters of hazardous waste, and owners or operators of hazardous waste treatment, storage, or disposal facilities may be required to file a notification or new notification of that activity under section 3010 (EPA Form 8700–12) after the initial promulgation or subsequent revision of regulations in 40 CFR part 261 (for identifying and listing hazardous wastes) or in parts 262, 263, 264, 265, 266, 267, 268, or 270 (for newly regulated hazardous waste activities). After the initial promulgation of the part 261 regulations, the treatment, storage, or disposal of hazardous waste by any person is prohibited without a RCRA permit or interim status, except as excluded or exempted in § 270.1(c)(2) and (3). For ''existing HWM facilities'' (as defined in § 270.2) that were required to have a permit, the timely submission of both notification under section 3010 and the Part A permit application qualified the owners and operators for interim status under section 3005(e) of RCRA. Facility owners and operators with interim status must comply with interim status standards set forth at 40 CFR parts 265 and 266 or with the analogous provisions of a State program which has received interim or final authorization under part 271. Facility owners and operators with interim status are not relieved from complying with other State requirements. Owners or operators of ''new HWM facilities'' (as defined in § 270.2) must notify (EPA Form 8700–12) and submit Part A (see § 270.13) and Part B (see § 270.14 and applicable sections in §§ 270.15 through 270.28) of the permit application at least 180 days before physical construction is expected to commence. Treatment, storage, and disposal facilities that are otherwise subject to permitting under RCRA may be eligible for a standardized permit under subpart J of this part if the facility meets the following criteria:

* * * * *

(c) * * *

(2) * * *

(vi) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of 40 CFR 262.30 at a transfer facility for a period of 14 consecutive calendar days or less.

* * * * *

(3) * * *

(i) * * *

(D) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosives or munitions emergency response specialist as defined in 40 CFR 260.10.

* * * * *

■ 178. Amend § 270.2 by:
■ a. Revising the definition ''Application''; and
■ b. Revising the definition ''Facility mailing list''.

The revisions read as follows:

§ 270.2 Definitions.

* * * * *

Application means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in States with authorized RCRA programs, including any approved modifications or revisions (contents of part A of the RCRA application per § 270.13). Application also includes the general and specific information required by the Director under §§ 270.14 through 270.28 (contents of part B of the RCRA permit application), and the information necessary for EPA to assess whether the applicant is in compliance with the technical requirements of 40 CFR parts 260, 261, 264, 266, 267, 268, and 270.

* * * * *

Facility mailing list means the mailing list for a facility maintained in accordance with 40 CFR 124.10(c)(1)(ix) and 40 CFR 124.10(c)(1)(xii). The contact information on the mailing list may be in the form of postal and/or electronic mail addresses.

* * * * *

Subpart B—Permit Application

■ 179. Amend § 270.10 by:
■ a. Revising paragraphs (c) and (d);
■ b. Revising the first sentence of the note following paragraph (e)(1)(iii);
■ c. Revising paragraph (e)(2) introductory text;
■ d. Revising paragraphs (h) introductory text and (h)(1); and
■ e. Revising the first sentence of paragraph (h)(2).

The revisions read as follows:

§ 270.10 General application requirements.

* * * * *

(c) *Completeness.* The Director shall not issue a permit before receiving a complete application for a permit except for permits by rule, or emergency permits. An application for a permit is complete when the Director receives an application form, including any supplemental information, that has been completed to the Director's satisfaction. At a minimum, an application must contain all of the information required under § 270.13 (part A of the RCRA application) and the information required by §§ 270.10, 270.14, and, as applicable, §§ 270.15 through 270.28,

including all information necessary for EPA to assess whether the applicant is in compliance with all applicable RCRA technical requirements of 40 CFR parts 260, 261, 264, 266, 267, 268, and 270 (*i.e.,* contents of part B of the RCRA application). An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in paragraph (j) of this section. The Director may deny a permit for the active life of a hazardous waste management facility or unit before receiving, or if the applicant fails to submit, a complete application for a permit.

(d) *Information requirements.* All applicants for RCRA permits shall provide to the Director the information set forth in § 270.13, using the Part A application forms and supplemental forms provided by the Director, § 270.14, and, as applicable, §§ 270.10 and 270.15 through 270.28, including all information the Director determines to be necessary to assess whether the applicant is in compliance with all applicable RCRA technical requirements of 40 CFR parts 260, 261, 264, 266, 267, 268, and 270, per § 270.1(a)(3).

(e) * * *

(1) * * *

(iii) * * *

Note: For facilities which must comply with part 265 because they handle a waste listed in EPA's May 19, 1980, part 261 regulations (45 FR 33066 *et seq.*), the deadline for submitting an application is November 19, 1980.

* * *

(2) The Administrator may by publication in the **Federal Register** extend the date by which owners and operators of specified classes of existing hazardous waste management facilities must submit part A of the permit application if the Administrator finds that

* * * * * *

(h) *Reapplying for a permit.* If you have an effective permit and continue to have permit obligations, you have two options to reapply for a permit:

(1) You must submit a new application, at least 180 days before the expiration date of the effective permit, unless the Director requires or allows an alternate date either prior to or after the 180 days before the expiration date; or

(2) If you intend to be covered by a standardized permit, you must submit a Notice of Intent as described in § 270.51(e)(1) at least 180 days before the expiration date of the effective permit, unless the Director requires or allows an alternate date either prior to or after the 180 days before the expiration date. * * *

* * * * * *

■ 180. Amend § 270.14 by:

■ a. Revising the first, second, third, and fourth sentences of paragraph (a);

■ b. Revising paragraph (b)(7);

■ c. Revising the second sentence of paragraph (b)(11)(iii);

■ d. Revising ''Comment:'' following paragraph (b)(11)(iii);

■ e. Revising paragraph (b)(20);

■ f. Revising the second sentence of paragraph (c)(7) introductory text; and

■ g. Revising the second sentence of paragraph (c)(8) introductory text.

The revisions and additions read as follows:

§ 270.14 Contents of Part B: General requirements.

(a) Part B of the permit application consists of the general information requirements of this section, and the specific information requirements in §§ 270.15 through 270.28 applicable to the facility. The part B application provides the information required by §§ 270.14 through 270.28 and includes information necessary to demonstrate compliance with all applicable RCRA technical requirements of 40 CFR parts 260, 261, 264, 266, 267, 268, and 270. The information required under these provisions is necessary for EPA to determine the applicant's compliance with all applicable RCRA standards. If owners and operators of HWM facilities can demonstrate that the information prescribed in part B cannot be provided to the extent required, the Director may make allowance for submission of such information on a case-by-case basis. * * *

(b) * * *

(7) A copy of the contingency plan required by part 264, subpart D. Note: Include, where applicable, as part of the contingency plan, specific requirements in §§ 264.227, 264.253, and 264.196.

* * * * * *

(11) * * *

(iii) * * * This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance and Mitigation Administration (FIMA) flood map, if used, or the calculations and maps used where a FIMA map is not available. * * *

[Comment: Where maps for the National Flood Insurance Program produced by the Federal Insurance and Mitigation Administration (FIMA) of the Federal Emergency Management Agency (FEMA) are available, they will normally be determinative of whether a facility is located within or outside of the 100-year floodplain. However, where the FIMA map excludes an area (usually areas of the floodplain less than 200 feet in width), these areas must be considered and a determination made as to whether they are in the 100-year floodplain. Where FIMA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the 100-year floodplain, and if so located, what the 100-year flood elevation would be.]

* * * * * *

(20) Applicants may be required to submit such information as may be necessary to enable the Regional Administrator to carry out the Regional's Administrator's duties under other Federal laws as required in § 270.3 of this part.

* * * * * *

(c) * * *

(7) * * * Except as provided in § 264.98(g)(5), the owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of § 264.100, unless the owner or operator obtains written authorization in advance from the Regional Administrator to submit a proposed permit schedule for submittal of such a plan. * * *

* * * * * *

(8) * * * However, an owner or operator is not required to submit information to establish a corrective action program if the owner or operator demonstrate to the Regional Administrator that alternate concentration limits will protect human health and the environment after considering the criteria listed in § 264.94(b). * * *

* * * * * *

■ 181. Amend § 270.17 by revising the second sentence of paragraph (d) to read as follows:

§ 270.17 Specific Part B information requirements for surface impoundments.

* * * * * *

(d) * * * For new units, the owner or operator must submit a statement by a qualified engineer that the owner or operator will provide such a certification upon completion of construction in accordance with the plans and specifications;

* * * * * *

■ 182. Amend § 270.19 by revising paragraph (d) introductory text to read as follows:

§ 270.19 Specific Part B information requirements for incinerators.

* * * * * *

(d) The Director shall approve a permit application without a trial burn if the Director finds that:

* * * * *

■ 183. Amend § 270.22 by revising after the italicized subject heading the third sentence of paragraph (a)(6) to read as follows:

§ 270.22 Specific Part B information requirements for boilers and industrial furnaces burning hazardous waste.

* * * * *

(a) * * *

(6) * * * The Director shall approve a permit application without a trial burn if the Director finds that the hazardous wastes are sufficiently similar, the devices are sufficiently similar, the operating conditions are sufficiently similar, and the data from other compliance tests, trial burns, or operational burns are adequate to specify (under § 266.102 of this chapter) operating conditions that will ensure conformance with § 266.102(c) of this chapter. * * *

* * * * *

■ 184. Amend § 270.23 by revising the second sentence of paragraph (b) to read as follows:

§ 270.23 Specific Part B information requirements for miscellaneous units.

* * * * *

(b) * * * If the applicant can demonstrate that it does not violate the environmental performance standards of § 264.601 and the Director agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

* * * * *

■ 185. Amend § 270.26 by revising paragraph (c) introductory text to read as follows:

* * * * *

(c) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet the requirements of § 264.573 of this chapter, including the as-built drawings and specifications. This submission must also address the following items as specified in § 264.573 of this chapter:

* * * * *

■ 186. Amend § 270.27 by revising the first sentence of paragraph (a)(6) to read as follows:

§ 270.27 Specific Part B information requirements for air emission controls for tanks, surface impoundments, and containers.

(a) * * *

(6) An emission monitoring plan for both Method 21 in 40 CFR part 60, appendix A–7 and control device monitoring methods. * * *

* * * * *

Subpart C—Permit Conditions

■ 187. Amend § 270.32 by revising paragraph (b)(3) to read as follows:

§ 270.32 Establishing permit conditions.

* * * * *

(b) * * *

(3) If, as the result of an assessment(s) or other information, the Administrator or Director determines that conditions are necessary in addition to those required under 40 CFR parts 63, subpart EEE, 264 or 266 to ensure protection of human health and the environment, the Administrator or Director shall include those terms and conditions in a RCRA permit for a hazardous waste combustion unit.

* * * * *

Subpart D—Changes to Permit

■ 188. Amend § 270.42 by:

■ a. Revising the first sentence of paragraph (a)(1)(ii);

■ b. Revising paragraph (a)(2);

■ c. Revising the first sentence of paragraph (b)(2) introductory text;

■ d. Revising the second sentence of paragraph (b)(4)

■ e. Revising the second sentence of paragraph (b)(5);

■ f. Revising the second sentence of paragraph (b)(6)(iii);

■ g. Revising paragraph (b)(6)(iv)(A) introductory text;

■ h. Revising the second sentence of paragraph (b)(6)(v);

■ i. Revising the first sentence of paragraph (c)(2) introductory text;

■ j. Revising the second sentence of paragraph (c)(4);

■ k. Revising the second sentence of paragraph (c)(5);

■ l. Revising the first sentence of paragraph (e)(2)(iii);

■ m. Revising the first sentence of paragraph (f)(1); and

■ n. Revising paragraph (i).

The revisions and additions read as follows:

§ 270.42 Permit modification at the request of the permittee.

(a) * * *

(1) * * *

(ii) The permittee must send a notice (by postal or electronic mail) of the modification to all persons on the facility mailing list (as defined in § 270.2) and to the appropriate units of State and local government, as specified in 40 CFR 124.10(c)(1)(ix), (x), and (xii). * * *

* * * * *

(2) Class 1 permit modifications identified in appendix I by footnote 1 may be made only with the prior written approval of the Director.

* * * * *

(b) * * *

(2) The permittee must send a notice (by postal or electronic mail) of the modification request to all persons on the facility mailing list (as defined in § 270.2) and to the appropriate units of State and local government as specified in 40 CFR 124.10(c)(1)(ix), (x), and (xii) and must publish it as a newspaper notice (as defined in § 260.10). * * *

* * * * *

(4) * * * The applicant must hold the meeting in person and, to the extent practicable, in the vicinity of the permitted facility, or by remote means, such as a virtual meeting.

(5) * * * The comment period will begin on the date the permittee publishes the newspaper notice (as defined in § 260.10). * * *

(6) * * *

(iii) * * * The authorized activities must be conducted as described in the permit modification request and must be in compliance with all applicable standards of 40 CFR part 264 (and other parts as applicable). * * *

(iv) * * *

(A) In the case of an automatic authorization under paragraph (b)(6)(iii) of this section, or a temporary authorization under paragraph (b)(6)(i)(D) or (ii)(D) of this section, if the Director has not made a final approval or denial of the modification request by the date 50 days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification (by postal or electronic mail) to persons on the facility mailing list (as defined in § 270.2), and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

* * * * *

(v) * * * The activities authorized under this paragraph must be conducted as described in the permit modification request and must be in compliance with all applicable standards of 40 CFR part 264 (and other parts as applicable).

* * * * *

(c) * * *

(2) The permittee must send a notice (by postal or electronic mail) of the modification request to all persons on the facility mailing list (as defined in § 270.2) and to the appropriate units of the State and local government as specified in 40 CFR 124.10(c)(1)(ix), (x), and (xii) and must publish it as a

newspaper notice (as defined in § 260.10). * * *

* * * * *

(4) * * * The applicant must hold the meeting in person, to the extent practicable, in the vicinity of the permitted facility, or by remote means, such as a virtual meeting.

(5) * * * The comment period will begin on the date the permittee publishes the newspaper notice (as defined in § 260.10). * * *

* * * * *

(e) * * *

(2) * * *

(iii) The permittee must send a notice (by postal or electronic mail) about the temporary authorization request to all persons on the facility mailing list (as defined in § 270.2) and to the appropriate units of State and local governments as specified in 40 CFR 124.10(c)(1). * * *

* * * * *

(f) * * *

(1) The Director shall notify (by postal or electronic mail) all persons on the facility mailing list (as defined in § 270.2) and the appropriate units of State and local government (as specified in § 124.10(c)(1)) within 10 days of any decision under this section to grant or deny a Class 2 or 3 permit modification request. * * *

* * * * *

(i) *Permit modification list.* The Director must maintain a list of all approved permit modifications and must publish a notice once a year in a newspaper notice (as defined in § 260.10) with State-wide accessibility and include in the notice that an updated list is available for review.

* * * * *

■ 189. Amend the table to appendix I to § 270.42 by revising the entries ''F.1.c.,'' ''F.4.a.,'' ''G.1.e.,'' ''G.5.c.,'' ''H.5.c.,'' ''J.6.c.,'' and ''L.10.'' to read as follows:

Appendix I to § 270.42—Classification of Permit Modification

Modifications	Class
* * * * * * *	
F. *Containers:*	
1. Modification or addition of container units:	
* * * * * * *	
c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards with prior approval of the Director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	[1] 1
* * * * * * *	
4. Storage or treatment of different wastes in containers:	
a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards. This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	[1] 1
* * * * * * *	
G. *Tanks:*	
1.	
* * * * * * *	
e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards with prior approval of the Director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	[1] 1
* * * * * * *	
5. Management of different wastes in tanks:	
* * * * * * *	
c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards. The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	[1] 1
* * * * * * *	
H. *Surface Impoundments:*	
* * * * * * *	
5. Treatment, storage, or disposal of different wastes in surface impoundments:	
* * * * * * *	
c. That are wastes restricted from land disposal that meet the applicable treatment standards and provided that the unit meets the minimum technological requirements stated in § 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
* * * * * * *	
J. *Landfills and Unenclosed Waste Piles:*	
* * * * * * *	
6. Landfill different wastes:	

Modifications	Class
* * * * * * *	
c. That are wastes restricted from land disposal that meet the applicable treatment standards and provided that the landfill unit meets the minimum technological requirements stated in § 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
* * * * * * *	
L. *Incinerators, Boilers, and Industrial Furnaces:*	
* * * * * * *	
10. Changes to RCRA permit provisions needed to support transition to 40 CFR part 63 (Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of § 270.42(k) are followed	[1] 1
* * * * * * *	

[1] Class 1 modifications requiring prior Agency approval.

Subpart E—Expiration and Continuation of Permits

■ 190. Amend § 270.51 by:
■ a. Revising paragraph (a)(1); and
■ b. Adding paragraph (f).

The revision and addition read as follows:

§ 270.51 Continuation of expiring permits.

(a) * * *

(1) The permittee has submitted a timely application under § 270.14 and the applicable sections in § 270.15 through § 270.28, including the information necessary to assess whether the permittee is in compliance with all applicable RCRA technical requirements of parts 260, 261, 264, 266, 267, 268, and 270 which are required for a complete application (under § 270.10) for a new permit; and

* * * * *

(f) *Changes to continued permits.* Permits that have been continued in accordance with paragraph (a) of this section can be modified in accordance with §§ 270.41 through 270.42. Alternatively, a change that would otherwise constitute a permit modification (of any permit modification class) can be incorporated in the permit reissuance, using the permit issuance process in lieu of the modification processes in §§ 270.41 through 270.42.

Subpart F—Special Forms of Permits

■ 191. Amend § 270.62 by:
■ a. Revising paragraph (a)(2);
■ b. Revising the second sentence of paragraph (b)(4);
■ c. Revising paragraph (b)(5) introductory text; and
■ d. Revising paragraph (c)(2).

The revisions read as follows:

§ 270.62 Hazardous waste incinerator permits.

* * * * *

(a) * * *

(2) The Director will review this statement and any other relevant information submitted with part B of the permit application and specify requirements for this period sufficient to meet the performance standards of § 264.343 of this chapter based on the Director's engineering judgment.

(b) * * *

(4) * * * These trial POHCs will be specified by the Director based on the Director's estimate of the difficulty of incineration of the constituents identified in the waste analysis, the concentration or mass in the waste feed, and, for wastes listed in part 261, subpart D, of this chapter, the hazardous waste organic constituent or constituents identified in appendix VII of that part as the basis for listing.

(5) The Director shall approve a trial burn plan if the Director finds that:

* * * * *

(c) * * *

(2) The Director will review this statement and any other relevant information submitted with part B of the permit application and specify those requirements for this period most likely to meet the performance standards of § 264.343 of this chapter based on the Director's engineering judgment.

* * * * *

■ 192. Amend § 270.63 by:
■ a. Revising paragraphs (a)(1) and (2);
■ b. Revising the first sentence of paragraph (b) introductory text;
■ c. Revising the first sentence of paragraph (c);
■ d. Revising paragraph (d) introductory text; and
■ e. Revising the first sentence of paragraph (d)(2).

The revisions read as follows:

§ 270.63 Permits for land treatment demonstrations using field test or laboratory analyses.

(a) * * *

(1) The Director may issue a two-phase facility permit if the Director finds that, based on information submitted in part B of the application, substantial, although incomplete or inconclusive, information already exists upon which to base the issuance of a facility permit.

(2) If the Director finds that not enough information exists to establish permit conditions to attempt to provide for compliance with all of the requirements of subpart M, the Director must issue a treatment demonstration permit covering only the field test or laboratory analyses.

(b) If the Director finds that a phased permit may be issued, the Director will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. * * *

* * * * *

(c) When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, the owner or operator must submit to the Director a certification, signed by a person authorized to sign a permit application or report under § 270.11, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. * * *

(d) If the Director determines that the results of the field tests or laboratory analyses meet the requirements of § 264.272 of this chapter, the Director will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with part 264, subpart M, of this chapter, based upon the results of the field tests or laboratory analyses.

* * * * *

(2) If no modifications of the second phase of the permit are necessary, the Director will give notice of the final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of the final decision on the second phase of the permit. * * *

■ 193. Amend § 270.65 by revising paragraph (c) to read as follows:

§ 270.65 Research, development, and demonstration permits.

* * * * *

(c) The Administrator may order an immediate termination of all operations at the facility at any time the Administrator determines that termination is necessary to protect human health and the environment.

* * * * *

■ 194. Amend § 270.66 by revising paragraph (b)(3)(i) to read as follows:

§ 270.66 Permits for boilers and industrial furnaces burning hazardous waste.

* * * * *

(b) * * *

(3) * * *

(i) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Director to reflect the trial burn results, the Director will establish the operating requirements most likely to ensure compliance with the performance standards of §§ 266.104 through 266.107 of this chapter based on the Director's engineering judgment.

* * * * *

Subpart G—Interim Status

■ 195. Amend § 270.70 by revising the fourth sentence of paragraph (b) to read as follows:

§ 270.70 Qualifying for interim status.

* * * * *

(b) * * * The owner or operator shall have 30 days from receipt to respond to such a notification and to explain or cure the alleged deficiency in the part A application. * * *

* * * * *

■ 196. Amend § 270.72 by revising the second and fourth sentences of paragraph (a)(4) to read as follows:

§ 270.72 Changes during interim status.

(a) * * *

(4) * * * When a transfer of operational control of a facility occurs, the old owner or operator shall comply with the requirements of 40 CFR part 265, subpart H (Financial Requirements), until the new owner or operator has demonstrated to the Director that the new owner or operator are complying with the requirements of that subpart. * * * Upon demonstration to the Director by the new owner or operator of compliance with subpart H, the Director shall notify the old owner or operator in writing that the old owner or operator no longer need to comply with subpart H as of the date of demonstration. * * *

* * * * *

Subpart H—Remedial Action Plans (RAPs)

■ 197. Amend § 270.110 by revising paragraph (h) to read as follows:

§ 270.110 What must I include in my application for a RAP?

* * * * *

(h) Such information as may be necessary to enable the Regional Administrator to carry out the Regional's Administrator's duties under other Federal laws as is required for traditional RCRA permits under § 270.14(b)(20);

* * * * *

■ 198. Amend § 270.140 by revising the introductory text to read as follows:

§ 270.140 What else must the Director prepare in addition to the draft RAP or notice of intent to deny?

Once the Director has prepared the draft RAP or notice of intent to deny, the Director must then:

* * * * *

■ 199. Amend § 270.145 by:

■ a. Revising paragraphs (a)(1), (2), (3), and (4); and

■ b. Revising the first and second sentences of paragraph (d) introductory text.

The revisions read as follows:

§ 270.145 What are the procedures for public comment on the draft RAP or notice of intent to deny?

(a) * * *

(1) Send notice to you of the Director's intention to approve or deny your RAP application, and send you a copy of the statement of basis;

(2) Publish a notice of the Director's intention to approve or deny your RAP application in a newspaper notice (as defined in § 260.10);

(3) Broadcast the Director's intention to approve or deny your RAP application over a local radio station; and

(4) Send a notice of the Director's intention to approve or deny your RAP application to each unit of local government having jurisdiction over the area in which your site is located, and to each State agency having any authority under State law with respect to any construction or operations at the site.

* * * * *

(d) If, within the comment period, the Director receives written notice of opposition to the Director's intention to approve or deny your RAP application and a request for a hearing, the Director must hold an informal public hearing to discuss issues relating to the approval or denial of your RAP application. The Director may also determine on the Director's own initiative that an informal hearing is appropriate. * * *

* * * * *

■ 200. Amend § 270.150 by revising paragraphs (b), (c), (d), and (e) to read as follows:

§ 270.150 How will the Director make a final decision on my RAP application?

* * * * *

(b) If the Director determines that your RAP includes the information and terms and conditions required in § 270.135, then the Director will issue a final decision approving your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been approved.

(c) If the Director determines that your RAP does not include the information required in § 270.135, then the Director will issue a final decision denying your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been denied.

(d) If the Director's final decision is that the tentative decision to deny the RAP application was incorrect, the Director will withdraw the notice of intent to deny and proceed to prepare a draft RAP, according to the requirements in this subpart.

(e) When the Director issues the final RAP decision, the Director must refer to the procedures for appealing the decision under § 270.155.

* * * * *

■ 201. Amend § 270.160 by revising paragraph (a) to read as follows:

§ 270.160 When does my RAP become effective?

* * * * *

(a) The Director specifies a later effective date in the Director's decision.

* * * * *

■ 202. Amend § 270.175 by:

■ a. Revising the first sentence of paragraph (a) introductory text; and

■ b. Revising paragraph (b).

The revisions read as follows:

§ 270.175 For what reasons may the Director choose to modify my final RAP?

(a) The Director may modify your final RAP on the Director's own initiative only if one or more of the following reasons listed in this section exist(s). * * *

* * * * *

(b) Notwithstanding any other provision in this section, when the Director reviews a RAP for a land disposal facility under § 270.195, the

Director may modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in parts 124, 260 through 266 and 270 of this chapter.

* * * * *

■ 203. Amend § 270.180 by revising the first sentence of paragraph (a) to read as follows:

§ 270.180 For what reasons may the Director choose to revoke and reissue my final RAP?

(a) The Director may revoke and reissue your final RAP on the Director's own initiative only if one or more reasons for revocation and reissuance exist(s). * * *

* * * * *

■ 204. Revise § 270.185 to read as follows:

§ 270.185 For what reasons may the Director choose to terminate my final RAP, or deny my renewal application?

The Director may terminate your final RAP on the Director's own initiative, or deny your renewal application for the same reasons as those listed for RAP modifications in § 270.175(a)(5) through (7) if the Director determines that termination of your RAP or denial of your RAP renewal application is appropriate.

■ 205. Amend § 270.215 by revising the first and third sentences of paragraph (d) to read as follows:

§ 270.215 How are time periods in the requirements in this subpart and my RAP computed?

* * * * *

(d) Whenever a party or interested person has the right to or is required to act within a prescribed period after the service of notice or other paper upon the party or interested person by mail, 3 days must be added to the prescribed term. * * * However, if the Director notifies you of the Director's decision by mail, then you may have 33 days to petition the Environmental Appeals Board.)

■ 206. Amend § 270.220 by revising the first sentence of paragraph (b) to read as follows:

§ 270.220 How may I transfer my RAP to a new owner or operator?

* * * * *

(b) When a transfer of ownership or operational control occurs, you as the old owner or operator must comply with the applicable requirements in part 264, subpart H (Financial Requirements), of this chapter until the new owner or operator has demonstrated that the new owner or operator is complying with the requirements in that subpart. * * *

Subpart J–RCRA Standardized Permits for Storage and Treatment Units

■ 207. Amend § 270.280 by revising paragraphs (a)(2) and (3) to read as follows:

§ 270.280 What are the certification requirements?

* * * * *

(a) * * *

(2) I will make all information that I am required to maintain at my facility by §§ 270.290 through 270.315 readily available for review by the permitting agency and the public; and,

(3) I will continue to make all information required by §§ 270.290 through 270.315 available until the permit expires. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violation.

* * * * *

■ 208. Amend § 270.290 by revising the second sentence of paragraph (l) to read as follows:

§ 270.290 What general types of information must I keep at my facility?

* * * * *

(l) * * * A brief description of how training will be designed to meet actual job tasks under 40 CFR 267.16(d)(3) requirements.

* * * * *

■ 209. Amend § 270.305 by revising paragraph (a) to read as follows:

§ 270.305 What tank information must I keep at my facility?

* * * * *

(a) A written assessment that is reviewed and certified by a qualified professional engineer on the structural integrity and suitability for handling hazardous waste of each tank system, as required under 40 CFR 267.191 and 267.192.

* * * * *

■ 210. Amend § 270.315 by revising the first sentence of paragraph (f) to read as follows:

§ 270.315 What air emissions control information must I keep at my facility?

* * * * *

(f) An emission monitoring plan for both Method 21 in 40 CFR part 60, appendix A–7 and control device monitoring methods. * * *

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

■ 211. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6926, and 6939g.

Subpart A—Requirements for Final Authorization

■ 212. Amend § 271.1 by:

■ a. Revising paragraph (f);

■ b. Revising the note to paragraph (j)(2);

■ c. Revising the entry ''Oct. 31, 2001'' in table 1 to paragraph (j)(2); and

■ d. Revising the entries ''May 20, 2002'' and ''Jan. 24, 2003'' in table 2 to paragraph (j)(2).

The revisions read as follows:

§ 271.1 Purpose and scope.

* * * * *

(f) Except as provided in § 271.3(b)(3), upon approval of a State permitting program, the Administrator shall suspend the issuance of Federal permits for those activities subject to the approved State program.

* * * * *

(j) * * *

(2) * * *

Note: *See* §§ 264.1(f)(3), 265.1(c)(4)(ii), 271.3(b), and 271.21(e)(2) for applicability.

TABLE 1—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
*	* * * *	*	*
Oct. 31, 2001	Listing of Inorganic Chemical Manufacturing Wastes	66 FR 58299	May 20, 2002.

TABLE 1—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984—Continued

Promulgation date	Title of regulation	**Federal Register** reference	Effective date
*	* * * * *	*	*

[1] These regulations implement HSWA only to the extent that they apply to tank systems owned or operated by small quantity generators, establish leak detection requirements for all new underground tank systems, and establish permitting standards for underground tank systems that cannot be entered for inspection.

[2] These regulations, including test methods for benzo(k)fluoranthene and technical standards for drip pads, implement HSWA only to the extent that they apply to the listing of Hazardous Waste No. F032, and wastes that are hazardous because they exhibit the Toxicity Characteristic. These regulations, including test methods for benzo(k)fluoranthene and technical standards for drip pads, do not implement HSWA to the extent that they apply to the listings of Hazardous Waste Nos. F034 and F035.

[3] The following portions of this rule are not HSWA regulations: §§ 264.19 and 265.19 for final covers.

[4] The following portions of this rule are not HSWA regulations: §§ 260.30, 260.31, 261.2.

[5] These regulations implement HSWA only to the extent that they apply to the standards for staging piles and to §§ 264.1(j) and 264.101(d) of this chapter.

TABLE 2—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	**Federal Register** reference
*	* * * * *	*	*
May 20, 2002	Prohibition on land disposal of K176, K177, and K178 wastes, and prohibition on land disposal of radioactive waste mixed with K176, K177, and K178 wastes, including soil and debris.	3004(g)(4)(C) and 3004(m).	Nov. 20, 2001, 66 FR 58299.
Jan. 24, 2003	Elimination of LDR Treatment Standards Exemption for K061 Derived Fertilizers.	3004(g)(6)	July 24, 2002, 67 FR 48414.
*	* * * * *	*	*

[1] Note that the effective date was changed to Jan. 29, 1986 by the Nov. 29, 1985 rule.

[2] Note that the effective date was changed to Sept. 22, 1986 by the Mar. 24, 1986 rule.

■ 213. Amend § 271.14 by revising paragraph (x) to read as follows:

§ 271.14 Requirements for permitting.

* * * * *

(x) Section 124.10 (a)(1)(ii), (a)(1)(iii), (b), (c), (d), and (e)—(Public notice);

* * * * *

■ 214. Amend § 271.16 by revising paragraph (e) introductory text to read as follows:

§ 271.16 Requirements for enforcement authority.

* * * * *

(e) Any State authority used to issue an enforceable document either in lieu of a post-closure permit as provided in 40 CFR 270.1(c)(7), or as a source of alternative requirements for regulated units, as provided under 40 CFR 264.90(f), 264.110(c), 264.140(d), 265.90(f), 265.110(d), and 265.140(d), shall have available the following remedies:

* * * * *

■ 215. Amend § 271.20 by revising paragraph (a)(1)(i) to read as follows:

§ 271.20 Approval process.

(a) * * *

(1) * * *

(i) Publication in newspaper notice (as defined in § 260.10) sufficient to attract statewide attention; and

* * * * *

■ 216. Amend § 271.21 by:

■ a. Revising paragraph (b)(3)(i)(B);

■ b. Revising paragraph (b)(4)(i)(B); and

■ c. Revising the first sentence of paragraph (f).

The revisions read as follows:

§ 271.21 Procedures for revision of State programs.

* * * * *

(b) * * *

(3) * * *

(i) * * *

(B) In newspaper notice (as defined in § 260.10) sufficient to attract Statewide attention; and

* * * * *

(4) * * *

(i) * * *

(B) In newspaper notice (as defined in § 260.10) sufficient to attract Statewide attention; and

* * * * *

(f) A State must modify its program to comply with any Federal program changes which occur prior to the day that final authorization is received, except for those changes that the State has already received authorization for pursuant to § 271.3(c). * * *

* * * * *

■ 217. Amend § 271.23 by revising paragraph (a)(3) to read as follows:

§ 271.23 Procedures for withdrawing approval of State programs.

(a) * * *

(3) At least 30 days before the transfer is to occur the Administrator shall publish notice of the transfer in the **Federal Register** and in a newspaper notice (as defined in § 260.10) sufficient to provide Statewide coverage, and shall mail notice to all permit holders, permit applicants, other regulated persons and other interested persons on appropriate EPA and State mailing lists.

* * * * *

PART 273—STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

■ 218. The authority citation for part 273 continues to read as follows:

Authority: 42 U.S.C. 6922, 6923, 6924, 6925, 6930, and 6937.

Subpart A—General

■ 219. Amend § 273.9 by revising the definition ''Universal waste transfer facility'' to read as follows:

§ 273.9 Definitions.

* * * * *

Universal waste transfer facility means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for 14 consecutive calendar days or less.

* * * * *

Subpart D—Standards for Universal Waste Transporters

■ 220. Amend § 273.53 by revising paragraphs (a) and (b) to read as follows:

§ 273.53 Storage time limits.

(a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for 14 consecutive calendar days or less.

(b) If a universal waste transporter stores universal waste for more than 14 consecutive calendar days, the transporter becomes a universal waste handler and must comply with the applicable requirements of subparts B or C of this part while storing the universal waste.

PART 279—STANDARDS FOR THE MANAGEMENT OF USED OIL

■ 221. The authority citation for part 279 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001 through 3007, 3010, 3014, and 7004 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, and 6974); and sections 101(37) and 114(c) of CERCLA (42 U.S.C. 9601(37) and 9614(c)).

Subpart E—Standards for Used Oil Transporter and Transfer Facilities

■ 222. Amend § 279.42 by revising paragraph (b) to read as follows:

§ 279.42 Notification.

* * * * *

(b) *Mechanics of notification.* A used oil transporter who has not received an EPA identification number must obtain an EPA identification number by applying to the Regional Administrator using EPA Form 8700–12.

(1) [Reserved]

(2) [Reserved]

Subpart F—Standards for Used Oil Processors and Re-Refiners

■ 223. Amend § 279.51 by revising paragraph (b) to read as follows:

§ 279.51 Notification.

* * * * *

(b) *Mechanics of notification.* A used oil processor or re-refiner who has not received an EPA identification number must obtain an EPA identification number by applying to the Regional Administrator using EPA Form 8700–12.

(1) [Reserved]

(2) [Reserved]

Subpart G—Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery

■ 224. Amend § 279.62 by revising paragraph (b) to read as follows:

§ 279.62 Notification.

* * * * *

(b) *Mechanics of notification.* A used oil burner who has not received an EPA identification number must obtain an EPA identification number by applying to the Regional Administrator using EPA Form 8700–12.

(1) [Reserved]

(2) [Reserved]

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FEDERAL REGISTER

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Part III

The President

Memorandum of November 23, 2026—Expeditious Enforcement of Capital Sentences and the Pursuit of Justice for Victims of Heinous Crimes

Federal Register
Vol. 91, No. 227
Friday, November 27, 2026

Presidential Documents

Title 3—

The President

Memorandum of November 23, 2026

Expeditious Enforcement of Capital Sentences and the Pursuit of Justice for Victims of Heinous Crimes

Memorandum for the Attorney General

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct:

Section 1. *Background.* A prolonged delay in carrying out a death sentence is a grave offense to the justice system that denies a victim's family the closure they deserve. Yet capital sentences imposed upon the most vile criminals are too often frustrated by years, or even decades, of litigation. The Department of Justice must take every step to ensure that those who commit the most heinous crimes promptly face the full consequences of their actions.

Sec. 2. *Pursuing Capital Punishment for Heinous Federal Crimes.* The Attorney General, when appropriate and consistent with applicable law, shall pursue Federal jurisdiction and seek the death penalty for particularly heinous and egregious Federal capital crimes, in addition to those identified in section 3(b) of Executive Order 14164 of January 20, 2025 (Restoring the Death Penalty and Protecting Public Safety), to include:

(a) murder in the first degree of a minor;

(b) murder committed in the course of rape, sexual abuse, sexual exploitation of a child, or sex trafficking; and

(c) murder committed in the course of kidnapping or human trafficking.

Sec. 3. *Expediting the Enforcement of Capital Sentences.* The Attorney General shall take all lawful and appropriate measures to ensure that federally imposed sentences of death are carried out as expeditiously as possible. These measures shall include:

(a) prioritizing the prompt resolution of direct appeals, petitions for writs of habeas corpus, and other post-conviction proceedings;

(b) opposing dilatory litigation tactics;

(c) seeking expedited judicial consideration wherever appropriate; and

(d) eliminating unnecessary administrative delays.

Sec. 4. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

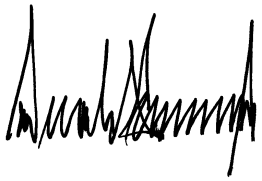
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this memorandum shall be borne by the Department of Justice.



THE WHITE HOUSE,
Washington, November 23, 2026

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